

ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA



Regular Session, 2013

Volume I
Chapters 1 - 95

WEST VIRGINIA HOUSE OF DELEGATES
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SPEAKER OF THE HOUSE

COMPILED AND PUBLISHED
UNDER THE DIRECTION
OF
GREGORY M. GRAY
CLERK OF THE HOUSE



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FOREWORD

These volumes contain the Acts of the First Regular Session of the 81st Legislature, 2013, and the First Extraordinary Session, 2013.

First Regular Session, 2013

The First Regular Session of the 81st Legislature convened on January 9, 2013, and following the election of officers of the two houses, the opening and publishing of the returns of the election of state officers at the general election held on the 6th day of November, 2012, all as prescribed by Section 18, Article VI of the Constitution of the State, the adoption of rules to govern the proceedings of the two houses and concurrently and separately acting on certain other matters incident to organization, took an adjournment until February 13, 2013, as provided by the aforesaid section of the Constitution. Reconvening, pursuant to the adjournment, the constitutional sixty-day limit on the duration of the session was midnight, April 13, 2013. The Governor issued a proclamation on April 10, 2013, extending the session for a period not to exceed six days for the purpose of considering the Budget and supplementary appropriation bills, and the Legislature adjourned *sine die* on April 17, 2013.

Bills totaling 1,829 were introduced in the two houses during the session (1,164 House and 665 Senate). The Legislature passed 216 bills, 110 House and 106 Senate.

The Governor vetoed seven bills (**Com. Sub. for H. B. 2431**, Modifying the application process for obtaining a state license to carry a concealed deadly weapon; **Com. Sub. for H. B. 2738**, Relating to the Center for Nursing; **H. B. 2814**, Relating to human trafficking; **H. B. 3160**, Providing for a pilot initiative on governance of schools jointly established by adjoining counties; **Com. Sub. for S. B. 21**, Creating Health Care Provider Transparency Act; **S. B. 65**, Exempting PERS retirement income of DNR police officers from state income tax; **S. B. 331**, Permitting Courthouse Facilities Improvement Authority to issue bonds). Of the vetoed bills, the Legislature amended and again passed Com. Sub. for H. B. 2738, H. B. 2814 and H. B. 3160, leaving a net total of 212 bills, 109 House and 103 Senate, which became law.

There were 256 Concurrent Resolutions introduced during the session, 177 House and 79 Senate, of which 72 House and 31 Senate were adopted. Thirty-eight House Joint Resolutions and 10 Senate Joint Resolutions were introduced, proposing amendments to the State Constitution, none of which were adopted. The House introduced 36 House Resolutions, and the Senate introduced 71 Senate Resolutions, of which 31 House and 71 Senate were adopted.

The Senate failed to pass 34 House bills passed by the House, and 63 Senate bills failed passage by the House. One bill died in conference, **S. B. 623**, Relating to funding for probation officers to address truancy.

* * * * *

First Extraordinary Session, 2013

The Proclamation calling the Legislature into Extraordinary Session immediately upon *sine die* adjournment of the First Regular Session on April 17, 2013, contained six items for consideration.

Of the seven bills introduced during the Extraordinary Session, 2 House Bills (**H. B. 103**, Distribution of state funds to volunteer fire departments; and **H. B. 105**, Rule-making authority relating to administration, collection and enforcement of local sales, use and excise taxes by Tax Commissioner) and 3 Senate Bills (**S. B. 1005**, Permitting Monongalia County Commission levy district excise tax; **S. B. 1003**, Permitting Monongalia County Commission levy district excise tax; and **S. B. 1005**, Making supplementary appropriation from Civil Contingent Fund and Consumer Protection Fund) were passed by the Legislature. The Senate also adopted 4 Senate Resolutions.

The Legislature completed the business of the Session and adjourned *sine die* 12:03 P.M. on Thursday, April 18, 2013.

* * * * *

These volumes will be distributed as provided by sections thirteen and nineteen, article one, chapter four of the Code of West Virginia.

These Acts may be purchased from the Office of the Clerk of the House, 212 Main Unit, State Capitol, Charleston, West Virginia 25305.

GREGORY M. GRAY
*Clerk of the House and
Keeper of the Rolls.*

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MEMBERS OF THE HOUSE OF DELEGATES

REGULAR AND EXTRAORDINARY SESSIONS, 2013

OFFICERS

Speaker – Rick Thompson, Lavalette

Clerk – Gregory M. Gray, Charleston

Sergeant-at-Arms – George McClaskie, Charleston

Doorkeeper – Tom Hively, Chesapeake

District	Name	Address	Legislative Service
First.	Ronnie D. Jones (D).	Weirton.	80 th - 81 st
	Randy Swartzmiller (D).	New Cumberland.	75 th - 81 st
Second.	Phillip W. Diserio (D).	Follansbee.	Appt. 1/23/12, 80 th ; 81 st
	Ryan Ferns (D).	Wheeling.	80 th - 81 st
Third.	Erikka Storch (R).	Wheeling.	80 th - 81 st
	David E. Evans (R).	Moundsville.	81 st
Fourth.	Michael T. Ferro (D).	McMechen.	79 th - 81 st
Fifth.	Dave Pethtel (D).	Hundred.	69 th - 71 st ; 74 th - 81 st
Sixth.	William Roger Romine (R).	Sistersville.	75 th - 81 st
Seventh.	Lynwood "Woody" Ireland (R).	Pullman.	78 th - 81 st
Eighth.	W. "Bill" Anderson, Jr. (R).	Williamstown.	71 st - 81 st
Ninth.	Anna, Border Sheppard (R).	Davisville.	Appt. 6/21/11, 80 th ; 81 st
	Tom Azinger (R).	Vienna.	72 nd - 81 st
Tenth.	John Ellem (R).	Parkersburg.	75 th - 81 st
	Daniel Poling (D).	Parkersburg.	78 th - 81 st
Eleventh.	Bob Ashley (R).	Spencer.	67 th - 73 rd ; 75 th - 81 st
Twelfth.	Steve Westfall (R).	Ripley.	81 st
Thirteenth.	Scott Cadle (R).	Letart.	81 st
	Brady Paxton (D).	Liberty.	71 st ; Appt. 4/22/99, 74 th ; 75 th -81 st
Fourteenth.	Jim Butler (R).	Henderson.	81 st
Fifteenth.	Troy Andes (R).	Hurricane.	78 th - 81 st
Sixteenth.	Kevin J. Craig (D).	Huntington.	75 th - 81 st
	Carol Miller (R).	Huntington.	78 th - 81 st
	Jim Morgan (D).	Huntington.	69 th - 70 th ; Appt. 2/23/01, 75 th ; 76 th - 81 st
Seventeenth.	Doug Reynolds (D).	Huntington.	78 th - 81 st
	Dale Stephens (D).	Huntington.	75 th ; 77 th - 81 st
Eighteenth.	Kelli Sobonya (R).	Huntington.	76 th - 81 st
Nineteenth.	Don C. Perdue (D).	Prichard.	74 th - 81 st
	Rick Thompson (D).	Lavalette.	65 th , Resigned 6/81; 76 th - 81 st
Twentieth.	Justin J. Marcum (D).	Williamson.	Appt. 1/18/12, 80 th ; 81 st
Twenty-first.	Harry Keith White (D).	Gilbert.	Appt. 9/11/92, 70 th ; 71 st - 81 st
Twenty-second.	Jeff Eldridge (D).	Alum Creek.	77 th - 79 th ; 81 st
	Josh Stowers (D).	Alum Creek.	79 th - 81 st
Twenty-third.	Joshua Nelson (R).	Danville.	81 st
Twenty-fourth.	Rupert Phillips, Jr. (D).	Lorado.	80 th - 81 st
	Teddy "Ted" Tomblin (D).	Logan.	81 st

MEMBERS OF THE HOUSE OF DELEGATES - Continued

District	Name	Address	Legislative Service
Twenty-fifth. . .	Linda Goode Phillips (D).....	Pineville.....	79 th - 81 st
Twenty-sixth. . .	Clif Moore (D).	Thorpe.	77 th - 81 st
Twenty-seventh.	Joe Ellington (R).	Princeton.	80 th - 81 st
	Marty Gearheart (R).	Bluefield.	80 th - 81 st
	John H. Shott (R).....	Bluefield.	79 th , Resigned 5/ /10; 81 st
Twenty-eighth..	Roy G. Cooper (R).	Wayside.....	81 st
	John D. O'Neal, IV (R).	Beckley.	80 th - 81 st
Twenty-ninth...	Ricky Moye (D).	Crab Orchard.	78 th - 81 st
Thirtieth.	Linda Sumner (R).	Beckley.	76 th - 81 st
Thirty-first. . . .	Lynne Carden Arvon (R).....	Beckley.	81 st
Thirty-second. . .	David G. Perry (D).	Oak Hill.	75 th - 81 st
	John Pino (D).	Oak Hill.	67 th ; 71 st - 78 th ; 80 th - 81 st
	Margaret Anne Staggers (D).	Fayetteville.	78 th - 81 st
Thirty-third. . . .	David A. Walker (D).....	Clendenin.....	79 th - 81 st
Thirty-fourth. . .	Brent Boggs (D).	Gassaway.....	73 rd - 81 st
Thirty-fifth. . . .	John B. McCuskey (R).	Charleston.	81 st
	Eric Nelson (R).	Charleston.	80 th - 81 st
	Suzette Raines (R).....	St. Albans.	81 st
	Doug Skaff, Jr. (D).	South Charleston.	79 th - 81 st
Thirty-sixth. . . .	Nancy Peoples Guthrie (D).	Charleston.	78 th - 81 st
	Mark Hunt (D).....	Charleston.	72 nd - 74 th ; 77 th - 81 st
	Danny Wells (D).	Charleston.	77 th - 81 st
Thirty-seventh..	Meshea L. Poore (D).	Charleston.	Appt. 12/18/09, 79 th ; 80 th - 81 st
Thirty-eighth.. .	Patrick Lane (R).	Cross Lanes.	77 th - 81 st
Thirty-ninth... .	Ron Walters (R).	Charleston.	71 st - 73 rd ; 75 th - 81 st
Fortieth.	Tim Armstead (R).	Elkview.	Appt. 9/5/98, 73 rd ; 74 th - 81 st
Forty-first.	Adam R. Young (D).	Summersville.	81 st
Forty-second. . .	George "Boogie" Ambler (R).	Fort Springs.	81 st
	Ray Canterbury (R).	Ronceverte.	75 th - 81 st
Forty-third. . . .	Denise L. Campbell (D).	Elkins.	80 th - 81 st
	William G. Hartman (D).....	Elkins.....	76 th - 81 st
Forty-fourth... .	Dana L. Lynch (D).	Webster Springs...	81 st
Forty-fifth. . . .	Bill Hamilton (R).....	Buckhannon.	76 th - 81 st
Forty-sixth. . . .	Peggy Donaldson Smith (D).	Weston.	79 th - 81 st
Forty-seventh. . .	Mary M. Poling (D).....	Moatsville.	75 th - 81 st
Forty-eighth. . .	Ron Fragale (D).....	Clarksburg.	Appt. 2/1/13, 81 st ; 70 th - 73 rd ; 75 th -80 th
	Danny Hamrick (R).....	Clarksburg.	81 st
	Richard J. Iaquiinta (D).	Clarksburg.	76 th - 81 st
	Tim Miley (D).....	Bridgeport.	77 th - 81 st
Forty-ninth. . . .	Mike Manypenny (D).	Grafton.....	79 th - 81 st
Fiftieth.	Michael Caputo (D).....	Fairmont.	73 rd - 81 st
	Linda Longstreth (D).....	Fairmont.	77 th - 81 st
	Tim Manchin (D).....	Fairmont.	76 th - 81 st
Fifty-first... . .	Anthony Barill (D).	Morgantown.....	80 th - 81 st
	Barbara Evans Fleischauer (D).	Morgantown.....	72 nd - 75 th ; 78 th - 81 st
	Cindy Frich (R).	Morgantown.....	76 th - 77 th ; 81 st
	Charlene Marshall (D).....	Morgantown.....	74 th - 80 th
	Amanda Pasdon (R).....	Morgantown.....	80 th - 81 st

MEMBERS OF THE HOUSE OF DELEGATES - Continued

District	Name	Address	Legislative Service
Fifty-second.	Larry A. Williams (D).	Tunnelton.	Appt. 10/8/93,71 st ; 72 nd - 81 st
Fifty-third.	Randy E. Smith (R).	Terra Alta.	81 st
Fifty-fourth.	Allen V. Evans (R).	Dorcas.	70 th - 81 st
Fifty-fifth.	Isaac Sponaugle (D).	Franklin.	81 st
Fifty-sixth.	Gary G. Howell (R).	Keyser.	80 th - 81 st
Fifty-seventh.	Ruth Rowan (R).	Points.	77 th - 81 st
Fifty-eighth.	Daryl E. Cowles (R).	Berkeley Springs.	78 th - 81 st
Fifty-ninth.	Larry D. Kump (R).	Falling Waters.	80 th - 81 st
Sixtieth.	Larry W. Faircloth (R).	Inwood.	81 st
Sixty-first.	Jason Barrett (D).	Martinsburg.	81 st
Sixty-second.	John Overington (R).	Martinsburg.	67 th - 81 st
Sixty-third.	Michael "Mike" Folk (R).	Martinsburg.	81 st
Sixty-fourth.	Eric L. Householder (R).	Martinsburg.	80 th - 81 st
Sixty-fifth.	Tiffany E. Lawrence (D).	Charles Town.	79 th - 81 st
Sixty-sixth.	Paul Espinosa (R).	Charles Town.	81 st
Sixty-seventh.	Stephen Skinner (D).	Shepherdstown.	81 st

(D) Democrats – 54
(R) Republicans – 46
Total – 100

MEMBERS OF THE SENATE

REGULAR AND EXTRAORDINARY SESSIONS, 2013

OFFICERS

President – Jeffrey V. Kessler, Glen Dale

Clerk – Joseph M. Minard, Clarksburg

Sergeant-at-Arms – Howard Wellman, Bluefield

Doorkeeper – Anthony Gallo, Charleston

District	Name	Address	Legislative Service
First.	¹ Robert J. Fitzsimmons (D).	Wheeling.	Appt. 12/26/12, 81 st
	Jack Yost (D).	Wellsburg.	(House 76 th - 78 th); 79 th - 81 st
Second.	Larry J. Edgell (D).	New Martinsburg.	74 th - 81 st
	Jeffrey V. Kessler (D).	Glen Dale.	Appt. 11/1997,73 rd ; 74 th - 81 st
Third.	Donna J. Boley (R).	St. Marys.	Appt. 5/14/85, 67 th ; 68 th - 81 st
	David C. Nohe (R).	Vienna.	80 th - 81 st
Fourth.	Mitch B. Carmichael (R).	Ripley.	(House 75 th - 80 th); 81 st
	Mike Hall (R).	Winfield.	(House 72 nd - 74 th); 78 th - 81 st
Fifth.	Evan H. Jenkins (D).	Huntington.	76 th - 81 st
	Robert H. Plymale (D).	Ceredo.	71 st - 81 st
Sixth.	H. Truman Chafin (D).	Williamson.	66 th - 81 st
	Bill Cole (R).	Bluefield.	(House Appt. 5/28/10, 79 th); 81 st
Seventh.	Art Kirkendoll (D).	Chapmanville.	Appt. 11/14/11, 80 th ; 81 st
	Ron Stollings (D).	Madison.	78 th - 81 st
Eighth.	Chris Walters (R).	Poca.	81 st
	Erik P. Wells (D).	Charleston.	78 th - 81 st
Ninth.	Mike Green (D).	Daniels.	78 th - 81 st
	Daniel Hall (D).	Oceana.	(House 79 th - 80 th); 81 st
Tenth.	William Laird IV (D).	Oak Hill.	(House 73 rd - 75 th); 79 th - 81 st
	Ronald F. Miller (D).	Lewisburg.	80 th - 81 st
Eleventh.	Clark Barnes (R).	Randolph.	77 th - 81 st
	Gregory A. Tucker (D).	Summersville.	80 th - 81 st
Twelfth.	² Samuel J. Cann (D).	Bridgeport.	(House 72 nd - 80 th) Appt. 1/16/13, 81 st
	Douglas Facemire (D).	Sutton.	79 th - 81 st
Thirteenth.	Robert D. Beach (D).	Morgantown.	(House, Appt. 5/98, 73 rd ; 74 th -79 th); 80 th - 81 st
	Roman W. Prezioso, Jr. (D).	Fairmont.	(House 69 th - 72 nd);73 rd -81 st
Fourteenth.	Dave Sypolt (R).	Kingwood.	78 th - 81 st
	Bob Williams (D).	Grafton.	79 th - 81 st
Fifteenth.	Craig P. Blair (R).	Martinsburg.	(House 76 th - 79 th); 81 st
	³ Donald H. Cookman (D).	Romney.	Appt. 1/23/13, 81 st
Sixteenth.	Herb Snyder (D).	Shenandoah Junction.	73 rd - 76 th ; 79 th - 81 st
	John R. Unger II (D).	Martinsburg.	74 th - 81 st
Seventeenth.	Brooks F. McCabe, Jr. (D).	Charleston.	74 th - 81 st
	Corey Palumbo.	Charleston.	(House 76 th - 78 th); 79 th - 81 st

¹ Appointed December 26, 2012, to unexpired term of Orphy Klempa, who resigned December 10, 2012.

² Appointed January 16, 2013, to unexpired term of Joseph M. Minard, who resigned January 9, 2013.

³ Appointed January 23, 2013, to unexpired term of Walt Helmick, who resigned January 14, 2013.

(D) Democrats – 25

(R) Republicans – 9

Total – 34

HOUSE OF DELEGATES COMMITTEES

COMMITTEES OF THE HOUSE OF DELEGATES
Regular Session, 2013

STANDING

AGRICULTURE

Walker (*Chair*), Manypenny (*Vice Chair*), Boggs, Diserio, Eldridge, Guthrie, Paxton, L. Phillips, M. Poling, Sponaugle, Swartzmiller, Wells, Williams, A. Evans (*Minority Chair*), Canterbury (*Minority Vice Chair*), Ambler, Anderson, Border, Folk, Hamilton, Ireland, Miller, Overington and Romine.

BANKING AND INSURANCE

Moore (*Chair of Banking*), Ferns (*Vice Chair of Banking*), Guthrie (*Chair of Insurance*), Hartman (*Vice Chair of Insurance*), Barrett, Hunt, Iaquina, Manchin, Morgan, Perry, R. Phillips, Reynolds, Tomblin, Azinger (*Minority Chair of Banking*), E. Nelson (*Minority Vice Chair of Banking*), Ashley (*Minority Chair of Insurance*), Walters (*Minority Vice Chair of Insurance*), Andes, Frich, McCuskey, O'Neal, Pasdon, Shott and Westfall.

CONSTITUTIONAL REVISION

Fleischauer (*Chair*), Ferro (*Vice Chair*), Caputo, Fragale, Guthrie, Hunt, Lawrence, Manchin, Marshall, Moore, Morgan, Poore, Reynolds, Skinner, Overington (*Minority Chair*), Romine (*Minority Vice Chair*), Anderson, Andes, Armstead, Ellem, Householder, Kump, Lane, J. Nelson and O'Neal.

EDUCATION

M. Poling (*Chair*), Stowers (*Vice Chair*), Barill, Barrett, Campbell, Fragale, Lawrence, Perry, Pethtel, Tomblin, Walker, Williams, Young, Pasdon (*Minority Chair*), Sumner (*Minority Vice Chair*), Ambler, Butler, Cooper, Espinosa, D. Evans, Hamrick, Raines, Rowan and Westfall.

HOUSE OF DELEGATES COMMITTEES

**ENERGY, INDUSTRY AND LABOR,
ECONOMIC DEVELOPMENT
AND SMALL BUSINESS**

D. Poling (*Chair of Energy, Industry and Labor*), Diserio (*Vice Chair of Energy, Industry and Labor*), Skaff (*Chair of Economic Development and Small Business*), Campbell (*Vice Chair of Economic Development and Small Business*), Barrett, Caputo, Fleischauer, Manypenny, Marshall, R. Phillips, Poore, Skinner, Walker, Young, Sobonya (*Minority Chair of Energy, Industry and Labor*), Miller (*Minority Vice Chair of Energy, Industry and Labor*), Andes (*Minority Chair of Economic Development and Small Business*), Ellington (*Minority Vice Chair of Economic Development and Small Business*), Arvon, Faircloth, Frich, J. Nelson, Raines, R. Smith and Storch.

FINANCE

White (*Chair*), Reynolds (*Vice Chair*), Craig, Guthrie, Iaquina, Marshall, Moye, Perdue, Pethtel, L. Phillips, R. Phillips, D. Poling, Skaff, Williams, Anderson (*Minority Chair*), E. Nelson (*Minority Vice Chair*), Andes, Ashley, Canterbury, Cowles, A. Evans, Gearheart, Miller, Storch and Walters

GOVERNMENT ORGANIZATION

Morgan (*Chair*), Stephens (*Vice Chair*), Caputo, Diserio, Eldridge, Ferns, Hartman, Jones, Lynch, Paxton, P. Smith, Staggers, Swartzmiller, Howell (*Minority Chair*), Border (*Minority Vice Chair*), Arvon, Azinger, Cadle, Faircloth, Folk, Kump, J. Nelson, Romine and R. Smith.

HEALTH AND HUMAN RESOURCES

Perdue (*Chair*), Perry (*Vice Chair*), Campbell, Diserio, Eldridge, Ferns, Fleischauer, Lawrence, Marshall, Moore, Moye, Poore, Staggers, Ellington (*Minority Chair*), Householder (*Minority Vice Chair*), Arvon, Border, Cowles, Faircloth, Lane, Miller, Pasdon, Rowan and Sobonya.

HOUSE OF DELEGATES COMMITTEES

JUDICIARY

Miley (*Chair*), Manchin (*Vice Chair*), Ferro, Fleischauer, Hunt, Longstreth, Manypenny, Marcum, Moore, Pino, Poore, Skinner, Sponaugle, Wells, Ellem (*Minority Chair*), Lane (*Minority Vice Chair*), Frich, Hamilton, Householder, Ireland, McCuskey, O'Neal, Overington, Shott and Sobonya.

NATURAL RESOURCES

Craig (*Chair*), Pino (*Vice Chair*), Eldridge, Guthrie, Jones, Manypenny, Moore, Moye, L. Phillips, R. Phillips, Sponaugle, Swartzmiller, Tomblin, Wells, Hamilton (*Minority Chair*), Ireland (*Minority Vice Chair*), Anderson, Butler, Canterbury, Ellem, A. Evans, Romine, Shott, R. Smith and Walters.

PENSIONS AND RETIREMENT

Pethtel (*Chair*), Jones (*Vice Chair*), Craig, Lynch, Stowers, Canterbury and Kump.

POLITICAL SUBDIVISIONS

Hunt (*Chair*), Lawrence (*Vice Chair*), Barill, Ferns, Fragale, Hartman, Jones, Marcum, Morgan, Moye, Perry, Sponaugle, Williams, Sumner (*Minority Chair*), Cowles (*Minority Vice Chair*), Cooper, Espinosa, Folk, Gearheart, Hamilton, Hamrick, Lane, McCuskey and Pasdon

ROADS AND TRANSPORTATION

Staggers (*Chair*), L. Phillips (*Vice Chair*), Barill, Boggs, Longstreth, Lynch, Marcum, D. Poling, Skaff, P. Smith, Stephens, Stowers, Walker, Wells, Cowles (*Minority Chair*), Gearheart (*Minority Vice Chair*), Ambler, Butler, Cadle, Ellington, Espinosa, D. Evans, Hamrick, Howell and Shott.

HOUSE OF DELEGATES COMMITTEES

RULES

Thompson (*Chair*), Boggs, Caputo, Marshall, Miley, Morgan, Paxton, M. Poling, Swartzmiller, White, Anderson, Armstead, Ashley, Cowles, Lane, Overington, Sobonya and Sumner.

SENIOR CITIZEN ISSUES

Williams (*Chair*), Moye (*Vice Chair*), Campbell, Ferro, Manypenny, Marshall, Moore, Perdue, Perry, Pethtel, Pino, Stephens, Young, Rowan (*Minority Chair*), O'Neal (*Minority Vice Chair*), Arvon, Ashley, Border, Faircloth, Householder, Raines, R. Smith, Sobonya, Sumner and Westfall.

VETERANS' AFFAIRS AND HOMELAND SECURITY

Iaquinta (*Chair of Veterans' Affairs*), Longstreth (*Vice Chair of Veterans' Affairs*), Paxton (*Chair of Homeland Security*), Eldridge (*Vice Chair of Homeland Security*), Barill, Campbell, Ferro, Fleischauer, Jones, Pethtel, P. Smith, Staggers, Stephens, Azinger (*Minority Chair of Veterans' Affairs*), Rowan (*Minority Vice Chair Veterans' Affairs*), Ashley (*Minority Chair Homeland Security*), Storch (*Minority Vice Chair of Homeland Security*), Armstead, Cadle, Cooper, D. Evans, Howell, Ireland, E. Nelson and J. Nelson.

ENROLLED BILLS

Wells (*Chair*), Barill (*Vice Chair*), Ferro and Overington.

SENATE COMMITTEES

COMMITTEES OF THE SENATE
Regular Session, 2013

STANDING

AGRICULTURE AND RURAL DEVELOPMENT

Miller (*Chair*), Williams (*Vice Chair*), Beach, Cann, Cookman, D. Hall, Laird, Tucker, Carmichael, Nohe and Sypolt.

BANKING AND INSURANCE

Tucker (*Chair*), Fitzsimmons (*Vice Chair*), Chafin, Facemire, Green, D. Hall, Jenkins, McCabe, Palumbo, Prezioso, M. Hall, Nohe and Walters.

CONFIRMATIONS

Green (*Chair*), Facemire (*Vice Chair*), Chafin, Miller, Plymale, Snyder, Yost, Cole and Sypolt.

ECONOMIC DEVELOPMENT

Williams (*Chair*), Cann (*Vice Chair*), Beach, Cookman, Kirkendoll, McCabe, Prezioso, Snyder, Stollings, Wells, Barnes, Blair, Sypolt and Walters.

EDUCATION

Plymale (*Chair*), Wells (*Vice Chair*), Beach, Chafin, Edgell, D. Hall, Laird, Stollings, Tucker, Unger, Barnes, Boley, Carmichael and Cole.

ENERGY, INDUSTRY AND MINING

Facemire (*Chair*), Kirkendoll (*Vice Chair*), Beach, Cann, Green, Jenkins, Plymale, Snyder, Stollings, Yost, Barnes, Nohe and Sypolt.

SENATE COMMITTEES

ENROLLED BILLS

Cookman (*Chair*), Edgell, Fitzsimmons, Palumbo and Cole.

FINANCE

Prezioso (*Chair*), Facemire (*Vice Chair*), Chafin, Edgell, Green, Laird, McCabe, Plymale, Stollings, Unger, Wells, Yost, Barnes, Blair, Boley, M. Hall and Sypolt.

GOVERNMENT ORGANIZATION

Snyder (*Chair*), Miller (*Vice Chair*), Cann, Cookman, Fitzsimmons, Green, Jenkins, Kirkendoll, Williams, Yost, Blair, Boley, Cole and Sypolt.

HEALTH AND HUMAN RESOURCES

Stollings (*Chair*), Jenkins (*Vice Chair*), Kirkendoll, Laird, Miller, Palumbo, Plymale, Prezioso, Tucker, Yost, Boley, M. Hall and Walters.

INTERSTATE COOPERATION

Kirkendoll (*Chair*), Cookman (*Vice Chair*), D. Hall, Palumbo, Wells, Blair and Nohe.

JUDICIARY

Palumbo (*Chair*), Tucker (*Vice Chair*), Beach, Cann, Cookman, Fitzsimmons, D. Hall, Jenkins, Kirkendoll, Miller, Snyder, Unger, Williams, Carmichael, Cole, Nohe and Walters.

LABOR

Yost (*Chair*), D. Hall (*Vice Chair*), Chafin, Facemire, Fitzsimmons, McCabe, Miller, Wells, Barnes, Blair and Walters.

SENATE COMMITTEES

MILITARY

Wells (*Chair*), Yost (*Vice Chair*), Edgell, Fitzsimmons, Jenkins, Laird, Tucker, Boley and Carmichael.

NATURAL RESOURCES

Laird (*Chair*), Edgell (*Vice Chair*), Beach, Cookman, Facemire, Green, McCabe, Prezioso, Snyder, Williams, M. Hall, Nohe and Walters.

PENSIONS

Jenkins (*Chair*), McCabe (*Vice Chair*), Cann, Chafin, Edgell, Carmichael and M. Hall.

RULES

Kessler (*Chair*), Edgell, Palumbo, Plymale, Prezioso, Snyder, Stollings, Unger, Barnes, Boley and M. Hall.

TRANSPORTATION AND INFRASTRUCTURE

Beach (*Chair*), Kirkendoll (*Vice Chair*), Facemire, Fitzsimmons, McCabe, Plymale, Williams, Barnes and Cole.

LEGISLATURE OF WEST VIRGINIA

ACTS

FIRST REGULAR SESSION, 2013

CHAPTER 1

(S. B. 504 - By Senators Miller, Williams and D. Hall)

[Passed April 11, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to repeal §19-4-26 and §19-4-30 of the Code of West Virginia, 1931, as amended; and to amend and reenact §19-4-1, §19-4-2, §19-4-6, §19-4-10, §19-4-19, §19-4-21 and §19-4-29 of said code, all relating to cooperative associations; permitting three or more persons producing agricultural products to form a profit or nonprofit cooperative association; providing that certain credit union provisions apply; permitting the association be managed by not fewer than three directors; requiring cooperative associations file annual reports with the Secretary of State; requiring the term cooperative or its abbreviation be in the name of the association; prohibiting a farmer's marketing association from using the term cooperative or its abbreviation as part of its name unless certain conditions are met; stating that the business corporation or nonprofit corporation laws apply to cooperatives; clarifying definitions; and clarifying articles of incorporation and directors of cooperative associations.

Be it enacted by the Legislature of West Virginia:

That §19-4-26 and §19-4-30 of the Code of West Virginia, 1931, as amended, be repealed; and that §19-4-1, §19-4-2, §19-4-6, §19-4-10, §19-4-19, §19-4-21 and §19-4-29 of said code be amended and reenacted, all to read as follows:

ARTICLE 4. COOPERATIVE ASSOCIATIONS.**§19-4-1. Definitions.**

1 As used in this article:

2 (a) "Agricultural products" mean horticultural, viticultural,
3 forestry, dairy, livestock, poultry, bee and any farm products, in
4 their natural form or processed;

5 (b) "Member" means a member of an association without
6 capitol stock, and a holder of common stock in an association
7 organized with capital stock;

8 (c) "Cooperative association" or "association" means any
9 corporation organized under this article. Each association shall
10 also comply with the business corporation provisions of chapter
11 thirty-one-d or the nonprofit corporation provisions of chapter
12 thirty-one-e of this code.

§19-4-2. Who may organize.

1 Three or more persons engaged in the production of
2 agricultural products may form a cooperative association with or
3 without capital stock. Three or more cooperative associations
4 may form an agricultural credit association, with or without
5 capital stock, under this article and in compliance with the credit
6 union provisions of chapter thirty-one-c of this code.

§19-4-6. Articles of incorporation.

1 Each association formed under this article shall prepare and
2 file articles of incorporation, setting forth:

3 (a) The name of the association, which shall include the
4 words "cooperative," "co-operative," or "co-op," and words or
5 abbreviations designating a corporation;

6 (b) The purposes for which it is formed;

7 (c) The place where its principal business will be transacted;

8 (d) The period, if any prescribed, for the duration of the
9 corporation;

10 (e) The number of incorporators which shall not be less than
11 three, the number of directors which shall not be less than three
12 and may be any number in excess thereof, or it may be set forth
13 that the number of directors shall be fixed by the bylaws;

14 (f) If organized without capital stock, whether the property
15 rights and interest of each member are equal or unequal; and if
16 unequal, the general rules applicable to the classes of members
17 whose property rights and interest are determined and fixed; and
18 provision for the admission of new members who may be
19 entitled to share in the property of the association with the old
20 members, in accordance with the general rules. This provision of
21 the articles of incorporation shall not be altered, amended, or
22 repealed except by the written consent or vote of three fourths of
23 the members;

24 (g) If organized with capital stock and authorized to issue
25 only one class of stock, the total number of shares of stock which
26 the association shall have authority to issue, including: (1) The
27 par value of each of the shares; or (2) a statement that all the
28 shares are to be without par value;

29 (h) If the association is authorized to issue more than one
30 class of stock, the total number of shares of all classes of stock
31 which the association may issue, including: (1) The number of
32 shares of each class that have a par value and the par value of
33 each share by class; (2) the number of shares that are to be
34 without par value; and (3) a statement of the powers,
35 preferences, rights, qualifications, limitations or restrictions that
36 are permitted by section thirteen of this article in respect to a
37 class of stock fixed by the articles of incorporation or by
38 resolution of the board of directors;

39 (i) The articles shall be signed, notarized and filed in
40 accordance with the provisions of the business or nonprofit
41 corporation laws of this state;

42 (j) The articles may also contain any provisions managing,
43 defining, limiting or regulating the powers and affairs of the
44 association, the directors, the stockholders, or members of the
45 association.

§19-4-10. Directors.

1 (a) The affairs of the association shall be managed by a
2 board of not less than three directors, elected by the members or
3 stockholders.

4 (b) The bylaws may provide that the territory in which the
5 association has members shall be divided into districts and that
6 the directors be elected either directly or by district delegates
7 elected by the members in that district. The bylaws shall specify
8 the number of directors to be elected by each district, the manner
9 of reapportioning the directors and the method of redistricting
10 the territory covered by the association. The bylaws may provide
11 that primary elections shall be held in each district to elect the
12 directors apportioned to the districts and that the results of all the
13 primary elections may be ratified during the next regular
14 meeting of the association or may be considered final.

15 (c) The bylaws may provide that one or more directors may
16 be appointed by a public official, commission or by the other
17 directors. These public directors shall represent the interest of
18 the general public in the associations. The public directors need
19 not be members or stockholders of the association, but shall have
20 the same powers and rights as other directors. The directors shall
21 not number more than one fifth of the entire number of directors.

22 (d) An association may provide a fair remuneration for the
23 time actually spent by its officers and directors in its service and
24 for the service of the members of its executive committee. No

25 director, during the term of his or her office, shall be a party to
26 a contract for profit with the association differing from the
27 contractual terms accorded regular members or holders of
28 common stock of the association.

29 (e) The bylaws may provide that no director, except the
30 president and secretary, shall occupy a position in the association
31 on regular salary or substantially full-time pay.

32 (f) The bylaws may provide for an executive committee and
33 may allot to the committee all the functions and powers of the
34 board of directors, subject to the general direction and control of
35 the board.

36 (g) When a vacancy on the board of directors occurs other
37 than by expiration of term, the remaining members of the board,
38 by a majority vote, shall fill the vacancy, unless the bylaws
39 provide for an election of directors by district. In that case the
40 board of directors shall immediately call a special meeting of the
41 members or stockholders in that district to fill the vacancy.

§19-4-19. Annual reports.

1 Each association formed under this article shall prepare an
2 annual report on forms provided by and filed with the Secretary
3 of State pursuant to the requirements of section two-a, article
4 one, chapter fifty-nine of this code.

§19-4-21. Use of term “cooperative.”

1 (a) A cooperative association formed pursuant to this article
2 shall include the words “cooperative”, “co-operative” or “co-op”
3 in the name, and the words or abbreviations designating a
4 corporation.

5 (b) A farmers’ marketing association for the sale of farm
6 products is prohibited from using the terms identified in
7 subsection (a) of this section as part of its corporate or other
8 business name or title, unless it has complied with this article.

§19-4-29. Application of business corporation laws; nonprofit corporation laws.

1 The provisions of the business corporation laws in chapter
2 thirty-one-d or the nonprofit corporation laws in chapter
3 thirty-one-e of this code and all powers and rights thereunder
4 shall apply to the associations organized under this article and
5 may be used by them, except when the provisions are in conflict
6 with or inconsistent with the express provisions of this article.



CHAPTER 2

(Com. Sub. for S. B. 498 - By Senator Palumbo)

[Passed April 13, 2013; in effect July 1, 2013.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §11-16-24 of the Code of West Virginia, 1931, as amended; to amend and reenact §60-3A-28 of said code; to amend and reenact §60-7-13a of said code; and to amend and reenact §60-8-18 of said code, all relating to hearing and appeal procedures for certain licenses issued by the Alcohol Beverage Control Administration; requiring that appeals from commissioner's decision to refuse to issue or renew certain licenses be brought in the circuit court of Kanawha County or the circuit court in the county where the licensed premises is proposed to be located or conduct sales; requiring that appeals from the commissioner's decision regarding disciplinary action against a licensee are to be brought in the circuit court of Kanawha County or the circuit court in the county where the proposed or licensed premises is located or does conduct sales; and providing that the licensee appealing the commissioner's decision is required to pay the costs and fees incident to transcribing, certifying and transmitting records pertaining to the appeal.

Be it enacted by the Legislature of West Virginia:

That §11-16-24 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §60-3A-28 of said code be amended and reenacted; that §60-7-13a of said code be amended and reenacted; and that §60-8-18 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 16. NONINTOXICATING BEER.

§11-16-24. Hearing on sanctioning of license; notice; review of action of commissioner; clerk of court to furnish commissioner copy of order or judgment of conviction of licensee; assessment of costs; procedure for appealing any final order of the commissioner which revokes, suspends, sanctions or denies the issuance or renewal of any license issued under this article.

1 (a) The commissioner may not revoke or suspend a license
2 issued pursuant to this article or impose a civil penalty
3 authorized under this article unless and until a hearing is held
4 after at least ten days' notice to the licensee of the time and place
5 of the hearing, which notice shall contain a statement or
6 specification of the charges, grounds or reasons for the proposed
7 contemplated action, and which is served upon the licensee as
8 notices under the West Virginia Rules of Civil Procedure or by
9 certified mail, return receipt requested, to the address for which
10 license was issued; at which time and place, so designated in the
11 notice, the licensee has the right to appear and produce evidence
12 in his or her behalf, and to be represented by counsel.

13 (b) The commissioner may summon witnesses in the
14 hearings before him or her, and fees of witnesses summoned on
15 behalf of the state in proceedings to sanction licenses shall be

16 treated as a part of the expenses of administration and
17 enforcement. The fees shall be the same as those in similar
18 hearings in the circuit courts of this state. The commissioner
19 may, upon a finding of violation, assess a licensee a sum not to
20 exceed \$150 per violation to reimburse the commissioner for
21 expenditures for witness fees, court reporter fees and travel costs
22 incurred in holding the hearing. Moneys so assessed shall be
23 transferred to the Nonintoxicating Beer Fund created by section
24 twenty-three of this article.

25 (c) If, at the request of the licensee or on his or her motion,
26 the hearing is continued and does not take place on the day fixed
27 by the commissioner in the notice of hearing, then the licensee's
28 license may be suspended until the hearing and decision of the
29 commissioner, and in the event of revocation or suspension of
30 the license, upon hearing before the commissioner, the licensee
31 is not permitted to sell beer pending an appeal as provided by
32 this article. Any person continuing to sell beer after his or her
33 license has been suspended or revoked, as hereinbefore provided,
34 is guilty of a misdemeanor and, shall be punished as provided in
35 section nineteen of this article.

36 (d) Notwithstanding the provisions of subsection (b), section
37 four, article five, chapter twenty-nine-a of this code, the action
38 of the commissioner in revoking, suspending, sanctioning or
39 refusing a license is subject to review by the circuit court of
40 Kanawha County or the circuit court in the county where the
41 proposed or licensed premises is located and will or does
42 conduct sales: *Provided*, That in all other respects, such review
43 shall be conducted in the manner provided in chapter twenty-
44 nine-a of this code. The petition for review must be filed with the
45 circuit court within thirty days following entry of the final order
46 of revocation, suspension, sanction or refusal issued by the
47 commissioner. An applicant or licensee obtaining an order for
48 review is required to pay the costs and fees incident to
49 transcribing, certifying and transmitting the records pertaining
50 to the matter to the circuit court. An application to the Supreme
51 Court of Appeals of West Virginia for a writ of error from any

52 final order of the circuit court in the matter shall be made within
53 thirty days from and after the entry of the final circuit court
54 order.

55 (e) All hearings, upon notice to show cause why license
56 should be revoked, suspended, sanctioned or refused, before the
57 commissioner shall be held in the offices of the commissioner in
58 Charleston, Kanawha County, unless otherwise provided by the
59 commissioner in the notice of hearing. When the hearing is held
60 elsewhere than in the commissioner's office, the licensee may be
61 required to make deposits of the estimated costs of the hearing.

62 (f) Whenever a licensee has been convicted of an offense
63 constituting a violation of the laws of this state or of the United
64 States relating to nonintoxicating beer, or alcoholic liquor, and
65 the conviction has become final, the clerk of the court in which
66 the licensee has been convicted shall forward to the
67 commissioner a certified copy of the order or judgment of
68 conviction if the clerk has knowledge that the person so
69 convicted is a licensee, together with the certification of the
70 clerk that the conviction is final.

71 (g) In the case of a Class B licensee with multiple licensed
72 locations, the commissioner may, in his or her discretion, revoke,
73 suspend or otherwise sanction, per the provisions of section
74 twenty-three of this article, only the license for the location or
75 locations involved in the unlawful conduct for which licensure
76 is sanctioned, as opposed to all separately licensed locations of
77 the licensee.

CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

ARTICLE 3A. SALES BY RETAIL LIQUOR LICENSEES.

§60-3A-28. Notice of and hearing on revocation; right of appeal; appeal procedures.

1 (a) Before a retail license issued under the authority of this
2 article is suspended for a period of more than twenty days, or

3 revoked, the commissioner shall give at least ten days' notice to
4 the retail licensee. Notice shall be in writing, shall state the
5 reason for suspension or revocation, and shall designate a time
6 and place for a hearing where the retail licensee may show cause
7 why the retail license should not be suspended or revoked.
8 Notice shall be sent by certified mail to the address for which the
9 retail license was issued. The retail licensee may, at the time
10 designated for the hearing, produce evidence in his or her behalf
11 and be represented by counsel.

12 (b) The hearing and the administrative procedures prior to,
13 during and following the hearing are governed by and shall be
14 conducted in accordance with the provisions of article five,
15 chapter twenty-nine-a of this code in like manner as if the
16 provisions of article five were fully set forth in this section.

17 (c) Notwithstanding the provisions of subsection (b), section
18 four, article five, chapter twenty-nine-a of this code, any person
19 adversely affected by a final order entered following the hearing
20 has the right of judicial review by the circuit court of Kanawha
21 County or the circuit court in the county where the proposed or
22 licensed premises is located and will or does conduct sales:
23 *Provided*, That in all other respects, such review shall be
24 conducted in the manner provided in chapter twenty-nine-a of
25 this code. The petition for the review must be filed with the
26 circuit court within thirty days following entry of the final order
27 issued by the commissioner. An applicant or licensee obtaining
28 the review is required to pay the costs and fees incident to
29 transcribing, certifying and transmitting the records pertaining
30 to the matter to circuit court.

31 (d) The judgment of the circuit court reviewing the order of
32 the commissioner is final unless reversed, vacated or modified
33 on appeal to the Supreme Court of Appeals in accordance with
34 the provisions of section one, article six, chapter twenty-nine-a
35 of this code.

36 (e) Legal counsel and services for the commissioner in all
37 the proceedings in any circuit court and the Supreme Court of
38 Appeals shall be provided by the Attorney General or his or her
39 assistants and in any proceedings in any circuit court by the
40 prosecuting attorney of that county as well, all without additional
41 compensation.

42 (f) Upon final revocation, the commissioner shall proceed to
43 reissue the retail license by following the procedures set forth
44 herein for the initial issuance of a retail license.

ARTICLE 7. LICENSES TO PRIVATE CLUBS.

§60-7-13a. Hearing on sanctioning of license; notice; review of action of commissioner; clerk of court to furnish commissioner copy of order or judgment of conviction of licensee; assessment of costs; procedure for appealing any final order of the commissioner which revokes, suspends, sanctions or denies the issuance or renewal of any license issued under this article.

1 (a) The commissioner may not revoke or suspend a license
2 issued pursuant to this article or impose civil penalties
3 authorized under this article unless and until a hearing is held
4 after at least ten days' notice to the licensee of the time and place
5 of the hearing, which notice shall contain a statement or
6 specification of the charges, grounds or reasons for the proposed
7 contemplated action, and which is served upon the licensee as
8 notices under the West Virginia Rules of Civil Procedure or by
9 certified mail, return receipt requested, to the address for which
10 license was issued. At the time and place, designated in the
11 notice, the licensee has the right to appear and produce evidence
12 in his or her behalf, and to be represented by counsel: *Provided,*
13 That the commissioner may forthwith suspend the license when
14 the commissioner believes the public safety will be adversely
15 affected by the licensee's continued operation.

16 (b) The commissioner may summon witnesses in the hearing
17 before him or her, and fees of witnesses summoned on behalf of
18 the state in proceedings to sanction licenses shall be treated as a
19 part of the expenses of administration and enforcement. The fees
20 shall be the same as those in similar hearings in the circuit courts
21 of this state. The commissioner may, upon a finding of violation,
22 assess a licensee a sum, not to exceed \$150 per violation, to
23 reimburse the commissioner for expenditures of witness fees,
24 court reporter fees and travel costs incurred in holding the
25 hearing. Moneys so assessed shall be transferred to the Alcohol
26 Beverage Control Enforcement Fund created by section thirteen
27 of this article.

28 (c) If, at the request of the licensee or on his or her motion,
29 the hearing is continued and does not take place on the day fixed
30 by the commissioner in the notice of hearing, then the licensee's
31 license may be suspended until the hearing and decision of the
32 commissioner, and in the event of revocation or suspension of
33 the license, upon hearing before the commissioner, the licensee
34 is not permitted to sell alcoholic liquor or nonintoxicating beer
35 pending an appeal as provided by this article. Any person
36 continuing to sell alcoholic liquor or nonintoxicating beer after
37 his or her license has been suspended or revoked, as provided in
38 this section, is guilty of a misdemeanor and, shall be punished as
39 provided in section twelve of this article.

40 (d) Notwithstanding the provisions of subsection (b), section
41 four, article five, chapter twenty-nine-a of this code, the action
42 of the commissioner in revoking, suspending, sanctioning or
43 refusing a license is subject to review by the circuit court of
44 Kanawha County or the circuit court in the county where the
45 proposed or licensed premises is located and will or does
46 conduct sales: *Provided*, That in all other respects, such review
47 shall be conducted in the manner provided in chapter twenty-
48 nine-a of this code. The petition for review must be filed with the
49 circuit court within thirty days following entry of the final order

50 of revocation, suspension, sanction or refusal issued by the
51 commissioner. A licensee obtaining an order for the review is
52 required to pay the costs and fees incident to transcribing,
53 certifying and transmitting the records pertaining to the matter
54 to the circuit court. An application to the Supreme Court of
55 Appeals of West Virginia for a writ of error from any final order
56 of the circuit court in the matter shall be made within thirty days
57 from and after the entry of the final circuit court order.

58 (e) All such hearings, upon notice to show cause why license
59 should be revoked, suspended, sanctioned or refused, before the
60 commissioner shall be held in the offices of the commissioner in
61 Charleston, Kanawha County, unless otherwise provided by the
62 commissioner in the notice of hearing. When the hearing is held
63 elsewhere than in the commissioner's office, the licensee may be
64 required to make deposits of the estimated costs of the hearing.

65 (f) Whenever any licensee has been convicted of an offense
66 constituting a violation of the laws of this state or of the United
67 States relating to alcoholic liquor, or nonintoxicating beer, and
68 the conviction has become final, the clerk of the court in which
69 the licensee has been convicted shall forward to the
70 commissioner a certified copy of the order or judgment of
71 conviction if the clerk has knowledge that the person convicted
72 is a licensee, together with the certification of the clerk that the
73 conviction is final. The commissioner shall report violations of
74 any of the provisions of section twelve or twelve-a of this article
75 to the prosecuting attorney of the county in which the licensed
76 premises is located.

ARTICLE 8. SALE OF WINES.

§60-8-18. Revocation, suspension and other sanctions which may be imposed by the commissioner upon the licensee; procedure for appealing any final order of the commissioner which revokes, suspends, sanctions or

denies the issuance or renewal of any license issued under this article.

1 (a) The commissioner may on his or her own motion, or
2 shall on the sworn complaint of any person, conduct an
3 investigation to determine if any provisions of this article or any
4 rule promulgated or any order issued by the commissioner has
5 been violated by any licensee. After investigation, the
6 commissioner may impose penalties and sanctions as set forth
7 below.

8 (1) If the commissioner finds that the licensee has violated
9 any provision of this article or any rule promulgated or order
10 issued by the commissioner, or if the commissioner finds the
11 existence of any ground on which a license could have been
12 refused, if the licensee were then applying for a license, the
13 commissioner may:

14 (A) Revoke the licensee's license;

15 (B) Suspend the licensee's license for a period determined
16 by the commissioner not to exceed twelve months; or

17 (C) Place the licensee on probation for a period not to exceed
18 twelve months; and

19 (D) Impose a monetary penalty not to exceed \$1,000 for
20 each violation where revocation is not imposed.

21 (2) If the commissioner finds that a licensee has willfully
22 violated any provision of this article or any rule promulgated or
23 any order issued by the commissioner, the commissioner shall
24 revoke the licensee's license.

25 (b) If a supplier or distributor fails or refuses to keep in
26 effect the bond required by section twenty-nine of this article,
27 the commissioner shall automatically suspend the supplier or

28 distributor's license until the bond required by section twenty of
29 this article is furnished to the commissioner, at which time the
30 commissioner shall vacate the suspension.

31 (c) Whenever the commissioner refuses to issue a license, or
32 suspends or revokes a license, places a licensee on probation or
33 imposes a monetary penalty, he or she shall enter an order to that
34 effect and cause a copy of the order to be served in person or by
35 certified mail, return receipt requested, on the licensee or
36 applicant.

37 (d) An applicant or licensee, as the case may be, adversely
38 affected by the order has a right to a hearing before the
39 commissioner if a written demand for hearing is served upon the
40 commissioner within ten days following the receipt of the
41 commissioner's order by the applicant or licensee. Timely
42 service of a demand for a hearing upon the commissioner
43 operates to suspend the execution of the order with respect to
44 which a hearing has been demanded, except an order suspending
45 a license under the provisions of subsection (b) of this section.
46 The person demanding a hearing shall give security for the cost
47 of the hearing in a form and amount as the commissioner may
48 reasonably require. If the person demanding the hearing does not
49 substantially prevail in the hearing or upon judicial review
50 thereof as provided in subsections (g) and (h) of this section,
51 then the costs of the hearing shall be assessed against him or her
52 by the commissioner and may be collected by an action at law or
53 other proper remedy.

54 (e) Upon receipt of a timely served written demand for a
55 hearing, the commissioner shall immediately set a date for the
56 hearing and notify the person demanding the hearing of the date,
57 time and place of the hearing, which shall be held within thirty
58 days after receipt of the demand. At the hearing the
59 commissioner shall hear evidence and thereafter enter an order
60 supporting by findings of facts, affirming, modifying or vacating

61 the order. Any such order is final unless vacated or modified
62 upon judicial review thereof.

63 (f) The hearing and the administrative procedure prior to,
64 during and following the hearing shall be governed by and in
65 accordance with the provisions of article five, chapter twenty-
66 nine-a of this code.

67 (g) Notwithstanding the provisions of subsection (b), section
68 four, article five, chapter twenty-nine-a of this code, an applicant
69 or licensee adversely affected by a final order entered following
70 a hearing has the right of judicial review of the order code in the
71 circuit court of Kanawha County or the circuit court in the
72 county where the proposed or licensed premises is located and
73 will or does conduct sales: *Provided*, That in all other respects,
74 such review shall be conducted in the manner provided in
75 chapter twenty-nine-a of this code. The petition for the review
76 must be filed with the circuit court within thirty days following
77 entry of the final order issued by the commissioner. An applicant
78 or licensee obtaining judicial review is required to pay the costs
79 and fees incident to transcribing, certifying and transmitting the
80 records pertaining to the matter to circuit court.

81 (h) The judgment of the circuit court reviewing the order of
82 the commissioner is final unless reversed, vacated or modified
83 on appeal to the Supreme Court of Appeals in accordance with
84 the provisions of section one, article six, chapter twenty-nine-a
85 of this code.

86 (i) Legal counsel and services for the commissioner in all
87 proceedings in any circuit court and the Supreme Court of
88 Appeals shall be provided by the Attorney General or his or her
89 assistants and in any proceedings in any circuit court by the
90 prosecuting attorney of that county as well, all without additional
91 compensation.

CHAPTER 3

**(Com. Sub. for H. B. 2453 - By Delegates
Marshall, Guthrie, Sumner, Barill, D. Poling,
Fragale, Hamilton and Boggs)**

[Passed April 12, 2013; in effect ninety days from passage.]
[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §15-3A-4 of the Code of West Virginia, 1931, as amended, relating to activating the Amber Alert Plan; requiring a reporting law-enforcement agency to report a suspected missing or abducted child to the West Virginia State Police in the initial stages of investigation; and requiring the West Virginia State Police to contact the Amber Alert Coordinator for a determination as to whether Amber Alert criteria has been satisfied.

PREAMBLE

THIS LEGISLATION SHALL BE KNOWN AS “SKYLAR’S LAW”. WHEREAS, THE AMBER PLAN, A PLAN TO HELP RECOVER ABDUCTED CHILDREN, HAS BEEN IN EFFECT IN WEST VIRGINIA FOR NEARLY TEN YEARS WITH VERY SUCCESSFUL RESULTS. THE AMBER PLAN NOT ONLY HELPS TO RECOVER ABDUCTED CHILDREN BUT ALSO ACTS AS A DETERRENT TO THIS TYPE OF CRIME. SKYLAR’S LAW WILL REQUIRE LAW ENFORCEMENT AGENCIES TO REPORT A SUSPECTED ABDUCTION OR MISSING CHILD TO THE AMBER ALERT AUTHORITIES IN THE INITIAL STAGES OF INVESTIGATION TO FACILITATE THEIR SAFE RETURN.

Be it enacted by the Legislature of West Virginia:

That §15-3A-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 3A. AMBER ALERT PLAN.**§15-3A-4. Activation of Amber Alert.**

1 (a) The following criteria shall be met before the State Police
2 activate the Amber Alert:

3 (1) The child is believed to be abducted;

4 (2) The child is seventeen years of age or younger;

5 (3) The child may be in danger of death or serious bodily
6 injury; and

7 (4) There is sufficient information available to indicate that
8 an Amber Alert would assist in locating the child.

9 (b) In the event of suspicion that a child has been abducted
10 or is missing, and in the initial stages of a missing or abducted
11 child investigation, the reporting law enforcement agency shall
12 contact the West Virginia State Police Communications Center
13 by telephone. The communications center will then contact the
14 Amber Alert Coordinator to determine if the Amber Alert
15 criteria are satisfied.

CHAPTER 4

**(Com. Sub. for H. B. 2014 - By Mr. Speaker,
(Mr. Thompson) and Delegate Armstead)
[By Request of the Executive]**

[Passed April 17, 2013; in effect from passage.]

[Approved by the Governor on April 22, 2013.]

AN ACT making appropriations of public money out of the Treasury
in accordance with section fifty-one, article VI of the Constitution.

Be it enacted by the Legislature of West Virginia:

Title

I. General Provisions.

II. Appropriations.

III. Administration.

TITLE I — GENERAL PROVISIONS.

TITLE I – GENERAL PROVISIONS.

§1. General policy.

§2. Definitions.

§3. Classification of appropriations.

§4. Method of expenditure.

§5. Maximum expenditures.

1 **Section 1. General policy.** — The purpose of this bill is to
2 appropriate money necessary for the economical and efficient
3 discharge of the duties and responsibilities of the state and its
4 agencies during the fiscal year 2014.

1 **Sec. 2. Definitions.** — For the purpose of this bill:

2 “Governor” shall mean the Governor of the State of West
3 Virginia.

4 “Code” shall mean the Code of West Virginia, one thousand
5 nine hundred thirty-one, as amended.

6 “Spending unit” shall mean the department, bureau, division,
7 office, board, commission, agency or institution to which an
8 appropriation is made.

9 The “fiscal year 2014” shall mean the period from July 1,
10 2013, through June 30, 2014.

11 “General revenue fund” shall mean the general operating
12 fund of the state and includes all moneys received or collected
13 by the state except as provided in W.Va. Code §12-2-2 or as
14 otherwise provided.

15 “Special revenue funds” shall mean specific revenue sources
16 which by legislative enactments are not required to be accounted
17 for as general revenue, including federal funds.

18 “From collections” shall mean that part of the total
19 appropriation which must be collected by the spending unit to be
20 available for expenditure. If the authorized amount of collections
21 is not collected, the total appropriation for the spending unit
22 shall be reduced automatically by the amount of the deficiency
23 in the collections. If the amount collected exceeds the amount
24 designated “from collections”, the excess shall be set aside in a
25 special surplus fund and may be expended for the purpose of the
26 spending unit as provided by Article 2, Chapter 11B of the Code.

1 **Sec. 3. Classification of appropriations.** — An
2 appropriation for:

3 “Personal services” shall mean salaries, wages and other
4 compensation paid to full-time, part-time and temporary
5 employees of the spending unit but shall not include fees or
6 contractual payments paid to consultants or to independent
7 contractors engaged by the spending unit. “Personal services”
8 shall also include “annual increment” for “eligible employees”
9 and shall be disbursed only in accordance with Article 5, Chapter
10 5 of the Code.

11 Unless otherwise specified, appropriations for “personal
12 services” shall include salaries of heads of spending units.

13 “Employee benefits” shall mean social security matching,
14 workers’ compensation, unemployment compensation, pension
15 and retirement contributions, public employees insurance
16 matching, personnel fees or any other benefit normally paid by
17 the employer as a direct cost of employment. Should the
18 appropriation be insufficient to cover such costs, the remainder
19 of such cost shall be transferred by each spending unit from its
20 “personal services” line item or its “unclassified” or “current

21 expenses” line item or other appropriate line item to its
22 “employee benefits” line item. If there is no appropriation for
23 “employee benefits”, such costs shall be paid by each spending
24 unit from its “personal services” line item, its “unclassified” line
25 item, or its “current expenses” line item or other appropriate line
26 item. Each spending unit is hereby authorized and required to
27 make such payments in accordance with the provisions of Article
28 2, Chapter 11B of the Code.

29 Each spending unit shall be responsible for all contributions,
30 payments or other costs related to coverage and claims of its
31 employees for unemployment compensation and workers
32 compensation. Such expenditures shall be considered an
33 employee benefit.

34 “BRIM Premiums” shall mean the amount charged as
35 consideration for insurance protection and includes the present
36 value of projected losses and administrative expenses. Premiums
37 are assessed for coverages, as defined in the applicable policies,
38 for claims arising from, inter alia, general liability, wrongful
39 acts, property, professional liability and automobile exposures.

40 Should the appropriation for “BRIM Premium” be
41 insufficient to cover such cost, the remainder of such costs shall
42 be transferred by each spending unit from its “personal services”
43 line item, its “employee benefits” line item, its “unclassified”
44 line item, its “current expenses” line item or any other
45 appropriate line item to “BRIM Premium” for payment to the
46 Board of Risk and Insurance Management. Each spending unit
47 is hereby authorized and required to make such payments.

48 West Virginia Council for Community and Technical
49 College Education and Higher Education Policy Commission
50 entities operating with special revenue funds and/or federal
51 funds shall pay their proportionate share of the Board of Risk
52 and Insurance Management total insurance premium cost for
53 their respective institutions.

54 “Current expenses” shall mean operating costs other than
55 personal services and shall not include equipment, repairs and
56 alterations, buildings or lands. Each spending unit shall be
57 responsible for and charged monthly for all postage meter
58 service and shall reimburse the appropriate revolving fund
59 monthly for all such amounts. Such expenditures shall be
60 considered a current expense.

61 “Equipment” shall mean equipment items which have an
62 appreciable and calculable period of usefulness in excess of one
63 year.

64 “Repairs and alterations” shall mean routine maintenance
65 and repairs to structures and minor improvements to property
66 which do not increase the capital assets.

67 “Buildings” shall include new construction and major
68 alteration of existing structures and the improvement of lands
69 and shall include shelter, support, storage, protection or the
70 improvement of a natural condition.

71 “Lands” shall mean the purchase of real property or interest
72 in real property.

73 “Capital outlay” shall mean and include buildings, lands or
74 buildings and lands, with such category or item of appropriation
75 to remain in effect as provided by W.Va. Code §12-3-12.

76 From appropriations made to the spending units of state
77 government, upon approval of the governor there may be
78 transferred to a special account an amount sufficient to match
79 federal funds under any federal act.

80 Appropriations classified in any of the above categories shall
81 be expended only for the purposes as defined above and only for
82 the spending units herein designated: *Provided*, That the
83 secretary of each department shall have the authority to transfer

84 within the department those general revenue funds appropriated
85 to the various agencies of the department: *Provided, however,*
86 That no more than five percent of the general revenue funds
87 appropriated to any one agency or board may be transferred to
88 other agencies or boards within the department: and no funds
89 may be transferred to a “personal services” line unless the source
90 funds are also wholly from a “personal services” line, or unless
91 the source funds are from another activity that has exclusively
92 funded employment expenses (any of object codes 001 through
93 016, 160 and 163) for at least twelve consecutive months prior
94 to the time of transfer and the position(s) supported by the
95 transferred funds are also permanently transferred to the
96 receiving agency or board within the department: *Provided*
97 *further,* That the secretary of each department and the director,
98 commissioner, executive secretary, superintendent, chairman or
99 any other agency head not governed by a departmental secretary
100 as established by Chapter 5F of the Code shall have the authority
101 to transfer funds appropriated to “personal services”, “employee
102 benefits”, “current expenses”, “repairs and alterations”,
103 “equipment”, “other assets”, and “buildings” to other lines
104 within the same account and no funds from other lines shall be
105 transferred to the “personal services” or “unclassified” line: *And*
106 *provided further,* That no authority exists hereunder to transfer
107 funds into line-items to which no funds are legislatively
108 appropriated: *And provided further,* That if the Legislature by
109 subsequent enactment consolidates agencies, boards or
110 functions, the secretary or other appropriate agency head may
111 transfer the funds formerly appropriated to such agency, board
112 or function in order to implement such consolidation. No funds
113 may be transferred from a Special Revenue Account, dedicated
114 account, capital expenditure account or any other account or
115 fund specifically exempted by the Legislature from transfer,
116 except that the use of the appropriations from the State Road
117 Fund for the office of the Secretary of the Department of
118 Transportation is not a use other than the purpose for which such
119 funds were dedicated and is permitted.

120 Appropriations otherwise classified shall be expended only
 121 where the distribution of expenditures for different purposes
 122 cannot well be determined in advance or it is necessary or
 123 desirable to permit the spending unit the freedom to spend an
 124 appropriation for more than one of the above classifications.

1 **Sec. 4. Method of expenditure.** — Money appropriated by
 2 this bill, unless otherwise specifically directed, shall be
 3 appropriated and expended according to the provisions of Article
 4 3, Chapter 12 of the Code or according to any law detailing a
 5 procedure specifically limiting that article.

1 **Sec. 5. Maximum expenditures.** — No authority or
 2 requirement of law shall be interpreted as requiring or permitting
 3 an expenditure in excess of the appropriations set out in this bill.

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- §8. Awards for claims against the state.
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- §14. Sinking fund deficiencies.
- §15. Appropriations for local governments.
- §16. Total appropriations.
- §17. General school fund.

1 **Section 1. Appropriations from general revenue.** — From
 2 the State Fund, General Revenue, there are hereby appropriated
 3 conditionally upon the fulfillment of the provisions set forth in
 4 Article 2, Chapter 11B the following amounts, as itemized, for
 5 expenditure during the fiscal year 2014.

LEGISLATIVE

1 - Senate

Fund 0165 FY 2014 Org 2100

	Activity	General Revenue Fund
1 Compensation of Members (R).	003	\$ 1,010,000
2 Compensation and Per Diem of		
3 Officers and Employees (R).	005	3,003,210
4 Employee Benefits (R).....	010	597,712
5 Current Expenses and Contingent		
6 Fund (R).....	021	561,392
7 Repairs and Alterations (R).....	064	210,410
8 Computer Supplies (R).....	101	40,000
9 Computer Systems (R).....	102	150,000
10 Printing Blue Book (R).	103	150,000
11 Expenses of Members (R).	399	700,000
12 BRIM Premium (R).....	913	<u>29,482</u>
13 Total.....		\$ 6,452,206

14 The appropriations for the Senate for the fiscal year 2013 are
 15 to remain in full force and effect and are hereby reappropriated
 16 to June 30, 2014. Any balances so reappropriated may be
 17 transferred and credited to the fiscal year 2013 accounts.

18 Upon the written request of the Clerk of the Senate, the
 19 auditor shall transfer amounts between items of the total
 20 appropriation in order to protect or increase the efficiency of the
 21 service.

22 The Clerk of the Senate, with the approval of the President,
 23 is authorized to draw his or her requisitions upon the auditor,
 24 payable out of the Current Expenses and Contingent Fund of the

25 Senate, for any bills for supplies and services that may have been
26 incurred by the Senate and not included in the appropriation bill,
27 for supplies and services incurred in preparation for the opening,
28 the conduct of the business and after adjournment of any regular
29 or extraordinary session, and for the necessary operation of the
30 Senate offices, the requisitions for which are to be accompanied
31 by bills to be filed with the auditor.

32 The Clerk of the Senate, with the approval of the President,
33 or the President of the Senate shall have authority to employ
34 such staff personnel during any session of the Legislature as
35 shall be needed in addition to staff personnel authorized by the
36 Senate resolution adopted during any such session. The Clerk of
37 the Senate, with the approval of the President, or the President
38 of the Senate shall have authority to employ such staff personnel
39 between sessions of the Legislature as shall be needed, the
40 compensation of all staff personnel during and between sessions
41 of the Legislature, notwithstanding any such Senate resolution,
42 to be fixed by the President of the Senate. The Clerk is hereby
43 authorized to draw his or her requisitions upon the auditor for the
44 payment of all such staff personnel for such services, payable out
45 of the appropriation for Compensation and Per Diem of Officers
46 and Employees or Current Expenses and Contingent Fund of the
47 Senate.

48 For duties imposed by law and by the Senate, the Clerk of
49 the Senate shall be paid a monthly salary as provided by the
50 Senate resolution, unless increased between sessions under the
51 authority of the President, payable out of the appropriation for
52 Compensation and Per Diem of Officers and Employees or
53 Current Expenses and Contingent Fund of the Senate.

54 The distribution of the blue book shall be by the office of the
55 Clerk of the Senate and shall include 75 copies for each member
56 of the Legislature and two copies for each classified and
57 approved high school and junior high or middle school and one
58 copy for each elementary school within the state.

2 - House of Delegates

Fund 0170 FY 2014 Org 2200

1	Compensation of Members (R).	003	\$	3,000,000
2	Compensation and Per Diem of			
3	Officers and Employees (R).	005		700,000
4	Current Expenses and			
5	Contingent Fund (R).	021		3,954,031
6	Expenses of Members (R).	399		1,700,000
7	BRIM Premium (R).	913		<u>50,000</u>
8	Total.		\$	9,404,031

9 The appropriations for the House of Delegates for the fiscal
10 year 2013 are to remain in full force and effect and are hereby
11 reappropriated to June 30, 2014. Any balances so reappropriated
12 may be transferred and credited to the fiscal year 2013 accounts.

13 Upon the written request of the Clerk of the House of
14 Delegates, the auditor shall transfer amounts between items of
15 the total appropriation in order to protect or increase the
16 efficiency of the service.

17 The Clerk of the House of Delegates, with the approval of
18 the Speaker, is authorized to draw his or her requisitions upon
19 the auditor, payable out of the Current Expenses and Contingent
20 Fund of the House of Delegates, for any bills for supplies and
21 services that may have been incurred by the House of Delegates
22 and not included in the appropriation bill, for bills for services
23 and supplies incurred in preparation for the opening of the
24 session and after adjournment, and for the necessary operation
25 of the House of Delegates' offices, the requisitions for which are
26 to be accompanied by bills to be filed with the auditor.

27 The Speaker of the House of Delegates, upon approval of the
28 House committee on rules, shall have authority to employ such

29 staff personnel during and between sessions of the Legislature as
 30 shall be needed, in addition to personnel designated in the House
 31 resolution, and the compensation of all personnel shall be as
 32 fixed in such House resolution for the session, or fixed by the
 33 Speaker, with the approval of the House committee on rules,
 34 during and between sessions of the Legislature, notwithstanding
 35 such House resolution. The Clerk of the House of Delegates is
 36 hereby authorized to draw requisitions upon the auditor for such
 37 services, payable out of the appropriation for the Compensation
 38 and Per Diem of Officers and Employees or Current Expenses
 39 and Contingent Fund of the House of Delegates.

40 For duties imposed by law and by the House of Delegates,
 41 including salary allowed by law as keeper of the rolls, the Clerk
 42 of the House of Delegates shall be paid a monthly salary as
 43 provided in the House resolution, unless increased between
 44 sessions under the authority of the Speaker, with the approval of
 45 the House committee on rules, and payable out of the
 46 appropriation for Compensation and Per Diem of Officers and
 47 Employees or Current Expenses and Contingent Fund of the
 48 House of Delegates.

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2014 Org 2300

1	Joint Committee on Government		
2	and Finance (R)	104	\$ 6,758,015
3	Legislative Printing (R)	105	760,000
4	Legislative Rule-Making Review		
5	Committee (R)	106	147,250
6	Legislative Computer System (R) . . .	107	902,500
7	BRIM Premium (R)	913	<u>27,692</u>
8	Total		\$ 8,595,457

9 The appropriations for the joint expenses for the fiscal year
 10 2013 are to remain in full force and effect and are hereby
 11 reappropriated to June 30, 2014. Any balances reappropriated
 12 may be transferred and credited to the fiscal year 2013 accounts.

13 Upon the written request of the Clerk of the Senate, with the
 14 approval of the President of the Senate, and the Clerk of the
 15 House of Delegates, with the approval of the Speaker of the
 16 House of Delegates, and a copy to the Legislative Auditor, the
 17 auditor shall transfer amounts between items of the total
 18 appropriation in order to protect or increase the efficiency of the
 19 service.

20 The appropriation for the Tax Reduction and Federal
 21 Funding Increased Compliance (TRAFFIC) (fund 0175, activity
 22 642) is intended for possible general state tax reductions or the
 23 offsetting of any reductions in federal funding for state
 24 programs.

JUDICIAL

*4 - Supreme Court –
 General Judicial*

Fund 0180 FY 2014 Org 2400

1	Personal Services (R).....	001	\$	73,327,364
2	Employee Benefits (R).....	010		25,628,323
3	Children’s Protection Act (R).	090		2,682,072
4	Current Expenses (R).....	130		13,486,000
5	Repairs and Alterations (R).	064		700,000
6	Equipment (R).	070		2,000,000
7	Judges’ Retirement System (R).	110		2,456,000
8	Other Assets (R).....	690		919,979
9	BRIM Premium (R).....	913		<u>312,254</u>
10	Total.....		\$	121,511,992

11 The appropriations to the Supreme Court of Appeals for the
 12 fiscal years 2012 and 2013 are to remain in full force and effect
 13 and are hereby reappropriated to June 30, 2014. Any balances so
 14 reappropriated may be transferred and credited to the fiscal year
 15 2013 accounts.

16 This appropriation shall be administered by the
 17 Administrative Director of the Supreme Court of Appeals, who
 18 shall draw requisitions for warrants in payment in the form of
 19 payrolls, making deductions there from as required by law for
 20 taxes and other items.

21 The appropriation for the Judges' Retirement System
 22 (activity 110) is to be transferred to the Consolidated Public
 23 Retirement Board, in accordance with the law relating thereto,
 24 upon requisition of the Administrative Director of the Supreme
 25 Court of Appeals.

EXECUTIVE

5 - Governor's Office

(WV Code Chapter 5)

Fund 0101 FY 2014 Org 0100

1	Personal Services.....	001	\$	2,448,460
2	Salary of Governor.....	002		150,000
3	Employee Benefits.....	010		790,032
4	Current Expenses (R).....	130		656,358
5	Repairs and Alterations.	064		2,000
6	GO HELP (R).....	116		473,383
7	National Governors Association. ...	123		60,700
8	Southern States Energy Board.	124		28,732
9	Herbert Henderson Office of			
10	Minority Affairs.....	134		162,800

11	Southern Governors' Association. . .	314		40,000
12	BRIM Premium.	913		<u>156,851</u>
13	Total.		\$	4,969,316

14 Any unexpended balances remaining in the appropriations
 15 for Unclassified (fund 0101, activity 099), GO HELP (fund
 16 0101, activity 116), Current Expenses (fund 0101, activity 130),
 17 and JOBS Fund (fund 0101, activity 665) at the close of the
 18 fiscal year 2013 are hereby reappropriated for expenditure
 19 during the fiscal year 2014.

20 The above appropriation for Herbert Henderson Office of
 21 Minority Affairs (fund 0101, activity 134) shall be transferred to
 22 the Minority Affairs Fund (fund 1058).

*6 - Governor's Office -
 Custodial Fund*

(WV Code Chapter 5)

Fund 0102 FY 2014 Org 0100

1	Personal Services.	001	\$	276,500
2	Employee Benefits.	010		98,852
3	Current Expenses (R).	130		227,666
4	Repairs and Alterations.	064		<u>5,000</u>
5	Total.		\$	608,018

6 Any unexpended balance remaining in the appropriation for
 7 Current Expenses (fund 0102, activity 130) at the close of the
 8 fiscal year 2013 is hereby reappropriated for expenditure during
 9 the fiscal year 2014.

10 Funds are to be used for current general expenses, including
 11 compensation of employees, household maintenance, cost of
 12 official functions and additional household expenses occasioned
 13 by such official functions.

*7 - Governor's Office –
Civil Contingent Fund*

(WV Code Chapter 5)

Fund 0105 FY 2014 Org 0100

1 Any unexpended balances remaining in the appropriations
2 for Business and Economic Development Stimulus – Surplus
3 (fund 0105, activity 084), Civil Contingent Fund – Total (fund
4 0105, activity 114), 2012 Natural Disaster – Surplus (fund 0105,
5 activity 135), May 2009 Flood Recovery – Surplus (fund 0105,
6 activity 236), Civil Contingent Fund – Total – Surplus (fund
7 0105, activity 238), Civil Contingent Fund – Surplus (fund 0105,
8 activity 263), Business and Economic Development Stimulus
9 (fund 010, activity 586), and Civil Contingent Fund (fund 0105,
10 activity 614) at the close of the fiscal year 2013 are hereby
11 reappropriated for expenditure during the fiscal year 2014.

12 From this appropriation there may be expended, at the
13 discretion of the Governor, an amount not to exceed \$1,000 as
14 West Virginia's contribution to the interstate oil compact
15 commission.

16 The above appropriation is intended to provide contingency
17 funding for accidental, unanticipated, emergency or unplanned
18 events which may occur during the fiscal year and is not to be
19 expended for the normal day-to-day operations of the governor's
20 office.

*8 - Auditor's Office –
General Administration*

(WV Code Chapter 12)

Fund 0116 FY 2014 Org 1200

1	Personal Services.....	001	\$	2,274,943
2	Salary of Auditor.....	002		95,000

3	Employee Benefits.....	010		844,679
4	Current Expenses (R).....	130		206,717
5	Repairs and Alterations.	064		20,500
6	Other Assets.....	690		29,298
7	BRIM Premium.	913		<u>15,428</u>
8	Total.....		\$	3,486,565

9 Any unexpended balances remaining in the appropriations
 10 for Unclassified – Surplus (fund 0116, activity 097),
 11 Unclassified (fund 0116, activity 099), and Current Expenses
 12 (fund 0116, activity 130) at the close of the fiscal year 2013 are
 13 hereby reappropriated for expenditure during the fiscal year
 14 2014.

9 - Treasurer's Office

(WV Code Chapter 12)

Fund 0126 FY 2014 Org 1300

1	Personal Services.....	001	\$	1,910,480
2	Salary of Treasurer.....	002		95,000
3	Employee Benefits.....	010		686,380
4	Unclassified.	099		36,000
5	Current Expenses (R).....	130		457,912
6	Equipment.	070		10,000
7	Abandoned Property Program.	118		260,947
8	Other Assets.....	690		10,000
9	Tuition Trust Fund (R).....	692		147,390
10	BRIM Premium.	913		<u>30,809</u>
11	Total.....		\$	3,644,918

12 Any unexpended balances remaining in the appropriations
 13 for Current Expenses (fund 0126, activity 130) and Tuition Trust
 14 Fund (fund 0126, activity 692) at the close of the fiscal year

15 2013 are hereby reappropriated for expenditure during the fiscal
 16 year 2014.

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2014 Org 1400

1	Personal Services.....	001	\$	4,149,590
2	Salary of Commissioner.....	002		95,000
3	Employee Benefits.....	010		1,851,827
4	Animal Identification Program.	039		183,899
5	State Farm Museum.....	055		104,500
6	Unclassified (R).....	099		67,969
7	Current Expenses (R).....	130		500,000
8	Repairs and Alterations.	064		80,000
9	Equipment.	070		23,402
10	Gypsy Moth Program (R).	119		1,365,844
11	Huntington Farmers Market.....	128		43,866
12	Black Fly Control (R).	137		536,298
13	Donated Foods Program.....	363		50,000
14	Predator Control (R).....	470		397,000
15	Logan Farmers Market.....	501		46,130
16	Bee Research.	691		77,290
17	Capital Outlay and			
18	Maintenance (R).	755		75,000
19	Microbiology Program (R).	785		116,210
20	Moorefield Agriculture Center (R). .	786		1,124,278
21	Chesapeake Bay Watershed.....	830		125,793
22	Livestock Care Standards Board. ...	843		15,000
23	BRIM Premium.	913		120,202
24	Threat Preparedness.....	942		81,656
25	WV Food Banks.....	969		115,000

26	Senior’s Farmers’ Market Nutrition		
27	Coupon Program.	970	62,173
28	Total.		\$ 11,407,927

29 Any unexpended balances remaining in the appropriations
30 for Unclassified – Surplus (fund 0131, activity 097),
31 Unclassified (fund 0131, activity 099), Gypsy Moth Program
32 (fund 0131, activity 119), Current Expenses (fund 0131, activity
33 130), Black Fly Control (fund 0131, activity 137), Predator
34 Control (fund 0131, activity 470), Capital Outlay, Repairs and
35 Equipment – Surplus (fund 0131, activity 677), Capital Outlay
36 and Maintenance (fund 0131, activity 755), Microbiology
37 Program (fund 0131, activity 785), Moorefield Agriculture
38 Center (fund 0131, activity 786), and Agricultural Disaster and
39 Mitigation Needs – Surplus (fund 0131, activity 850) at the close
40 of the fiscal year 2013 are hereby reappropriated for expenditure
41 during the fiscal year 2014.

42 A portion of the Unclassified or Current Expenses
43 appropriation may be transferred to a special revenue fund for
44 the purpose of matching federal funds for marketing and
45 development activities.

46 From the above appropriation for WV Food Banks (activity
47 969), \$20,000 is for House of Hope and the remainder of the
48 appropriation shall be allocated to the Huntington Food Bank
49 and the Mountaineer Food Bank in Braxton County.

11 - West Virginia Conservation Agency

(WV Code Chapter 19)

Fund 0132 FY 2014 Org 1400

1	Personal Services.	001	\$	523,092
2	Employee Benefits.	010		238,016
3	Unclassified (R).	099		94,753
4	Current Expenses (R).	130		326,325

5	Repairs and Alterations.	064		10,000
6	Equipment.	070		10,000
7	Soil Conservation Projects (R).. . . .	120		8,246,830
8	BRIM Premium.	913		<u>26,326</u>
9	Total.		\$	9,475,342

10 Any unexpended balances remaining in the appropriations
 11 for Unclassified (fund 0132, activity 099), Soil Conservation
 12 Projects (fund 0132, activity 120), and Current Expenses (fund
 13 0132, activity 130) at the close of the fiscal year 2013 are hereby
 14 reappropriated for expenditure during the fiscal year 2014.

*12 - Department of Agriculture –
 Meat Inspection*

(WV Code Chapter 19)

Fund 0135 FY 2014 Org 1400

1	Personal Services.	001	\$	436,095
2	Employee Benefits.	010		183,691
3	Unclassified.	099		7,182
4	Current Expenses.	130		<u>94,344</u>
5	Total.		\$	721,312

6 Any part or all of this appropriation may be transferred to a
 7 special revenue fund for the purpose of matching federal funds
 8 for the above-named program.

*13 - Department of Agriculture –
 Agricultural Awards*

(WV Code Chapter 19)

Fund 0136 FY 2014 Org 1400

1	Programs and Awards for 4-H			
2	Clubs and FFA/FHA.	577	\$	15,000

3	Commissioner’s Awards and		
4	Programs.	737	<u>39,250</u>
5	Total.		\$ 54,250

*14 - Department of Agriculture –
West Virginia Agricultural Land Protection Authority*

(WV Code Chapter 8A)

Fund 0607 FY 2014 Org 1400

1	Personal Services.	001	\$	75,000
2	Employee Benefits.	010		27,351
3	Unclassified.	099		<u>750</u>
4	Total.		\$	103,101

15 - Attorney General

(WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2014 Org 1500

1	Personal Services (R).	001	\$	1,845,815
2	Salary of Attorney General.	002		95,000
3	Employee Benefits (R).	010		1,145,115
4	Unclassified (R).	099		54,961
5	Current Expenses (R).	130		685,773
6	Repairs and Alterations.	064		7,500
7	Equipment.	070		40,000
8	Criminal Convictions and Habeas			
9	Corpus Appeals (R).	260		1,194,652
10	Better Government Bureau.	740		326,731
11	BRIM Premium.	913		<u>118,590</u>
12	Total.		\$	5,514,137

13 Any unexpended balances remaining in the above
 14 appropriations for Personal Services (fund 0150, activity 001),

15 Employee Benefits (fund 0150, activity 010), Unclassified (fund
 16 0150, activity 099), Current Expenses (fund 0150, activity 130),
 17 Criminal Convictions and Habeas Corpus Appeals (fund 0150,
 18 activity 260), and Agency Client Revolving Liquidity Pool (fund
 19 0150, activity 362) at the close of the fiscal year 2013 are hereby
 20 reappropriated for expenditure during the fiscal year 2014.

21 When legal counsel or secretarial help is appointed by the
 22 attorney general for any state spending unit, this account shall be
 23 reimbursed from such spending units specifically appropriated
 24 account or from accounts appropriated by general language
 25 contained within this bill: *Provided*, That the spending unit shall
 26 reimburse at a rate and upon terms agreed to by the state
 27 spending unit and the attorney general: *Provided, however*, That
 28 if the spending unit and the attorney general are unable to agree
 29 on the amount and terms of the reimbursement, the spending unit
 30 and the attorney general shall submit their proposed
 31 reimbursement rates and terms to the Governor for final
 32 determination.

16 - Secretary of State

(WV Code Chapters 3, 5 and 59)

Fund 0155 FY 2014 Org 1600

1	Salary of Secretary of State.	002	\$	95,000
2	Employee Benefits.	010		25,308
3	Unclassified (R).	099		11,217
4	Current Expenses (R).	130		1,072,497
5	BRIM Premium.	913		<u>16,000</u>
6	Total.		\$	1,220,022

7 Any unexpended balances remaining in the appropriations
 8 for Unclassified – Surplus (fund 0155, activity 097),
 9 Unclassified (fund 0155, activity 099), Current Expenses (fund
 10 0155, activity 130), and Technology Improvements – Surplus

11 (fund 0155, activity 725) at the close of the fiscal year 2013 are
12 hereby reappropriated for expenditure during the fiscal year
13 2014.

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2014 Org 1601

1	Personal Services.....	001	\$	2,310
2	Employee Benefits.....	010		177
3	Unclassified.....	099		90
4	Current Expenses.....	130		<u>6,451</u>
5	Total.....		\$	9,028

DEPARTMENT OF ADMINISTRATION

18 - Department of Administration –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0186 FY 2014 Org 0201

1	Personal Services.....	001	\$	446,881
2	Employee Benefits.....	010		141,208
3	Unclassified.....	099		9,397
4	Current Expenses.....	130		96,616
5	Repairs and Alterations.....	064		100
6	Equipment.....	070		5,000
7	Financial Advisor (R).....	304		200,000
8	Lease Rental Payments.....	516		15,000,000
9	Design-Build Board.....	540		4,068
10	Other Assets.....	690		5,000
11	BRIM Premium.....	913		<u>3,990</u>
12	Total.....		\$	15,912,260

13 Any unexpended balance remaining in the appropriation for
 14 Financial Advisor (fund 0186, activity 304) at the close of the
 15 fiscal year 2013 is hereby reappropriated for expenditure during
 16 the fiscal year 2014.

17 The appropriation for Lease Rental Payments (activity 516)
 18 shall be disbursed as provided by W.Va. Code §31-15-6b.

19 - Consolidated Public Retirement Board

(WV Code Chapter 5)

Fund 0195 FY 2014 Org 0205

1 The division of highways, division of motor vehicles, public
 2 service commission and other departments, bureaus, divisions,
 3 or commissions operating from special revenue funds and/or
 4 federal funds shall pay their proportionate share of the retirement
 5 costs for their respective divisions. When specific appropriations
 6 are not made, such payments may be made from the balances in
 7 the various special revenue funds in excess of specific
 8 appropriations.

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2014 Org 0209

1	Personal Services.	001	\$	84,691
2	Employee Benefits.	010		35,113
3	Unclassified.	099		2,438
4	Current Expenses.	130		113,126
5	Repairs and Alterations.	064		1,500
6	Equipment.	070		1,000
7	GAAP Project (R).	125		608,561
8	Other Assets.	690		2,000

9	BRIM Premium.	913		<u>4,526</u>
10	Total.		\$	852,955

11 Any unexpended balance remaining in the appropriation for
 12 GAAP Project (fund 0203, activity 125) at the close of the fiscal
 13 year 2013 is hereby reappropriated for expenditure during the
 14 fiscal year 2014.

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2014 Org 0211

1	Personal Services.	001	\$	1,774,416
2	Employee Benefits.	010		845,615
3	Unclassified.	099		20,000
4	Current Expenses.	130		858,155
5	Repairs and Alterations.	064		10,000
6	Equipment.	070		5,000
7	Fire Service Fee.	126		14,000
8	Buildings.	258		1,000
9	Preservation and Maintenance of			
10	Statues and Monuments			
11	on Capitol Grounds.	371		68,000
12	Other Assets.	690		1,000
13	Land.	730		500
14	BRIM Premium.	913		<u>112,481</u>
15	Total.		\$	3,710,167

16 From the above appropriation for Preservation and
 17 Maintenance of Statues and Monuments on Capitol Grounds
 18 (activity 371), the Division shall consult the Division of Culture
 19 and History and Capitol Building Commission in all aspects of
 20 planning, assessment, maintenance and restoration.

22 - Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2014 Org 0213

1	Personal Services.....	001	\$	734,933
2	Employee Benefits.....	010		296,453
3	Unclassified.....	099		1,444
4	Current Expenses.....	130		51,887
5	Repairs and Alterations.....	064		700
6	Equipment.....	070		1,000
7	Other Assets.....	690		1,000
8	BRIM Premium.....	913		<u>6,167</u>
9	Total.....		\$	1,093,584

10 The division of highways shall reimburse Fund 2031 within
 11 the division of purchasing for all actual expenses incurred
 12 pursuant to the provisions of W.Va. Code §17-2A-13.

23 - Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2014 Org 0215

1	Personal Services.....	001	\$	581,652
2	Employee Benefits.....	010		358,308
3	Unclassified.....	099		15,885
4	Current Expenses.....	130		423,640
5	Repairs and Alterations.....	064		200,000
6	Equipment.....	070		5,000
7	Buildings.....	258		100
8	Other Assets.....	690		<u>4,000</u>
9	Total.....		\$	1,588,585

24 - Commission on Uniform State Laws

(WV Code Chapter 29)

Fund 0214 FY 2014 Org 0217

1	Unclassified.	099	\$	465
2	Current Expenses.	130		<u>46,085</u>
3	Total.		\$	46,550

4 To pay expenses for members of the commission on uniform
5 state laws.

25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

Fund 0220 FY 2014 Org 0219

1	Personal Services.	001	\$	670,452
2	Employee Benefits.	010		220,834
3	Unclassified.	099		200
4	Current Expenses (R).	130		187,411
5	Repairs and Alterations.	064		500
6	Equipment.	070		500
7	Buildings.	258		500
8	Other Assets.	690		500
9	Land.	730		500
10	BRIM Premium.	913		<u>5,200</u>
11	Total.		\$	1,086,597

12 Any unexpended balance remaining in the appropriation for
13 Current Expenses (fund 0220, activity 130) at the close of the
14 fiscal year 2013 is hereby reappropriated for expenditure during
15 the fiscal year 2014.

26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2014 Org 0220

1	Personal Services.	001	\$	421,997
2	Employee Benefits.	010		134,234
3	Unclassified.	099		6,553
4	Current Expenses.	130		134,941
5	Repairs and Alterations.	064		500
6	Other Assets.	690		2,000
7	BRIM Premium.	913		<u>2,788</u>
8	Total.		\$	703,013

27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2014 Org 0221

1	Personal Services.	001	\$	710,796
2	Employee Benefits.	010		303,922
3	Unclassified	099		315,062
4	Public Defender Corporations.	352		19,801,266
5	Appointed Counsel Fees (R).	788		10,723,115
6	BRIM Premium.	913		<u>4,216</u>
7	Total.		\$	31,858,377

8 Any unexpended balance remaining in the above
 9 appropriation for Appointed Counsel Fees (fund 0226, activity
 10 788) at the close of the fiscal year 2013 is hereby reappropriated
 11 for expenditure during the fiscal year 2014.

12 The director shall have the authority to transfer funds from
 13 the appropriation to Public Defender Corporations (fund 0226,

14 activity 352) to Appointed Counsel Fees (fund 0226, activity
15 788).

*28 - Committee for the Purchase of
Commodities and Services from the Handicapped*

(WV Code Chapter 5A)

Fund 0233 FY 2014 Org 0224

1	Personal Services.....	001	\$	1,800
2	Employee Benefits.....	010		1,377
3	Current Expenses.....	130		<u>1,878</u>
4	Total.....		\$	5,055

29 - Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2014 Org 0225

1	PEIA Subsidy.....	801	\$	3,500,000
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2 The above appropriation for PEIA Subsidy (fund 0200,
3 activity 801) may be transferred to a special revenue fund and
4 shall be utilized by the West Virginia Public Employees
5 Insurance Agency for the purposes of offsetting benefit changes
6 to offset the aggregate premium cost-sharing percentage
7 requirements between employers and employees. Such amount
8 shall not be included in the calculation of the plan year aggregate
9 premium cost-sharing percentages between employers and
10 employees.

11 The division of highways, division of motor vehicles, public
12 service commission and other departments, bureaus, divisions,
13 or commissions operating from special revenue funds and/or
14 federal funds shall pay their proportionate share of the public
15 employees health insurance cost for their respective divisions.

30 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 0557 FY 2014 Org 0228

1	Forensic Medical Examinations (R).	683	\$	140,085
2	Federal Funds/Grant Match (R).....	749		<u>100,152</u>
3	Total.....		\$	240,237

4 Any unexpended balances remaining in the appropriations
 5 for Forensic Medical Examinations (fund 0557, activity 683) and
 6 Federal Funds/Grant Match (fund 0557, activity 749) at the close
 7 of the fiscal year 2013 are hereby reappropriated for expenditure
 8 during the fiscal year 2014.

31 - Children's Health Insurance Agency

(WV Code Chapter 5)

Fund 0588 FY 2014 Org 0230

1	Personal Services.....	001	\$	87,356
2	Employee Benefits.....	010		45,867
3	Current Expenses.....	130		9,357,490
4	Autism Spectrum Disorder			
5	Coverage.....	856		<u>497,035</u>
6	Total.....		\$	9,987,748

32 - Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2014 Org 0233

1	Personal Services.....	001	\$	531,731
2	Employee Benefits.....	010		203,853
3	Unclassified.....	099		9,827
4	Current Expenses.....	130		236,879

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5	Repairs and Alterations.	064 1,000
6	Equipment.	070 5,000
7	Buildings.	258 500
8	Other Assets.	690 1,000
9	Land.	730 1,000
10	BRIM Premium.	913 <u>4,200</u>
11	Total.	\$ 994,990

DEPARTMENT OF COMMERCE

33 - Division of Tourism

(WV Code Chapter 5B)

Fund 0246 FY 2014 Org 0304

1 Any unexpended balance remaining in the appropriation for
2 Tourism – Special Projects (fund 0246, activity 859) at the close
3 of the fiscal year 2013 is hereby reappropriated for expenditure
4 during the fiscal year 2014.

34 - Division of Forestry

(WV Code Chapter 19)

Fund 0250 FY 2014 Org 0305

1	Personal Services.	001 \$ 3,246,736
2	Employee Benefits.	010 1,251,793
3	Unclassified.	099 21,435
4	Current Expenses.	130 1,417,163
5	Repairs and Alterations.	064 135,000
6	Equipment.	070 100,000
7	BRIM Premium.	913 <u>85,000</u>
8	Total.	\$ 6,257,127

9 Out of the above appropriation a sum may be used to match
10 federal funds for cooperative studies or other funds for similar
11 purposes.

35 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 0253 FY 2014 Org 0306

1	Personal Services.....	001	\$	1,295,754
2	Employee Benefits.....	010		499,384
3	Unclassified.....	099		32,760
4	Current Expenses.....	130		118,268
5	Repairs and Alterations.....	064		20,000
6	Equipment.....	070		100
7	Mineral Mapping System (R).	207		1,304,007
8	Other Assets.....	690		100
9	BRIM Premium.....	913		<u>16,000</u>
10	Total.....		\$	3,286,373

11 Any unexpended balance remaining in the appropriation for
 12 Mineral Mapping System (fund 0253, activity 207) at the close
 13 of the fiscal year 2013 is hereby reappropriated for expenditure
 14 during the fiscal year 2014.

15 The above Unclassified and Current Expenses appropriations
 16 include funding to secure federal and other contracts and may be
 17 transferred to a special revolving fund (fund 3105, activity 099)
 18 for the purpose of providing advance funding for such contracts.

36 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 0256 FY 2014 Org 0307

1	Personal Services.....	001	\$	3,506,135
2	Employee Benefits.....	010		1,203,784
3	ARC-WV Home of Your			
4	Own Alliance.....	048		36,480

5	Unclassified.	099	199,044
6	Current Expenses.	130	2,202,372
7	Repairs and Alterations.	064	4,000
8	Equipment.	070	2,000
9	Southern WV Career Center.	071	448,476
10	Partnership Grants (R).	131	559,764
11	Local Economic Development		
12	Partnerships (R).	133	1,705,440
13	ARC Assessment.	136	152,585
14	Mid-Atlantic Aerospace Complex. . .	231	161,226
15	Guaranteed Work Force Grant (R)..	242	1,051,487
16	Robert C. Byrd Institute for Advanced/ 17 Flexible Manufacturing - 18 Technology Outreach and Programs 19 for Environmental and Advanced 20 Technologies.	367	474,058
21	Advantage Valley.	389	64,374
22	Chemical Alliance Zone.	390	43,350
23	WV High Tech Consortium.	391	215,034
24	Regional Contracting		
25	Assistance Center.	418	225,000
26	Highway Authorities.	431	791,436
27	Charleston Farmers Market.	476	91,200
28	International Offices (R).	593	529,867
29	Small Business Development (R). . .	703	200,000
30	WV Manufacturing Extension		
31	Partnership.	731	131,328
32	Polymer Alliance.	754	104,880
33	Regional Councils.	784	401,280
34	Mainstreet Program.	794	186,901
35	National Institute of Chemical 36 Studies.	805	64,296

37	Local Economic Development		
38	Assistance (R).	819	2,000,000
39	I-79 Development Council.	824	50,050
40	Mingo County Post Mine		
41	Land Use Projects	841	250,000
42	BRIM Premium.	913	26,096
43	4-H Camp Improvements (R).	941	0
44	Hatfield McCoy Recreational Trail.	960	228,000
45	Hardwood Alliance Zone.	992	<u>38,851</u>
46	Total.		\$ 17,348,794

47 Any unexpended balances remaining in the appropriations
48 for Tourism – Unclassified – Surplus (fund 0256, activity 075),
49 Unclassified – Surplus (fund 0256, activity 097), Partnership
50 Grants (fund 0256, activity 131), Local Economic Development
51 Partnerships (fund 0256, activity 133), Guaranteed Work Force
52 Grant (fund 0256, activity 242), Local Economic Development
53 Assistance – Surplus (fund 0256, activity 266), Industrial Park
54 Assistance (fund 0256, activity 480), Leverage Technology and
55 Small Business Development Program (fund 0256, activity 525),
56 International Offices (fund 0256, activity 593), Small Business
57 Development (fund 0256, activity 703), Local Economic
58 Development Assistance (fund 0256, activity 819), Economic
59 Development Assistance (fund 0256, activity 900), and 4-H
60 Camp Improvements (fund 0256, activity 941) at the close of the
61 fiscal year 2013 are hereby reappropriated for expenditure
62 during the fiscal year 2014.

63 The above appropriation to Local Economic Development
64 Partnerships (activity 133) shall be used by the West Virginia
65 development office for the award of funding assistance to county
66 and regional economic development corporations or authorities
67 participating in the certified development community program
68 developed under the provisions of W.Va. Code §5B-2-14. The
69 West Virginia development office shall award the funding

70 assistance through a matching grant program, based upon a
 71 formula whereby funding assistance may not exceed \$34,000 per
 72 county served by an economic development or redevelopment
 73 corporation or authority.

74 From the above appropriation for Current Expenses (fund
 75 0256, activity 130) \$250,000 is for TechConnect; \$250,000 is for
 76 Tamarack Foundation; and \$250,000 is for the Citizens
 77 Conservation Corps.

78 From the above appropriation for Highway Authorities (fund
 79 0256, activity 431), \$115,187 is for King Coal Highway
 80 Authority; \$115,187 is for Coal Field Expressway Authority;
 81 \$92,150 is for Coal Heritage Highway Authority; \$92,150 is for
 82 Coal Heritage Area Authority; \$46,076 is for Little Kanawha
 83 River Parkway; \$82,935 is for Midland Trail Scenic Highway
 84 Association; \$52,525 is for Shawnee Parkway Authority;
 85 \$92,150 is for Corridor G Regional Development Authority;
 86 \$57,000 is for Corridor H Authority; and \$46,076 is for Route 2
 87 I68 Highway Authority.

37 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 0260 FY 2014 Org 0308

1	Personal Services.	001	\$	1,710,255
2	Employee Benefits.	010		796,156
3	Unclassified.	099		31,703
4	Current Expenses.	130		568,297
5	Repairs and Alterations.	064		40,000
6	Equipment.	070		10,000
7	BRIM Premium.	913		<u>22,752</u>
8	Total.		\$	3,179,163

*38 - Division of Labor –
Occupational Safety and Health Fund*

(WV Code Chapter 21)

Fund 0616 FY 2014 Org 0308

1	Personal Services.....	001	\$	55,072
2	Employee Benefits.....	010		34,779
3	Current Expenses.....	130		93,439
4	Repairs and Alterations.	064		500
5	Equipment.	070		500
6	BRIM Premium.	913		985
7	Total.....		\$	185,275

39 - Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2014 Org 0310

1	Personal Services.....	001	\$	8,705,153
2	Employee Benefits.....	010		4,185,648
3	Unclassified.	099		11,220
4	Current Expenses.....	130		500
5	Repairs and Alterations.	064		400
6	Equipment.	070		500
7	Buildings (R).	258		400
8	Litter Control Conservation Officers.	564		147,998
9	Upper Mud River Flood Control. ...	654		167,268
10	Other Assets.....	690		200
11	Land (R).....	730		400
12	Law Enforcement.....	806		2,743,238
13	BRIM Premium.	913		293,374
14	Total.....		\$	16,256,299

15 Any unexpended balances remaining in the appropriations
 16 for Buildings (fund 0265, activity 258), Canaan Valley Resort
 17 State Park Operating – Surplus (fund 0265, activity 710), Land
 18 (fund 0265, activity 730), and Fish Hatchery Improvements
 19 (fund 0265, activity 825) at the close of the fiscal year 2013 are
 20 hereby reappropriated for expenditure during the fiscal year
 21 2014.

22 Any revenue derived from mineral extraction at any state
 23 park shall be deposited in a special revenue account of the
 24 division of natural resources, first for bond debt payment
 25 purposes and with any remainder to be for park operation and
 26 improvement purposes.

40 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 0277 FY 2014 Org 0314

1	Personal Services.....	001	\$	7,561,157
2	Employee Benefits.....	010		2,899,888
3	Unclassified.....	099		120,000
4	Current Expenses.....	130		1,851,467
5	Coal Dust and Rock Dust Sampling.	270		566,479
6	BRIM Premium.....	913		<u>68,134</u>
7	Total.....		\$	13,067,125

8 Included in the above appropriation for Current Expenses
 9 (fund 0277, activity 130) is \$500,000 for the Southern West
 10 Virginia Community and Technical College Mine Rescue and
 11 Rapid Response Team.

41 - Board of Coal Mine Health and Safety

(WV Code Chapter 22)

Fund 0280 FY 2014 Org 0319

1	Personal Services.....	001	\$	217,974
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2	Employee Benefits.....	010		74,019
3	Unclassified.....	099		4,600
4	Current Expenses.....	130		<u>165,307</u>
5	Total.....		\$	461,900

42 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 0572 FY 2014 Org 0323

1	Personal Services.....	001	\$	8,695
2	Employee Benefits.....	010		3,026
3	Unclassified.....	099		878
4	Current Expenses.....	130		<u>75,278</u>
5	Total.....		\$	87,877

*43 - Department of Commerce –
Office of the Secretary*

(WV Code Chapter 19)

Fund 0606 FY 2014 Org 0327

1	Personal Services.....	001	\$	246,040
2	Employee Benefits.....	010		77,370
3	Unclassified.....	099		3,500
4	Current Expenses.....	130		<u>37,194</u>
5	Total.....		\$	364,104

*44 - Department of Commerce –
Office of the Secretary –
Office of Economic Opportunity*Fund 0617 FY 2014 Org 0327

1	Office of Economic Opportunity....	034	\$	117,263
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45 - Division of Energy

(WV Code Chapter 5H)

Fund 0612 FY 2014 Org 0328

1	Personal Services.....	001	\$	162,500
2	Employee Benefits.....	010		58,044
3	Unclassified.	099		17,820
4	Current Expenses.....	130		1,540,203
5	Repairs and Alterations.	064		1,000
6	BRIM Premium.	913		<u>3,297</u>
7	Total.....		\$	1,782,864

8 From the above appropriation for Current Expenses (fund
9 0612, activity 130) \$641,487 is for West Virginia University and
10 \$641,487 is for Southern West Virginia Community and
11 Technical College for the Mine Training and Energy
12 Technologies Academy.

DEPARTMENT OF EDUCATION

*46 - State Board of Education –
School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 0303 FY 2014 Org 0402

1	Personal Services.....	001	\$	264,000
2	Employee Benefits.....	010		96,687
3	Unclassified.	099		24,950
4	Current Expenses.....	130		2,103,050
5	Repairs and Alterations.	064		2,000
6	Equipment.	070		10,000
7	Other Assets.....	690		<u>2,000</u>
8	Total.....		\$	2,502,687

*47 - State Board of Education –
State FFA-FHA Camp and Conference Center*

(WV Code Chapters 18 and 18A)

Fund 0306 FY 2014 Org 0402

1	Personal Services.....	001	\$	642,000
2	Employee Benefits.....	010		256,560
3	Unclassified.....	099		10,000
4	Current Expenses.....	130		125,152
5	BRIM Premium.....	913		<u>21,694</u>
6	Total.....		\$	1,055,406

*48 - State Board of Education –
State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 0313 FY 2014 Org 0402

1	Personal Services.....	001	\$	3,529,150
2	Employee Benefits.....	010		1,024,018
3	Unclassified (R).....	099		300,000
4	Current Expenses (R).....	130		3,019,000
5	Technology System Specialist.....	062		2,000,000
6	Repairs and Alterations.....	064		50,000
7	Equipment.....	070		100,000
8	Teachers' Retirement Savings			
9	Realized.....	095		13,333,000
10	Increased Enrollment.....	140		7,360,000
11	Safe Schools.....	143		5,060,312
12	Teacher Mentor (R).....	158		592,034
13	National Teacher Certification (R) ..	161		150,000
14	Buildings (R).....	258		1,000
15	Technology Repair and			
16	Modernization.....	298		951,003

17	HVAC Technicians.	355	487,883
18	Early Retirement Notification		
19	Incentive.	366	235,000
20	MATH Program.	368	366,532
21	Assessment Programs.	396	2,339,588
22	21 st Century Fellows.	507	274,899
23	English as a Second Language.	528	100,000
24	Teacher Reimbursement.	573	297,188
25	Hospitality Training.	600	315,899
26	Hi-Y Youth in Government.	616	100,000
27	High Acuity Special Needs (R).	634	1,500,000
28	Foreign Student Education.	636	89,798
29	State Teacher of the Year.	640	0
30	Principals Mentorship.	649	69,250
31	State Board of Education		
32	Administrative Costs.	684	362,329
33	Other Assets.	690	50,000
34	Land (R).	730	1,000
35	Local Solutions Dropout		
36	Prevention and Recovery.	780	2,230,000
37	Elementary/Middle Alternative		
38	Schools.	833	900,000
39	21 st Century Innovation Zones.	876	266,144
40	Student Enrichment Program.	879	6,200,000
41	21 st Century Learners (R).	886	2,466,026
42	Technology Initiatives.	901	800,000
43	BRIM Premium.	913	285,686
44	High Acuity Health Care		
45	Needs Program.	920	925,000
46	21 st Century Assessment and		
47	Professional Development.	931	4,496,176
48	WV Commission on		
49	Holocaust Education.	935	13,875

50	Allowance for Extraordinary		
51	Sustained Growth.	943	39,148
52	Regional Education Service		
53	Agencies.	972	3,690,750
54	Educational Program Allowance.	996	<u>416,250</u>
55	Total.		\$ 66,787,938

56 The above appropriations include funding for the state board
57 of education and their executive office.

58 Any unexpended balances remaining in the appropriations
59 for Unclassified (fund 0313, activity 099), Current Expenses
60 (fund 0313, activity 130), Teacher Mentor (fund 0313, activity
61 158), National Teacher Certification (fund 0313, activity 161),
62 Buildings (fund 0313, activity 258), High Acuity Special Needs
63 (fund 0313, activity 634), Land (fund 0313, activity 730), and
64 21st Century Learners (fund 0313, activity 886) at the close of the
65 fiscal year 2013 are hereby reappropriated for expenditure
66 during the fiscal year 2014.

67 The above appropriation for Technology System Specialists
68 (activity 062), shall first be used for the continuance of current
69 pilot projects. The remaining balance, if any, may be used to
70 expand the pilot project for additional counties.

71 The above appropriation for Teachers' Retirement Savings
72 Realized (fund 0313, activity 095) shall be transferred to the
73 Employee Pension and Health Care Benefit Fund (fund 2044).

74 Included in the above appropriation for Current Expenses
75 (activity 130) is \$50,000 for the third year of a five year special
76 community development school pilot program per W.Va. Code
77 18-3-12, and \$500,000 to purchase CTE curriculum programs
78 from the Southern Regional Education Board.

79 The above appropriation for Hospitality Training (activity
80 600), shall be allocated only to entities that have a plan approved

81 for funding by the Department of Education, at the funding level
 82 determined by the State Superintendent of Schools. Plans shall
 83 be submitted to the State Superintendent of Schools to be
 84 considered for funding.

85 The above appropriation for Local Solutions Dropout
 86 Prevention and Recovery (activity 780) shall be transferred to
 87 the Local Solutions Dropout Prevention and Recovery Fund
 88 (fund 3949).

89 From the above appropriation for Educational Program
 90 Allowance (activity 996), \$100,000 shall be expended for
 91 Webster County Board of Education for Hacker Valley;
 92 \$150,000 for the Randolph County Board of Education for
 93 Pickens School; and \$100,000 shall be for the Preston County
 94 Board of Education for the Aurora School and \$66,250 is for
 95 Project Based Learning in STEM fields.

*49 - State Board of Education –
 Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 0314 FY 2014 Org 0402

1	Special Education – Counties.	159	\$	7,271,757
2	Special Education – Institutions.. . . .	160		3,642,275
3	Education of Juveniles Held in			
4	Predispositional Juvenile			
5	Detention Centers.	302		635,846
6	Education of Institutionalized			
7	Juveniles and Adults (R).	472		<u>17,287,610</u>
8	Total.		\$	28,837,488

9 Any unexpended balance remaining in the appropriation for
 10 Education of Institutionalized Juveniles and Adults (fund 0314,
 11 activity 472) at the close of the fiscal year 2013 is hereby
 12 reappropriated for expenditure during the fiscal year 2014.

13 From the above appropriations, the superintendent shall have
 14 authority to expend funds for the costs of special education for
 15 those children residing in out-of-state placements.

*50 - State Board of Education –
 State Aid to Schools*

(WV Code Chapters 18 and 18A)

Fund 0317 FY 2014 Org 0402

1	Other Current Expenses.	022	\$	154,113,184
2	Advanced Placement.	053		489,948
3	Professional Educators.	151		871,207,235
4	Service Personnel.	152		290,524,089
5	Fixed Charges.	153		104,250,383
6	Transportation.	154		84,860,000
7	Professional Student Support			
8	Services.	655		37,927,850
9	Improved Instructional Programs. . .	156		44,505,086
10	21st Century Strategic Technology			
11	Learning Growth.	936		<u>11,504,938</u>
12	Basic Foundation Allowances.			1,599,382,713
13	Less Local Share.			<u>(420,779,055)</u>
14	Total Basic State Aid.			1,178,603,658
15	Public Employees' Insurance			
16	Matching.	012		213,130,337
17	Teachers' Retirement System.	019		66,275,000
18	School Building Authority.	453		23,308,583
19	Retirement Systems –			
20	Unfunded Liability.	775		<u>370,469,000</u>
21	Total.		\$	1,851,786,578

22 An additional \$20,000,000 is appropriated in fund 7007,
 23 fiscal year 2014, organization 0701 for the Teachers' Retirement

24 System unfunded liability actuarially required contribution as
25 determined by the Consolidated Public Retirement Board.

*51 - State Board of Education –
Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 0390 FY 2014 Org 0402

1	Personal Services.	001	\$	1,096,800
2	Employee Benefits.	010		353,312
3	Unclassified.	099		260,000
4	Current Expenses.	130		1,145,878
5	Repairs and Alterations.	064		10,000
6	Equipment.	070		10,000
7	Wood Products – Forestry			
8	Vocational Program.	146		60,560
9	Albert Yanni Vocational Program. . .	147		131,951
10	Vocational Aid.	148		18,646,285
11	Adult Basic Education.	149		4,321,031
12	Program Modernization.	305		884,313
13	GED Testing (R).	339		1,060,395
14	Other Assets.	690		10,000
15	FFA Grant Awards.	839		11,496
16	Pre-Engineering Academy Program. .	840		<u>265,294</u>
17	Total.		\$	28,267,315

18 Any unexpended balance remaining in the appropriation for
19 GED Testing (fund 0390, activity 339) at the close of the fiscal
20 year 2013 is hereby reappropriated for expenditure during the
21 fiscal year 2014.

22 From the above appropriation for Unclassified (fund 0390,
23 activity 099) \$240,000 is for the construction of a 21st Century
24 Animal and Veterinary Science Facility on the campus of
25 Hampshire High School.

52 - State Board of Education –
Division of Education Performance Audits

(WV Code Chapters 18 and 18A)

Fund 0573 FY 2014 Org 0402

1	Personal Services.....	001	\$	426,610
2	Employee Benefits.....	010		120,450
3	Unclassified.	099		7,000
4	Current Expenses.....	130		381,899
5	Repairs and Alterations.	064		1,000
6	Equipment.	070		1,000
7	Other Assets.....	690		<u>1,000</u>
8	Total.....		\$	938,959

53 - State Board of Education –
West Virginia Schools for the Deaf and the Blind

(WV Code Chapters 18 and 18A)

Fund 0320 FY 2014 Org 0403

1	Personal Services.....	001	\$	8,250,266
2	Employee Benefits.....	010		2,878,100
3	Unclassified.	099		128,601
4	Current Expenses.....	130		1,312,068
5	Repairs and Alterations.	064		75,000
6	Equipment.	070		35,000
7	Buildings (R).	258		25,000
8	Other Assets.....	690		25,000
9	Capital Outlay and Maintenance (R).	755		62,500
10	BRIM Premium.	913		<u>68,628</u>
11	Total.....		\$	12,860,163

12 Any unexpended balances remaining in the appropriations
13 for Buildings (fund 0320, activity 258) and Capital Outlay and

14 Maintenance (fund 0320, activity 755) at the close of the fiscal
15 year 2013 are hereby reappropriated for expenditure during the
16 fiscal year 2014.

DEPARTMENT OF EDUCATION AND THE ARTS

54 - Department of Education and the Arts –

Office of the Secretary

(WV Code Chapter 5F)

Fund 0294 FY 2014 Org 0431

1	Personal Services.....	001	\$	666,750
2	Employee Benefits.....	010		204,752
3	Unclassified (R).....	099		35,000
4	Current Expenses.....	130		25,498
5	Center for Professional			
6	Development (R).....	115		2,528,967
7	National Youth Science Camp	132		246,500
8	WV Humanities Council.	168		450,000
9	Benedum Professional			
10	Development Collaborative (R).	427		927,500
11	Governor’s Honor Academy (R).	478		600,780
12	Energy Express.	861		470,000
13	BRIM Premium.	913		4,509
14	Special Olympic Games.....	966		<u>25,000</u>
15	Total.....		\$	6,185,256

16 Any unexpended balances remaining in the appropriations
17 for Unclassified (fund 0294, activity 099), Center for
18 Professional Development (fund 0294, activity 115), Benedum
19 Professional Development Collaborative (fund 0294, activity
20 427), Governor’s Honor Academy (fund 0294, activity 478), and
21 Educational Enhancements – Surplus (fund 0294, activity 927)
22 at the close of the fiscal year 2013 are hereby reappropriated for
23 expenditure during the fiscal year 2014.

55 - Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2014 Org 0432

1	Personal Services.....	001	\$	2,663,067
2	Employee Benefits.....	010		1,225,010
3	Unclassified (R).....	099		56,173
4	Current Expenses.....	130		900,897
5	Repairs and Alterations.	064		20,000
6	Equipment.	070		1,000
7	Buildings (R).	258		1,000
8	Other Assets.....	690		1,000
9	Land (R).....	730		1
10	Culture and History Programming... ..	732		278,298
11	Capital Outlay and Maintenance (R). ..	755		100,000
12	Historical Highway Marker Program.	844		75,185
13	BRIM Premium.	913		<u>33,677</u>
14	Total.....		\$	5,355,308

15 Any unexpended balances remaining in the appropriations
 16 for Unclassified (fund 0293, activity 099), Buildings (fund 0293,
 17 activity 258), Capital Outlay, Repairs and Equipment (fund
 18 0293, activity 589), Capital Improvements – Surplus (fund 0293,
 19 activity 661), Capital Outlay, Repairs and Equipment – Surplus
 20 (fund 0293, activity 677), Land (fund 0293, activity 730), and
 21 Capital Outlay and Maintenance (fund 0293, activity 755) at the
 22 close of the fiscal year 2013 are hereby reappropriated for
 23 expenditure during the fiscal year 2014.

24 The Current Expense appropriation includes funding for the
 25 arts funds, department programming funds, grants, fairs and
 26 festivals and Camp Washington Carver and shall be expended
 27 only upon authorization of the division of culture and history and
 28 in accordance with the provisions of Chapter 5A, Article 3, and
 29 Chapter 12 of the Code.

56 - Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2014 Org 0433

1	Personal Services.....	001	\$	1,005,322
2	Employee Benefits.....	010		429,724
3	Current Expenses.....	130		189,690
4	Repairs and Alterations.....	064		6,500
5	Equipment.....	070		450
6	Services to Blind & Handicapped. . .	181		185,064
7	BRIM Premium.....	913		<u>15,177</u>
8	Total.....		\$	1,831,927

57 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 0300 FY 2014 Org 0439

1	Personal Services.....	001	\$	2,995,925
2	Employee Benefits.....	010		1,237,251
3	Current Expenses (R).....	130		612,273
4	Mountain Stage.....	249		300,000
5	Capital Outlay and Maintenance (R). .	755		50,000
6	BRIM Premium.....	913		<u>41,929</u>
7	Total.....		\$	5,237,378

8 Any unexpended balances remaining in the appropriations
9 for Current Expenses (fund 0300, activity 130) and Capital
10 Outlay and Maintenance (fund 0300, activity 755) at the close of
11 the fiscal year 2013 are hereby reappropriated for expenditure
12 during the fiscal year 2014.

13 From the above appropriation for Current Expenses (fund
14 0300, activity 130) \$45,000 is for the WV Music Hall of Fame

- 15 and \$100,000 for Healthy Choices Children Television Program
 16 in conjunction with WVSOM.

*58 - State Board of Rehabilitation –
 Division of Rehabilitation Services*

(WV Code Chapter 18)

Fund 0310 FY 2014 Org 0932

1	Personal Services.....	001	\$	7,703,886
2	Independent Living Services (R)....	009		500,000
3	Employee Benefits.....	010		2,778,071
4	Current Expenses.....	130		502,066
5	Workshop Development.....	163		2,116,149
6	Supported Employment			
7	Extended Services (R).....	206		100,000
8	Ron Yost Personal Assistance			
9	Fund (R).....	407		388,698
10	Employment Attendant			
11	Care Program.....	598		156,065
12	BRIM Premium.....	913		<u>67,033</u>
13	Total.....		\$	14,311,968

14 Any unexpended balances remaining in the appropriations
 15 for Independent Living Services (fund 0310, activity 009),
 16 Supported Employment Extended Services (fund 0310, activity
 17 206), and Ron Yost Personal Assistance Fund (fund 0310,
 18 activity 407) at the close of the fiscal year 2013 are hereby
 19 reappropriated for expenditure during the fiscal year 2014.

20 From the above appropriation for Workshop Development
 21 (activity 163), funds shall be used exclusively with the private
 22 non-profit community rehabilitation program organizations
 23 known as work centers or sheltered workshops. The
 24 appropriation shall also be used to continue the support of the

25 program, services, and individuals with disabilities currently in
 26 place at those 31 organizations.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

59 - Environmental Quality Board

(WV Code Chapter 20)

Fund 0270 FY 2014 Org 0311

1	Personal Services.....	001	\$	72,052
2	Employee Benefits.....	010		21,700
3	Current Expenses.....	130		38,568
4	Repairs and Alterations.	064		100
5	Equipment.	070		750
6	Other Assets.....	690		600
7	BRIM Premium.	913		684
8	Total.....		\$	134,454

60 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 0273 FY 2014 Org 0313

1	Personal Services.....	001	\$	3,301,551
2	Employee Benefits.....	010		1,298,374
3	Water Resources Protection and			
4	Management.	068		582,828
5	Current Expenses.....	130		357,541
6	Repairs and Alterations.	064		12,150
7	Equipment.	070		4,600
8	Dam Safety.....	607		217,632
9	West Virginia Stream			
10	Partners Program.....	637		77,396
11	Meth Lab Cleanup.	656		227,388
12	Other Assets.....	690		4,500

13	WV Contribution to River		
14	Commissions.....	776	148,485
15	Office of Water Resources		
16	Non-Enforcement Activity.	855	1,221,675
17	BRIM Premium.	913	<u>56,802</u>
18	Total.....		\$ 7,510,922

19 A portion of the appropriation for Current Expenses (fund
20 0273, activity 130) and Dam Safety (fund 0273, activity 607)
21 may be transferred to the special revenue fund Dam Safety
22 Rehabilitation Revolving Fund (fund 3025) for the state deficient
23 dams rehabilitation assistance program.

61 - Air Quality Board

(WV Code Chapter 16)

Fund 0550 FY 2014 Org 0325

1	Personal Services.....	001	\$ 55,570
2	Employee Benefits.....	010	18,889
3	Current Expenses.....	130	17,143
4	Repairs and Alterations.	064	100
5	Equipment.	070	350
6	Other Assets.....	690	400
7	BRIM Premium.	913	<u>2,013</u>
8	Total.....		\$ 94,465

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

*62 - Department of Health and Human Resources –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 0400 FY 2014 Org 0501

1	Personal Services.....	001	\$ 139,096
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2	Employee Benefits.....	010		46,979
3	Unclassified.....	099		6,118
4	Current Expenses.....	130		21,574
5	Women’s Commission (R).	191		167,362
6	Commission for the Deaf and			
7	Hard of Hearing.....	704	<u> </u>	<u>231,965</u>
8	Total.....		\$	613,094

9 Any unexpended balance remaining in the appropriation for
10 the Women’s Commission (fund 0400, activity 191) at the close
11 of the fiscal year 2013 is hereby reappropriated for expenditure
12 during the fiscal year 2014.

*63 - Division of Health –
Central Office*

(WV Code Chapter 16)

Fund 0407 FY 2014 Org 0506

1	Personal Services.....	001	\$	8,528,213
2	Employee Benefits.....	010		3,687,806
3	Chief Medical Examiner.	045		4,759,804
4	Unclassified.....	099		775,695
5	Current Expenses.....	130		4,314,326
6	State Aid for Local and Basic			
7	Public Health Services.....	184		16,644,313
8	Safe Drinking Water Program.	187		486,375
9	Women, Infants and Children.	210		38,609
10	Early Intervention.	223		3,075,550
11	Cancer Registry.	225		195,471
12	CARDIAC Project.....	375		475,000
13	State EMS Technical Assistance....	379		1,340,359
14	Statewide EMS Program			
15	Support (R).	383		956,349

16	Primary Care Centers –		
17	Mortgage Finance.	413	367,838
18	Black Lung Clinics	467	184,741
19	Center for End of Life.	545	466,886
20	Pediatric Dental Services.	550	151,603
21	Vaccine for Children	551	416,127
22	Tuberculosis Control	553	365,978
23	Maternal and Child Health		
24	Clinics, Clinicians and		
25	Medical Contracts and Fees (R).	575	6,778,740
26	Epidemiology Support.	626	1,632,157
27	Primary Care Support.	628	8,861,051
28	Health Right Free Clinics.	727	4,393,750
29	Capital Outlay and Maintenance (R).	755	400,000
30	Healthy Lifestyles.	778	157,435
31	Emergency Response Entities –		
32	Special Projects (R).	822	344,470
33	Maternal Mortality Review.	834	50,000
34	Osteoporosis and Arthritis		
35	Prevention.	849	170,035
36	Diabetes Education and Prevention. .	873	105,000
37	Tobacco Education Program (R). . . .	906	5,260,488
38	BRIM Premium.	913	211,214
39	State Trauma and Emergency		
40	Care System.	918	<u>2,025,233</u>
41	Total.		\$ 77,620,616

42 Any unexpended balances remaining in the appropriations
43 for Unclassified – Surplus (fund 0407, activity 097), Statewide
44 EMS Program Support (fund 0407, activity 383), Maternal and
45 Child Health Clinics, Clinicians and Medical Contracts and Fees
46 (fund 0407, activity 575), Capital Outlay and Maintenance (fund
47 0407, activity 755), Emergency Response Entities – Special

48 Projects (fund 0407, activity 822), Assistance to Primary Health
49 Care Centers Community Health Foundation (fund 0407, activity
50 845), and Tobacco Education Program (fund 0407, activity 906)
51 at the close of the fiscal year 2013 are hereby reappropriated for
52 expenditure during the fiscal year 2014.

53 From the above appropriation for Current Expenses (activity
54 130), an amount not less than \$100,000 is for the West Virginia
55 Cancer Coalition; \$50,000 shall be expended for the West
56 Virginia Aids Coalition; \$100,000 is for Adolescent
57 Immunization Education; \$73,065 is for informal dispute
58 resolution relating to nursing home administrative appeals; and
59 \$50,000 is for Hospital Hospitality House of Huntington.

60 From the above appropriation for Maternal and Child Health
61 Clinics, Clinicians and Medical Contracts and Fees (fund 0407,
62 activity 575) \$400,000 shall be transferred to the Breast and
63 Cervical Cancer Diagnostic Treatment Fund (fund 5197).

64 Included in the above appropriation for Primary Care
65 Centers - Mortgage Finance (activity 413) is \$23,750 for the
66 mortgage payment for the Lincoln Primary Care Center, Inc.;
67 \$25,242 for the mortgage payment for the Monroe Health
68 Center; \$20,218 for the mortgage payment for Roane County
69 Family Health Care, Inc.; \$22,800 for the mortgage payment for
70 Community Care (formerly Primary Care Systems); \$9,500 for
71 the mortgage payment for the Belington Community Medical
72 Services; \$14,250 for the mortgage payment for Community
73 Care (formerly Tri-County Health Clinic); \$7,125 for the
74 mortgage payment for Valley Health Care (Randolph); \$12,618
75 for the mortgage payment for WomenCare (Family Care Health
76 Center - Madison); \$3,800 for the mortgage payment for
77 Northern Greenbrier Health Clinic; \$6,030 for the mortgage
78 payment for the Women's Care, Inc. (Putnam); \$11,875 for the
79 mortgage payment for the Preston-Taylor Community Health
80 Centers, Inc.; \$9,500 for the mortgage payment for the North

81 Fork Clinic (Pendleton); \$19,000 for the mortgage payment for
 82 the Pendleton Community Care; \$18,240 for the mortgage
 83 payment for Clay-Battelle Community Health Center; \$23,500
 84 for the mortgage payment for Monongahela Valley Association
 85 of Health Centers, Inc. (Marion); \$15,960 for the mortgage
 86 payment for Mountaineer Community Health Center; \$6,175 for
 87 the mortgage payment for the St. George Medical Clinic;
 88 \$13,300 for the mortgage payment for the Bluestone Health
 89 Center; \$21,375 for the mortgage payment for Wheeling Health
 90 Right; \$22,800 for the mortgage payment for the Minnie
 91 Hamilton Health Care Center, Inc.; \$25,650 for the mortgage
 92 payment for the Shenandoah Valley Medical Systems, Inc.;
 93 \$21,375 for the mortgage payment for the Change, Inc.; and
 94 \$13,755 for the mortgage payment for the Wirt County Health
 95 Services Association.

96 From the above appropriation for Maternal and Child Health
 97 Clinics, Clinicians and Medical Contracts and Fees (fund 0407,
 98 activity575), \$11,000 is for the Marshall County Health
 99 Department for dental services.

64 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 0525 FY 2014 Org 0506

1	Personal Services.....	001	\$	1,247,381
2	Employee Benefits.....	010		507,509
3	Current Expenses.....	130		6,663
4	Behavioral Health Program (R)....	219		67,447,913
5	Family Support Act.	221		985,078
6	Institutional Facilities			
7	Operations (R).....	335		105,742,128
8	Substance Abuse Continuum			
9	of Care (R).....	354		5,000,000

10	Capital Outlay and		
11	Maintenance (R).	755	950,000
12	Renaissance Program.	804	179,450
13	BRIM Premium.	913	<u>1,088,070</u>
14	Total.		\$ 183,154,192

15 Any unexpended balances remaining in the appropriations
16 for Behavioral Health Program (fund 0525, activity 219),
17 Institutional Facilities Operations (fund 0525, activity 335),
18 Substance Abuse Continuum of Care (fund 0525, activity 354);
19 Capital Outlay (fund 0525, activity 511), Institutional Facilities
20 Operations – Surplus (fund 0525, activity 632), Capital Outlay,
21 Repairs and Equipment – Surplus (fund 0525, activity 677),
22 Substance Abuse Continuum of Care – Surplus (fund 0525,
23 activity 722), Capital Outlay and Maintenance (fund 0525,
24 activity 755), and Colin Anderson Community Placement (fund
25 0525, activity 803) at the close of the fiscal year 2013 are hereby
26 reappropriated for expenditure during the fiscal year 2014.

27 The secretary shall, within fifteen days after the close of the
28 six-month period of said fiscal year, file with the legislative
29 auditor and the department of revenue an itemized report of
30 expenditures made during the preceding six-month period.

31 Included in the above appropriation for Behavioral Health
32 Program (fund 0525, activity 219) is \$100,000 for the Four
33 Angels Substance Abuse Treatment Project.

34 From the above appropriation to Institutional Facilities
35 Operations, together with available funds from the division of
36 health – hospital services revenue account (fund 5156, activity
37 335), on July 1, 2013, the sum of \$160,000 shall be transferred
38 to the department of agriculture – land division – farm operating
39 fund (1412) as advance payment for the purchase of food
40 products; actual payments for such purchases shall not be
41 required until such credits have been completely expended.

42 From the above appropriation for Substance Abuse
 43 Continuum of Care (fund 0525, activity 354), the funding will be
 44 consistent with the goal areas outlined in the Comprehensive
 45 Substance Abuse Strategic Action Plan.

46 Additional funds have been appropriated in fund 5156, fiscal
 47 year 2014, organization 0506, for the operation of the
 48 institutional facilities. The secretary of the department of health
 49 and human resources is authorized to utilize up to ten percent of
 50 the funds from the Institutional Facilities Operations line item to
 51 facilitate cost effective and cost saving services at the
 52 community level.

*65 - Division of Health –
 West Virginia Drinking Water Treatment*

(WV Code Chapter 16)

Fund 0561 FY 2014 Org 0506

1	West Virginia Drinking Water Treatment			
2	Revolving Fund – Transfer.	689	\$	647,500

3 The above appropriation for Drinking Water Treatment
 4 Revolving Fund – Transfer shall be transferred to the West
 5 Virginia Drinking Water Treatment Revolving Fund or
 6 appropriate bank depository and the Drinking Water Treatment
 7 Revolving – Administrative Expense Fund as provided by
 8 Chapter 16 of the Code.

66 - Human Rights Commission

(WV Code Chapter 5)

Fund 0416 FY 2014 Org 0510

1	Personal Services.	001	\$	708,866
2	Employee Benefits.	010		331,464

3	Current Expenses.	130		230,284
4	Repairs and Alterations.	064		5,000
5	Equipment.	070		15,000
6	BRIM Premium.	913		<u>9,311</u>
7	Total.		\$	1,299,925

67 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2014 Org 0511

1	Personal Services.	001	\$	28,123,746
2	Employee Benefits.	010		12,555,973
3	Unclassified.	099		5,688,944
4	Current Expenses.	130		8,695,245
5	Child Care Development.	144		11,221,831
6	Medical Services Contracts and			
7	Office of Managed Care.	183		1,835,469
8	Medical Services.	189		269,905,668
9	Social Services.	195		116,354,879
10	Family Preservation Program.	196		1,565,000
11	Family Resource Networks.	274		1,762,464
12	Domestic Violence Legal			
13	Services Fund.	384		400,000
14	James "Tiger" Morton Catastrophic			
15	Illness Fund.	455		100,327
16	MR/DD Waiver.	466		88,753,483
17	Child Protective Services			
18	Case Workers	468		19,397,343
19	OSCAR and RAPIDS	515		5,092,048
20	Title XIX Waiver for Seniors.	533		13,593,620
21	WV Teaching Hospitals			
22	Tertiary/Safety Net.	547		6,356,000

23	Specialized Foster Care.	566	310,948
24	Child Welfare System	603	1,239,968
25	In-Home Family Education.	688	1,000,000
26	WV Works Separate State Program..	698	3,250,000
27	Child Support Enforcement.	705	6,173,552
28	Medicaid Auditing.	706	605,743
29	Temporary Assistance for		
30	Needy Families/		
31	Maintenance of Effort.	707	22,969,096
32	Child Care Maintenance of		
33	Effort Match.	708	5,693,743
34	Sexual Assault and Intervention		
35	and Prevention.	723	125,000
36	Child and Family Services.	736	2,850,000
37	Grants for Licensed Domestic		
38	Violence Programs and		
39	Statewide Prevention.	750	2,500,000
40	Capital Outlay and Maintenance (R).	755	11,875
41	Medical Services Administrative		
42	Costs.	789	24,518,508
43	Traumatic Brain Injury Waiver.	835	800,000
44	Indigent Burials (R).	851	2,050,000
45	BRIM Premium.	913	834,187
46	Rural Hospitals Under 150 Beds.	940	2,596,000
47	Children's Trust Fund – Transfer	951	<u>300,000</u>
48	Total.		\$ 669,230,660

49 Any unexpended balances remaining in the appropriations
50 for Capital Outlay and Maintenance (fund 0403, activity 755)
51 and Indigent Burials (fund 0403, activity 851) at the close of the
52 fiscal year 2013 are hereby reappropriated for expenditure
53 during the fiscal year 2014.

54 Notwithstanding the provisions of Title I, section three of
55 this bill, the secretary of the department of health and human
56 resources shall have the authority to transfer funds within the
57 above account: *Provided*, That no more than five percent of the
58 funds appropriated to one line item may be transferred to other
59 line items: *Provided, however*, That no funds from other line
60 items shall be transferred to the personal services line item.

61 The secretary shall have authority to expend funds for the
62 educational costs of those children residing in out-of-state
63 placements, excluding the costs of special education programs.

64 Included in the above appropriation for Social Services
65 (activity 195) is funding for continuing education requirements
66 relating to the practice of social work.

67 The above appropriation for Domestic Violence Legal
68 Services Fund (activity 384) shall be transferred to the Domestic
69 Violence Legal Services Fund (fund 5455).

70 The above appropriation for James “Tiger” Morton
71 Catastrophic Illness Fund (activity 455) shall be transferred to
72 the James “Tiger” Morton Catastrophic Illness Fund (fund 5454)
73 as provided by Article 5Q, Chapter 16 of the Code.

74 The above appropriation for WV Works Separate State
75 Program (activity 698), shall be transferred to the WV Works
76 Separate State College Program Fund (fund 5467), and the WV
77 Works Separate State Two-Parent Program Fund (fund 5468) as
78 determined by the secretary of the department of health and
79 human resources.

80 From the above appropriation for Child Support
81 Enforcement (fund 0403, activity 705) an amount not to exceed
82 \$300,000 may be transferred to a local banking depository to be
83 utilized to offset funds determined to be uncollectible.

84 From the above appropriation for the Grants for Licensed
85 Domestic Violence Programs and Statewide Prevention (activity

86 750), 50% of the total shall be divided equally and distributed
 87 among the fourteen (14) licensed programs and the West
 88 Virginia Coalition Against Domestic Violence (WVCADV). The
 89 balance remaining in the appropriation for Grants for Licensed
 90 Domestic Violence Programs and Statewide Prevention (activity
 91 750), shall be distributed according to the formula established by
 92 the Family Protection Services Board.

93 The above appropriation for Children’s Trust Fund –
 94 Transfer (activity 951) shall be transferred to the Children’s
 95 Fund (fund 5469, org 0511).

**DEPARTMENT OF MILITARY AFFAIRS
 AND PUBLIC SAFETY**

*68 - Department of Military Affairs and Public Safety –
 Office of the Secretary*

(WV Code Chapter 5F)

Fund 0430 FY 2014 Org 0601

1	Personal Services.....	001	\$	499,562
2	Employee Benefits.....	010		204,477
3	Unclassified (R).....	099		19,401
4	Current Expenses.....	130		111,802
5	Repairs and Alterations.....	064		9,900
6	Equipment.....	070		3,300
7	Fusion Center (R).....	469		531,789
8	Other Assets.....	690		4,015
9	BRIM Premium.....	913		9,404
10	WV Fire and EMS			
11	Survivor Benefit (R).....	939		100,000
12	Homeland State Security			
13	Administrative Agency (R).....	953		<u>529,054</u>
14	Total.....		\$	2,022,704

15 Any unexpended balances remaining in the appropriations
 16 for Unclassified (fund 0430, activity 099), Fusion Center (fund
 17 0430, activity 469), WV Fire and EMS Survivor Benefit (fund
 18 0430, activity 939), and Homeland State Security Administrative
 19 Agency (fund 0430, activity 953) at the close of the fiscal year
 20 2013 are hereby reappropriated for expenditure during the fiscal
 21 year 2014.

*69 - Adjutant General –
 State Militia*

(WV Code Chapter 15)

Fund 0433 FY 2014 Org 0603

1	Unclassified (R).....	099	\$	16,710,103
2	College Education Fund.....	232		0
3	Mountaineer Challenge Academy. . .	709		0
4	Adjutant General and Officer			
5	Compensation.	734		0
6	Armory Board Transfer.	746		0
7	Military Authority.	748		0
8	Total.....		\$	16,710,103

9 Any unexpended balances remaining in the appropriations
 10 for Unclassified (fund 0433, activity 099) and Armory Capital
 11 Improvements – Surplus (fund 0433, activity 325) at the close of
 12 the fiscal year 2013 are hereby reappropriated for expenditure
 13 during the fiscal year 2014.

14 From the above appropriation an amount approved by the
 15 adjutant general and the secretary of military affairs and public
 16 safety may be transferred to the State Armory Board for
 17 operation and maintenance of National Guard Armories.

*70 - Adjutant General –
Military Fund*

(WV Code Chapter 15)

Fund 0605 FY 2014 Org 0603

1	Personal Services.....	001	\$	110,000
2	Current Expenses.....	130		<u>75,000</u>
3	Total.....		\$	185,000

71 - West Virginia Parole Board

(WV Code Chapter 62)

Fund 0440 FY 2014 Org 0605

1	Personal Services.....	001	\$	191,995
2	Employee Benefits.....	010		122,958
3	Unclassified.....	099		1,450
4	Current Expenses.....	130		200,740
5	Salaries of Members of			
6	West Virginia Parole Board....	227		607,419
7	BRIM Premium.....	913		<u>4,712</u>
8	Total.....		\$	1,129,274

9 The above appropriation for Salaries of Members of West
10 Virginia Parole Board (activity 227) includes funding for salary,
11 annual increment (as provided for in W.Va. Code §5-5-1), and
12 related employee benefits of board members.

*72 - Division of Homeland Security and
Emergency Management*

(WV Code Chapter 15)

Fund 0443 FY 2014 Org 0606

1	Personal Services.....	001	\$	424,800
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Ch. 4]	APPROPRIATIONS	99
2	Employee Benefits.....	010 160,502
3	Unclassified (R).....	099 31,841
4	Current Expenses.....	130 152,773
5	Repairs and Alterations.	064 10,000
6	Radiological Emergency	
7	Preparedness.	554 30,105
8	Federal Funds/Grant Match (R)....	749 705,110
9	Mine and Industrial Accident Rapid	
10	Response Call Center.	781 517,036
11	Early Warning Flood System (R). ..	877 542,159
12	BRIM Premium.	913 20,336
13	WVU Charleston Poison Control	
14	Hotline.....	944 <u>757,626</u>
15	Total.....	\$ 3,352,288

16 Any unexpended balances remaining in the appropriations
17 for Unclassified (fund 0443, activity 099), Federal Funds/Grant
18 Match (fund 0443, activity 749), Early Warning Flood System
19 (fund 0443, activity 877), and Disaster Mitigation (fund 0443,
20 activity 952) at the close of the fiscal year 2013 are hereby
21 reappropriated for expenditure during the fiscal year 2014.

*73 - Division of Corrections –
Central Office*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0446 FY 2014 Org 0608

1	Personal Services.....	001 \$ 438,893
2	Employee Benefits.....	010 171,833
3	Current Expenses.....	130 <u>46,721</u>
4	Total.....	\$ 657,447

*74 - Division of Corrections –
Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 0450 FY 2014 Org 0608

1	Employee Benefits.....	010	\$	1,258,136
2	Children's Protection Act (R).	090		935,037
3	Unclassified	099		1,290,870
4	Current Expenses.....	130		31,000,000
5	Facilities Planning and			
6	Administration.....	386		1,116,627
7	Charleston Work Release Center....	456		1,577,848
8	Beckley Correctional Center.	490		1,739,543
9	Huntington Work Release Center. ..	495		952,667
10	Anthony Correctional Center	504		4,987,135
11	Huttonsville Correctional Center . . .	514		21,904,886
12	Northern Correctional Center	534		8,073,773
13	Inmate Medical Expenses (R).	535		24,226,064
14	Pruntytown Correctional Center	543		7,232,237
15	Corrections Academy.....	569		1,387,820
16	Martinsburg Correctional Center....	663		3,515,366
17	Parole Services.....	686		3,020,766
18	Special Services	687		3,989,683
19	Capital Outlay and Maintenance (R).	755		2,000,000
20	Salem Correctional Center.....	774		7,500,000
21	McDowell County Correctional			
22	Center.....	790		1,949,983
23	Stevens Correctional Center	791		6,474,500
24	Parkersburg Correctional Center. . . .	828		2,428,421
25	St. Mary's Correctional Center	881		13,076,645
26	Denmar Correctional Center.	882		4,634,234

27	Ohio County Correctional Center. . .	883	1,799,255
28	Mt. Olive Correctional Complex. . . .	888	20,150,988
29	Lakin Correctional Center.	896	8,703,491
30	BRIM Premium.	913	<u>829,190</u>
31	Total.		\$ 187,755,165

32 Any unexpended balances remaining in the appropriations
 33 for Children’s Protection Act (fund 0450, activity 090),
 34 Unclassified–Surplus (fund 0450, activity 097), Inmate Medical
 35 Expenses (fund 0450, activity 535), Payments to Federal, County
 36 and/or Regional Jails (fund 0450, activity 555), Payments for
 37 Voluntary Inmate Placement – Surplus (fund 0450, activity 592),
 38 Capital Improvements – Surplus (fund 0450, activity 661),
 39 Capital Outlay, Repairs and Equipment – Surplus (fund 0450,
 40 activity 677), and Capital Outlay and Maintenance (fund 0450,
 41 activity 755) at the close of the fiscal year 2013 are hereby
 42 reappropriated for expenditure during the fiscal year 2014.

43 The commissioner of corrections shall have the authority to
 44 transfer between line items appropriated to the individual
 45 correctional units above and may transfer funds from the
 46 individual units to Current Expenses (fund 0450, activity 130) or
 47 Inmate Medical Expenses (fund 0450, activity 535).

48 From the above appropriation to Unclassified, on July 1,
 49 2013, the sum of \$300,000 shall be transferred to the department
 50 of agriculture – land division – farm operating fund (1412) as
 51 advance payment for the purchase of food products; actual
 52 payments for such purchases shall not be required until such
 53 credits have been completely expended.

54 From the above appropriation to Current Expenses (fund
 55 0450, activity 130) payment shall be made to house Division of
 56 Corrections inmates in federal, county, and/or regional jails.

57 Any realized savings from the Energy Savings Contract for
 58 Mt. Olive Correctional Complex, Huttonsville Correction

59 Center, Pruntytown Correctional Center, or Denmar Correctional
 60 Center may be transferred from the listed individual correctional
 61 units to Facilities Planning and Administration (activity 386).

75 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2014 Org 0612

1	Personal Services.....	001	\$	46,509,813
2	Employee Benefits.....	010		10,088,464
3	Children's Protection Act.	090		923,993
4	Current Expenses.....	130		10,922,384
5	Repairs and Alterations.	064		450,523
6	Vehicle Purchase.	451		2,269,600
7	Barracks Lease Payments..	556		246,478
8	Communications and Other			
9	Equipment (R).....	558		1,268,968
10	Trooper Retirement Fund.....	605		4,740,327
11	Handgun Administration Expense... ..	747		78,163
12	Capital Outlay and Maintenance (R). ..	755		250,000
13	Retirement Systems –			
14	Unfunded Liability.	775		25,146,000
15	Automated Fingerprint			
16	Identification System.....	898		666,711
17	BRIM Premium.	913		<u>4,946,608</u>
18	Total.....		\$	108,508,032

19 Any unexpended balances remaining in the appropriations
 20 for Communications and Other Equipment (fund 0453, activity
 21 558), Capital Outlay, Repairs and Equipment – Surplus (fund
 22 0453, activity 677), and Capital Outlay and Maintenance (fund
 23 0453, activity 755) at the close of the fiscal year 2013 are hereby
 24 reappropriated for expenditure during the fiscal year 2014.

25 From the above appropriation for Personal Services (activity
 26 001), an amount not less than \$25,000 shall be expended to
 27 offset the costs associated with providing police services for the
 28 West Virginia State Fair.

76 - Fire Commission

(WV Code Chapter 29)

Fund 0436 FY 2014 Org 0619

1	Current Expenses.....	130	\$	75,069
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77 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 0546 FY 2014 Org 0620

1	Personal Services.....	001	\$	408,221
2	Employee Benefits.....	010		175,955
3	Unclassified.....	099		6,475
4	Current Expenses.....	130		134,488
5	Repairs and Alterations.....	064		1,850
6	Child Advocacy Centers (R).....	458		1,502,466
7	Community Corrections (R).....	561		4,870,559
8	Statistical Analysis Program.....	597		50,092
9	Law Enforcement Professional			
10	Standards.....	838		169,583
11	BRIM Premium.....	913		1,536
12	Total.....		\$	7,321,225

13 Any unexpended balances remaining in the appropriations
 14 for Buildings (fund 0546, activity 258), Child Advocacy Centers
 15 (fund 0546, activity 458), and Community Corrections (fund
 16 0546, activity 561) at the close of the fiscal year 2013 are hereby
 17 reappropriated for expenditure during the fiscal year 2014.

18 From the above appropriation for Child Advocacy Centers
 19 (fund 0546, activity 458), the division may retain an amount not
 20 to exceed four percent of the total appropriation for
 21 administrative purposes.

78 - Division of Juvenile Services

(WV Code Chapter 49)

Fund 0570 FY 2014 Org 0621

1	Jones Building Treatment Center...	261	\$	2,170,886
2	Statewide Reporting Centers.	262		4,311,938
3	Robert L. Shell Juvenile Center.	267		2,005,533
4	Central Office	701		2,158,320
5	Capital Outlay and Maintenance (R).	755		250,000
6	Gene Spadaro Juvenile Center	793		2,060,770
7	Davis Center for Girls (R).	818		0
8	BRIM Premium.	913		96,187
9	WV Industrial Home for Youth.	979		2,331,499
10	Kenneth Honey Rubenstein			
11	Juvenile Center (R)	980		5,238,585
12	Vicki Douglas Juvenile Center.	981		1,834,148
13	Northern Regional Juvenile Center. .	982		1,376,302
14	Lorrie Yeager Jr. Juvenile Center. . .	983		1,927,696
15	Sam Perdue Juvenile Center	984		1,934,001
16	Tiger Morton Center	985		2,074,949
17	Donald R. Kuhn Juvenile Center . . .	986		4,102,285
18	J.M. "Chick" Buckbee			
19	Juvenile Center	987		<u>1,986,034</u>
20	Total.		\$	35,859,133

21 Any unexpended balances remaining in the appropriations
 22 for Capital Outlay and Maintenance (fund 0570, activity 755),

23 Davis Center for Girls (fund 0570, activity 818), and Kenneth
 24 Honey Rubenstein Juvenile Center (fund 0570, activity 980) at
 25 the close of the fiscal year 2013 are hereby reappropriated for
 26 expenditure during the fiscal year 2014.

27 From the above appropriations, on July 1, 2013, the sum of
 28 \$50,000 shall be transferred to the department of agriculture –
 29 land division – farm operating fund (1412) as advance payment
 30 for the purchase of food products; actual payments for such
 31 purchases shall not be required until such credits have been
 32 completely expended.

33 The director of juvenile services shall have the authority to
 34 transfer between line items appropriated to the individual
 35 juvenile centers above.

79 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2014 Org 0622

1	Personal Services (R).....	001	\$	1,443,804
2	Employee Benefits.....	010		567,461
3	Unclassified (R).....	099		23,007
4	Current Expenses.....	130		100,216
5	Repairs and Alterations.	064		8,500
6	Equipment (R).	070		75,000
7	Other Assets.....	690		72,825
8	BRIM Premium.	913		<u>9,969</u>
9	Total.....		\$	2,300,782

10 Any unexpended balances remaining in the appropriations
 11 for Personal Services (fund 0585, activity 001), Equipment (fund
 12 0585, activity 070), and Unclassified (fund 0585, activity 099)
 13 at the close of the fiscal year 2013 are hereby reappropriated for
 14 expenditure during the fiscal year 2014.

DEPARTMENT OF REVENUE*80 - Office of the Secretary*

(WV Code Chapter 11)

Fund 0465 FY 2014 Org 0701

1	Personal Services.....	001	\$	458,660
2	Employee Benefits.....	010		162,258
3	Unclassified.....	099		7,305
4	Current Expenses.....	130		90,000
5	Repairs and Alterations.....	064		3,000
6	Equipment.....	070		10,000
7	Other Assets.....	690		<u>2,000</u>
8	Total.....		\$	733,223
9	Any unexpended balance remaining in the appropriation for			
10	Unclassified – Total (fund 0465, activity 096) at the close of the			
11	fiscal year 2013 is hereby reappropriated for expenditure during			
12	the fiscal year 2014.			

81 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2014 Org 0702

1	Personal Services (R).....	001	\$	13,000,443
2	Employee Benefits (R).....	010		5,093,345
3	Unclassified (R).....	099		255,144
4	Current Expenses (R).....	130		6,674,566
5	Repairs and Alterations.....	064		15,100
6	Equipment.....	070		282,500
7	GIS Development Project (R).....	562		150,000
8	Multi State Tax Commission.....	653		77,958
9	Other Assets.....	690		25,000

10	BRIM Premium.	913	<u>13,000</u>
11	Total.		\$ 25,587,056

12 Any unexpended balances remaining in the appropriations
 13 for Personal Services (fund 0470, activity 001), Employee
 14 Benefits (fund 0470, activity 010), Tax Technology Upgrade
 15 (fund 0470, activity 094), Unclassified (fund 0470, activity 099),
 16 Current Expenses (fund 0470, activity 130), and GIS
 17 Development Project (fund 0470, activity 562) at the close of the
 18 fiscal year 2013 are hereby reappropriated for expenditure
 19 during the fiscal year 2014.

82 - State Budget Office

(WV Code Chapter 11B)

Fund 0595 FY 2014 Org 0703

1	Personal Services.	001	\$ 533,200
2	Employee Benefits.	010	152,144
3	Unclassified (R).	099	8,020
4	Current Expenses.	130	108,753
5	BRIM Premium.	913	<u>2,589</u>
6	Total.		\$ 804,706

7 Any unexpended balance remaining in the appropriation for
 8 Unclassified (fund 0595, activity 099) at the close of the fiscal
 9 year 2013 is hereby reappropriated for expenditure during the
 10 fiscal year 2014.

83 - West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2014 Org 0709

1	Personal Services.	001	\$ 399,140
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2	Employee Benefits.....	010		168,343
3	Current Expenses.....	130		44,381
4	Repairs and Alterations.....	064		750
5	Equipment.....	070		1,300
6	Other Assets.....	690		3,700
7	BRIM Premium.....	913		<u>2,493</u>
8	Total.....		\$	620,107

9 Any unexpended balance remaining in the appropriation for
 10 Unclassified (fund 0593, activity 099) at the close of the fiscal
 11 year 2013 is hereby reappropriated for expenditure during the
 12 fiscal year 2014.

*84 - Division of Professional and Occupational Licenses –
 State Athletic Commission*

(WV Code Chapter 29)

Fund 0523 FY 2014 Org 0933

1	Personal Services.....	001	\$	15,000
2	Employee Benefits.....	010		4,573
3	Current Expenses.....	130		<u>32,274</u>
4	Total.....		\$	51,847

DEPARTMENT OF TRANSPORTATION

85 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2014 Org 0804

1	Personal Services.....	001	\$	245,688
2	Employee Benefits.....	010		105,498
3	Current Expenses.....	130		330,469
4	Other Assets (R).....	690		1,529,996
5	BRIM Premium.....	913		<u>177,352</u>
6	Total.....		\$	2,389,003

7 Any unexpended balances remaining in the appropriations
 8 for Unclassified (fund 0506, activity 099) and Other Assets (fund
 9 0506, activity 690) at the close of the fiscal year 2013 are hereby
 10 reappropriated for expenditure during the fiscal year 2014.

86 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2014 Org 0805

1	Equipment.	070	\$	261,049
2	Current Expenses (R).....	130		1,982,525
3	Buildings (R).....	258		270,956
4	Other Assets.....	690		<u>162,528</u>
5	Total.....		\$	2,677,058

6 Any unexpended balances remaining in the appropriations
 7 for Unclassified – Total (fund 0510, activity 096), Current
 8 Expenses (fund 0510, activity 130), Buildings (fund 0510,
 9 activity 258), and Federal Funds/Grant Match (fund 0510,
 10 activity 749) at the close of the fiscal year 2013 are hereby
 11 reappropriated for expenditure during the fiscal year 2014.

12 Included in the above appropriation for Current Expenses
 13 (activity 130) is an additional \$100,000 for Tri-River Transit
 14 which shall be provided in addition to funds currently allocated
 15 for this purpose.

87 - Public Port Authority

(WV Code Chapter 17)

Fund 0581 FY 2014 Org 0806

1	Personal Services.....	001	\$	197,992
2	Employee Benefits.....	010		75,609
3	Current Expenses.....	130		102,939
4	BRIM Premium.	913		<u>2,764</u>
5	Total.....		\$	379,304

6 Any unexpended balance remaining in the appropriation for
 7 Unclassified (fund 0581, activity 099) at the close of the fiscal
 8 year 2013 is hereby reappropriated for expenditure during the
 9 fiscal year 2014.

88 - Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2014 Org 0807

1	Personal Services.....	001	\$	152,704
2	Employee Benefits.....	010		55,164
3	Current Expenses (R).....	130		906,625
4	Repairs and Alterations.....	064		100
5	Civil Air Patrol.....	234		155,095
6	BRIM Premium.....	913		<u>2,768</u>
7	Total.....		\$	1,272,456

8 Any unexpended balance remaining in the appropriations for
 9 Unclassified (fund 0582, activity 099) and Current Expenses
 10 (fund 0582, activity 130) at the close of the fiscal year 2013 are
 11 hereby reappropriated for expenditure during the fiscal year
 12 2014.

13 From the above appropriation for Current Expenses, the sum
 14 of \$120,000 shall be distributed equally to each of the twelve
 15 local Civil Air Patrol Squadrons.

DEPARTMENT OF VETERANS' ASSISTANCE

89 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 0456 FY 2014 Org 0613

1	Personal Services.....	001	\$	1,095,895
2	Employee Benefits.....	010		528,399

Ch. 4]	APPROPRIATIONS		111
3	Unclassified.	099	20,000
4	Current Expenses.	130	167,447
5	Repairs and Alterations.	064	5,000
6	Veterans' Field Offices.	228	168,345
7	Veterans' Nursing Home (R).	286	6,836,188
8	Veterans' Toll Free Assistance Line.	328	2,015
9	Veterans' Reeducation		
10	Assistance (R).	329	29,502
11	Veterans' Grant Program (R).	342	50,000
12	Veterans' Grave Markers.	473	2,754
13	Veterans' Transportation.	485	625,000
14	Veterans Outreach Programs.	617	205,926
15	Memorial Day Patriotic Exercise.	697	20,000
16	Veterans Cemetery.	808	374,055
17	BRIM Premium.	913	<u>23,860</u>
18	Total.		\$ 10,154,386

19 Any unexpended balances remaining in the appropriations
20 for Veterans' Nursing Home (fund 0456, activity 286), Veterans'
21 Reeducation Assistance (fund 0456, activity 329), Veterans'
22 Grant Program (fund 0456, activity 342), Veterans' Bonus –
23 Surplus (fund 0456, activity 344), Veterans' Bonus (fund 0456,
24 activity 483), and Educational Opportunities for Children of
25 Deceased Veterans (fund 0456, activity 854) at the close of the
26 fiscal year 2013 are hereby reappropriated for expenditure
27 during the fiscal year 2014.

*90 - Department of Veterans' Assistance –
Veterans' Home*

(WV Code Chapter 9A)

Fund 0460 FY 2014 Org 0618

1	Personal Services.	001	\$	722,600
2	Employee Benefits.	010		381,994

3	Current Expenses.....	130		<u>62,714</u>
4	Total.....		\$	1,167,308

BUREAU OF SENIOR SERVICES

91 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 0420 FY 2014 Org 0508

1	Transfer to Division of Human			
2	Services for Health Care and			
3	Title XIX Waiver for			
4	Senior Citizens.....	539	\$	10,131,368

5 The above appropriation for Transfer to Division of Human
6 Services for Health Care and Title XIX Waiver for Senior
7 Citizens (activity 539) along with the federal moneys generated
8 thereby shall be used for reimbursement for services provided
9 under the program.

10 The above appropriation is in addition to funding provided
11 in fund 5405 for this program.

WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION

92 - West Virginia Council for

*Community and Technical College Education –
Control Account*

(WV Code Chapter 18B)

Fund 0596 FY 2014 Org 0420

1	Advanced Technology Centers. . . .	028	\$	0
2	West Virginia Council for Community			
3	and Technical Education (R)....	392		798,808
4	Transit Training Partnership.	783		74,000

5	Community College Workforce		
6	Development (R).....	878	849,150
7	College Transition Program.....	887	308,488
8	West Virginia Advance		
9	Workforce Development (R)....	893	3,370,719
10	Technical Program Development (R).	894	<u>2,091,518</u>
11	Total.....		\$ 7,492,683

12 Any unexpended balances remaining in the appropriations
13 for Unclassified – Surplus (fund 0596, activity 097), West
14 Virginia Council for Community and Technical Education (fund
15 0596, activity 392), Capital Improvements – Surplus (fund 0595,
16 activity 661), Community College Workforce Development
17 (fund 0596, activity 878), West Virginia Advance Workforce
18 Development (fund 0596, activity 893), and Technical Program
19 Development (fund 0596, activity 894) at the close of the fiscal
20 year 2013 are hereby reappropriated for expenditure during the
21 fiscal year 2014.

22 From the above appropriation for the Community College
23 Workforce Development (fund 0596, activity 878), \$200,000
24 shall be expended on the Mine Training Program in Southern
25 West Virginia.

93 - Mountwest Community and Technical College

(WV Code Chapter 18B)

Fund 0599 FY 2014 Org 0444

1	Mountwest Community and		
2	Technical College.	487	\$ 5,876,134

94 - New River Community and Technical College

(WV Code Chapter 18B)

Fund 0600 FY 2014 Org 0445

1	New River Community and		
2	Technical College.	358	\$ 5,832,608

95 - Pierpont Community and Technical College

(WV Code Chapter 18B)

Fund 0597 FY 2014 Org 0446

1	Pierpont Community and			
2	Technical College.	930	\$	7,810,425

96 - Blue Ridge Community and Technical College

(WV Code Chapter 18B)

Fund 0601 FY 2014 Org 0447

1	Blue Ridge Community and			
2	Technical College.	885	\$	4,753,034

3 Any unexpended balance remaining in the appropriation for
 4 Unclassified – Surplus (fund 0601, activity 097) at the close of
 5 the fiscal year 2013 is hereby reappropriated for expenditure
 6 during the fiscal year 2014.

97 - Kanawha Valley Community and Technical College

(WV Code Chapter 18B)

Fund 0598 FY 2014 Org 0448

1	Kanawha Valley Community			
2	and Technical College.	445	\$	3,816,239

98 - Bridgemont Community and Technical College

(WV Code Chapter 18B)

Fund 0602 FY 2014 Org 0449

1	Bridgemont Community and			
2	Technical College.	486	\$	4,175,577

99 - West Virginia University at Parkersburg

(WV Code Chapter 18B)

Fund 0351 FY 2014 Org 0464

1	West Virginia University –			
2	Parkersburg.	471	\$	10,328,724

100 - Southern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0380 FY 2014 Org 0487

1	Southern West Virginia Community			
2	and Technical College.	446	\$	8,536,576

101 - West Virginia Northern Community and Technical College

(WV Code Chapter 18B)

Fund 0383 FY 2014 Org 0489

1	West Virginia Northern Community			
2	and Technical College.	447	\$	7,301,620

102 - Eastern West Virginia Community and Technical College

(WV Code Chapter 18B)

Fund 0587 FY 2014 Org 0492

1	Eastern West Virginia Community			
2	and Technical College.	412	\$	1,942,971

HIGHER EDUCATION POLICY COMMISSION

*103 - Higher Education Policy Commission –
Administration –
Control Account*

(WV Code Chapter 18B)

Fund 0589 FY 2014 Org 0441

1	Personal Services.....	001	\$	2,125,173
2	Employee Benefits.....	010		414,635
3	Current Expenses.....	130		275,742
4	Higher Education Grant Program. . .	164		39,019,864
5	Tuition Contract Program (R).	165		1,316,697
6	Underwood-Smith Scholarship			
7	Program- Student Awards.	167		200,000
8	Facilities Planning and			
9	Administration.....	386		2,000,000
10	PROMISE Scholarship –			
11	Transfer.	800		18,500,000
12	HEAPS Grant Program (R).	867		5,005,687
13	BRIM Premium.	913		<u>17,243</u>
14	Total.....		\$	68,875,041

15 Any unexpended balances remaining in the appropriations
16 for Unclassified – Surplus (fund 0589, activity 097), Tuition
17 Contract Program (fund 0589, activity 165), Capital
18 Improvements – Surplus (fund 0589, activity 661), Capital
19 Outlay and Maintenance (fund 0589, activity 755), and HEAPS
20 Grant Program (fund 0589, activity 867) at the close of the fiscal
21 year 2013 are hereby reappropriated for expenditure during the
22 fiscal year 2014.

23 The above appropriation for Facilities Planning and
24 Administration (activity 386) is for operational expenses of the

25 West Virginia Education, Research and Technology Park
26 between construction and full occupancy.

27 The above appropriation for Higher Education Grant
28 Program (activity 164) shall be transferred to the Higher
29 Education Grant Fund (fund 4933, org 0441) established by
30 W.Va. Code §18C-5-3.

31 The above appropriation for Underwood-Smith Scholarship
32 Program Student Awards (activity 167) shall be transferred to
33 the Underwood-Smith Teacher Scholarship Fund (fund 4922, org
34 0441) established by W.Va. Code §18C-4-1.

35 The above appropriation for PROMISE Scholarship –
36 Transfer (activity 800) shall be transferred to the PROMISE
37 Scholarship Fund (fund 4296, org 0441) established by W.Va.
38 Code §18C-7-7.

*104 - Higher Education Policy Commission –
Administration –*

West Virginia Network for Educational Telecomputing (WVNET)

(WV Code Chapter 18B)

Fund 0551 FY 2014 Org 0495

1 WVNET..... 169 \$ 1,774,201

*105 - West Virginia University –
School of Medicine
Medical School Fund*

(WV Code Chapter 18B)

Fund 0343 FY 2014 Org 0463

1 WVU School of Health Science –
2 Eastern Division. 056 \$ 2,409,623

3	WVU – School of Health Sciences. . .	174	17,574,081
4	WVU School of Health Sciences –		
5	Charleston Division.	175	2,462,599
6	Rural Health Outreach Programs (R).	377	184,006
7	West Virginia University School		
8	of Medicine BRIM Subsidy.	460	<u>1,274,838</u>
9	Total.		\$ 23,905,147

10 Any unexpended balance remaining in the appropriation for
 11 Rural Health Outreach Programs (fund 0343, activity 377) at the
 12 close of the fiscal year 2013 is hereby reappropriated for
 13 expenditure during the fiscal year 2014.

14 Included in the appropriation for WVU – School of Health
 15 Sciences (activity 174) is \$1,000,000 for Blanchette Rockefeller
 16 Project; \$1,000,000 for the School of Public Health (year 3 of 5);
 17 and \$943,080 is for Graduate Medical Education which may be
 18 transferred to the Department of Health and Human Resources’
 19 Medical Service Fund (fund 5084) for the purpose of matching
 20 federal or other funds to be used in support of graduate medical
 21 education, subject to approval of the vice-chancellor for health
 22 sciences and the secretary of the department of health and human
 23 resources. If approval is denied, the funds may be utilized by the
 24 respective institutions for expenditure on graduate medical
 25 education.

26 Included in the above appropriation for WVU – School of
 27 Health Sciences – Charleston Division (activity 175), an amount
 28 not less than \$5,000, is to be used for the West Virginia
 29 Academy of Family Physicians Doc of the Day Program.

30 The above appropriation for Rural Health Outreach
 31 Programs (activity 377) includes rural health activities and
 32 programs; rural residency development and education; and rural
 33 outreach activities.

34 The above appropriation for BRIM subsidy (activity 460)
 35 shall be paid to the Board of Risk and Insurance Management as
 36 a general revenue subsidy against the “Total Premium Billed” to
 37 the institution as part of the full cost of their malpractice
 38 insurance coverage.

*106 - West Virginia University –
 General Administrative Fund
 (WV Code Chapter 18B)*

Fund 0344 FY 2014 Org 0463

1	West Virginia University.....	459	\$	106,104,466
2	Jackson’s Mill (R).	461		320,048
3	West Virginia University			
4	Institute for Technology.	479		8,620,982
5	State Priorities – Brownfield			
6	Professional Development (R). . .	531		367,051
7	West Virginia University –			
8	Potomac State.	994		<u>4,270,762</u>
9	Total.....		\$	119,683,309

10 Any unexpended balances remaining in the appropriations
 11 for General Operations (fund 0344, activity 277), Jackson’s Mill
 12 (fund 0344, activity 461), and State Priorities – Brownfield
 13 Professional Development (fund 0344, activity 531) at the close
 14 of the fiscal year 2013 are hereby reappropriated for expenditure
 15 during the fiscal year 2014.

16 Included in the above appropriation for West Virginia
 17 University (activity 459) is \$34,500 for the Marshall and WVU
 18 Faculty and Course Development International Study Project;
 19 \$246,429 for the WVU Law School – Skills Program; \$300,000
 20 for the WVU Coal and Energy Research Bureau to be expended
 21 in consultation with the Board of Coal Mine Health and Safety,

22 the Mine Safety Technology Task Force, and the DEP Advisory
 23 Council; \$19,714 for the WVU College of Engineering and
 24 Mineral Resources – Diesel Training – Transfer; \$500,000 for
 25 the Mining Engineering Program; \$220,000 for the WVU
 26 Petroleum Engineering Program; \$82,500 for the WVU – Sheep
 27 Study; \$630,000 for the Davis College of Forestry Agriculture
 28 ad Consumer Sciences of which \$80,000 is for a Landscape
 29 Architect, \$112,500 is to be used for Morgantown Farms,
 30 \$112,500 is to be used for Raymond Memorial Farm, \$112,500
 31 is to be used for Reedsville Farm, and \$112,500 is to be used for
 32 Kerneysville Farm; \$200,000 for Reedsville Arena and Jackson’s
 33 Mill Arena; \$100,000 for the WVU – Soil Testing Program;
 34 \$100,000 for a veterinarian; \$50,000 for the WVU Cancer Study;
 35 \$500,000 for the Center for Multiple Sclerosis Program;
 36 \$150,000 for the WV Alzheimer Disease Register; \$100,000 for
 37 the rifle team; \$200,000 is for the West Virginia University
 38 National Center of Excellence in Women’s Health; and \$30,000
 39 for the West Virginia University Extension Service to develop
 40 a cyber-bullying prevention program.

41 Included in the above appropriation for Jackson’s Mill
 42 (activity 461) is \$150,000 for the Jackson’s Mill Fire Academy.

43 From the above appropriation for West Virginia University
 44 – Potomac State (activity 994) is \$50,000 for maintenance,
 45 repairs, and equipment; \$75,000 for Potomac State Farms for
 46 maintenance, repairs, and equipment; and \$82,500 for the
 47 Potomac State Equine Program.

*107 - Marshall University –
 School of Medicine*

(WV Code Chapter 18B)

Fund 0347 FY 2014 Org 0471

1	Marshall Medical School.....	173	\$	13,791,761
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2	Rural Health Outreach Programs (R).	377	184,006
3	Marshall University Medical		
4	School BRIM Subsidy.....	449	<u>924,653</u>
5	Total.....		\$ 14,900,420

6 Any unexpended balance remaining in the appropriation for
7 Rural Health Outreach Program (fund 0347, activity 377) at the
8 close of the fiscal year 2013 is hereby reappropriated for
9 expenditure during the fiscal year 2014.

10 Included in the above appropriation for Marshall Medical
11 School (activity 173), an amount not less than \$5,000 is to be
12 used for the West Virginia Academy of Family Physicians Doc
13 of the Day Program; \$417,351 is for the Marshall University
14 Forensic Lab; \$275,061 is for the Marshall University Center for
15 Rural Health; and \$295,477 is for Graduate Medical Education
16 which may be transferred to the Department of Health and
17 Human Resources' Medical Service Fund (fund 5084) for the
18 purpose of matching federal or other funds to be used in support
19 of graduate medical education, subject to approval of the vice-
20 chancellor for health sciences and the secretary of the
21 department of health and human resources. If approval is denied,
22 the funds may be utilized by the institution for expenditure on
23 graduate medical education.

24 The above appropriation for Rural Health Outreach
25 Programs (activity 377) includes rural health activities and
26 programs; rural residency development and education; and rural
27 outreach activities.

28 The above appropriation for BRIM subsidy (activity 449)
29 shall be paid to the Board of Risk and Insurance Management as
30 a general revenue subsidy against the "Total Premium Billed" to
31 the institution as part of the full cost of their malpractice
32 insurance coverage.

*108 - Marshall University –
General Administration Fund*

(WV Code Chapter 18B)

Fund 0348 FY 2014 Org 0471

1	Marshall University.	448	\$	49,488,599
2	Vista E-Learning (R).	519		273,172
3	State Priorities – Brownfield			
4	Professional Development (R).	531		367,051
5	WV Autism Training Center.	932		<u>1,922,742</u>
6	Total.		\$	52,051,564

7 Any unexpended balances remaining in the appropriations
8 for Vista E-Learning (fund 0348, activity 519), and State
9 Priorities – Brownfield Professional Development (fund 0348,
10 activity 531) at the close of fiscal year 2013 are hereby
11 reappropriated for expenditure during the fiscal year 2014.

12 Included in the above appropriation for Marshall University
13 (activity 448) is \$181,280 for the Marshall University – Southern
14 WV CTC 2+2 Program and \$175,000 for the Luke Lee Listening
15 Language & Learning Lab.

109 - West Virginia School of Osteopathic Medicine

(WV Code Chapter 18B)

Fund 0336 FY 2014 Org 0476

1	West Virginia School of			
2	Osteopathic Medicine.	172	\$	7,264,642
3	Rural Health Outreach			
4	Programs (R).	377		184,006
5	West Virginia School of			
6	Osteopathic Medicine			
7	BRIM Subsidy.	403		158,872

8	Rural Health Initiative –		
9	Medical Schools Support.....	581	<u>437,975</u>
10	Total.....		\$ 8,045,495

11 Any unexpended balance remaining in the appropriation for
 12 Rural Health Outreach Programs (fund 0336, activity 377) at the
 13 close of fiscal year 2013 is hereby reappropriated for expenditure
 14 during the fiscal year 2014.

15 The above appropriation for Rural Health Outreach
 16 Programs (activity 377) includes rural health activities and
 17 programs; rural residency development and education; and rural
 18 outreach activities.

19 The above appropriation for BRIM subsidy (activity 403)
 20 shall be paid to the Board of Risk and Insurance Management as
 21 a general revenue subsidy against the “Total Premium Billed” to
 22 the institution as part of the full cost of their malpractice
 23 insurance coverage.

110 - Bluefield State College

(WV Code Chapter 18B)

Fund 0354 FY 2014 Org 0482

1	Bluefield State College.	408	\$ 6,003,814
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111 - Concord University

(WV Code Chapter 18B)

Fund 0357 FY 2014 Org 0483

1	Concord University.	410	\$ 9,294,046
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2 Included in the above appropriation for Concord University
 3 (activity 410) is \$100,000 for the Geographic Alliance.

112 - Fairmont State University

(WV Code Chapter 18B)

Fund 0360 FY 2014 Org 0484

1	Fairmont State University.	414	\$	16,281,666
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113 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2014 Org 0485

1	Glenville State College.	428	\$	6,489,479
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2 Included in the above appropriation for Glenville State
3 College (activity 428) is \$300,000 for a 20 county “Hidden
4 Promise” consortium between the County School Systems and
5 Glenville State College; and \$200,000 for courses offered in
6 conjunction with the corrections academy.

114 - Shepherd University

(WV Code Chapter 18B)

Fund 0366 FY 2014 Org 0486

1	Shepherd University.	432	\$	10,224,351
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2 Included in the above appropriation for Shepherd University
3 (activity 432) is \$100,000 for the Gateway Program.

115 - West Liberty University

(WV Code Chapter 18B)

Fund 0370 FY 2014 Org 0488

1	West Liberty University.	439	\$	8,488,844
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116 - West Virginia State University

(WV Code Chapter 18B)

Fund 0373 FY 2014 Org 0490

1	West Virginia State University.	441	\$	10,657,707
2	West Virginia State University			
3	Land Grant Match.	956		<u>1,908,000</u>
4	Total.		\$	12,565,707

5 Any unexpended balance remaining in the appropriation for
6 General Operations (fund 0373, activity 277) at the close of the
7 fiscal year 2013 is hereby reappropriated for expenditure during
8 the fiscal year 2014.

9 Total TITLE II, Section 1 — General Revenue
10 (Including claims against the state) \$ 4,136,001,000

1 **Sec. 2. Appropriations from state road fund.** — From the
2 state road fund there are hereby appropriated conditionally upon
3 the fulfillment of the provisions set forth in Article 2, Chapter
4 11B of the Code the following amounts, as itemized, for
5 expenditure during the fiscal year 2014.

DEPARTMENT OF TRANSPORTATION

117 - Division of Motor Vehicles

(WV Code Chapters 17, 17A, 17B, 17C, 17D, 20 and 24A)

Fund 9007 FY 2014 Org 0802

				State Road Fund
	Activity			
1	Personal Services.	001	\$	15,647,549
2	Employee Benefits.	010		7,538,648
3	Current Expenses.	130		16,399,041

126		APPROPRIATIONS		[Ch. 4
4	Repairs and Alterations.	064	60,000	
5	Equipment.	070	70,000	
6	Buildings.	258	10,000	
7	Other Assets.	690	1,600,000	
8	BRIM Premium.	913	<u>53,487</u>	
9	Total.		\$ 41,378,725	

118 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2014 Org 0803

1	Debt Service.	040	\$ 37,000,000
2	Maintenance.	237	354,846,000
3	Maintenance, Contract Paving and		
4	Secondary Road Maintenance. . .	272	60,000,000
5	Bridge Repair and Replacement. . .	273	40,000,000
6	Inventory Revolving.	275	4,000,000
7	Equipment Revolving.	276	15,000,000
8	General Operations.	277	55,804,000
9	Interstate Construction.	278	145,000,000
10	Other Federal Aid Programs.	279	348,000,000
11	Appalachian Programs.	280	75,000,000
12	Nonfederal Aid Construction.	281	18,000,000
13	Highway Litter Control.	282	1,740,000
14	Federal Economic Stimulus.	891	<u>1,500,000</u>
15	Total.		\$ 1,155,890,000

16 The above appropriations are to be expended in accordance
17 with the provisions of Chapters 17 and 17C of the code.

18 The commissioner of highways shall have the authority to
19 operate revolving funds within the state road fund for the
20 operation and purchase of various types of equipment used

21 directly and indirectly in the construction and maintenance of
22 roads and for the purchase of inventories and materials and
23 supplies.

24 There is hereby appropriated within the above items
25 sufficient money for the payment of claims, accrued or arising
26 during this budgetary period, to be paid in accordance with
27 Sections 17 and 18, Article 2, Chapter 14 of the code.

28 It is the intent of the Legislature to capture and match all
29 federal funds available for expenditure on the Appalachian
30 highway system at the earliest possible time. Therefore, should
31 amounts in excess of those appropriated be required for the
32 purposes of Appalachian programs, funds in excess of the
33 amount appropriated may be made available upon
34 recommendation of the commissioner and approval of the
35 governor. Further, for the purpose of Appalachian programs,
36 funds appropriated to line items may be transferred to other line
37 items upon recommendation of the commissioner and approval
38 of the governor.

119 - Office of Administrative Hearings

(WV Code Chapter 17C)

Fund 9027 FY 2014 Org 0808

1	Personal Services.....	001	\$	1,111,223
2	Employee Benefits.....	010		473,729
3	Current Expenses.....	130		350,895
4	Repairs and Alterations.....	064		4,800
5	Equipment.....	070		1,750
6	BRIM Premium.....	913		<u>9,582</u>
7	Total.....		\$	1,951,979
8	Total TITLE II, Section 2 —			
9	State Road Fund			
10	(Including claims against the state)		\$	<u><u>1,199,969,148</u></u>

1 **Sec. 3. Appropriations from other funds.** — From the
 2 funds designated there are hereby appropriated conditionally
 3 upon the fulfillment of the provisions set forth in Article 2,
 4 Chapter 11B of the Code the following amounts, as itemized, for
 5 expenditure during the fiscal year 2014.

LEGISLATIVE

120 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 1731 FY 2014 Org 2300

	Activity		Other Funds
1	Personal Services.	001	\$ 350,420
2	Employee Benefits.	010	147,600
3	Current Expenses.	130	133,903
4	Repairs and Alterations.	064	1,000
5	Economic Loss Claim		
6	Payment Fund (R).	334	3,460,125
7	Other Assets.	690	<u>3,700</u>
8	Total.		\$ 4,096,748

9 Any unexpended balance remaining in the appropriation for
 10 Economic Loss Claim Payment Fund (fund 1731, fiscal year
 11 2013, activity 334) at the close of the fiscal year 2013 is hereby
 12 reappropriated for expenditure during the fiscal year 2014.

JUDICIAL

121 - Supreme Court –

Family Court Fund

(WV Code Chapter 51)

Fund 1763 FY 2014 Org 2400

1	Current Expenses.	130	\$ 1,000,000
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EXECUTIVE

122 - Governor's Office

Minority Affairs Fund

(WV Code Chapter 5)

Fund 1058 FY 2014 Org 0100

1	Personal Services.....	001	\$	126,000
2	Employee Benefits.....	010		46,800
3	Current Expenses.....	130		<u>503,200</u>
4	Total.....		\$	676,000

123 - Auditor's Office -

Land Operating Fund

(WV Code Chapters 11A, 12 and 36)

Fund 1206 FY 2014 Org 1200

1	Personal Services.....	001	\$	441,787
2	Employee Benefits.....	010		187,360
3	Unclassified.....	099		15,139
4	Current Expenses.....	130		440,291
5	Repairs and Alterations.....	064		2,600
6	Equipment.....	070		<u>426,741</u>
7	Total.....		\$	1,513,918

8 There is hereby appropriated from this fund, in addition to
9 the above appropriation, the necessary amount for the
10 expenditure of funds other than personal services or employee
11 benefits to enable the division to pay the direct expenses relating
12 to land sales as provided in Chapter 11-a of the West Virginia
13 Code.

14 The total amount of this appropriation shall be paid from the
15 special revenue fund out of fees and collections as provided by
16 law.

*124 - Auditor's Office –
Local Government Purchasing Card Expenditure Fund*

(WV Code Chapter 6)

Fund 1224 FY 2014 Org 1200

1	Personal Services.....	001	\$	232,500
2	Employee Benefits.....	010		75,587
3	Current Expenses.....	130		62,030
4	Repairs and Alterations.....	064		6,000
5	Equipment.....	070		10,805
6	Other Assets.....	690		<u>50,000</u>
7	Total.....		\$	436,922

*125 - Auditor's Office –
Securities Regulation Fund*

(WV Code Chapter 32)

Fund 1225 FY 2014 Org 1200

1	Personal Services.....	001	\$	1,332,581
2	Employee Benefits.....	010		549,929
3	Unclassified.....	099		31,866
4	Current Expenses.....	130		838,830
5	Repairs and Alterations.....	064		12,400
6	Equipment.....	070		19,700
7	Other Assets.....	690		<u>673,326</u>
8	Total.....		\$	3,458,632

*126 - Auditor's Office –
Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1233 FY 2014 Org 1200

1	Current Expenses.....	130	\$	300,000
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2	Other Assets.....	690	<u>100,000</u>
3	Total.....	\$	400,000

4 Fifty percent of the deposits made into this fund shall be
5 transferred to the Treasurer’s Office – Technology Support and
6 Acquisition Fund (fund 1329, org 1300) for expenditure for the
7 purposes described in W.Va. Code §12-3-10c.

*127 - Auditor’s Office –
Purchasing Card Administration Fund*

(WV Code Chapter 12)

Fund 1234 FY 2014 Org 1200

1	Personal Services.....	001	\$ 1,939,705
2	Employee Benefits.....	010	559,602
3	Current Expenses.....	130	1,578,622
4	Repairs and Alterations.....	064	5,500
5	Equipment.....	070	650,000
6	Other Assets.....	690	<u>308,886</u>
7	Total.....	\$	5,042,315

8 There is hereby appropriated from this fund, in addition to
9 the above appropriation, the amount necessary to meet the
10 transfer requirements to the Purchasing Improvement Fund (fund
11 2264) and the Hatfield-McCoy Regional Recreation Authority
12 per W.Va. Code §12-3-10d.

*128 - Auditor’s Office –
Office of the Chief Inspector*

(WV Code Chapter 6)

Fund 1235 FY 2014 Org 1200

1	Personal Services.....	001	\$ 2,506,081
2	Employee Benefits.....	010	899,431

3	Current Expenses.....	130		765,915
4	Equipment.	070		<u>50,000</u>
5	Total.....		\$	4,221,427

*129 - Treasurer's Office –
College Prepaid Tuition and Savings Program
Administrative Account*

(WV Code Chapter 18)

Fund 1301 FY 2014 Org 1300

1	Personal Services.....	001	\$	664,184
2	Employee Benefits.....	010		235,906
3	Unclassified.	099		14,000
4	Current Expenses.....	130		<u>494,541</u>
5	Total.....		\$	1,408,631

*130 - Treasurer's Office –
Technology Support and Acquisition Fund*

(WV Code Chapter 12)

Fund 1329 FY 2014 Org 1300

1	Personal Services.....	001	\$	147,236
2	Employee Benefits.....	010		39,757
3	Unclassified.	099		4,700
4	Current Expenses.....	130		184,956
5	Other Assets.....	690		<u>100,000</u>
6	Total.....		\$	476,649

*131 - Department of Agriculture –
Agriculture Fees Fund*

(WV Code Chapter 19)

Fund 1401 FY 2014 Org 1400

1	Personal Services.....	001	\$	1,494,935
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Ch. 4]	APPROPRIATIONS	133
2	Employee Benefits.....	010 749,310
3	Unclassified.....	099 37,425
4	Current Expenses.....	130 1,356,184
5	Repairs and Alterations.....	064 58,500
6	Equipment.....	070 36,209
7	Other Assets.....	690 <u>10,000</u>
8	Total.....	\$ 3,742,563

*132 - Department of Agriculture –
West Virginia Rural Rehabilitation Program*

(WV Code Chapter 19)

Fund 1408 FY 2014 Org 1400

1	Personal Services.....	001 \$ 55,337
2	Employee Benefits.....	010 18,470
3	Unclassified.....	099 10,476
4	Current Expenses.....	130 <u>963,404</u>
5	Total.....	\$ 1,047,687

*133 - Department of Agriculture –
General John McCausland Memorial Farm*

(WV Code Chapter 19)

Fund 1409 FY 2014 Org 1400

1	Unclassified.....	099 \$ 2,100
2	Current Expenses.....	130 117,900
3	Repairs and Alterations.....	064 21,000
4	Equipment.....	070 31,000
5	Buildings.....	258 <u>38,000</u>
6	Total.....	\$ 210,000

7 The above appropriation shall be expended in accordance
8 with Article 26, Chapter 19 of the Code.

*134 - Department of Agriculture –
Farm Operating Fund*

(WV Code Chapter 19)

Fund 1412 FY 2014 Org 1400

1	Personal Services.....	001	\$	218,525
2	Employee Benefits.....	010		83,692
3	Unclassified.....	099		15,173
4	Current Expenses.....	130		1,213,288
5	Repairs and Alterations.....	064		238,722
6	Equipment.....	070		210,600
7	Other Assets.....	690		<u>20,000</u>
8	Total.....		\$	2,000,000

*135 - Department of Agriculture –
Donated Food Fund*

(WV Code Chapter 19)

Fund 1446 FY 2014 Org 1400

1	Personal Services.....	001	\$	661,476
2	Employee Benefits.....	010		297,388
3	Unclassified.....	099		45,807
4	Current Expenses.....	130		3,498,842
5	Repairs and Alterations.....	064		40,200
6	Equipment.....	070		10,000
7	Other Assets.....	690		<u>27,000</u>
8	Total.....		\$	4,580,713

*136 - Department of Agriculture –
Integrated Predation Management Fund*

(WV Code Chapter 7)

Fund 1465 FY 2014 Org 1400

1	Current Expenses.....	130	\$	25,000
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*137 - Department of Agriculture –
West Virginia Spay Neuter Assistance Fund*

(WV Code Chapter 7)

Fund FY 2014 Org 1400

1	Current Expenses.....	130	\$	100
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*138 - Attorney General –
Antitrust Enforcement Fund*

(WV Code Chapter 47)

Fund 1507 FY 2014 Org 1500

1	Personal Services.....	001	\$	268,883
2	Employee Benefits.....	010		84,626
3	Current Expenses.....	130		154,194
4	Total.....		\$	507,703

*139 - Attorney General –
Preneed Burial Contract Regulation Fund*

(WV Code Chapter 47)

Fund 1513 FY 2014 Org 1500

1	Personal Services.....	001	\$	172,044
2	Employee Benefits.....	010		57,732
3	Current Expenses.....	130		37,065
4	Total.....		\$	266,841

*140 - Attorney General –
Preneed Funeral Guarantee Fund*

(WV Code Chapter 47)

Fund 1514 FY 2014 Org 1500

1	Current Expenses.....	130	\$	901,135
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*141 - Secretary of State –
Service Fees and Collection Account*

(WV Code Chapters 3, 5, and 59)

Fund 1612 FY 2014 Org 1600

1	Personal Services.....	001	\$	589,735
2	Employee Benefits.....	010		201,316
3	Unclassified.....	099		4,524
4	Current Expenses.....	130		<u>8,036</u>
5	Total.....		\$	803,611

*142 - Secretary of State –
General Administrative Fees Account*

(WV Code Chapters 3, 5 and 59)

Fund 1617 FY 2014 Org 1600

1	Personal Services.....	001	\$	1,661,415
2	Employee Benefits.....	010		636,834
3	Unclassified.....	099		16,324
4	Current Expenses.....	130		682,306
5	Technology Improvements.....	599		<u>750,000</u>
6	Total.....		\$	3,746,879

DEPARTMENT OF ADMINISTRATION

*143 - Department of Administration –
Office of the Secretary –
Tobacco Settlement Fund*

(WV Code Chapter 4)

Fund 2041 FY 2014 Org 0201

1	Tobacco Settlement Fund – Transfer.	902	\$	51,650
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2 The above appropriation for Tobacco Settlement Fund –
 3 Transfer (activity 902) shall be transferred to the Division of
 4 Health (fund 5124, org 0506) for expenditure.

*144 - Department of Administration –
 Office of the Secretary
 Employee Pension and Health Care Benefit Fund*

(WV Code Chapter 18)

Fund 2044 FY 2014 Org 0201

1 Current Expenses. 130 \$ 30,855,000

2 The above appropriation for Current Expenses (fund 2044,
 3 activity 130) shall be transferred to the Consolidated Public
 4 Retirement Board – West Virginia Teachers’ Retirement System
 5 Employers Accumulation Fund (fund 2601).

145 - Division of Information Services and Communications

(WV Code Chapter 5A)

Fund 2220 FY 2014 Org 0210

1	Personal Services.	001	\$	16,884,858
2	Employee Benefits.	010		6,136,408
3	Unclassified.	099		382,354
4	Current Expenses.	130		12,580,822
5	Repairs and Alterations.	064		1,000
6	Equipment.	070		2,000,000
7	Other Assets.	690		<u>250,000</u>
8	Total.		\$	38,235,442

9 The total amount of this appropriation shall be paid from a
 10 special revenue fund out of collections made by the division of
 11 information services and communications as provided by law.

12 Each spending unit operating from the general revenue fund,
 13 from special revenue funds or receiving reimbursement for
 14 postage from the federal government shall be charged monthly
 15 for all postage meter service and shall reimburse the revolving
 16 fund monthly for all such amounts.

*146 - Division of Purchasing –
 Vendor Fee Fund*

(WV Code Chapter 5A)

Fund 2263 FY 2014 Org 0213

1	Personal Services.....	001	\$	499,480
2	Employee Benefits.....	010		168,831
3	Unclassified.....	099		2,382
4	Current Expenses.....	130		225,012
5	Repairs and Alterations.....	064		5,000
6	Equipment.....	070		2,500
7	Other Assets.....	690		2,500
8	BRIM Premium.....	913		<u>810</u>
9	Total.....		\$	906,515

*147 - Division of Purchasing –
 Purchasing Improvement Fund*

(WV Code Chapter 5A)

Fund 2264 FY 2014 Org 0213

1	Personal Services.....	001	\$	294,353
2	Employee Benefits.....	010		112,124
3	Unclassified.....	099		5,562
4	Current Expenses.....	130		305,478
5	Repairs and Alterations.....	064		500
6	Equipment.....	070		500

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7	Other Assets.....	690 500
8	BRIM Premium.....	913 850
9	Total.....	\$ 719,867

148 - Travel Management
Fleet Management Office Fund
(WV Code Chapter 5A)

Fund 2301 FY 2014 Org 0215

1	Personal Services.....	001 \$ 532,880
2	Employee Benefits.....	010 199,717
3	Unclassified.....	099 4,000
4	Current Expenses.....	130 7,088,784
5	Repairs and Alterations.....	064 12,000
6	Equipment.....	070 104,000
7	Other Assets.....	690 264,191
8	Total.....	\$ 8,205,572

149 - Travel Management
Aviation Fund
(WV Code Chapter 5A)

Fund 2302 FY 2014 Org 0215

1	Unclassified.....	099 \$ 1,000
2	Current Expenses.....	130 147,000
3	Repairs and Alterations.....	064 400,237
4	Equipment.....	070 1,000
5	Buildings.....	258 1,000
6	Other Assets.....	690 1,000
7	Land.....	730 1,000
8	Total.....	\$ 552,237

150 - Division of Personnel

(WV Code Chapter 29)

Fund 2440 FY 2014 Org 0222

1	Personal Services.....	001	\$	2,875,410
2	Employee Benefits.....	010		1,059,253
3	Unclassified.....	099		51,418
4	Current Expenses.....	130		1,067,740
5	Repairs and Alterations.....	064		5,000
6	Equipment.....	070		20,000
7	Other Assets.....	690		<u>63,000</u>
8	Total.....		\$	5,141,821

9 The total amount of this appropriation shall be paid from a
 10 special revenue fund out of fees collected by the division of
 11 personnel.

151 - West Virginia Prosecuting Attorneys Institute

(WV Code Chapter 7)

Fund 2521 FY 2014 Org 0228

1	Personal Services.....	001	\$	174,057
2	Employee Benefits.....	010		86,509
3	Unclassified.....	099		5,524
4	Current Expenses.....	130		280,203
5	Repairs and Alterations.....	064		600
6	Equipment.....	070		5,000
7	Other Assets.....	690		<u>500</u>
8	Total.....		\$	552,393

152 - Office of Technology –
Chief Technology Officer Administration Fund

(WV Code Chapter 5A)

Fund 2531 FY 2014 Org 0231

1	Personal Services.....	001	\$	313,116
2	Employee Benefits.....	010		82,000
3	Unclassified.....	099		6,949
4	Current Expenses.....	130		231,911
5	Repairs and Alterations.....	064		1,000
6	Equipment.....	070		50,000
7	Other Assets.....	690		<u>10,000</u>
8	Total.....		\$	694,976

9 From the above fund, the provisions of W.Va. Code §11B-
10 2-18 shall not operate to permit expenditures in excess of the
11 funds authorized for expenditure herein.

DEPARTMENT OF COMMERCE

153 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2014 Org 0305

1	Personal Services.....	001	\$	700,176
2	Employee Benefits.....	010		<u>261,354</u>
3	Total.....		\$	961,530

154 - Division of Forestry –
Timbering Operations Enforcement Fund

(WV Code Chapter 19)

Fund 3082 FY 2014 Org 0305

1	Personal Services.....	001	\$	34,320
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2	Employee Benefits.....	010		11,321
3	Current Expenses.....	130		87,036
4	Repairs and Alterations.....	064		<u>11,250</u>
5	Total.....		\$	143,927

*155 - Geological and Economic Survey –
Geological and Analytical Services Fund*

(WV Code Chapter 29)

Fund 3100 FY 2014 Org 0306

1	Personal Services.....	001	\$	25,821
2	Employee Benefits.....	010		12,401
3	Unclassified.....	099		2,182
4	Current Expenses.....	130		141,375
5	Repairs and Alterations.....	064		6,500
6	Equipment.....	070		20,000
7	Other Assets.....	690		<u>10,000</u>
8	Total.....		\$	218,279

9 The above appropriation shall be used in accordance with
10 W.Va. Code §29-2-4.

*156 - West Virginia Development Office –
Department of Commerce
Marketing and Communications Operating Fund*

(WV Code Chapter 5B)

Fund 3002 FY 2014 Org 0307

1	Personal Services.....	001	\$	1,114,000
2	Employee Benefits.....	010		414,219
3	Unclassified.....	099		30,000
4	Current Expenses.....	130		1,482,260
5	Repairs and Alterations.....	064		<u>500</u>
6	Total.....		\$	3,040,979

*157 - West Virginia Development Office –
Broadband Deployment Fund*

(WV Code Chapter 31)

Fund 3174 FY 2014 Org 0307

1	Unclassified.	099	\$	40,000
2	Current Expenses.	130		<u>4,224,084</u>
3	Total.		\$	4,264,084

*158 - Division of Labor –
Contractor Licensing Board Fund*

(WV Code Chapter 21)

Fund 3187 FY 2014 Org 0308

1	Personal Services.	001	\$	1,025,651
2	Employee Benefits.	010		493,723
3	Unclassified.	099		21,589
4	Current Expenses.	130		597,995
5	Repairs and Alterations.	064		15,000
6	Buildings.	258		<u>5,000</u>
7	Total.		\$	2,158,958

8 From the above account, Contractor Licensing Board Fund
9 (fund 3187), an amount not to exceed \$535,500 may be
10 transferred to the Weights and Measures Fund (fund 3196).

*159 - Division of Labor –
Elevator Safety Act*

(WV Code Chapter 21)

Fund 3188 FY 2014 Org 0308

1	Personal Services.	001	\$	118,330
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2	Employee Benefits.....	010		58,442
3	Unclassified.....	099		2,261
4	Current Expenses.....	130		44,112
5	Repairs and Alterations.....	064		2,000
6	Buildings.....	258		<u>1,000</u>
7	Total.....		\$	226,145

*160 - Division of Labor –
Crane Operator Certification Fund*

(WV Code Chapter 21)

Fund 3191 FY 2014 Org 0308

1	Personal Services.....	001	\$	55,942
2	Employee Benefits.....	010		28,438
3	Unclassified.....	099		1,380
4	Current Expenses.....	130		49,765
5	Repairs and Alterations.....	064		1,500
6	Buildings.....	258		<u>1,000</u>
7	Total.....		\$	138,025

*161 - Division of Labor –
Amusement Rides and Amusement Attraction Safety Fund*

(WV Code Chapter 21)

Fund 3192 FY 2014 Org 0308

1	Personal Services.....	001	\$	50,590
2	Employee Benefits.....	010		28,726
3	Unclassified.....	099		1,281
4	Current Expenses.....	130		44,520
5	Repairs and Alterations.....	064		2,000
6	Buildings.....	258		<u>1,000</u>
7	Total.....		\$	128,117

*162 - Division of Labor –
State Manufactured Housing Administration Fund*

(WV Code Chapter 21)

Fund 3195 FY 2014 Org 0308

1	Personal Services.....	001	\$	103,316
2	Employee Benefits.....	010		30,452
3	Unclassified.....	099		1,847
4	Current Expenses.....	130		43,700
5	Repairs and Alterations.....	064		1,000
6	Buildings.....	258		1,000
7	BRIM Premium.....	913		<u>3,404</u>
8	Total.....		\$	184,719

*163 - Division of Labor –
Weights and Measures Fund*

(WV Code Chapter 47)

Fund 3196 FY 2014 Org 0308

1	Current Expenses.....	130	\$	48,000
2	Repairs and Alterations.....	064		81,000
3	Equipment.....	070		<u>611,500</u>
4	Total.....		\$	740,500

*164 - Division of Natural Resources –
License Fund – Wildlife Resources*

(WV Code Chapter 20)

Fund 3200 FY 2014 Org 0310

1	Wildlife Resources.....	023	\$	5,551,895
2	Administration.....	155		1,387,974
3	Capital Improvements and			
4	Land Purchase	248		1,387,973

5	Law Enforcement.....	806		<u>5,551,895</u>
6	Total.....		\$	13,879,737

7 The total amount of this appropriation shall be paid from a
8 special revenue fund out of fees collected by the division of
9 natural resources.

*165 - Division of Natural Resources –
Game, Fish and Aquatic Life Fund*

(WV Code Chapter 20)

Fund 3202 FY 2014 Org 0310

1	Current Expenses.....	130	\$	125,000
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*166 - Division of Natural Resources –
Nongame Fund*

(WV Code Chapter 20)

Fund 3203 FY 2014 Org 0310

1	Personal Services.....	001	\$	464,245
2	Employee Benefits.....	010		213,864
3	Current Expenses.....	130		201,930
4	Equipment.	070		<u>106,615</u>
5	Total.....		\$	986,654

*167 - Division of Natural Resources –
Planning and Development Division*

(WV Code Chapter 20)

Fund 3205 FY 2014 Org 0310

1	Personal Services.....	001	\$	132,580
2	Employee Benefits.....	010		55,742

Ch. 4]	APPROPRIATIONS		147
3	Unclassified.	099	14,000
4	Current Expenses.	130	151,250
5	Repairs and Alterations.	064	15,016
6	Equipment.	070	33,200
7	Buildings.	258	8,300
8	Other Assets.	690	1,000,000
9	Land	730	<u>900</u>
10	Total.		\$ 1,410,988

*168 - Division of Natural Resources –
Whitewater Study and Improvement Fund*

(WV Code Chapter 20)

Fund 3253 FY 2014 Org 0310

1	Personal Services.	001	\$	41,461
2	Employee Benefits.	010		19,563
3	Current Expenses.	130		66,458
4	Equipment.	070		1,297
5	Buildings.	258		<u>6,969</u>
6	Total.		\$	135,748

*169 - Division of Natural Resources –
Whitewater Advertising and Promotion Fund*

(WV Code Chapter 20)

Fund 3256 FY 2014 Org 0310

1	Unclassified.	099	\$	200
2	Current Expenses.	130		<u>19,800</u>
3	Total.		\$	20,000

*170 - Division of Miners' Health, Safety and Training –
Special Health, Safety and Training Fund*

(WV Code Chapter 22A)

Fund 3355 FY 2014 Org 0314

1	Personal Services.....	001	\$	343,884
2	Employee Benefits.....	010		127,722
3	WV Mining Extension Service.	026		150,000
4	Unclassified.....	099		40,985
5	Current Expenses.....	130		1,954,557
6	Buildings.....	258		481,358
7	Land.....	730		<u>1,000,000</u>
8	Total.....		\$	4,098,506

*170 - Division of Energy –
Energy Assistance*

(WV Code Chapter 5B)

Fund 3010 FY 2014 Org 0328

1	Energy Assistance – Total.....	647	\$	500,000
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*171 - Division of Energy –
Office of Coal Field Community Development*

(WV Code Chapter 5B)

Fund 3011 FY 2014 Org 0328

1	Personal Services.....	001	\$	335,474
2	Employee Benefits.....	010		102,947
3	Unclassified.....	099		8,300
4	Current Expenses.....	130		381,671
5	Repairs and Alterations.....	064		1,500
6	Equipment.....	070		<u>8,323</u>
7	Total.....		\$	838,215

DEPARTMENT OF EDUCATION

*172 - State Board of Education –
Strategic Staff Development*

(WV Code Chapter 18)

Fund 3937 FY 2014 Org 0402

1	Personal Services.....	001	\$	404,000
2	Employee Benefits.....	010		123,554
3	Unclassified.....	099		8,000
4	Current Expenses.....	130		261,446
5	Repairs and Alterations.....	064		1,000
6	Equipment.....	070		1,000
7	Other Assets.....	690		<u>1,000</u>
8	Total.....		\$	800,000

173 - School Building Authority

(WV Code Chapter 18)

Fund 3959 FY 2014 Org 0402

1	Personal Services.....	001	\$	818,143
2	Employee Benefits.....	010		268,409
3	Current Expenses.....	130		249,750
4	Repairs and Alterations.....	064		7,500
5	Equipment.....	070		<u>26,000</u>
6	Total.....		\$	1,369,802

7 The above appropriation is for the administrative expenses
8 of the school building authority and shall be paid from the
9 interest earnings on debt service reserve accounts maintained on
10 behalf of said authority.

*174 - State Board of Education –
FFA-FHA Camp and Conference Center*

(WV Code Chapter 18)

Fund 3960 FY 2014 Org 0402

1	Personal Services.....	001	\$	855,395
2	Employee Benefits.....	010		313,799
3	Unclassified.....	099		17,000
4	Current Expenses.....	130		707,223
5	Repairs and Alterations.....	064		57,500
6	Equipment.....	070		1,000
7	Buildings.....	258		1,000
8	Other Assets.....	690		10,000
9	Land.....	730		<u>1,000</u>
10	Total.....		\$	1,963,917

DEPARTMENT OF EDUCATION AND THE ARTS

*175 - Office of the Secretary –
Lottery Education Fund Interest Earnings –
Control Account*

(WV Code Chapter 29)

Fund 3508 FY 2014 Org 0431

- 1 Any unexpended balance remaining in the appropriation for
- 2 Educational Enhancements (fund 3508, activity 695) at the close
- 3 of the fiscal year 2013 is hereby reappropriated for expenditure
- 4 during the fiscal year 2014.

*176 - Division of Culture and History –
Public Records and Preservation Revenue Account*

(WV Code Chapter 5A)

Fund 3542 FY 2014 Org 0432

1	Personal Services.....	001	\$	154,041
2	Employee Benefits.....	010		54,590
3	Current Expenses.....	130		864,693
4	Equipment.	070		75,000
5	Buildings.	258		1,000
6	Other Assets.....	690		52,328
7	Land.	730		<u>1,000</u>
8	Total.....		\$	1,202,652

*177 - State Board of Rehabilitation –
Division of Rehabilitation Services –
West Virginia Rehabilitation Center –
Special Account*

(WV Code Chapter 18)

Fund 8664 FY 2014 Org 0932

1	Personal Services.....	001	\$	75,000
2	Employee Benefits.....	010		20,738
3	Current Expenses.....	130		2,289,622
4	Repairs and Alterations.	064		150,000
5	Equipment.	070		220,000
6	Other Assets.....	690		<u>150,000</u>
7	Total.....		\$	2,905,360

DEPARTMENT OF ENVIRONMENTAL PROTECTION*178 - Solid Waste Management Board*

(WV Code Chapter 22C)

Fund 3288 FY 2014 Org 0312

1	Personal Services.	001	\$	594,881
2	Employee Benefits.	010		208,108
3	Current Expenses.	130		1,760,277
4	Repairs and Alterations.	064		1,000
5	Equipment.	070		5,000
6	Other Assets.	690		<u>4,403</u>
7	Total.		\$	2,573,669

*179 - Division of Environmental Protection –
Hazardous Waste Management Fund*

(WV Code Chapter 22)

Fund 3023 FY 2014 Org 0313

1	Personal Services.	001	\$	354,280
2	Employee Benefits.	010		156,737
3	Current Expenses.	130		88,913
4	Repairs and Alterations.	064		500
5	Equipment.	070		3,000
6	Other Assets.	690		<u>2,000</u>
7	Total.		\$	605,430

*180 - Division of Environmental Protection –
Air Pollution Education and Environment Fund*

(WV Code Chapter 22)

Fund 3024 FY 2014 Org 0313

1	Personal Services.	001	\$	320,371
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Ch. 4]	APPROPRIATIONS	153
2	Employee Benefits.....	010 144,953
3	Current Expenses.....	130 1,251,510
4	Repairs and Alterations.....	064 13,000
5	Equipment.....	070 53,105
6	Other Assets.....	90 <u>10,000</u>
7	Total.....	\$ 1,792,939

*181 - Division of Environmental Protection –
Special Reclamation Fund*

(WV Code Chapter 22)

Fund 3321 FY 2014 Org 0313

1	Personal Services.....	001 \$ 953,254
2	Employee Benefits.....	010 397,575
3	Current Expenses.....	130 16,402,506
4	Repairs and Alterations.....	064 79,950
5	Equipment.....	070 130,192
6	Other Assets.....	690 <u>32,000</u>
7	Total.....	\$ 17,995,477

*182 - Division of Environmental Protection –
Oil and Gas Reclamation Fund*

(WV Code Chapter 22)

Fund 3322 FY 2014 Org 0313

1	Personal Services.....	001 \$ 123,532
2	Employee Benefits.....	010 40,062
3	Current Expenses.....	130 <u>512,329</u>
4	Total.....	\$ 675,923

*183 - Division of Environmental Protection –
Oil and Gas Operating Permit and Processing Fund*

(WV Code Chapter 22)

Fund 3323 FY 2014 Org 0313

1	Personal Services.	001	\$	1,935,835
2	Employee Benefits.	010		763,953
3	Current Expenses.	130		1,414,609
4	Repairs and Alterations.	064		15,600
5	Equipment.	070		8,000
6	Other Assets.	690		15,000
7	Total.		\$	4,152,997

*184 - Division of Environmental Protection –
Mining and Reclamation Operations Fund*

(WV Code Chapter 22)

Fund 3324 FY 2014 Org 0313

1	Personal Services.	001	\$	3,171,607
2	Employee Benefits.	010		1,463,602
3	Current Expenses.	130		2,407,012
4	Repairs and Alterations.	064		60,500
5	Equipment.	070		85,134
6	Other Assets.	690		57,500
7	Total.		\$	7,245,355

*185 - Division of Environmental Protection –
Underground Storage Tank
Administrative Fund*

(WV Code Chapter 22)

Fund 3325 FY 2014 Org 0313

1	Personal Services.	001	\$	324,427
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2	Employee Benefits.....	010	117,116
3	Current Expenses.....	130	302,000
4	Repairs and Alterations.....	064	5,400
5	Equipment.....	070	3,500
6	Other Assets.....	690	<u>3,500</u>
7	Total.....		\$ 755,943

*186 - Division of Environmental Protection –
Hazardous Waste Emergency Response Fund*

(WV Code Chapter 22)

Fund 3331 FY 2014 Org 0313

1	Personal Services.....	001	\$ 443,554
2	Employee Benefits.....	010	189,765
3	Current Expenses.....	130	433,002
4	Repairs and Alterations.....	064	7,014
5	Equipment.....	070	9,000
6	Other Assets.....	690	<u>11,700</u>
7	Total.....		\$ 1,094,035

*187 - Division of Environmental Protection –
Solid Waste Reclamation and
Environmental Response Fund*

(WV Code Chapter 22)

Fund 3332 FY 2014 Org 0313

1	Personal Services.....	001	\$ 566,858
2	Employee Benefits.....	010	213,126
3	Current Expenses.....	130	3,656,970
4	Repairs and Alterations.....	064	10,150
5	Equipment.....	070	31,500
6	Other Assets.....	690	<u>1,000</u>
7	Total.....		\$ 4,479,604

*188 - Division of Environmental Protection –
Solid Waste Enforcement Fund*

(WV Code Chapter 22)

Fund 3333 FY 2014 Org 0313

1	Personal Services.....	001	\$	1,871,437
2	Employee Benefits.....	010		811,773
3	Current Expenses.....	130		995,975
4	Repairs and Alterations.....	064		51,930
5	Equipment.....	070		65,356
6	Other Assets.....	690		32,168
7	Total.....		\$	3,828,639

*189 - Division of Environmental Protection –
Air Pollution Control Fund*

(WV Code Chapter 22)

Fund 3336 FY 2014 Org 0313

1	Personal Services.....	001	\$	4,228,403
2	Employee Benefits.....	010		1,429,099
3	Current Expenses.....	130		1,560,612
4	Repairs and Alterations.....	064		69,694
5	Equipment.....	070		106,927
6	Other Assets.....	690		49,322
7	Total.....		\$	7,444,057

*190 - Division of Environmental Protection –
Environmental Laboratory
Certification Fund*

(WV Code Chapter 22)

Fund 3340 FY 2014 Org 0313

1	Personal Services.....	001	\$	190,729
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Ch. 4]	APPROPRIATIONS	157
2	Employee Benefits.....	010 77,435
3	Current Expenses.....	130 94,688
4	Repairs and Alterations.....	064 1,000
5	Equipment.....	070 6,500
6	Other Assets.....	690 <u>4,000</u>
7	Total.....	\$ 374,352

*191 - Division of Environmental Protection –
Stream Restoration Fund*

(WV Code Chapter 22)

Fund 3349 FY 2014 Org 0313

1	Current Expenses.....	130 \$ 11,294,705
2	Repairs and Alterations.....	064 2,500
3	Equipment.....	070 500
4	Other Assets.....	690 <u>500</u>
5	Total.....	\$ 11,298,205

*192 - Division of Environmental Protection –
Litter Control Fund*

(WV Code Chapter 22)

Fund 3486 FY 2014 Org 0313

1	Current Expenses.....	130 \$ 60,000
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*193 - Division of Environmental Protection –
Recycling Assistance Fund*

(WV Code Chapter 22)

Fund 3487 FY 2014 Org 0313

1	Personal Services.....	001 \$ 385,365
2	Employee Benefits.....	010 158,554
3	Current Expenses.....	130 2,240,488

158		APPROPRIATIONS		[Ch. 4
4	Repairs and Alterations.	064		800
5	Equipment.	070		500
6	Total.		\$	2,785,707

*194 - Division of Environmental Protection –
Mountaintop Removal Fund*

(WV Code Chapter 22)

Fund 3490 FY 2014 Org 0313

1	Personal Services.	001	\$	834,564
2	Employee Benefits.	010		343,781
3	Current Expenses.	130		638,086
4	Repairs and Alterations.	064		20,112
5	Equipment.	070		27,748
6	Other Assets.	690		23,300
7	Total.		\$	1,887,591

*195 - Oil and Gas Conservation Commission –
Special Oil and Gas Conservation Fund*

(WV Code Chapter 22C)

Fund 3371 FY 2014 Org 0315

1	Personal Services.	001	\$	119,742
2	Employee Benefits.	010		37,482
3	Current Expenses.	130		61,225
4	Repairs and Alterations.	064		1,000
5	Equipment.	070		9,481
6	Other Assets.	690		1,500
7	Total.		\$	230,430

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

*196 - Division of Health –
Tobacco Settlement Expenditure Fund*

(WV Code Chapter 4)

Fund 5124 FY 2014 Org 0506

1 Institutional Facilities Operations. . . 335 \$ 61,218

*197 - Division of Health –
The Vital Statistics Account*

(WV Code Chapter 16)

Fund 5144 FY 2014 Org 0506

1	Personal Services.	001	\$	622,875
2	Employee Benefits.	010		253,896
3	Unclassified.	099		15,500
4	Current Expenses.	130		185,954
5	Equipment.	070		30,000
6	Other Assets.	690		<u>441,834</u>
7	Total.		\$	1,550,059

*198 - Division of Health –
Hospital Services Revenue Account
Special Fund*

Capital Improvement, Renovation and Operations

(WV Code Chapter 16)

Fund 5156 FY 2014 Org 0506

1	Institutional Facilities Operations. . .	335	\$	46,208,911
2	Medical Services Trust Fund –			
3	Transfer.	512		<u>27,800,000</u>
4	Total.		\$	74,008,911

5 The total amount of this appropriation shall be paid from the
6 hospital services revenue account special fund created by W.Va.
7 Code §16-1-13, and shall be used for operating expenses and for
8 improvements in connection with existing facilities and bond
9 payments.

10 The secretary of the department of health and human
11 resources is authorized to utilize up to ten percent of the funds
12 from the appropriation for Institutional Facilities Operations line
13 to facilitate cost effective and cost saving services at the
14 community level.

15 Necessary funds from the above appropriation may be used
16 for medical facilities operations, either in connection with this
17 account or in connection with the line item designated
18 Institutional Facilities Operations in the consolidated medical
19 service fund (fund 0525, organization 0506).

20 From the above appropriation to Institutional Facilities
21 Operations, together with available funds from the consolidated
22 medical services fund (fund 0525, activity 335) on July 1, 2013,
23 the sum of \$160,000 shall be transferred to the department of
24 agriculture – land division – farm operation fund (1412) as
25 advance payment for the purchase of food products; actual
26 payments for such purchases shall not be required until such
27 credits have been completely expended.

*199 - Division of Health –
Laboratory Services Fund*

(WV Code Chapter 16)

Fund 5163 FY 2014 Org 0506

1	Personal Services.....	001	\$	635,070
2	Employee Benefits.....	010		277,587
3	Unclassified.	099		18,114
4	Current Expenses.....	130		850,133

5	Equipment.	070		<u>30,583</u>
6	Total.		\$	1,811,487

*200 - Division of Health –
The Health Facility Licensing Account*

(WV Code Chapter 16)

Fund 5172 FY 2014 Org 0506

1	Personal Services.	001	\$	439,744
2	Employee Benefits.	010		166,206
3	Unclassified.	099		7,113
4	Current Expenses.	130		<u>98,247</u>
5	Total.		\$	711,310

*201 - Division of Health –
Hepatitis B Vaccine*

(WV Code Chapter 16)

Fund 5183 FY 2014 Org 0506

1	Personal Services.	001	\$	64,535
2	Employee Benefits.	010		24,047
3	Unclassified.	099		18,477
4	Current Expenses.	130		<u>1,740,699</u>
5	Total.		\$	1,847,758

*202 - Division of Health –
Lead Abatement Account*

(WV Code Chapter 16)

Fund 5204 FY 2014 Org 0506

1	Personal Services.	001	\$	13,000
2	Employee Benefits.	010		6,100

3	Unclassified.	099		373
4	Current Expenses.	130		<u>17,875</u>
5	Total.		\$	37,348

*203 - Division of Health –
West Virginia Birth to Three Fund*

(WV Code Chapter 16)

Fund 5214 FY 2014 Org 0506

1	Personal Services.	001	\$	500,007
2	Employee Benefits.	010		207,538
3	Unclassified.	099		223,999
4	Current Expenses.	130		<u>21,468,438</u>
5	Total.		\$	22,399,982

*204 - Division of Health –
Tobacco Control Special Fund*

(WV Code Chapter 16)

Fund 5218 FY 2014 Org 0506

1	Current Expenses.	130	\$	7,579
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*205 - West Virginia Health Care Authority –
Health Care Cost Review Fund*

(WV Code Chapter 16)

Fund 5375 FY 2014 Org 0507

1	Personal Services.	001	\$	2,224,943
2	Employee Benefits.	010		808,878
3	Hospital Assistance.	025		600,000
4	Unclassified.	099		67,000

Ch. 4]	APPROPRIATIONS	163
5	Current Expenses.	130 2,837,945
6	Repairs and Alterations.	064 25,000
7	Equipment.	070 50,000
8	Buildings.	258 25,000
9	Other Assets.	690 <u>100,000</u>
10	Total.	\$ 6,738,766

11 The above appropriation is to be expended in accordance
12 with and pursuant to the provisions of W.Va. Code §16-29B and
13 from the special revolving fund designated health care cost
14 review fund.

*206 - West Virginia Health Care Authority –
West Virginia Health Information Network Account*

(WV Code Chapter 16)

Fund 5380 FY 2014 Org 0507

1	Personal Services.	001 \$ 257,500
2	Employee Benefits.	010 107,460
3	Unclassified.	099 20,000
4	Current Expenses.	130 1,615,040
5	Technology Infrastructure Network..	351 <u>3,500,000</u>
6	Total.	\$ 5,500,000

*207 - West Virginia Health Care Authority –
Revolving Loan Fund*

(WV Code Chapter 16)

Fund 5382 FY 2014 Org 0507

1	Current Expenses.	130 \$ 2,000,000
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*208 - Division of Human Services –
Health Care Provider Tax –
Medicaid State Share Fund*

(WV Code Chapter 11)

Fund 5090 FY 2014 Org 0511

1	Medical Services.	189	\$ 181,581,008
2	Medical Services Administrative		
3	Costs.	789	<u>418,992</u>
4	Total.		\$ 182,000,000

5 The above appropriation for Medical Services Administra-
6 tive Costs (fund 5090, activity 789) shall be transferred to a
7 special revenue account in the treasury for use by the department
8 of health and human resources for administrative purposes. The
9 remainder of all moneys deposited in the fund shall be
10 transferred to the West Virginia medical services fund (fund
11 5084).

*209 - Division of Human Services –
Child Support Enforcement Fund*

(WV Code Chapter 48A)

Fund 5094 FY 2014 Org 0511

1	Personal Services.	001	\$ 17,130,317
2	Employee Benefits.	010	7,679,192
3	Unclassified.	099	380,000
4	Current Expenses.	130	<u>12,810,491</u>
5	Total.		\$ 38,000,000

6 Any unexpended balance remaining in the appropriation for
7 Unclassified – Total (fund 5094, activity 096), Unclassified
8 (fund 5094, activity 099), and Current Expenses (fund 5094,
9 activity 130) at the close of the fiscal year 2013 is hereby
10 reappropriated for expenditure during the fiscal year 2014.

210 - Division of Human Services –
Medical Services Trust Fund

(WV Code Chapter 9)

Fund 5185 FY 2014 Org 0511

1	Medical Services.	189	\$	65,229,899
2	Medical Services Administrative			
3	Costs.	789		<u>548,723</u>
4	Total.....		\$	65,778,622

5 The above appropriation to Medical Services shall be used
6 to provide state match of Medicaid expenditures as defined and
7 authorized in subsection (c) of W.Va. Code §9-4A-2a.
8 Expenditures from the fund are limited to the following:
9 payment of backlogged billings, funding for services to future
10 federally mandated population groups and payment of the
11 required state match for medicaid disproportionate share
12 payments. The remainder of all moneys deposited in the fund
13 shall be transferred to the division of human services accounts.

211 - Division of Human Services –
James “Tiger” Morton Catastrophic Illness Fund

(WV Code Chapter 16)

Fund 5454 FY 2014 Org 0511

1	Personal Services.	001	\$	64,417
2	Employee Benefits.....	010		24,975
3	Unclassified.	099		16,031
4	Current Expenses.....	130		<u>1,497,688</u>
5	Total.....		\$	1,603,111

*212 - Division of Human Services –
Domestic Violence Legal Services Fund*

(WV Code Chapter 48)

Fund 5455 FY 2014 Org 0511

1	Current Expenses.....	130	\$	1,077,982
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*213 - Division of Human Services –
West Virginia Works Separate State College Program Fund*

(WV Code Chapter 9)

Fund 5467 FY 2014 Org 0511

1	Current Expenses.....	130	\$	1,200,000
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*214 - Division of Human Services –
West Virginia Works Separate State Two-Parent Program Fund*

(WV Code Chapter 9)

Fund 5468 FY 2014 Org 0511

1	Current Expenses.....	130	\$	3,480,000
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*215 - Division of Human Services –
Marriage Education Fund*

(WV Code Chapter 9)

Fund 5490 FY 2014 Org 0511

1	Personal Services.....	001	\$	7,564
2	Employee Benefits.....	010		2,436
3	Current Expenses.....	130		25,000
4	Total.....		\$	35,000

**DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY**

*216 - Department of Military Affairs and Public Safety –
Office of the Secretary –
Law-Enforcement, Safety and Emergency Worker
Funeral Expense Payment Fund*

(WV Code Chapter 15)

Fund 6003 FY 2014 Org 0601

1	Current Expenses.....	130	\$	25,000
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*217 - State Armory Board –
General Armory Fund*

(WV Code Chapter 15)

Fund 6057 FY 2014 Org 0603

1	Personal Services.....	001	\$	1,110,000
2	Employee Benefits.....	010		528,250
3	Current Expenses.....	130		750,000
4	Repairs and Alterations.	064		490,750
5	Equipment.	070		300,000
6	Buildings.	258		771,000
7	Land.....	730		<u>50,000</u>
8	Total.....		\$	4,000,000

9 From the above appropriation, the Adjutant General may
10 receive and expend funds to conduct operations and activities to
11 include functions of the Military Authority. The Adjutant
12 General may transfer funds between line items.

*218 - Division of Homeland Security and
Emergency Management –
West Virginia Interoperable Radio Project*

(WV Code Chapter 24)

Fund 6295 FY 2014 Org 0606

1	Current Expenses.	130	\$	2,000,000
2	Any unexpended balance remaining in the appropriation for			
3	Unclassified – Total (fund 6295, activity 096) at the close of			
4	fiscal year 2013 is hereby reappropriated for expenditure during			
5	the fiscal year 2014.			

*219 - West Virginia Division of Corrections –
Parolee Supervision Fees*

(WV Code Chapter 62)

Fund 6362 FY 2014 Org 0608

1	Personal Services.	001	\$	384,443
2	Employee Benefits.	010		129,350
3	Unclassified.	099		9,804
4	Current Expenses.	130		408,480
5	Equipment.	070		30,000
6	Other Assets.	690		40,129
7	Total.		\$	1,002,206

*220 - West Virginia State Police –
Motor Vehicle Inspection Fund*

(WV Code Chapter 17C)

Fund 6501 FY 2014 Org 0612

1	Personal Services.	001	\$	802,086
2	Employee Benefits.	010		333,544

Ch. 4]	APPROPRIATIONS	169
3	Current Expenses.	130 260,680
4	Repairs and Alterations.	064 4,500
5	Equipment.	070 170,000
6	Buildings.	258 534,000
7	Other Assets.	690 5,000
8	BRIM Premium.	913 <u>302,432</u>
9	Total.	\$ 2,412,242

10 The total amount of this appropriation shall be paid from the
11 special revenue fund out of fees collected for inspection stickers
12 as provided by law.

*221 - West Virginia State Police –
Drunk Driving Prevention Fund*
(WV Code Chapter 15)
Fund 6513 FY 2014 Org 0612

1	Current Expenses.	130 \$ 1,327,000
2	BRIM Premium.	913 <u>154,452</u>
3	Total.	\$ 1,481,452

4 The total amount of this appropriation shall be paid from the
5 special revenue fund out of receipts collected pursuant to W.Va.
6 Code §11-15-9a and 16 and paid into a revolving fund account
7 in the state treasury.

*222 - West Virginia State Police –
Surplus Real Property Proceeds Fund*
(WV Code Chapter 15)
Fund 6516 FY 2014 Org 0612

1	Buildings.	258 \$ 443,980
2	Land.	730 1,000
3	BRIM Premium.	913 <u>77,222</u>
4	Total.	\$ 522,202

*223 - West Virginia State Police –
Surplus Transfer Account*

(WV Code Chapter 15)

Fund 6519 FY 2014 Org 0612

1	Current Expenses.	130	\$	114,063
2	Repairs and Alterations.	064		10,000
3	Equipment.	070		157,002
4	Buildings.	258		40,000
5	Other Assets.	913		45,000
6	Total.		\$	366,065

*224 - West Virginia State Police –
Central Abuse Registry Fund*

(WV Code Chapter 15)

Fund 6527 FY 2014 Org 0612

1	Personal Services.	001	\$	141,568
2	Employee Benefits.	010		78,667
3	Current Expenses.	130		34,662
4	Repairs and Alterations.	064		500
5	Equipment.	070		500
6	Other Assets.	690		500
7	BRIM Premium.	913		18,524
8	Total.		\$	274,921

*225 - West Virginia State Police –
Bail Bond Enforcer Fund*

(WV Code Chapter 15)

Fund 6532 FY 2014 Org 0612

1	Current Expenses.	130	\$	8,300
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226 - West Virginia State Police –
State Police Academy Post Exchange

(WV Code Chapter 15)

Fund 6544 FY 2014 Org 0612

1	Current Expenses.	130	\$	160,000
2	Repairs and Alterations.	064		<u>40,000</u>
3	Total.		\$	200,000

227 - Regional Jail and Correctional Facility Authority

(WV Code Chapter 31)

Fund 6675 FY 2014 Org 0615

1	Personal Services.	001	\$	1,417,488
2	Employee Benefits.	010		553,551
3	Debt Service.	040		9,000,000
4	Current Expenses.	130		495,852
5	Repairs and Alterations.	064		4,000
6	Equipment.	070		<u>1,743</u>
7	Total.		\$	11,472,634

228 - Fire Commission –
Fire Marshal Fees

(WV Code Chapter 29)

Fund 6152 FY 2014 Org 0619

1	Personal Services.	001	\$	2,035,000
2	Employee Benefits.	010		813,036
3	Unclassified.	099		3,800
4	Current Expenses.	130		1,186,900
5	Repairs and Alterations.	064		54,500
6	Equipment.	070		44,800

172	APPROPRIATIONS		[Ch. 4
7	Other Assets.....	690	12,000
8	BRIM Premium.....	913	<u>50,000</u>
9	Total.....	\$	4,200,036

*229 - Division of Justice and Community Services –
WV Community Corrections Fund*

(WV Code Chapter 62)

Fund 6386 FY 2014 Org 0620

1	Personal Services.....	001	\$	124,279
2	Employee Benefits.....	010		50,858
3	Current Expenses.....	130		1,823,863
4	Repairs and Alterations.....	064		<u>1,000</u>
5	Total.....		\$	2,000,000

*230 - Division of Justice and Community Services –
Court Security Fund*

(WV Code Chapter 51)

Fund 6804 FY 2014 Org 0620

1	Personal Services.....	001	\$	15,544
2	Employee Benefits.....	010		7,239
3	Current Expenses.....	130		<u>1,477,217</u>
4	Total.....		\$	1,500,000

DEPARTMENT OF REVENUE

231 - Division of Financial Institutions

(WV Code Chapter 31A)

Fund 3041 FY 2014 Org 0303

1	Personal Services.....	001	\$	1,837,262
2	Employee Benefits.....	010		625,662

Ch. 4]	APPROPRIATIONS		173
3	Unclassified.	099	32,290
4	Current Expenses.	130	682,652
5	Repairs and Alterations.	064	3,500
6	Equipment.	070	20,000
7	Other Assets.	690	<u>27,710</u>
8	Total.		\$ 3,229,076

*232 - Office of the Secretary –
State Debt Reduction Fund*

(WV Code Chapter 29)

Fund 7007 FY 2014 Org 0701

1	Directed Transfer.	700	\$ 20,000,000
2	Retirement Systems –		
3	Unfunded Liability.	775	<u>20,000,000</u>
4	Total.		\$ 40,000,000

5 The above appropriation for Directed Transfer shall be
6 transferred to the Consolidated Public Retirement Board – West
7 Virginia Public Employees Retirement System Employers
8 Accumulation Fund (fund 2510).

9 The above appropriation for Retirement Systems – Unfunded
10 Liability (fund 7007, activity 775) shall be transferred to the
11 Consolidated Public Retirement Board – West Virginia
12 Teachers’ Retirement System School Aid Formula Funds
13 Holding Account Fund (fund 2606).

*233 - Tax Division –
Cemetery Company Account*

(WV Code Chapter 35)

Fund 7071 FY 2014 Org 0702

1	Personal Services.	001	\$ 17,614
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APPROPRIATIONS

2	Employee Benefits.....	010		5,845
3	Current Expenses.....	130		<u>7,717</u>
4	Total.....		\$	31,176

*234 - Tax Division –
Special Audit and Investigative Unit*

(WV Code Chapter 11)

Fund 7073 FY 2014 Org 0702

1	Personal Services.....	001	\$	587,652
2	Employee Benefits.....	010		228,821
3	Unclassified.....	099		11,000
4	Current Expenses.....	130		260,527
5	Repairs and Alterations.....	064		7,000
6	Equipment.....	070		<u>5,000</u>
7	Total.....		\$	1,100,000

*235 - Tax Division –
Special District Excise Tax Administration Fund*

(WV Code Chapter 11)

Fund 7086 FY 2014 Org 0702

1	Personal Services.....	001	\$	28,648
2	Employee Benefits.....	010		11,994
3	Current Expenses.....	130		<u>11,431</u>
4	Total.....		\$	52,073

*236 - Tax Division –
Wine Tax Administration Fund*

(WV Code Chapter 60)

Fund 7087 FY 2014 Org 0702

1	Personal Services.....	001	\$	172,340
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Ch. 4]	APPROPRIATIONS	175
2	Employee Benefits..... 010	81,822
3	Current Expenses..... 130	<u>5,406</u>
4	Total.....	\$ 259,568

*237 - Tax Division –
Reduced Cigarette Ignition Propensity
Standard and Fire Prevention Act Fund*

(WV Code Chapter 47)

Fund 7092 FY 2014 Org 0702

1	Current Expenses..... 130	\$ 35,000
2	Equipment. 070	<u>15,000</u>
3	Total.....	\$ 50,000

*238 - State Budget Office –
Public Employees Insurance Reserve Fund*

(WV Code Chapter 11B)

Fund 7400 FY 2014 Org 0703

1	Public Employees Insurance	
2	Reserve Fund – Transfer..... 903	\$ 6,800,000
3	PEIA Subsidy..... 801	<u>4,000,000</u>
4	Total.....	\$ 10,800,000

5 The above appropriation for Public Employees Insurance
6 Reserve Fund – Transfer shall be transferred to the Medical
7 Services Trust Fund (fund 5185, org 0511) for expenditure.

8 The above appropriation for PEIA Subsidy (fund 7400,
9 activity 801) shall be transferred to the West Virginia Public
10 Employee’s Insurance Agency and utilized for the purposes of
11 offsetting benefit changes for employees.

*239 - Insurance Commissioner –
Examination Revolving Fund*

(WV Code Chapter 33)

Fund 7150 FY 2014 Org 0704

1	Personal Services.....	001	\$	526,548
2	Employee Benefits.....	010		190,057
3	Current Expenses.....	130		1,359,376
4	Repairs and Alterations.....	064		10,000
5	Equipment.....	070		50,000
6	Buildings.....	258		35,000
7	Other Assets.....	690		11,426
8	Total.....		\$	2,182,407

*240 - Insurance Commissioner –
Consumer Advocate*

(WV Code Chapter 33)

Fund 7151 FY 2014 Org 0704

1	Personal Services.....	001	\$	390,375
2	Employee Benefits.....	010		158,369
3	Current Expenses.....	130		204,186
4	Repairs and Alterations.....	064		5,000
5	Equipment.....	070		20,000
6	Buildings.....	258		20,000
7	Other Assets.....	690		20,000
8	Total.....		\$	817,930

241 - Insurance Commissioner

(WV Code Chapter 33)

Fund 7152 FY 2014 Org 0704

1	Personal Services.....	001	\$	16,907,778
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*245 - Insurance Commissioner –
Self-Insured Employer Security Risk Pool*

(WV Code Chapter 23)

Fund 7165 FY 2014 Org 0704

1	Current Expenses.	130	\$	10,000,000
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*246 - Lottery Commission –
Revenue Center Construction Fund*

(WV Code Chapter 29)

Fund 7209 FY 2014 Org 0705

1	Buildings.	258	\$	1,690,088
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247 - Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2014 Org 0706

1	Personal Services.	001	\$	171,902
2	Employee Benefits.	010		76,117
3	Current Expenses.	130		104,348
4	Equipment.	070		100
5	Total.		\$	352,467

*248 - Racing Commission –
Relief Fund*

(WV Code Chapter 19)

Fund 7300 FY 2014 Org 0707

1	Medical Expenses – Total.	245	\$	57,000
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2 The total amount of this appropriation shall be paid from the
 3 special revenue fund out of collections of license fees and fines
 4 as provided by law.

5 No expenditures shall be made from this account except for
 6 hospitalization, medical care and/or funeral expenses for persons
 7 contributing to this fund.

*249 - Racing Commission –
 Administration and Promotion Account*

(WV Code Chapter 19)

Fund 7304 FY 2014 Org 0707

1	Personal Services.....	001	\$	182,815
2	Employee Benefits.....	010		57,967
3	Current Expenses.....	130		104,218
4	Other Assets.....	690		10,000
5	Total.....		\$	355,000

*250 - Racing Commission –
 General Administration*

(WV Code Chapter 19)

Fund 7305 FY 2014 Org 0707

1	Personal Services.....	001	\$	2,080,693
2	Employee Benefits.....	010		747,387
3	Current Expenses.....	130		752,498
4	Repairs and Alterations.....	064		7,000
5	Other Assets.....	690		50,000
6	Total.....		\$	3,637,578

*251 - Racing Commission –
Administration, Promotion, Education, Capital Improvement
and Greyhound Adoption Programs
to include Spaying and Neutering Account*

(WV Code Chapter 19)

Fund 7307 FY 2014 Org 0707

1	Personal Services.....	001	\$	205,660
2	Employee Benefits.....	010		79,814
3	Current Expenses.....	130		209,406
4	Repairs and Alterations.	064		5,000
5	Other Assets.....	690		200,000
6	Total.....		\$	699,880

*252 - Alcohol Beverage Control Administration –
Wine License Special Fund*

(WV Code Chapter 60)

Fund 7351 FY 2014 Org 0708

1	Personal Services.....	001	\$	117,723
2	Employee Benefits.....	010		50,840
3	Current Expenses.....	130		3,324
4	Repairs and Alterations.	064		1,900
5	Equipment.	070		100
6	Buildings.	258		10,000
7	Other Assets.....	690		125,000
8	Total.....		\$	308,887

9 To the extent permitted by law, four classified exempt
10 positions shall be provided from Personal Services line item for
11 field auditors.

253 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

Fund 7352 FY 2014 Org 0708

1	Personal Services.....	001	\$	3,832,171
2	Employee Benefits.....	010		1,640,895
3	Current Expenses.....	130		2,678,008
4	Repairs and Alterations.....	064		87,000
5	Equipment.....	070		12,548
6	Buildings.....	258		100
7	Other Assets.....	690		<u>252,392</u>
8	Total.....		\$	8,503,114

9 The total amount of this appropriation shall be paid from a
10 special revenue fund out of liquor revenues and any other
11 revenues available.

12 The above appropriation includes the salary of the
13 commissioner and the salaries, expenses and equipment of
14 administrative offices, warehouses and inspectors.

15 The above appropriation includes funding for the
16 Tobacco/Alcohol Education Program.

17 There is hereby appropriated from liquor revenues, in
18 addition to the above appropriation, the necessary amount for the
19 purchase of liquor as provided by law.

DEPARTMENT OF TRANSPORTATION

*254 - Division of Motor Vehicles –
Dealer Recovery Fund*

(WV Code Chapter 17)

Fund 8220 FY 2014 Org 0802

1	Current Expenses.....	130	\$	189,000
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*255 - Division of Motor Vehicles –
Motor Vehicle Fees Fund*

(WV Code Chapter 17B)

Fund 8223 FY 2014 Org 0802

1	Personal Services.....	001	\$	1,790,000
2	Employee Benefits.....	010		843,677
3	Current Expenses.....	130		2,739,348
4	Repairs and Alterations.....	064		16,000
5	Other Assets.....	690		210,000
6	BRIM Premium.....	913		53,486
7	Total.....		\$	5,652,511

*256 - Division of Highways –
A. James Manchin Fund*

(WV Code Chapter 22)

Fund 8319 FY 2014 Org 0803

1	Current Expenses.....	130	\$	1,650,000
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*257 - Public Port Authority –
Special Railroad and Intermodal Enhancement Fund*

(WV Code Chapter 17)

Fund 8254 FY 2014 Org 0806

1	Current Expenses.....	130	\$	10,000
2	Other Assets.....	690		7,990,000
3	Total.....		\$	8,000,000

DEPARTMENT OF VETERANS' ASSISTANCE

258 - Veterans' Facilities Support Fund

(WV Code Chapter 9A)

Fund 6703 FY 2014 Org 0613

1	Personal Services.....	001	\$	65,360
2	Employee Benefits.....	010		28,850
3	Current Expenses.....	130		2,355,790
4	Repairs and Alterations.....	064		100,000
5	Equipment.....	070		100,000
6	Other Assets.....	690		<u>100,000</u>
7	Total.....		\$	2,750,000

259 - Department of Veterans' Assistance –

WV Veterans' Home –

Special Revenue Operating Fund

(WV Code Chapter 9A)

Fund 6754 FY 2014 Org 0618

1	Current Expenses.....	130	\$	700,000
2	Repairs and Alterations.....	064		<u>50,000</u>
3	Total.....		\$	750,000

BUREAU OF SENIOR SERVICES

260 - Bureau of Senior Services –

Community Based Service Fund

(WV Code Chapter 22)

Fund 5409 FY 2014 Org 0508

1	Personal Services.....	001	\$	111,000
2	Employee Benefits.....	010		38,267

3	Current Expenses.....	130	<u>10,350,733</u>
4	Total.....		\$ 10,500,000

5 The total amount of this appropriation is funded from annual
6 table game license fees to enable the aged and disabled citizens
7 of West Virginia to stay in their homes through the provision of
8 home and community-based services.

HIGHER EDUCATION POLICY COMMISSION

*261 - Higher Education Policy Commission –
System –*

*Registration Fee Capital Improvement Fund
(Capital Improvement and Bond Retirement Fund)*

Control Account

(WV Code Chapters 18 and 18B)

Fund 4902 FY 2014 Org 0442

1	General Capital Expenditures.	306	\$ 500,000
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2 The total amount of this appropriation shall be paid from the
3 special capital improvements fund created in W.Va. Code §18B-
4 10-8. Projects are to be paid on a cash basis and made available
5 on July 1 of each year and may be transferred to special revenue
6 funds for capital improvement projects at the institutions.

*262 - Higher Education Policy Commission –
System –*

*Tuition Fee Capital Improvement Fund
(Capital Improvement and Bond Retirement Fund)*

Control Account

(WV Code Chapters 18 and 18B)

Fund 4903 FY 2014 Org 0442

1	Debt Service.....	040	\$ 28,906,769
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2	General Capital Expenditures.	306	3,000,000
3	Facilities Planning and		
4	Administration.....	386	<u>421,082</u>
5	Total.....		\$ 32,327,851

6 The total amount of this appropriation shall be paid from the
7 special capital improvement fund created in W.Va. Code §18B-
8 10-8. Projects are to be paid on a cash basis and made available
9 on July 1.

10 The above appropriations, except for debt service, may be
11 transferred to special revenue funds for capital improvement
12 projects at the institutions.

263 - Tuition Fee Revenue Bond Construction Fund
(WV Code Chapters 18 and 18B)

Fund 4906 FY 2014 Org 0442

1 Any unexpended balance remaining in the appropriation at
2 the close of the fiscal year 2013 is hereby reappropriated for
3 expenditure during the fiscal year 2014.

4 The appropriation shall be paid from available unexpended
5 cash balances and interest earnings accruing to the fund. The
6 appropriation shall be expended at the discretion of the Higher
7 Education Policy Commission and the funds may be allocated to
8 any institution within the system.

9 The total amount of this appropriation shall be paid from the
10 unexpended proceeds of revenue bonds previously issued
11 pursuant to W.Va. Code §18-12B-8, which have since been
12 refunded.

*264 - Community and Technical College
Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2014 Org 0442

1 Any unexpended balance remaining in the appropriation for
2 Capital Improvements – Total (fund 4908, activity 958) at the
3 close of fiscal year 2013 is hereby reappropriated for expenditure
4 during the fiscal year 2014.

5 The total amount of this appropriation shall be paid from the
6 sale of the 2009 Series A Community and Technical College
7 Capital Improvement Revenue Bonds and anticipated interest
8 earnings.

*265 - West Virginia University –
West Virginia University Health Sciences Center*

(WV Code Chapters 18 and 18B)

Fund 4179 FY 2014 Org 0463

1	Personal Services.	001	\$	6,100,000
2	Employee Benefits.	010		4,174,340
3	Current Expenses.	130		4,524,300
4	Repairs and Alterations.	064		425,000
5	Equipment.	070		512,000
6	Buildings.	258		150,000
7	Other Assets.	690		<u>50,000</u>
8	Total.		\$	15,935,640

WEST VIRGINIA COUNCIL FOR COMMUNITY AND TECHNICAL COLLEGE EDUCATION

266 - West Virginia Northern Community and Technical College – WVNCC Land Sale Account

(WV Code Chapter 18B)

Fund 4732 FY 2014 Org 0489

1 Any unexpended balance remaining in the appropriation for
2 Unclassified – Total (fund 4732, activity 096) at the close of
3 fiscal year 2013 is hereby reappropriated for expenditure during
4 the fiscal year 2014.

5 The total amount of this appropriation shall be used for the
6 purchase of additional real property or technology, or for capital
7 improvements at the institution.

MISCELLANEOUS BOARDS AND COMMISSIONS

267 - Board of Barbers and Cosmetologists

(WV Code Chapters 16 and 30)

Fund 5425 FY 2014 Org 0505

1	Personal Services.....	001	\$	336,406
2	Employee Benefits.....	010		138,060
3	Current Expenses.....	130		<u>270,000</u>
4	Total.....		\$	744,466

5 The total amount of this appropriation shall be paid from a
6 special revenue fund out of collections made by the board of
7 barbers and cosmetologists as provided by law.

268 - Hospital Finance Authority

(WV Code Chapter 16)

Fund 5475 FY 2014 Org 0509

1	Personal Services.....	001	\$	50,830
2	Employee Benefits.....	010		21,883
3	Unclassified.....	099		819
4	Current Expenses.....	130		<u>71,639</u>
5	Total.....		\$	145,171

6 The total amount of this appropriation shall be paid from the
 7 special revenue fund out of fees and collections as provided by
 8 Article 29A, Chapter 16 of the Code.

269 - WV State Board of Examiners for Licensed Practical Nurses

(WV Code Chapter 30)

Fund 8517 FY 2014 Org 0906

1	Personal Services.....	001	\$	311,018
2	Employee Benefits.....	010		76,974
3	Current Expenses.....	130		51,864
4	Repairs and Alterations.	064		1
5	Other Assets.....	690		<u>100</u>
6	Total.....		\$	439,957

270 - WV Board of Examiners for Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2014 Org 0907

1	Personal Services.....	001	\$	673,109
2	Employee Benefits.....	010		248,561
3	Current Expenses.....	130		279,379
4	Repairs and Alterations.	064		3,000

Ch. 4]	APPROPRIATIONS	189
5	Equipment.	070 22,000
6	Other Assets.	690 <u>10,000</u>
7	Total.	\$ 1,236,049

271 - Public Service Commission

(WV Code Chapter 24)

Fund 8623 FY 2014 Org 0926

1	Personal Services.	001 \$ 8,662,321
2	Employee Benefits.	010 3,144,993
3	Unclassified.	099 147,643
4	Current Expenses.	130 2,704,398
5	Repairs and Alterations.	064 55,000
6	Equipment.	070 50,000
7	PSC Weight Enforcement.	345 4,405,884
8	Debt Payment/Capital Outlay.	520 350,000
9	BRIM Premium.	913 <u>114,609</u>
10	Total.	\$ 19,634,848

11 The total amount of this appropriation shall be paid from a
12 special revenue fund out of collections for special license fees
13 from public service corporation, as provided by law.

14 The Public Service Commission is authorized to spend up to
15 \$500,000, from surplus funds in this account, to meet the
16 expected deficiencies in the Motor Carrier Division (fund 8625,
17 org 0926) due to the amendment and reenactment of W.Va. Code
18 §24A-3-1 by Enrolled House Bill Number 2715, Regular
19 Session, 1997.

*272 - Public Service Commission –
Gas Pipeline Division –
Public Service Commission Pipeline Safety Fund*

(WV Code Chapter 24B)

Fund 8624 FY 2014 Org 0926

1	Personal Services.	001	\$	203,371
2	Employee Benefits.	010		80,827
3	Unclassified.	099		3,851
4	Current Expenses.	130		93,115
5	Repairs and Alterations.	064		4,000
6	Total.		\$	385,164

7 The total amount of this appropriation shall be paid from a
8 special revenue fund out of receipts collected for or by the public
9 service commission pursuant to and in the exercise of regulatory
10 authority over pipeline companies as provided by law.

*273 - Public Service Commission –
Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8625 FY 2014 Org 0926

1	Personal Services.	001	\$	1,625,484
2	Employee Benefits.	010		618,042
3	Unclassified.	099		29,233
4	Current Expenses.	130		577,557
5	Repairs and Alterations.	064		23,000
6	Equipment.	070		50,000
7	Total.		\$	2,923,316

8 The total amount of this appropriation shall be paid from a
9 special revenue fund out of receipts collected for or by the public

10 service commission pursuant to and in the exercise of regulatory
11 authority over motor carriers as provided by law.

*274 - Public Service Commission –
Consumer Advocate*

(WV Code Chapter 24)

Fund 8627 FY 2014 Org 0926

1	Personal Services.....	001	\$	551,350
2	Employee Benefits.....	010		192,022
3	Current Expenses.....	130		276,472
4	Equipment.	070		10,000
5	BRIM Premium.	913		<u>4,532</u>
6	Total.....		\$	1,034,376

7 The total amount of this appropriation shall be paid from a
8 special revenue fund out of collections made by the public
9 service commission.

275 - Real Estate Commission

(WV Code Chapter 30)

Fund 8635 FY 2014 Org 0927

1	Personal Services.....	001	\$	432,305
2	Employee Benefits.....	010		150,108
3	Current Expenses.....	130		285,622
4	Repairs and Alterations.	064		5,000
5	Equipment.	070		<u>10,000</u>
6	Total.....		\$	883,035

7 The total amount of this appropriation shall be paid out of
8 collections of license fees as provided by law.

*276 - WV Board of Examiners for Speech-Language
Pathology and Audiology*

(WV Code Chapter 30)

Fund 8646 FY 2014 Org 0930

1	Personal Services.....	001	\$	57,720
2	Employee Benefits.....	010		15,856
3	Current Expenses.....	130		41,237
4	Total.....		\$	114,813

277 - WV Board of Respiratory Care

(WV Code Chapter 30)

Fund 8676 FY 2014 Org 0935

1	Personal Services.....	001	\$	49,743
2	Employee Benefits.....	010		27,751
3	Current Expenses.....	130		50,976
4	Repairs and Alterations.	064		500
5	Other Assets.....	690		2,000
6	Total.....		\$	130,970

278 - WV Board of Licensed Dietitians

(WV Code Chapter 30)

Fund 8680 FY 2014 Org 0936

1	Personal Services.....	001	\$	7,500
2	Employee Benefits.....	010		1,148
3	Current Expenses.....	130		14,352
4	Total.....		\$	23,000

279 - *Massage Therapy Licensure Board*

(WV Code Chapter 30)

Fund 8671 FY 2014 Org 0938

1	Personal Services.....	001	\$	73,020
2	Employee Benefits.....	010		23,786
3	Current Expenses.....	130		<u>30,200</u>
4	Total.....		\$	127,006

280 - *Board of Medicine*

(WV Code Chapter 30)

Fund 9070 FY 2014 Org 0945

1	Personal Services.....	001	\$	717,258
2	Employee Benefits.....	010		263,053
3	Current Expenses.....	130		617,230
4	Repairs and Alterations.	064		4,000
5	Other Assets.....	690		<u>5,000</u>
6	Total.....		\$	1,606,541

281 - *West Virginia Enterprise Resource Planning Board*

(WV Code Chapter 12)

Fund 9080 FY 2014 Org 0947

1	Personal Services.....	001	\$	3,150,000
2	Employee Benefits.....	010		1,070,469
3	Unclassified.	099		430,000
4	Current Expenses.....	130		44,799,531
5	Repairs and Alterations.	064		100,000
6	Equipment.	070		250,000
7	Buildings.	258		100,000
8	Other Assets.....	690		<u>100,000</u>
9	Total.....		\$	50,000,000

282 - Board of Treasury Investments

(WV Code Chapter 12)

Fund 9152 FY 2014 Org 0950

1	Personal Services.....	001	\$	520,940
2	Employee Benefits.....	010		186,559
3	Unclassified.	099		12,667
4	Current Expenses.....	130		387,041
5	BRIM Premium.	913		<u>159,500</u>
6	Total.....		\$	1,266,707

7 There is hereby appropriated from this fund, in addition to
 8 the above appropriation, the amount of funds necessary for the
 9 Board of Treasury Investments to pay the fees and expenses of
 10 custodians, fund advisors and fund managers for the
 11 Consolidated fund of the State as provided in Article 6C,
 12 Chapter 12 of the Code.

13 The total amount of the appropriation shall be paid from the
 14 special revenue fund out of fees and collections as provided by
 15 law.

16 Total TITLE II, Section 3 — Other Funds
 17 (Including claims against the state) \$ 1,540,812,001

1 **Sec. 4. Appropriations from lottery net profits.** — Net
 2 profits of the lottery are to be deposited by the director of the
 3 lottery to the following accounts in the amounts indicated. The
 4 director of the lottery shall prorate each deposit of net profits in
 5 the proportion the appropriation for each account bears to the
 6 total of the appropriations for all accounts.

7 After first satisfying the requirements for Fund 2252, Fund
 8 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the
 9 director of the lottery shall make available from the remaining
 10 net profits of the lottery any amounts needed to pay debt service

11 for which an appropriation is made for Fund 9065, Fund 4297,
 12 Fund 9067, and Fund 3514 and is authorized to transfer any such
 13 amounts to Fund 9065, Fund 4297, Fund 9067, and Fund 3514
 14 for that purpose. Upon receipt of reimbursement of amounts so
 15 transferred, the director of the lottery shall deposit the
 16 reimbursement amounts to the following accounts as required by
 17 this section.

*283 - Education, Arts, Sciences and Tourism –
 Debt Service Fund*

(WV Code Chapter 5)

Fund 2252 FY 2014 Org 0211

	Activity		Lottery Funds
1 Debt Service – Total.	310	\$	10,000,000

*284 - West Virginia Development Office –
 Division of Tourism*

(WV Code Chapter 5B)

Fund 3067 FY 2014 Org 0304

1 Unclassified-Transfer.	482	\$	350,000
2 Tourism – Telemarketing Center.	463		82,080
3 WV Film Office.	498		338,723
4 Tourism – Advertising (R).	618		4,133,042
5 Tourism – Operations (R).	662		<u>4,017,789</u>
6 Total.		\$	8,921,634

7 Any unexpended balances remaining in the appropriations
 8 for Tourism – Advertising (fund 3067, activity 618), Tourism –
 9 Operations (fund 3067, activity 662), and Tourism – Special
 10 Projects (fund 3067, activity 859) at the close of the fiscal year

11 2013 are hereby reappropriated for expenditure during the fiscal
12 year 2014.

13 From the above appropriation for Unclassified-Transfer
14 (fund 3067, activity 482) \$350,000 is to be transferred to the
15 Tourism Promotion Fund (fund 3072).

285 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2014 Org 0310

1	Personal Services.....	001	\$	1,343,766
2	Employee Benefits.....	010		766,119
3	Current Expenses.....	130		36,327
4	Pricketts Fort State Park.....	324		111,000
5	Non-Game Wildlife (R).....	527		386,721
6	State Parks and Recreation			
7	Advertising (R).	619		<u>548,733</u>
8	Total.....		\$	3,192,666

9 Any unexpended balances remaining in the appropriations
10 for Unclassified (fund 3267, activity 099), Capital Outlay –
11 Parks (fund 3267, activity 288), Non-Game Wildlife (fund 3267,
12 activity 527), and State Parks and Recreation Advertising (fund
13 3267, activity 619) at the close of the fiscal year 2013 are hereby
14 reappropriated for expenditure during the fiscal year 2014.

286 - State Board of Education

(WV Code Chapters 18 and 18A)

Fund 3951 FY 2014 Org 0402

1	Current Expenses.....	130	\$	1,269,375
2	FBI Checks.....	372		108,580

3	Vocational Education Equipment		
4	Replacement.	393	800,000
5	Assessment Program (R).	396	3,240,572
6	21st Century Technology		
7	Infrastructure Network		
8	Tools and Support (R).	933	<u>22,032,821</u>
9	Total.		\$ 27,451,348

10 Any unexpended balances remaining in the appropriations
 11 for Unclassified (fund 3951, activity 099), Assessment Program
 12 (fund 3951, activity 396), and 21st Century Technology
 13 Infrastructure Network Tools and Support (fund 3951, activity
 14 933) at the close of the fiscal year 2013 are hereby
 15 reappropriated for expenditure during the fiscal year 2014.

*287 - State Department of Education –
 School Building Authority –
 Debt Service Fund*

(WV Code Chapter 18)

Fund 3963 FY 2014 Org 0402

1	Debt Service – Total.	310	\$ 18,000,000
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*288 - Department of Education and the Arts –
 Office of the Secretary –
 Control Account –
 Lottery Education Fund*

(WV Code Chapter 5F)

Fund 3508 FY 2014 Org 0431

1	Unclassified (R).	099	\$ 17,000
2	Current Expenses.	130	103,000

3	Commission for National and		
4	Community Service.	193	436,449
5	Governor's Honor Academy (R). . . .	478	400,000
6	Arts Programs (R).	500	81,277
7	College Readiness.	579	184,883
8	Challenger Learning Center.	862	109,844
9	Statewide STEM 21 st Century		
10	Academy.	897	130,000
11	Literacy Project (R).	899	<u>350,000</u>
12	Total.		\$ 1,812,453

13 Any unexpended balances remaining in the appropriations
 14 for Unclassified (fund 3508, activity 099), Governor's Honor
 15 Academy (fund 3508, activity 478), Arts Programs (fund 3508,
 16 activity 500), and Literacy Project (fund 3508, activity 899) at
 17 the close of fiscal year 2013 are hereby reappropriated for
 18 expenditure during the fiscal year 2014.

*289 - Division of Culture and History –
 Lottery Education Fund*

(WV Code Chapter 29)

Fund 3534 FY 2014 Org 0432

1	Huntington Symphony.	027	\$ 85,000
2	Martin Luther King, Jr.		
3	Holiday Celebration.	031	8,926
4	Preservation West Virginia.	092	674,766
5	Fairs and Festivals (R).	122	1,893,335
6	Archeological Curation/Capital		
7	Improvements (R).	246	44,928
8	Historic Preservation Grants (R). . . .	311	490,463
9	West Virginia Public Theater.	312	172,739
10	Tri-County Fair Association.	343	0

11	George Tyler Moore Center for		
12	the Study of the Civil War.....	397	53,816
13	Greenbrier Valley Theater.....	423	138,254
14	Theater Arts of West Virginia.....	464	230,550
15	Marshall Artists Series.....	518	51,822
16	Grants for Competitive Arts		
17	Program (R).....	624	888,488
18	West Virginia State Fair.....	657	43,391
19	Save the Music.....	680	26,100
20	Contemporary American		
21	Theater Festival.....	811	82,444
22	Independence Hall.....	812	39,259
23	Mountain State Forest Festival.....	864	54,962
24	WV Symphony.....	907	85,000
25	Wheeling Symphony.....	908	85,000
26	Appalachian Children’s Chorus.....	916	<u>78,518</u>
27	Total.....		\$ 5,227,761

28 Any unexpended balances remaining in the appropriations
 29 for Fairs and Festivals (fund 3534, activity 122), Archeological
 30 Curation/Capital Improvements (fund 3534, activity 246),
 31 Historic Preservation Grants (fund 3534, activity 311), Grants
 32 for Competitive Arts Program (fund 3534, activity 624), and
 33 Project ACCESS (fund 3534, activity 865) at the close of the
 34 fiscal year 2013 are hereby reappropriated for expenditure
 35 during the fiscal year 2014.

36 From the above appropriation for Preservation West Virginia
 37 (fund 3534) funding shall be provided to African-American
 38 Heritage Family Tree Museum (Fayette) \$3,848, Aracoma Story
 39 (Logan) \$42,750, Arts Monongahela (Monongalia) \$17,100,
 40 Barbour County Arts and Humanities Council \$1,283, Beckley
 41 Main Street (Raleigh) \$4,275, Belle Boyd House (Berkeley)
 42 \$1,710, Buffalo Creek Memorial (Logan) \$4,275, Carnegie Hall
 43 (Greenbrier) \$67,500, Ceredo Historical Society (Wayne)

44 \$1,710, Ceredo Kenova Railroad Museum (Wayne) \$1,710,
45 Children's Theatre of Charleston (Kanawha) \$4,500, Chuck
46 Mathena Center (Mercer) \$90,000, Collis P Huntington Railroad
47 Historical Society (Cabell) \$8,550, Country Music Hall of Fame
48 and Museum (Marion) \$5,985, Flannigan Murrell House
49 (Summers) \$8,550, Fort Ashby Fort (Mineral) \$1,283, Fort New
50 Salem (Harrison) \$3,164, Fort Randolph (Mason) \$4,275,
51 General Adam Stephen Memorial Foundation (Berkeley)
52 \$15,840, Grafton Mother's Day Shrine Committee (Taylor)
53 \$7,268, Hardy County Tour and Crafts Association \$17,100,
54 Heritage Craft Center of the Eastern Panhandle (Berkeley)
55 \$5,985, Heritage Farm Museum & Village (Cabell) \$42,750,
56 Historic Fayette Theater (Fayette) \$4,703, Historic Middleway
57 Conservancy (Jefferson) \$855, Jefferson County Black History
58 Preservation Society \$4,275, Jefferson County Historical
59 Landmark Commission \$6,840, Maddie Carroll House (Cabell)
60 \$6,413, Marshall County Historical Society \$7,268, McCoy
61 Theater (Hardy) \$17,100, Morgantown Theater Company
62 (Monongalia) \$17,100, Mountaineer Boys' State (Lewis) \$8,550,
63 Nicholas Old Main Foundation (Nicholas) \$1,710, Norman
64 Dillon Farm Museum (Berkeley) \$8,550, Old Opera House
65 Theater Company (Jefferson) \$12,825, Parkersburg Arts Center
66 (Wood) \$17,100, Pocahontas Historic Opera House \$5,130,
67 Raleigh County All Wars Museum \$8,550, Rhododendron Girl's
68 State (Ohio) \$8,550, Roane County 4-H and FFA Youth
69 Livestock Program \$4,275, Scottish Heritage Society/N. Central
70 WV (Harrison) \$4,275, Society for the Preservation of McGrew
71 House (Preston) \$2,993, Southern WV Veterans' Museum
72 \$3,848, Summers County Historic Landmark Commission
73 \$4,275, Those Who Served War Museum (Mercer) \$3,420,
74 Three Rivers Avian Center (Summers) \$12,825, Tug Valley Arts
75 Council (Mingo) \$4,275, Tug Valley Chamber of Commerce
76 Coal House (Mingo) \$1,710, Tunnelton Historical Society
77 (Preston) \$1,710, Veterans Committee for Civic Improvement of
78 Huntington (Wayne) \$4,275, West Virginia Museum of Glass

79 (Lewis) \$4,275, West Virginia Music Hall of Fame (Kanawha)
80 \$29,925, YMCA Camp Horseshoe (Ohio) \$85,500, Youth
81 Museum of Southern WV (Raleigh) \$10,260.

82 From the above appropriation for Fairs and Festivals (fund
83 3534, activity 122) funding shall be provided to the
84 African-American Cultural Heritage Festival (Jefferson) \$4,275,
85 Alderson 4th of July Celebration (Greenbrier) \$4,275, Allegheny
86 Echo (Pocahontas) \$6,413, Alpine Festival/Leaf Peepers Festival
87 (Tucker) \$9,619, American Civil War (Grant) \$4,500, American
88 Legion Post 8, Veterans Day Parade (McDowell) \$1,800, Angus
89 Beef and Cattle Show (Lewis) \$1,283, Annual Don Redman
90 Heritage Concert & Awards (Jefferson) \$1,350, Annual Ruddle
91 Park Jamboree (Pendleton) \$6,750, Antique Market Fair (Lewis)
92 \$1,710, Apollo Theater-Summer Program (Berkeley) \$1,710,
93 Apple Butter Festival (Morgan) \$5,130, Arkansas Homemaker's
94 Heritage Weekend (Hardy) \$2,993, Armed Forces Day-South
95 Charleston (Kanawha) \$2,565, Arthurdale Heritage New Deal
96 Festival (Preston) \$4,275, Athens Town Fair (Mercer) \$1,710,
97 Augusta Fair (Randolph) \$4,275, Barbour County Fair \$21,375,
98 Barboursville Octoberfest (Cabell) \$4,275, Bass Festival
99 (Pleasants) \$1,582, Battelle District Fair (Monongalia) \$4,275,
100 Battle of Dry Creek (Greenbrier) \$1,283, Battle of Lewisburg
101 Civil War Days (Greenbrier) \$2,565, Battle of Point Pleasant
102 Memorial Committee (Mason) \$4,275, Belle Town Fair
103 (Kanawha) \$3,848, Belleville Homecoming (Wood) \$17,100,
104 Bergoo Down Home Days (Webster) \$2,138, Berkeley County
105 Youth Fair \$15,818, Black Bear 4K Mountain Bike Race
106 (Kanawha) \$950, Black Heritage Festival (Harrison) \$5,130,
107 Black Walnut Festival (Roane) \$8,550, Blue-Gray Reunion
108 (Barbour) \$2,993, Boone County Fair \$8,550, Boone County
109 Labor Day Celebration \$3,420, Bradshaw Fall Festival
110 (McDowell) \$1,710, Brandonville Heritage Day (Preston)
111 \$1,508, Braxton County Fair \$9,833, Braxton County Monster
112 Fest / WV Autumn Festival \$2,138, Brooke County Fair \$2,993,
113 Bruceton Mills Good Neighbor Days (Preston) \$1,710,

114 Buckwheat Festival (Preston) \$7,268, Buffalo 4th of July
115 Celebration (Putnam) \$475, Burlington Apple Harvest Festival
116 (Mineral) \$25,650, Burlington Pumpkin Harvest Festival
117 (Raleigh) \$4,275, Burnsville Harvest Festival (Braxton) \$2,025,
118 Cabell County Fair \$8,550, Calhoun County Wood Festival
119 \$1,710, Campbell's Creek Community Fair (Kanawha) \$2,138,
120 Cape Coalwood Festival Association (McDowell) \$2,138, Capon
121 Bridge Founders Day Festival (Hampshire) \$1,710, Capon
122 Springs Ruritan 4th of July (Hampshire) \$950, Cass
123 Homecoming (Pocahontas) \$1,710, Cedarville Town Festival
124 (Gilmer) \$950, Celebration in the Park (Wood) \$3,420,
125 Celebration of America (Monongalia) \$5,130, Ceredo Freedom
126 Festival (Wayne) \$973, Chapmanville Apple Butter Festival
127 (Logan) \$950, Chapmanville Fire Department 4th of July
128 (Logan) \$2,565, Charles Town Christmas Festival (Jefferson)
129 \$4,275, Charles Town Heritage Festival (Jefferson) \$4,275,
130 Charlie West Blues Festival (Kanawha) \$8,550, Cherry River
131 Festival (Nicholas) \$5,558, Chester Fireworks (Hancock)
132 \$1,283, Chester Fourth of July Festivities (Hancock) \$4,275,
133 Chief Logan State Park-Civil War Celebration (Logan) \$6,840,
134 Chilifest, WV State Chili Championship (Cabell) \$2,250,
135 Christmas in Shepherdstown (Jefferson) \$3,420, Christmas in the
136 Park (Brooke) \$4,275, Christmas in the Park (Logan) \$21,375,
137 City of Dunbar Critter Dinner (Kanawha) \$8,550, City of New
138 Martinsville Festival of Memories (Wetzel) \$9,405, City of
139 Pleasant Valley Celebration (Marion) \$2,138, Civil War Horse
140 Calvary Race (Barbour) \$950, Clay County Golden Delicious
141 Apple Festival \$5,985, Coal Field Jamboree (Logan) \$29,925,
142 Coalton Days Fair (Randolph) \$5,985, Country Roads Festival
143 (Fayette) \$1,710, Cowen Railroad Festival (Webster) \$2,993,
144 Craigsville Fall Festival (Nicholas) \$2,993, Culturefest World
145 Music & Arts Festival (Mercer) \$6,750, Delbarton Homecoming
146 (Mingo) \$2,993, Doddridge County Fair \$5,985, Durbin Days
147 (Pocahontas) \$4,275, Eastern Kanawha Valley Homecoming
148 Festival (Kanawha) \$2,250, Elbert/Filbert Reunion Festival

149 (McDowell) \$1,283, Elizabethtown Festival (Marshall) \$4,275,
150 Elkins Randolph County 4th of July Car Show (Randolph)
151 \$1,710, Fairview 4th of July Celebration (Marion) \$950, Farm
152 Safety Day (Preston) \$1,710, Farmer Day Festival (Monroe)
153 \$1,800, Fayette American Legion 4th of July (Fayette) \$950,
154 FestivALL Charleston (Kanawha) \$17,100, First Stage
155 Children's Theater Company (Cabell) \$1,710, Flatwood Days
156 (Braxton) \$973, Flemington Day Fair and Festival (Taylor)
157 \$2,993, Follansbee Community Days (Brooke) \$7,054, Fort Gay
158 Mountain Heritage Days (Wayne) \$4,275, Fort Henry Days
159 (Ohio) \$4,532, Fort Henry Living History (Ohio) \$2,250,
160 Frankford Autumnfest (Greenbrier) \$4,275, Franklin Fishing
161 Derby (Pendleton) \$6,413, Franklin's Fireman Carnival
162 (Pendleton) \$4,275, Freshwater Folk Festival (Greenbrier)
163 \$4,275, Friends Auxiliary of W.R. Sharpe Hospital (Lewis)
164 \$4,275, Frontier Days (Harrison) \$2,565, Frontier Fest/Canaan
165 Valley (Taylor) \$4,275, Fund for the Arts-Wine & All that Jazz
166 Festival (Kanawha) \$2,138, Gassaway Days Celebration
167 (Braxton) \$4,275, Gilbert Elementary Fall Blast (Mingo) \$2,250,
168 Gilbert Kiwanis Harvest Festival (Mingo) \$3,420, Gilbert Spring
169 Fling (Mingo) \$4,275, Gilmer County Farm Show \$3,420, Grant
170 County Arts Council \$1,710, Grape Stomping Wine Festival
171 (Nicholas) \$1,710, Great Greenbrier River Race (Pocahontas)
172 \$8,550, Greater Quinwood Days (Greenbrier) \$1,125, Green
173 Spring Days (Hampshire) \$950, Guyandotte Civil War Days
174 (Cabell) \$8,550, Hamlin 4th of July Celebration (Lincoln)
175 \$4,275, Hampshire Civil War Celebration Days (Hampshire)
176 \$950, Hampshire County 4th of July Celebration \$17,100,
177 Hampshire County Fair \$7,200, Hampshire Heritage Days
178 (Hampshire) \$3,420, Hancock County Oldtime Fair \$4,275,
179 Hardy County Commission - 4th of July \$8,550, Hatfield McCoy
180 Matewan Reunion Festival (Mingo) \$4,275, Hatfield McCoy
181 Trail National ATV and Dirt Bike Weekend (Wyoming) \$4,275,
182 Heat'n the Hills Chilifest (Lincoln) \$3,600, Heritage Craft
183 Festival (Monroe) \$950, Heritage Days Festival (Roane) \$1,283,

184 Hicks Festival (Tucker) \$950, Hilltop Festival (Cabell) \$950,
185 Hilltop Festival of Lights (McDowell) \$1,710, Hinton Railroad
186 Days (Summers) \$4,703, Holly River Festival (Webster) \$1,283,
187 Hundred 4th of July (Wetzel) \$6,199, Hundred American Legion
188 Earl Kiger Post Bluegrass Festival (Wetzel) \$1,710, Hurricane
189 4th of July Celebration (Putnam) \$4,275, Iaeger Lions Club
190 Annual Golf Show (McDowell) \$1,283, Iaeger Town Fair
191 (McDowell) \$1,283, Irish Heritage Festival of WV (Raleigh)
192 \$4,275, Irish Spring Festival (Lewis) \$950, Italian Heritage
193 Festival-Clarksburg (Harrison) \$25,650, Jackson County Fair
194 \$4,275, Jacksonburg Homecoming Festival (Wetzel) \$950,
195 Jamboree (Pocahontas) \$4,275, Jane Lew Arts and Crafts Fair
196 (Lewis) \$950, Jefferson County Fair Association \$21,375, Jersey
197 Mountain Ruritan Pioneer Days (Hampshire) \$950, John Henry
198 Days Festival (Monroe) \$4,275, Johnnie Johnson Blues and Jazz
199 Festival (Marion) \$4,275, Johnstown Community Fair (Harrison)
200 \$2,138, Junior Heifer Preview Show (Lewis) \$1,710, Kanawha
201 Coal Riverfest-St. Albans 4th of July Festival (Kanawha)
202 \$4,275, Kanawha County Fair \$4,275, Keeper of the
203 Mountains-Kayford (Kanawha) \$2,138, Kenova Autumn Festival
204 (Wayne) \$6,300, Kermit Fall Festival (Mingo) \$2,565, Keystone
205 Reunion Gala (McDowell) \$2,250, King Coal Festival (Mingo)
206 \$4,275, Kingwood Downtown Street Fair and Heritage Days
207 (Preston) \$1,710, L.Z. Rainelle WV Veterans Reunion
208 (Greenbrier) \$4,275, Lady of Agriculture (Preston) \$950, Larry
209 Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo)
210 \$8,550, Larry Joe Harless Community Center Spring Middle
211 School Event (Mingo) \$4,275, Last Blast of Summer
212 (McDowell) \$4,275, Lewis County Fair Association \$2,993,
213 Lewisburg Shanghai (Greenbrier) \$1,710, Lincoln County Fall
214 Festival \$6,840, Lincoln County Winterfest \$4,275, Little Birch
215 Days Celebration (Braxton) \$475, Little Levels Heritage Festival
216 (Pocahontas) \$1,710, Logan Freedom Festival \$6,413, Lost
217 Creek Community Festival (Harrison) \$5,985, Main Street Arts
218 Festival (Upshur) \$4,500, Main Street Martinsburg Chocolate

219 Fest and Book Faire (Berkeley) \$4,050, Mannington District Fair
220 (Marion) \$5,130, Maple Syrup Festival (Randolph) \$950,
221 Marion County FFA Farm Fest \$2,138, Marshall County
222 Antique Power Show \$2,138, Marshall County Fair \$6,413,
223 Mason County Fair \$4,275, Mason Dixon Festival (Monongalia)
224 \$5,985, Matewan Massacre Reenactment (Mingo) \$5,130,
225 Matewan-Magnolia Fair (Mingo) \$38,475, McARTS-McDowell
226 County \$17,100, McDowell County Fair \$2,138, McGrew House
227 History Day (Preston) \$1,710, McNeill's Rangers (Mineral)
228 \$6,840, Meadow Bridge Hometown Festival (Fayette) \$1,069,
229 Meadow River Days Festival (Greenbrier) \$2,565, Mercer
230 Bluestone Valley Fair (Mercer) \$1,710, Mercer County Fair
231 \$1,710, Mid Ohio Valley Antique Engine Festival (Wood)
232 \$2,565, Milton Christmas in the Park (Cabell) \$2,138, Milton
233 Fourth of July Celebration (Cabell) \$2,138, Mineral County Fair
234 \$1,496, Mineral County Veterans Day Parade \$1,283, Molasses
235 Festival (Calhoun) \$1,710, Monongahfest (Marion) \$5,400,
236 Moon Over Mountwood Fishing Festival (Wood) \$2,565,
237 Morgan County Fair-History Wagon \$1,283, Moundsville Bass
238 Festival (Marshall) \$3,420, Moundsville July 4th Celebration
239 (Marshall) \$4,275, Mount Liberty Fall Festival (Barbour)
240 \$2,138, Mountain Fest (Monongalia) \$17,100, Mountain Festival
241 (Mercer) \$3,954, Mountain Heritage Arts and Crafts Festival
242 (Jefferson) \$4,275, Mountain Music Festival (McDowell)
243 \$2,138, Mountain State Apple Harvest Festival (Berkeley)
244 \$6,413, Mountain State Arts Crafts Fair Cedar Lakes (Jackson)
245 \$38,475, Mountaineer Hot Air Balloon Festival (Monongalia)
246 \$3,420, Mud River Festival (Lincoln) \$6,840, Mullens Dogwood
247 Festival (Wyoming) \$5,985, Multi-Cultural Festival of West
248 Virginia (Kanawha) \$17,100, New Cumberland Christmas
249 Parade (Hancock) \$2,565, New Cumberland Fourth of July
250 Fireworks (Hancock) \$4,275, New River Bridge Day Festival
251 (Fayette) \$34,200, Newburg Volunteer Fireman's Field Day
252 (Preston) \$950, Nicholas County Fair \$4,275, Nicholas County
253 Potato Festival \$2,993, North River Valley Festival (Hampshire)

254 \$950, Northern Preston Mule Pull and Farmers Days (Preston)
255 \$3,420, Oak Leaf Festival (Fayette) \$9,000, Oceana Heritage
256 Festival (Wyoming) \$5,130, Oglebay City Park - Festival of
257 Lights (Ohio) \$68,400, Oglebay Festival (Ohio) \$8,550, Ohio
258 County Country Fair \$7,695, Ohio Valley Beef Association
259 (Wood) \$2,138, Ohio Valley Black Heritage Festival (Ohio)
260 \$4,703, Old Central City Fair (Cabell) \$4,275, Old Century City
261 Fair (Barbour) \$1,800, Old Tyme Christmas (Jefferson) \$2,052,
262 Paden City Labor Day Festival (Wetzel) \$5,558, Parkersburg
263 Homecoming (Wood) \$12,600, Patty Fest (Monongalia) \$1,710,
264 Paw Paw District Fair (Marion) \$2,993, Pax Reunion Committee
265 (Fayette) \$4,275, Pendleton County 4-H Weekend \$1,710,
266 Pendleton County Committee for Arts \$12,825, Pendleton
267 County Fair \$9,000, Pennsboro Country Road Festival (Ritchie)
268 \$1,710, Petersburg Fourth of July Celebration (Grant) \$17,100,
269 Petersburg HS Celebration (Grant) \$8,550, Piedmont-Annual
270 Back Street Festival (Mineral) \$3,420, Pinch Reunion
271 (Kanawha) \$1,283, Pine Bluff Fall Festival (Harrison) \$3,420,
272 Pine Grove 4th of July Festival (Wetzel) \$5,985, Pineville
273 Festival (Wyoming) \$5,130, Pleasants County Agriculture Youth
274 Fair \$4,275, Poca Heritage Days (Putnam) \$2,565, Pocahontas
275 County Pioneer Days \$5,985, Point Pleasant Stern Wheel
276 Regatta (Mason) \$4,275, Potomac Highlands Maple Festival
277 (Grant) \$5,130, Pratt Fall Festival (Kanawha) \$2,138, Princeton
278 Autumnfest (Mercer) \$2,250, Princeton Street Fair (Mercer)
279 \$4,275, Putnam County Fair \$4,275, Quartets on Parade (Hardy)
280 \$3,420, Rainelle Fall Festival (Greenbrier) \$4,500, Rand
281 Community Center Festival (Kanawha) \$2,138, Randolph
282 County Community Arts Council \$2,565, Randolph County Fair
283 \$5,985, Randolph County Ramp and Rails \$1,710, Ranson
284 Christmas Festival (Jefferson) \$4,275, Ranson Festival
285 (Jefferson) \$4,275, Ravenswood Octoberfest (Jackson) \$6,840,
286 Renick Liberty Festival (Greenbrier) \$950, Ripley 4th of July
287 (Jackson) \$12,825, Ritchie County Fair and Exposition \$4,275,
288 Ritchie County Pioneer Days \$950, River City Festival (Preston)

289 \$950, Riverfest (Marion) \$1,710, Riverside Blues Festival
290 \$4,500, Roane County Agriculture Field Day \$2,565, Romney
291 Heritage Days (Hampshire) \$2,700, Ronceverte River Festival
292 (Greenbrier) \$4,275, Rotary International Day in the Park
293 (Harrison) \$900, Rowlesburg Labor Day Festival (Preston) \$950,
294 Rupert Country Fling (Greenbrier) \$2,565, Saint Spyridon Greek
295 Festival (Harrison) \$2,138, Salem Apple Butter Festival
296 (Harrison) \$3,420, Sistersville 4th of July Fireworks (Wetzel)
297 \$4,703, Skirmish on the River (Mingo) \$1,800, Smoke on the
298 Water (Wetzel) \$2,565, South Charleston Summerfest
299 (Kanawha) \$8,550, Southern Wayne County Fall Festival \$950,
300 Spirit of Grafton Celebration (Taylor) \$8,550, Spring Mountain
301 Festival (Grant) \$3,420, Springfield Peach Festival (Hampshire)
302 \$1,026, St. Albans City of Lights - December (Kanawha) \$4,275,
303 St. Albans Town Fair and Carnival (Kanawha) \$9,000,
304 Sternwheel Festival (Wood) \$2,565, Stoco Reunion (Raleigh)
305 \$2,138, Stonewall Jackson Heritage Arts & Crafts Jubilee
306 \$9,405, Storytelling Festival (Lewis) \$475, Strawberry Festival
307 (Upshur) \$25,650, Tacy Fair (Barbour) \$950, Taste of
308 Parkersburg (Wood) \$4,275, Taylor County Fair \$4,703, Terra
309 Alta VFD 4th of July Celebration (Preston) \$950, The Gathering
310 at Sweet Creek (Wood) \$2,565, Three Rivers Coal Festival
311 (Marion) \$6,626, Thunder on the Tygart - Mothers' Day
312 Celebration (Taylor) \$12,825, Town of Delbarton 4th of July
313 Celebration (Mingo) \$2,565, Town of Fayetteville Heritage
314 Festival (Fayette) \$6,413, Town of Hendricks Homecoming
315 (Tucker) \$1,800, Town of Matoaka Hog Roast (Mercer) \$950,
316 Town of Rivesville 4th of July Festival (Marion) \$4,500,
317 Treasure Mountain Festival (Pendleton) \$21,375, Tri-County
318 Fair (Grant) \$32,454, Tucker County Arts Festival and
319 Celebration \$15,390, Tucker County Fair \$4,061, Tucker County
320 Health Fair \$1,710, Tunnelton Depot Days (Preston) \$950,
321 Tunnelton Volunteer Fire Department Festival (Preston) \$950,
322 Turkey Festival (Hardy) \$2,565, Tyler County Fair \$4,446, Tyler
323 County Fourth of July \$475, Union Community Irish Festival

324 (Barbour) \$900, Uniquely West Virginia Festival (Morgan)
325 \$1,710, Upper Kanawha Valley Oktoberfest (Kanawha) \$2,138,
326 Upper Ohio Valley Italian Festival (Ohio) \$10,260, Upshur
327 County Fair \$5,985, Valley District Fair (Preston) \$2,993,
328 Veterans Welcome Home Celebration (Cabell) \$1,350, Vietnam
329 Veterans of America Christmas Party (Cabell) \$950, Volcano
330 Days at Mountwood Park (Wood) \$4,275, War Homecoming
331 Fall Festival (McDowell) \$1,283, Wardensville Fall Festival
332 (Hardy) \$4,275, Wayne County Fair \$4,275, Wayne County Fall
333 Festival \$4,275, Webster County Wood Chopping Festival
334 \$12,825, Webster Wild Water Weekend \$1,710, Weirton July
335 4th Celebration (Hancock) \$17,100, Welcome Home Family Day
336 (Wayne) \$2,736, Wellsburg 4th of July Celebration (Brooke)
337 \$6,413, Wellsburg Apple Festival of Brooke County \$4,275,
338 West Virginia Blackberry Festival (Harrison) \$4,275, West
339 Virginia Chestnut Festival (Preston) \$950, West Virginia Coal
340 Festival (Boone) \$8,550, West Virginia Coal Show (Mercer)
341 \$2,250, West Virginia Dairy Cattle Show (Lewis) \$8,550, West
342 Virginia Dandelion Festival (Greenbrier) \$4,275, West Virginia
343 Fair and Exposition (Wood) \$6,926, West Virginia Fireman's
344 Rodeo (Fayette) \$2,138, West Virginia Honey Festival (Wood)
345 \$1,710, West Virginia Oil and Gas Festival (Tyler) \$9,405, West
346 Virginia Polled Hereford Association (Braxton) \$1,283, West
347 Virginia Poultry Festival (Hardy) \$4,275, West Virginia
348 Pumpkin Festival (Cabell) \$8,550, West Virginia State Folk
349 Festival (Gilmer) \$4,275, West Virginia State Monarch Butterfly
350 Festival (Brooke) \$4,275, West Virginia Water Festival - City of
351 Hinton (Summers) \$13,680, Weston VFD 4th of July Firemen
352 Festival (Lewis) \$1,710, Wetzel County Autumnfest \$4,703,
353 Wetzel County Town and Country Days \$14,535, Wheeling
354 Celtic Festival (Ohio) \$1,710, Wheeling City of Lights (Ohio)
355 \$6,840, Wheeling Sterwheel Regatta (Ohio) \$8,550, Wheeling
356 Vintage Raceboat Regatta (Ohio) \$17,100, Whipple Community
357 Action (Fayette) \$2,138, Widen Days Festival (Calhoun) \$1,710,
358 Wileyville Homecoming (Wetzel) \$3,420, Wine Festival and

359 Mountain Music Event (Harrison) \$4,275, Winter Festival of the
 360 Waters (Berkeley) \$4,275, Wirt County Fair \$2,138, Wirt
 361 County Pioneer Days \$1,710, Youth Stockman Beef Expo
 362 (Lewis) \$1,710.

363 Any Fairs & Festivals awards shall be funded in addition to,
 364 and not in lieu of, individual grant allocations derived from the
 365 Arts Council and the Cultural Grant Program allocations.

*290 - Library Commission –
 Lottery Education Fund*

(WV Code Chapter 10)

Fund 3559 FY 2014 Org 0433

1	Books and Films.....	179	\$	382,179
2	Services to Libraries.	180		550,000
3	Grants to Public Libraries.	182		9,439,571
4	Digital Resources.....	309		219,992
5	Libraries – Special Projects (R).....	625		0
6	Infomine Network.	884		<u>875,681</u>
7	Total.....		\$	11,467,423

8 Any unexpended balance remaining in the appropriation for
 9 Libraries – Special Projects (fund 3559, activity 625) at the close
 10 of fiscal year 2013 is hereby reappropriated for expenditure
 11 during the fiscal year 2014.

*291 - Bureau of Senior Services –
 Lottery Senior Citizens Fund*

(WV Code Chapter 29)

Fund 5405 FY 2014 Org 0508

1	Personal Services.....	001	\$	128,550
2	West Virginia Helpline.	006		100,000

210	APPROPRIATIONS		[Ch. 4
3	Employee Benefits.....	010	56,085
4	Current Expenses.....	130	345,000
5	Repairs and Alterations.....	064	1,000
6	Local Programs Service		
7	Delivery Costs.....	200	2,475,250
8	Silver Haired Legislature.....	202	18,500
9	Area Agencies Administration.....	203	35,783
10	Senior Citizen Centers and		
11	Programs (R).....	462	1,143,132
12	Transfer to Division of Human		
13	Services for Health Care		
14	and Title XIX Waiver for		
15	Senior Citizens.....	539	21,935,090
16	Roger Tompkins Alzheimer's		
17	Respite Care.....	643	2,296,137
18	WV Alzheimer's Hotline.....	724	45,000
19	Regional Aged and Disabled		
20	Resource Center.....	767	864,875
21	Senior Services Medicaid Transfer. .	871	8,670,000
22	Legislative Initiatives for the		
23	Elderly.....	904	10,000,000
24	Long Term Care Ombudsman.....	905	297,226
25	BRIM Premium.....	913	6,500
26	In-Home Services and Nutrition for		
27	Senior Citizens.....	917	<u>4,500,000</u>
28	Total.....		\$ 52,918,128

29 Any unexpended balance remaining in the appropriation for
30 Senior Citizen Centers and Programs (fund 5405, activity 462)
31 at the close of the fiscal year 2013 is hereby reappropriated for
32 expenditure during the fiscal year 2014.

33 Included in the above appropriation for Current Expenses
34 (fund 5405, activity 130), is funding to support an in-home direct
35 care workforce registry.

36 The above appropriation for Transfer to Division of Human
37 Services for Health Care and Title XIX Waiver for Senior
38 Citizens (activity 539) along with the federal moneys generated
39 thereby shall be used for reimbursement for services provided
40 under the program.

41 In addition to the above appropriations, funding is available
42 in the special revenue Community Based Service Fund (fund
43 5409) to provide in-home and community-based services for the
44 eligible aged and disabled citizens of West Virginia that provides
45 funding at a comparable level with FY 2013.

*292 - Higher Education Policy Commission –
Lottery Education –
Higher Education Policy Commission –
Control Account*

(WV Code Chapters 18B and 18C)

Fund 4925 FY 2014 Org 0441

1	RHI Program and Site Support (R).	036	\$	2,015,526
2	RHI Program and Site Support –			
3	RHEP Program			
4	Administration (R)..	037		154,553
5	RHI Program and Site Support –			
6	Grad Med Ed and Fiscal			
7	Oversight (R)..	038		89,882
8	Minority Doctoral Fellowship (R).. . . .	166		136,586
9	Underwood – Smith Scholarship			
10	Program – Student Awards.	167		141,142
11	Health Sciences Scholarship (R).	176		229,047

12	Vice Chancellor for Health		
13	Sciences – Rural Health		
14	Residency Program (R).....	601	66,104
15	WV Engineering, Science, and		
16	Technology Scholarship		
17	Program.....	868	<u>470,473</u>
18	Total.....	\$	3,303,313

19 Any unexpended balances remaining in the appropriations
 20 for RHI Program and Site Support (fund 4925, activity 036),
 21 RHI Program and Site Support – RHEP Program Administration
 22 (fund 4925, activity 037), RHI Program and Site Support – Grad
 23 Med Ed and Fiscal Oversight (fund 4925, activity 038), Minority
 24 Doctoral Fellowship (fund 4925, activity 166), Health Sciences
 25 Scholarship (fund 4925, activity 176), and Vice Chancellor for
 26 Health Sciences – Rural Health Residency Program (fund 4925,
 27 activity 601) at the close of fiscal year 2013 are hereby
 28 reappropriated for expenditure during the fiscal year 2014.

29 The above appropriation for Underwood – Smith
 30 Scholarship Program – Student Awards (activity 167) shall be
 31 transferred to the Underwood – Smith Teacher Scholarship Fund
 32 (fund 4922, org 0441) established by W.Va. Code §18C-4-1.

33 The above appropriation for WV Engineering, Science, and
 34 Technology Scholarship Program (activity 868) shall be
 35 transferred to the West Virginia Engineering, Science and
 36 Technology Scholarship Fund (fund 4928, org 0441) established
 37 by W.Va. Code §18C-6-1.

*293 - Community and Technical College –
 Capital Improvement Fund*

(WV Code Chapter 18B)

Fund 4908 FY 2014 Org 0442

1	Debt Service – Total.	310	\$	5,000,000
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2 Any unexpended balance remaining in the appropriation for
 3 Capital Outlay and Improvements – Total (fund 4908, activity
 4 847) at the close of fiscal year 2013 is hereby reappropriated for
 5 expenditure during the fiscal year 2014.

*294 - Higher Education Policy Commission –
 Lottery Education –
 West Virginia University – School of Medicine*
 (WV Code Chapters 18B)

Fund 4185 FY 2014 Org 0463

1	WVU Health Sciences –		
2	RHI Program and Site		
3	Support (R).	035	\$ 1,179,188
4	MA Public Health Program and		
5	Health Science Technology (R)..	623	56,895
6	Health Sciences Career		
7	Opportunities Program (R).	869	344,372
8	HSTA Program (R).	870	1,750,000
9	Center for Excellence in		
10	Disabilities (R)..	967	<u>318,701</u>
11	Total.		\$ 3,649,156

12 Any unexpended balances remaining in the appropriations
 13 for WVU Health Sciences – RHI Program and Site Support
 14 (fund 4185, activity 035), RHI Program and Site Support –
 15 RHEP Program Administration (fund 4185, activity 037), MA
 16 Public Health Program and Health Science Technology (fund
 17 4185, activity 623), Health Sciences Career Opportunities
 18 Program (fund 4185, activity 869), HSTA Program (fund 4185,
 19 activity 870), and Center for Excellence in Disabilities (fund
 20 4185, activity 967) at the close of fiscal year 2013 are hereby
 21 reappropriated for expenditure during the fiscal year 2014.

295 - Higher Education Policy Commission –
 Lottery Education –
 Marshall University

(WV Code Chapters 18B)

Fund 4267 FY 2014 Org 0471

1	Marshall University Graduate College			
2	Writing Project (R).	807	\$	22,764
3	Any unexpended balances remaining in the appropriations			
4	for Marshall University Graduate College Writing Project (fund			
5	4267, activity 807) and WV Autism Training Center (fund 4267,			
6	activity 932) at the close of fiscal year 2013 are hereby			
7	reappropriated for expenditure during the fiscal year 2014.			

296 - Higher Education Policy Commission –
 Lottery Education –
 Marshall University – School of Medicine

(WV Code Chapters 18B)

Fund 4896 FY 2014 Org 0471

1	Marshall Medical School –			
2	RHI Program and Site			
3	Support (R).	033	\$	429,115
4	Vice Chancellor for Health Sciences –			
5	Rural Health Residency			
6	Program (R).	601		<u>177,822</u>
7	Total.		\$	606,937
8	Any unexpended balances remaining in the appropriations			
9	for Marshall Medical School – RHI Program and Site Support			
10	(fund 4896, activity 033) and Vice Chancellor for Health			

11 Sciences – Rural Health Residency Program (fund 4896, activity
12 601) at the close of fiscal year 2013 are hereby reappropriated
13 for expenditure during the fiscal year 2014.

14 Total TITLE II, Section 4 —

15 Lottery Revenue. \$ 151,573,583

1 **Sec. 5. Appropriations from state excess lottery revenue**

2 **fund.** — In accordance with W.Va. Code §29-22-18a, the
3 following appropriations shall be deposited and disbursed by the
4 director of the lottery to the following accounts in this section in
5 the amounts indicated.

6 After first funding the appropriations required by W.Va.
7 Code §29-22-18a, the director of the lottery shall provide
8 funding from the state excess lottery revenue fund for the
9 remaining appropriations in this section to the extent that funds
10 are available. In the event that revenues to the state excess
11 lottery revenue fund are not sufficient to meet all the
12 appropriations made pursuant to this section, then the director of
13 the lottery shall first provide the necessary funds to meet the
14 appropriation for Fund 7208, activity 700 of this section; next,
15 to provide the funds necessary for Fund 7208, activity 095 of this
16 section. Allocation of the funds for each appropriation shall be
17 allocated in succession before any funds are provided for the
18 next subsequent appropriation.

*297 - Lottery Commission –
Refundable Credit*

Fund 7207 FY 2014 Org 0705

	Activity		Excess Lottery Funds
1	Directed Transfer.	700	\$ 10,000,000

2 The above appropriation shall be transferred to the General
 3 Revenue Fund to provide reimbursement for the refundable
 4 credit allowable under W.Va. Code §11-21-21. The amount of
 5 the required transfer shall be determined solely by the state tax
 6 commissioner and shall be completed by the director of the
 7 lottery upon the commissioner’s request.

*298 - Lottery Commission –
 General Purpose Account*

Fund 7206 FY 2014 Org 0705

1 Directed Transfer. 700 \$ 65,000,000

2 The above appropriation shall be transferred to the General
 3 Revenue Fund as determined by the director of the lottery in
 4 accordance with W.Va. Code §29-22-18a.

299 - Education Improvement Fund

Fund 4295 FY 2014 Org 0441

1 Directed Transfer. 700 \$ 29,000,000

2 The above appropriation shall be transferred to the
 3 PROMISE Scholarship Fund (fund 4296, org 0441) established
 4 by W.Va. Code §18C-7-7.

5 The Legislature has explicitly set a finite amount of
 6 available appropriations and directed the administrators of the
 7 Program to provide for the award of scholarships within the
 8 limits of available appropriations.

*300 - Economic Development Authority –
 Economic Development Project Fund*

Fund 9065 FY 2014 Org 0944

1 Debt Service – Total. 310 \$ 19,000,000

2 Pursuant to W.Va. Code §29-22-18a, subsection (f), excess
 3 lottery revenues are authorized to be transferred to the lottery
 4 fund as reimbursement of amounts transferred to the economic
 5 development project fund pursuant to section four of this title
 6 and W.Va. Code §29-22-18, subsection (f).

*301 - Economic Development Authority –
 Cacapon and Beech Fork State Parks
 Lottery Revenue Debt Service Fund*

Fund 9067 FY 2014 Org 0944

1 Debt Service..... 040 \$ 1,400,000

302 - School Building Authority

Fund 3514 FY 2014 Org 0402

1 Debt Service – Total. 310 \$ 19,000,000

303 - West Virginia Infrastructure Council

Fund 3390 FY 2014 Org 0316

1 Directed Transfer..... 700 \$ 46,000,000

2 The above appropriation shall be allocated pursuant to
 3 W.Va. Code §29-22-18d and §31-15-9.

304 - Higher Education Improvement Fund

Fund 4297 FY 2014 Org 0441

1 Directed Transfer..... 700 \$ 15,000,000

2 The above appropriation shall be transferred to fund 4903,
 3 org 0442 as authorized by Senate Concurrent Resolution No. 41.

305 - State Park Improvement Fund

Fund 3277 FY 2014 Org 0310

1 Current Expenses (R)..... 130 \$ 2,438,300

2	Repairs and Alterations (R).	064	2,161,200
3	Equipment (R).	070	200,000
4	Buildings (R).	258	100,000
5	Other Assets (R).	690	<u>100,500</u>
6	Total.		\$ 5,000,000

7 Any unexpended balances remaining in the above
 8 appropriations at the close of the fiscal year 2013 are hereby
 9 reappropriated for expenditure during the fiscal year 2014.

10 Appropriations to the State Park Improvement Fund are not
 11 to be expended on personal services or employee benefits.

306 - Racing Commission -

Fund 7308 FY 2014 Org 0707

1	Special Breeders Compensation		
2	(WVC §29-22-18a, subsection (1)) 218	\$	2,000,000

*307 - Lottery Commission -
 Excess Lottery Revenue Fund Surplus*

Fund 7208 FY 2014 Org 0705

1	Teachers' Retirement Savings		
2	Realized.	095	\$ 17,522,000
3	Directed Transfer.	700	<u>27,600,000</u>
4	Total.		\$ 45,122,000

5 The above appropriation for Directed Transfer (fund 7208,
 6 activity 700) shall be transferred to the General Revenue Fund.

7 The above appropriation for Teachers' Retirement Savings
 8 Realized (fund 7208, activity 095) shall be transferred to the
 9 Employee Pension and Health Care Benefit Fund (fund 2044).

308 - Joint Expenses

(WV Code Chapter 4)

Fund 1736 FY 2014 Org 2300

1 Any unexpended balance remaining in the appropriation for
2 Tax Reduction and Federal Funding Increased Compliance
3 (TRAFFIC) – Lottery Surplus (fund 1736, activity 929) at the
4 close of the fiscal year 2013 is hereby reappropriated for
5 expenditure during the fiscal year 2014.

309 - Governor's Office

(WV Code Chapter 5)

Fund 1046 FY 2014 Org 0100

1 Any unexpended balance remaining in the appropriation for
2 Publication of Papers and Transition Expenses – Lottery Surplus
3 (fund 1046, activity 066) at the close of the fiscal year 2013 is
4 hereby reappropriated for expenditure during the fiscal year
5 2014.

310 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2014 Org 0307

1 Any unexpended balances remaining in the appropriations
2 for Unclassified – Total (fund 3170, activity 096), Recreational
3 Grants or Economic Development Loans (fund 3170, activity
4 253), and Connectivity Research and Development – Lottery
5 Surplus (fund 3170, activity 923) at the close of the fiscal year
6 2013 are hereby reappropriated for expenditure during the fiscal
7 year 2014.

*311 - Higher Education Policy Commission –
Administration –
Control Account*

(WV Code Chapter 18B)

Fund 4932 FY 2014 Org 0441

1 Any unexpended balance remaining in the appropriation for
2 Advanced Technology Centers (fund 4932, activity 028) at the
3 close of the fiscal year 2013 is hereby reappropriated for
4 expenditure during the fiscal year 2014.

*312 - Division of Health –
Central Office*

(WV Code Chapter 16)

Fund 5219 FY 2014 Org 0506

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay and Maintenance (fund 5219, activity 755) at the
3 close of the fiscal year 2013 is hereby reappropriated for
4 expenditure during the fiscal year 2014.

*313 - Division of Corrections –
Correctional Units*

(WV Code Chapters 25, 28, 49 and 62)

Fund 6283 FY 2014 Org 0608

1 Any unexpended balance remaining in the appropriation for
2 Capital Outlay and Maintenance (fund 6283, activity 755) at the
3 close of the fiscal year 2013 is hereby reappropriated for
4 expenditure during the fiscal year 2014.

5 Total TITLE II, Section 5 —

6 Excess Lottery Funds. \$ 256,522,000

1 **Sec. 6. Appropriations of federal funds.** — In accordance
 2 with Article 11, Chapter 4 of the Code from federal funds there
 3 are hereby appropriated conditionally upon the fulfillment of the
 4 provisions set forth in Article 2, Chapter 11B of the Code the
 5 following amounts, as itemized, for expenditure during the fiscal
 6 year 2014.

LEGISLATIVE

314 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2014 Org 2300

	Activity		Federal Funds
1	Economic Loss Claim		
2	Payment Fund.	334	\$ 3,000,000

JUDICIAL

315 - Supreme Court

Fund 8867 FY 2014 Org 2400

1	Personal Services.	001	\$ 200,000
2	Employee Benefits.	010	50,000
3	Current Expenses.	130	<u>1,382,000</u>
4	Total.		\$ 1,632,000

EXECUTIVE

*316 - Governor's Office –
American Recovery and Reinvestment Act*

(WV Code Chapter 5)

Fund 8701 FY 2014 Org 0100

1	Federal Economic Stimulus.	891	\$ 50,000
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*317 - Governor's Office –
ARRA NTIA Broadband Infrastructure Grant Fund*

(WV Code Chapter 5)

Fund 8717 FY 2014 Org 0100

1	Federal Economic Stimulus.....	891	\$	20,000,000
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318 - Governor's Office

(WV Code Chapter 5)

Fund 8742 FY 2014 Org 0100

1	Personal Services.....	001	\$	65,000
2	Employee Benefits.....	010		21,677
3	Current Expenses.....	130		<u>138,323</u>
4	Total.....		\$	225,000

319 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2014 Org 1400

1	Personal Services.....	001	\$	1,165,643
2	Employee Benefits.....	010		359,430
3	Unclassified.....	099		50,534
4	Current Expenses.....	130		3,317,848
5	Repairs and Alterations.....	064		50,000
6	Equipment.....	070		<u>110,000</u>
7	Total.....		\$	5,053,455

*320 - Department of Agriculture –
Meat Inspection*

(WV Code Chapter 19)

Fund 8737 FY 2014 Org 1400

1	Personal Services.....	001	\$	427,248
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Ch. 4] APPROPRIATIONS 223

2	Employee Benefits.....	010		183,582
3	Unclassified.....	099		8,755
4	Current Expenses.....	130		136,012
5	Repairs and Alterations.....	064		5,500
6	Equipment.....	070		<u>114,478</u>
7	Total.....		\$	875,575

321 - *Department of Agriculture –
State Conservation Committee*

(WV Code Chapter 19)

Fund 8783 FY 2014 Org 1400

1	Personal Services.....	001	\$	60,000
2	Employee Benefits.....	010		36,794
3	Current Expenses.....	130		<u>1,717,520</u>
4	Total.....		\$	1,814,314

322 - *Department of Agriculture –
Land Protection Authority*

Fund 8896 FY 2014 Org 1400

1	Personal Services.....	001	\$	30,000
2	Employee Benefits.....	010		16,394
3	Unclassified.....	099		5,004
4	Current Expenses.....	130		<u>449,052</u>
5	Total.....		\$	500,450

323 - *Secretary of State –
State Election Fund*

(WV Code Chapter 3)

Fund 8854 FY 2014 Org 1600

1	Personal Services.....	001	\$	137,965
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224		APPROPRIATIONS		[Ch. 4
2	Employee Benefits.....	010		72,119
3	Unclassified.....	099		12,374
4	Current Expenses.....	130		749,993
5	Repairs and Alterations.....	064		15,000
6	Equipment.....	070		150,000
7	Other Assets.....	690		<u>100,000</u>
8	Total.....		\$	1,237,451

DEPARTMENT OF ADMINISTRATION

324 - Children's Health Insurance Agency

(WV Code Chapter 5)

Fund 8838 FY 2014 Org 0230

1	Personal Services.....	001	\$	380,450
2	Employee Benefits.....	010		196,849
3	Current Expenses.....	130		<u>47,379,427</u>
4	Total.....		\$	47,956,726

DEPARTMENT OF COMMERCE

325 - Division of Forestry

(WV Code Chapter 19)

Fund 8703 FY 2014 Org 0305

1	Personal Services.....	001	\$	663,400
2	Employee Benefits.....	010		279,395
3	Unclassified.....	099		51,050
4	Current Expenses.....	130		5,622,560
5	Repairs and Alterations.....	064		155,795
6	Equipment.....	070		<u>50,000</u>
7	Total.....		\$	6,822,200

326 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 8704 FY 2014 Org 0306

1	Personal Services.	001	\$	35,857
2	Employee Benefits.	010		18,891
3	Unclassified.	099		3,803
4	Current Expenses.	130		294,323
5	Repairs and Alterations.	064		5,000
6	Equipment.	070		7,500
7	Other Assets.	690		15,000
8	Federal Economic Stimulus.	891		<u>1,162,076</u>
9	Total.		\$	1,542,450

327 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 8705 FY 2014 Org 0307

1	Personal Services.	001	\$	750,000
2	Employee Benefits.	010		292,200
3	Unclassified.	099		96,900
4	Current Expenses.	130		8,542,852
5	Repairs and Alterations.	064		2,000
6	Equipment.	070		<u>19,000</u>
7	Total.		\$	9,702,952

328 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 8706 FY 2014 Org 0308

1	Personal Services.	001	\$	275,123
2	Employee Benefits.	010		108,949
3	Unclassified.	099		5,572

APPROPRIATIONS

4	Current Expenses.	130		167,098
5	Repairs and Alterations.	064		<u>500</u>
6	Total.		\$	557,242

329 - Division of Natural Resources

(WV Code Chapter 20)

Fund 8707 FY 2014 Org 0310

1	Personal Services.	001	\$	4,385,960
2	Employee Benefits.	010		1,706,457
3	Unclassified.	099		107,693
4	Current Expenses.	130		4,256,594
5	Repairs and Alterations.	064		89,400
6	Equipment.	070		170,242
7	Buildings.	258		1,000
8	Other Assets.	690		51,000
9	Land.	730		<u>1,000</u>
10	Total.		\$	10,769,346

*330 - Division of Miners' Health,
Safety and Training*

(WV Code Chapter 22)

Fund 8709 FY 2014 Org 0314

1	Personal Services.	001	\$	512,628
2	Employee Benefits.	010		<u>100,549</u>
3	Total.		\$	613,177

331 - WorkForce West Virginia

(WV Code Chapter 23)

Fund 8835 FY 2014 Org 0323

1	Unclassified.	099	\$	5,127
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Ch. 4]	APPROPRIATIONS	227
2	Current Expenses.	130 507,530
3	Reed Act 2002 – Unemployment	
4	Compensation.	622 2,850,000
5	Reed Act 2002 –	
6	Employment Services.	630 <u>1,650,000</u>
7	Total.	\$ 5,012,657

8 Pursuant to the requirements of 42 U.S.C. 1103, Section 903
9 of the Social Security Act, as amended, and the provisions of
10 W.Va. Code §21A-9-9, the above appropriation to Unclassified
11 and Current Expenses shall be used by WorkForce West Virginia
12 for the specific purpose of administration of the state’s
13 unemployment insurance program or job service activities,
14 subject to each and every restriction, limitation or obligation
15 imposed on the use of the funds by those federal and state
16 statutes.

*332 - Office of the Secretary –
Office of Economic Opportunity*

(WV Code Chapters 5)

Fund 8780 FY 2014 Org 0327

1	Personal Services.	001 \$ 353,175
2	Employee Benefits.	010 144,114
3	Unclassified.	099 106,795
4	Current Expenses.	130 10,068,916
5	Repairs and Alterations.	064 500
6	Equipment.	070 6,000
7	Federal Economic Stimulus.	891 <u>320,500</u>
8	Total.	\$ 11,000,000

333 - Division of Energy

(WV Code Chapter 5B)

Fund 8892 FY 2014 Org 0328

1	Personal Services.....	001	\$	307,000
2	Employee Benefits.....	010		105,116
3	Unclassified.....	099		15,000
4	Current Expenses.....	130		1,071,661
5	Repairs and Alterations.....	064		1,000
6	Equipment.....	070		<u>10,965</u>
7	Total.....		\$	1,510,742

DEPARTMENT OF EDUCATION*334 - State Board of Education –
State Department of Education*

(WV Code Chapters 18 and 18A)

Fund 8712 FY 2014 Org 0402

1	Personal Services.....	001	\$	5,460,500
2	Employee Benefits.....	010		1,591,680
3	Unclassified.....	099		2,000,000
4	Current Expenses.....	130		203,917,820
5	Repairs and Alterations.....	064		10,000
6	Equipment.....	070		10,000
7	Other Assets.....	690		10,000
8	Federal Economic Stimulus.....	891		<u>7,000,000</u>
9	Total.....		\$	220,000,000

*335 - State Board of Education –
School Lunch Program*

(WV Code Chapters 18 and 18A)

Fund 8713 FY 2014 Org 0402

1	Personal Services.....	001	\$	1,336,000
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Ch. 4]	APPROPRIATIONS	229
2	Employee Benefits.....	010 322,235
3	Unclassified.....	099 1,150,500
4	Current Expenses.....	130 113,419,265
5	Repairs and Alterations.....	064 2,000
6	Equipment.....	070 20,000
7	Other Assets.....	690 <u>25,000</u>
8	Total.....	\$ 116,275,000

*336 - State Board of Education –
Vocational Division*

(WV Code Chapters 18 and 18A)

Fund 8714 FY 2014 Org 0402

1	Personal Services.....	001 \$ 1,169,600
2	Employee Benefits.....	010 325,318
3	Unclassified.....	099 155,000
4	Current Expenses.....	130 13,820,082
5	Repairs and Alterations.....	064 10,000
6	Equipment.....	070 10,000
7	Other Assets.....	690 <u>10,000</u>
8	Total.....	\$ 15,500,000

*337 - State Board of Education –
Aid for Exceptional Children*

(WV Code Chapters 18 and 18A)

Fund 8715 FY 2014 Org 0402

1	Personal Services.....	001 \$ 3,038,000
2	Employee Benefits.....	010 985,610
3	Unclassified.....	099 1,000,000
4	Current Expenses.....	130 102,646,390
5	Repairs and Alterations.....	064 10,000

230		APPROPRIATIONS	[Ch. 4
6	Equipment.	070	10,000
7	Other Assets.	690	<u>10,000</u>
8	Total.		\$ 107,700,000

DEPARTMENT OF EDUCATION AND THE ARTS

*338 - Department of Education and the Arts –
Office of the Secretary*

(WV Code Chapter 5F)

Fund 8841 FY 2014 Org 0431

1	Personal Services.	001	\$ 303,400
2	Employee Benefits.	010	111,024
3	Current Expenses.	130	5,581,054
4	Repairs and Alterations.	064	1,000
5	Federal Economic Stimulus.	891	<u>400,000</u>
6	Total.		\$ 6,396,478

339 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2014 Org 0431

1	Personal Services.	001	\$ 537,588
2	Employee Benefits.	010	205,458
3	Current Expenses.	130	1,947,372
4	Repairs and Alterations.	064	1,000
5	Equipment.	070	1,000
6	Buildings.	258	1,000
7	Other Assets.	690	1,000
8	Land.	730	<u>360</u>
9	Total.		\$ 2,694,778

340 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2014 Org 0433

1	Personal Services.....	001	\$	239,868
2	Employee Benefits.....	010		86,309
3	Current Expenses.....	130		1,083,039
4	Repairs and Alterations.....	064		2,000
5	Equipment.....	070		<u>542,000</u>
6	Total.....		\$	1,953,216

341 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2014 Org 0439

1	Equipment.....	070	\$	500,000
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342 - State Board of Rehabilitation –
Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 8734 FY 2014 Org 0932

1	Personal Services.....	001	\$	7,550,000
2	Employee Benefits.....	010		5,066,894
3	Current Expenses.....	130		53,340,263
4	Repairs and Alterations.....	064		350,300
5	Equipment.....	070		<u>1,053,683</u>
6	Total.....		\$	67,361,140

343 - State Board of Rehabilitation –
Division of Rehabilitation Services –
Disability Determination Services

(WV Code Chapter 18)

Fund 8890 FY 2014 Org 0932

1	Personal Services.....	001	\$	10,041,700
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2	Employee Benefits.....	010	5,864,506
3	Current Expenses.....	130	9,207,634
4	Repairs and Alterations.....	064	1,100
5	Equipment.....	070	<u>83,350</u>
6	Total.....		\$ 25,198,290

DEPARTMENT OF ENVIRONMENTAL PROTECTION

344 - Division of Environmental Protection

(WV Code Chapter 22)

Fund 8708 FY 2014 Org 0313

1	Personal Services.....	001	\$ 19,579,174
2	Employee Benefits.....	010	7,407,985
3	Current Expenses.....	130	173,154,217
4	Repairs and Alterations.....	064	227,783
5	Equipment.....	070	885,504
6	Other Assets.....	690	151,813
7	Federal Economic Stimulus.....	891	<u>500,000</u>
8	Total.....		\$ 201,906,476

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

345 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 8723 FY 2014 Org 0506

1	Personal Services.....	001	\$ 465,000
2	Employee Benefits.....	010	162,336
3	Unclassified.....	099	73,307
4	Current Expenses.....	130	<u>6,630,103</u>
5	Total.....		\$ 7,330,746

346 - Division of Health –
Central Office

(WV Code Chapter 16)

Fund 8802 FY 2014 Org 0506

1	Personal Services.	001	\$	9,897,841
2	Employee Benefits.	010		3,846,563
3	Unclassified.	099		910,028
4	Current Expenses.	130		79,148,201
5	Equipment.	070		456,972
6	Buildings.	258		155,000
7	Other Assets.	690		380,000
8	Federal Economic Stimulus.	891		<u>150,000</u>
9	Total.		\$	94,944,605

347 - Division of Health –
West Virginia Safe Drinking Water Treatment

(WV Code Chapter 16)

Fund 8824 FY 2014 Org 0506

1	West Virginia Drinking Water Treatment			
2	Revolving Fund – Transfer.	689	\$	16,000,000

348 - West Virginia Health Care Authority

(WV Code Chapter 16)

Fund 8851 FY 2014 Org 0507

1	Unclassified.	099	\$	9,966
2	Current Expenses.	130		986,649
3	Federal Economic Stimulus.	891		<u>2,500,000</u>
4	Total.		\$	3,496,615

349 - Human Rights Commission

(WV Code Chapter 5)

Fund 8725 FY 2014 Org 0510

1	Personal Services.....	001	\$	365,512
2	Employee Benefits.....	010		136,061
3	Current Expenses.....	130		<u>46,631</u>
4	Total.....		\$	548,204

350 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 8722 FY 2014 Org 0511

1	Personal Services.....	001	\$	47,055,944
2	Employee Benefits.....	010		19,032,868
3	Unclassified.....	099		22,855,833
4	Current Expenses.....	130		71,501,742
5	Medical Services.....	189		2,200,000,000
6	Medical Services Administrative			
7	Costs.....	789		107,517,659
8	Federal Economic Stimulus.....	891		<u>30,500,000</u>
9	Total.....		\$	2,498,464,046

**DEPARTMENT OF MILITARY
AFFAIRS AND PUBLIC SAFETY***351 - Office of the Secretary*

(WV Code Chapter 5F)

Fund 8876 FY 2014 Org 0601

1	Personal Services.....	001	\$	300,130
2	Employee Benefits.....	010		137,866
3	Unclassified.....	099		250,053

Ch. 4]	APPROPRIATIONS	235
4	Current Expenses.	130 24,303,277
5	Repairs and Alterations.	064 6,500
6	Other assets.	690 <u>7,500</u>
7	Total.	\$ 25,005,326

*352 - Adjutant General –
State Militia*

(WV Code Chapter 15)

Fund 8726 FY 2014 Org 0603

1	Unclassified.	099 \$ 982,705
2	Martinsburg Starbase.	742 375,000
3	Charleston Starbase.	743 265,000
4	Mountaineer ChalleNGe Academy.	709 2,750,000
5	Military Authority.	748 <u>93,897,894</u>
6	Total.	\$ 98,270,599

7 The adjutant general shall have the authority to transfer
8 between line items.

*353 - Division of Homeland Security and
Emergency Management*

(WV Code Chapter 15)

Fund 8727 FY 2014 Org 0606

1	Personal Services.	001 \$ 489,970
2	Employee Benefits.	010 231,680
3	Current Expenses.	130 20,429,281
4	Repairs and Alterations.	064 5,000
5	Equipment.	070 <u>100,000</u>
6	Total.	\$ 21,255,931

354 - Division of Corrections

(WV Code Chapters 25, 28, 49 and 62)

Fund 8836 FY 2014 Org 0608

1	Unclassified.	099	\$	1,100
2	Current Expenses.	130		<u>108,900</u>
3	Total.		\$	110,000

355 - West Virginia State Police

(WV Code Chapter 15)

Fund 8741 FY 2014 Org 0612

1	Personal Services.	001	\$	1,347,453
2	Employee Benefits.	010		148,043
3	Current Expenses.	130		1,522,556
4	Repairs and Alterations.	064		12,000
5	Equipment.	070		1,878,878
6	Buildings.	258		550,500
7	Other Assets.	690		110,600
8	Land.	730		<u>500</u>
9	Total.		\$	5,570,530

356 - Fire Commission

(WV Code Chapter 29)

Fund 8819 FY 2014 Org 0619

1	Current Expenses.	130	\$	80,000
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357 - Division of Justice and Community Services

(WV Code Chapter 15)

Fund 8803 FY 2014 Org 0620

1	Personal Services.	001	\$	536,794
2	Employee Benefits.	010		210,256

Ch. 4]	APPROPRIATIONS		237
3	Unclassified.	099	74,900
4	Current Expenses.	130	8,949,000
5	Repairs and Alterations.	064	2,000
6	Federal Economic Stimulus.	891	<u>135,000</u>
7	Total.		\$ 9,907,950

DEPARTMENT OF REVENUE

*358 - Tax Division –
Consolidated Federal Fund*

(WV Code Chapter 11)

Fund 8899 FY 2014 Org 0702

1	Current Expenses.	130	\$	10,000
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359 - Insurance Commissioner

(WV Code Chapter 33)

Fund 8883 FY 2014 Org 0704

1	Personal Services.	001	\$	606,000
2	Employee Benefits.	010		232,080
3	Current Expenses.	130		12,962,847
4	Repairs and Alterations.	064		25,000
5	Equipment.	070		250,000
6	Buildings.	258		25,000
7	Other Assets.	690		<u>100,000</u>
8	Total.		\$	14,200,927

DEPARTMENT OF TRANSPORTATION

360 - Division of Motor Vehicles

(WV Code Chapter 17B)

Fund 8787 FY 2014 Org 0802

1	Personal Services.	001	\$	358,000
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APPROPRIATIONS

2	Employee Benefits.....	010		127,347
3	Current Expenses.....	130		17,687,687
4	Repairs and Alterations.....	064		<u>500</u>
5	Total.....		\$	18,173,534

361 - State Rail Authority

(WV Code Chapter 29)

Fund 8733 FY 2014 Org 0804

1	Current Expenses.....	130	\$	750,000
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362 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2014 Org 0805

1	Personal Services.....	001	\$	468,192
2	Employee Benefits.....	010		186,624
3	Current Expenses.....	130		7,698,762
4	Repairs and Alterations.....	064		2,500
5	Equipment.....	070		2,781,396
6	Buildings.....	258		2,924,240
7	Other Assets.....	690		786,486
8	Federal Economic Stimulus.....	891		<u>500,000</u>
9	Total.....		\$	15,348,200

363 - Public Port Authority

(WV Code Chapter 17)

Fund 8830 FY 2014 Org 0806

1	Current Expenses.....	130	\$	2,500,000
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DEPARTMENT OF VETERANS' ASSISTANCE

364 - Department of Veterans' Assistance

(WV Code Chapter 9A)

Fund 8858 FY 2014 Org 0613

1	Personal Services.....	001	\$	503,000
2	Employee Benefits.....	010		246,840
3	Current Expenses.....	130		3,927,160
4	Repairs and Alterations.....	064		50,000
5	Equipment.....	070		200,000
6	Buildings.....	258		600,000
7	Other Assets.....	690		100,000
8	Land.....	730		<u>100,000</u>
9	Total.....		\$	5,727,000

*365 - Department of Veterans' Assistance –
Veterans' Home*

(WV Code Chapter 9A)

Fund 8728 FY 2014 Org 0618

1	Personal Services.....	001	\$	435,760
2	Employee Benefits.....	010		291,615
3	Current Expenses.....	130		816,632
4	Repairs and Alterations.....	064		100,000
5	Equipment.....	070		100,000
6	Buildings.....	258		10,000
7	Other Assets.....	690		20,000
8	Land.....	730		<u>10,000</u>
9	Total.....		\$	1,784,007

BUREAU OF SENIOR SERVICES*366 - Bureau of Senior Services*

(WV Code Chapter 29)

Fund 8724 FY 2014 Org 0508

1	Personal Services.....	001	\$	531,000
2	Employee Benefits.....	010		177,722
3	Current Expenses.....	130		13,824,524
4	Repairs and Alterations.	064		<u>3,000</u>
5	Total.....		\$	14,536,246

MISCELLANEOUS BOARDS AND COMMISSIONS*367 - Public Service Commission –
Motor Carrier Division*

(WV Code Chapter 24A)

Fund 8743 FY 2014 Org 0926

1	Personal Services.....	001	\$	917,144
2	Employee Benefits.....	010		369,769
3	Current Expenses.....	130		368,953
4	Repairs and Alterations.	064		40,000
5	Federal Economic Stimulus.....	891		<u>801,598</u>
6	Total.....		\$	2,497,464

*368 - Public Service Commission –
Gas Pipeline Division*

(WV Code Chapter 24B)

Fund 8744 FY 2014 Org 0926

1	Personal Services.....	001	\$	248,263
2	Employee Benefits.....	010		89,269

Ch. 4]	APPROPRIATIONS		241
3	Current Expenses.....	130	14,648
4	Unclassified.....	099	<u>352</u>
5	Total.....	\$	352,532

369 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2014 Org 0941

1	Personal Services.....	001	\$	80,700
2	Employee Benefits.....	010		30,876
3	Current Expenses.....	130		478,424
4	Repairs and Alterations.....	064		5,000
5	Equipment.....	070		3,000
6	Other Assets.....	690		<u>2,000</u>
7	Total.....		\$	600,000

370 - Coal Heritage Highway Authority

(WV Code Chapter 29)

Fund 8861 FY 2014 Org 0942

1	Personal Services.....	001	\$	33,500
2	Employee Benefits.....	010		13,559
3	Current Expenses.....	130		<u>152,941</u>
4	Total.....		\$	200,000
5	Total TITLE II, Section 6 –			
6	Federal Funds.....		\$	<u><u>3,753,608,255</u></u>

1 **Sec. 7. Appropriations from federal block grants.** – The
2 following items are hereby appropriated from federal block
3 grants to be available for expenditure during the fiscal year 2014.

*371 - West Virginia Development Office –
Community Development*

Fund 8746 FY 2014 Org 0307

1	Personal Services.	001	\$	478,800
2	Employee Benefits.	010		169,318
3	Unclassified.	099		483,500
4	Current Expenses.	130		47,226,994
5	Repairs and Alterations.	064		300
6	Total.		\$	48,358,912

*372 - WorkForce West Virginia –
Workforce Investment Act*

Fund 8749 FY 2014 Org 0323

1	Personal Services.	001	\$	1,134,922
2	Employee Benefits.	010		376,286
3	Unclassified.	099		203,023
4	Current Expenses.	130		18,584,909
5	Repairs and Alterations.	064		1,600
6	Equipment.	070		500
7	Buildings.	258		1,100
8	Federal Economic Stimulus.	891		1,100,000
9	Total.		\$	21,402,340

*373 - Department of Commerce
Office of the Secretary –
Office of Economic Opportunity –
Community Services*

Fund 8781 FY 2014 Org 0327

1	Personal Services.	001	\$	254,270
2	Employee Benefits.	010		108,119

Ch. 4]	APPROPRIATIONS	243
3	Unclassified.	099 84,000
4	Current Expenses.	130 7,948,611
5	Repairs and Alterations.	064 1,000
6	Equipment.	070 <u>4,000</u>
7	Total.	\$ 8,400,000

*374 - Division of Health –
Maternal and Child Health*

Fund 8750 FY 2014 Org 0506

1	Personal Services.	001 \$ 1,210,152
2	Employee Benefits.	010 914,142
3	Unclassified.	099 110,017
4	Current Expenses.	130 <u>8,767,420</u>
5	Total.	\$ 11,001,731

*375 - Division of Health –
Preventive Health*

Fund 8753 FY 2014 Org 0506

1	Personal Services.	001 \$ 101,320
2	Employee Benefits.	010 61,000
3	Unclassified.	099 22,457
4	Current Expenses.	130 1,895,366
5	Equipment.	070 <u>165,642</u>
6	Total.	\$ 2,245,785

*376 - Division of Health –
Substance Abuse Prevention and Treatment*

Fund 8793 FY 2014 Org 0506

1	Personal Services.	001 \$ 541,808
2	Employee Benefits.	010 280,958
3	Unclassified.	099 115,924

4	Current Expenses.....	130		<u>10,653,740</u>
5	Total.....		\$	11,592,430

*377 - Division of Health –
Community Mental Health Services*

Fund 8794 FY 2014 Org 0506

1	Personal Services.....	001	\$	690,485
2	Employee Benefits.....	010		246,072
3	Unclassified.....	099		33,533
4	Current Expenses.....	130		<u>2,383,307</u>
5	Total.....		\$	3,353,397

*378 - Division of Health –
Abstinence Education Program*

Fund 8825 FY 2014 Org 0506

1	Personal Services.....	001	\$	25,900
2	Employee Benefits.....	010		13,747
3	Unclassified.....	099		5,000
4	Current Expenses.....	130		<u>455,353</u>
5	Total.....		\$	500,000

*379 - Division of Human Services –
Energy Assistance*

Fund 8755 FY 2014 Org 0511

1	Personal Services.....	001	\$	1,100,000
2	Employee Benefits.....	010		375,000
3	Unclassified.....	099		400,000
4	Current Expenses.....	130		<u>38,125,000</u>
5	Total.....		\$	40,000,000

380 - Division of Human Services –
Social Services

Fund 8757 FY 2014 Org 0511

1	Personal Services.....	001	\$	10,257,500
2	Employee Benefits.....	010		3,974,184
3	Unclassified.....	099		171,982
4	Current Expenses.....	130		<u>2,870,508</u>
5	Total.....		\$	17,274,174

381 - Division of Human Services –
Temporary Assistance for Needy Families

Fund 8816 FY 2014 Org 0511

1	Personal Services.....	001	\$	13,015,000
2	Employee Benefits.....	010		4,949,349
3	Unclassified.....	099		1,304,191
4	Current Expenses.....	130		<u>111,207,846</u>
5	Total.....		\$	130,476,386

382 - Division of Human Services –
Child Care and Development

Fund 8817 FY 2014 Org 0511

1	Personal Services.....	001	\$	3,120,000
2	Employee Benefits.....	010		1,300,000
3	Unclassified.....	099		350,000
4	Current Expenses.....	130		<u>30,230,000</u>
5	Total.....		\$	35,000,000

383 - Division of Justice and Community Services –
Juvenile Accountability Incentive

Fund 8829 FY 2014 Org 0620

1	Personal Services.....	001	\$	10,514
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2	Employee Benefits.....	010	4,200
3	Current Expenses.....	130	<u>285,286</u>
4	Total.....		\$ 300,000
5	Total TITLE II, Section 7 —		
6	Federal Block Grants.....		\$ <u>329,905,155</u>

1 **Sec. 8. Awards for claims against the state.** — There are
2 hereby appropriated for fiscal year 2014, from the fund as
3 designated, in the amounts as specified, general revenue funds
4 in the amount of \$291,178 special revenue funds in the amount
5 of \$220,003, federal funds in the amount of \$582,678, and state
6 road funds in the amount of \$748,444 for payment of claims
7 against the state.

1 **Sec. 9. Appropriations from state excess lottery revenue
2 surplus accrued.** — The following item is hereby appropriated
3 from the state excess lottery revenue fund, and is to be available
4 for expenditure during the fiscal year 2014 out of surplus funds
5 only, as determined by the director of lottery, accrued from the
6 fiscal year ending June 30, 2013, subject to the terms and
7 conditions set forth in this section.

8 It is the intent and mandate of the Legislature that the
9 following appropriation be payable only from surplus accrued
10 from the fiscal year ending June 30, 2013.

11 In the event that surplus revenues available from the fiscal
12 year ending June 30, 2013, are not sufficient to meet the
13 appropriation made pursuant to this section, then the
14 appropriation shall be made to the extent that surplus funds are
15 available.

384 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 5365 FY 2014 Org 0511

1	Medical Services – Lottery Surplus..	681	\$ 50,000,000
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2 Total TITLE II, Section 9 —
 3 Surplus Accrued. \$ 50,000,000

1 **Sec. 10. Special revenue appropriations.** — There are
 2 hereby appropriated for expenditure during the fiscal year 2014
 3 appropriations made by general law from special revenues which
 4 are not paid into the state fund as general revenue under the
 5 provisions of W.Va. Code §12-2-2; Provided, That none of the
 6 money so appropriated by this section shall be available for
 7 expenditure except in compliance with the provisions of W.Va.
 8 Code §12-2 and 3, and W.Va. Code §11B-2, unless the spending
 9 unit has filed with the director of the budget and the legislative
 10 auditor prior to the beginning of each fiscal year:

11 (a) An estimate of the amount and sources of all revenues
 12 accruing to such fund; and

13 (b) A detailed expenditure schedule showing for what
 14 purposes the fund is to be expended.

15 In addition to the preceding provisions, any unencumbered
 16 balance in the Courtesy Patrol Fund (fund 3078), established by
 17 W.Va. Code §5B-2-12, which exceeds \$500,000 at the close of
 18 the fiscal year 2013, shall be transferred to the Tourism
 19 Promotion Fund (fund 3072).

1 **Sec. 11. State improvement fund appropriations.** —
 2 Bequests or donations of nonpublic funds, received by the
 3 governor on behalf of the state during the fiscal year 2014, for
 4 the purpose of making studies and recommendations relative to
 5 improvements of the administration and management of
 6 spending units in the executive branch of state government, shall
 7 be deposited in the state treasury in a separate account therein
 8 designated state improvement fund.

9 There are hereby appropriated all moneys so deposited
 10 during the fiscal year 2014 to be expended as authorized by the
 11 governor, for such studies and recommendations which may

12 encompass any problems of organization, procedures, systems,
13 functions, powers or duties of a state spending unit in the
14 executive branch, or the betterment of the economic, social,
15 educational, health and general welfare of the state or its
16 citizens.

1 **Sec. 12. Specific funds and collection accounts.** — A fund
2 or collection account which by law is dedicated to a specific use
3 is hereby appropriated in sufficient amount to meet all lawful
4 demands upon the fund or collection account and shall be
5 expended according to the provisions of Article 3, Chapter 12 of
6 the Code.

1 **Sec. 13. Appropriations for refunding erroneous**
2 **payment.** — Money that has been erroneously paid into the state
3 treasury is hereby appropriated out of the fund into which it was
4 paid, for refund to the proper person.

5 When the officer authorized by law to collect money for the
6 state finds that a sum has been erroneously paid, he or she shall
7 issue his or her requisition upon the auditor for the refunding of
8 the proper amount. The auditor shall issue his or her warrant to
9 the treasurer and the treasurer shall pay the warrant out of the
10 fund into which the amount was originally paid.

1 **Sec. 14. Sinking fund deficiencies.** — There is hereby
2 appropriated to the governor a sufficient amount to meet any
3 deficiencies that may arise in the mortgage finance bond
4 insurance fund of the West Virginia housing development fund
5 which is under the supervision and control of the municipal bond
6 commission as provided by W.Va. Code §31-18-20b, or in the
7 funds of the municipal bond commission because of the failure
8 of any state agency for either general obligation or revenue
9 bonds or any local taxing district for general obligation bonds to
10 remit funds necessary for the payment of interest and sinking
11 fund requirements. The governor is authorized to transfer from
12 time to time such amounts to the municipal bond commission as
13 may be necessary for these purposes.

14 The municipal bond commission shall reimburse the state of
15 West Virginia through the governor from the first remittance
16 collected from the West Virginia housing development fund or
17 from any state agency or local taxing district for which the
18 governor advanced funds, with interest at the rate carried by the
19 bonds for security or payment of which the advance was made.

1 **Sec. 15. Appropriations for local governments.** — There
2 are hereby appropriated for payment to counties, districts and
3 municipal corporations such amounts as will be necessary to pay
4 taxes due counties, districts and municipal corporations and
5 which have been paid into the treasury:

6 (a) For redemption of lands;

7 (b) By public service corporations;

8 (c) For tax forfeitures.

1 **Sec. 16. Total appropriations.** — Where only a total sum
2 is appropriated to a spending unit, the total sum shall include
3 personal services, annual increment, employee benefits, current
4 expenses, repairs and alterations, buildings, equipment, other
5 assets, land, and capital outlay, where not otherwise specifically
6 provided and except as otherwise provided in TITLE I –
7 GENERAL PROVISIONS, Sec. 3.

1 **Sec. 17. General school fund.** — The balance of the
2 proceeds of the general school fund remaining after the payment
3 of the appropriations made by this act is appropriated for
4 expenditure in accordance with W.Va. Code §18-9A-16.

TITLE III – ADMINISTRATION.

1 **Sec. 1. Appropriations conditional.** — The expenditure of
2 the appropriations made by this act, except those appropriations
3 made to the legislative and judicial branches of the state
4 government, are conditioned upon the compliance by the

5 spending unit with the requirements of Article 2, Chapter 11B of
6 the Code.

7 Where spending units or parts of spending units have been
8 absorbed by or combined with other spending units, it is the
9 intent of this act that appropriations and reappropriations shall be
10 to the succeeding or later spending unit created, unless otherwise
11 indicated.

1 **Sec. 2. Constitutionality.** — If any part of this act is
2 declared unconstitutional by a court of competent jurisdiction, its
3 decision shall not affect any portion of this act which remains,
4 but the remaining portion shall be in full force and effect as if
5 the portion declared unconstitutional had never been a part of the
6 act.

CHAPTER 5

**(H. B. 2538 - By Mr. Speaker, (Mr. Thompson)
and Delegate Armstead)
[By Request of the Executive]**

[Passed April 13, 2013; in effect from passage.]
[Approved by the Governor on April 22, 2013.]

AN ACT expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2013 in the amount of \$5,500,000 from the Governor's Office, Civil Contingent Fund, fund 0105, fiscal year 2009, organization 0100, activity 236, and in the amount of \$1,500,000 from the State Election Commission, Supreme Court Public Campaign Financing Fund, fund 1690, fiscal year 2013, organization 1601, and in the amount of \$2,500,000 from the Department of Administration, Office of the Secretary, State Employee Sick Leave Fund, fund

2045, fiscal year 2013, organization 0201, and in the amount of \$18,317,356.29 from the Department of Administration, Education, Arts, Sciences and Tourism Debt Service Fund, fund 2252, fiscal year 2013, organization 0211, and in the amount of \$3,800,000 from the Department of Administration, Division of General Services, 2004 Capitol Complex Parking Garage Fund, fund 2461, fiscal year 2013, organization 0211, and in the amount of \$8,000,000 from the Department of Administration, Board of Risk and Insurance Management, Premium Tax Savings Fund, fund 2367, fiscal year 2013, organization 0218, and in the amount of \$5,000,000 from the West Virginia Health Care Authority, Health Care Cost Review Fund, fund 5375, fiscal year 2013, organization 0507, and in the amount of \$2,000,000 from the Department of Health and Human Resources, Division of Human Services, Low Income Energy Assistance Program Fund, fund 5081, fiscal year 2013, organization 0511, and in the amount of \$4,600,000 from the Department of Revenue, State Budget Office, Public Employees Insurance Reserve Fund, fund 7400, fiscal year 2013, organization 0703, and in the amount of \$24,500,000 from the Department of Revenue, Insurance Commissioner, Insurance Commission Fund, fund 7152, fiscal year 2013, organization 0704, and in the amount of \$14,736,022 from the Department of Revenue, Lottery Commission, Revenue Center Construction Fund, fund 7209, fiscal year 2013, organization 0705, and in the amount of \$3,000,000 from the Public Service Commission, fund 8623, fiscal year 2013, organization 0926, and making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Governor's Office, Civil Contingent Fund, fund 0105, fiscal year 2013, organization 0100, to the Department of Administration, Division of Finance, fund 0203, fiscal year 2013, organization 0209, to the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2013, organization 0307, to the Department of Commerce, Division of Natural

Resources, fund 0265, fiscal year 2013, organization 0310, to the Department of Education and the Arts, Office of the Secretary, fund 0294, fiscal year 2013, organization 0431, to the Department of Health and Human Resources, Consolidated Medical Service Fund, fund 0525, fiscal year 2013, organization 0506, to the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2013, organization 0511, to the Department of Military Affairs and Public Safety - Office of the Secretary, fund 0430, fiscal year 2013, organization 0601, to the Department of Military Affairs and Public Safety, Division of Corrections - Correctional Units, fund 0450, fiscal year 2013, organization 0608, to the West Virginia Council for Community and Technical College Education - Control Account, fund 0596, fiscal year 2013, organization 0420, and to the Higher Education Policy Commission - Control Account, fund 0586, fiscal year 2013, organization 0442, by supplementing and amending the appropriations for the fiscal year ending June 30, 2013.

WHEREAS, the Legislature finds that the account balances in the Governor's Office, Civil Contingent Fund, fund 0105, fiscal year 2009, organization 0100, activity 236, the State Election Commission, Supreme Court Public Campaign Financing Fund, fund 1690, fiscal year 2013, organization 1601, the Department of Administration, Office of the Secretary, State Employee Sick Leave Fund, fund 2045, fiscal year 2013, organization 0201, the Department of Administration, Education, Arts, Sciences and Tourism Debt Service Fund, fund 2252, fiscal year 2013, organization 0211, the Department of Administration, Division of General Services, 2004 Capitol Complex Parking Garage Fund, fund 2461, fiscal year 2013, organization 0211, the Department of Administration, Board of Risk and Insurance Management, Premium Tax Savings Fund, fund 2367, fiscal year 2013, organization 0218, the West Virginia Health Care Authority, Health Care Cost Review Fund, fund 5375, fiscal year 2013, organization 0507, the Department of Health and Human Resources, Division of Human Services, Low Income Energy Assistance Program Fund, fund 5081,

fiscal year 2013, organization 0511, the Department of Revenue, State Budget Office, Public Employees Insurance Reserve Fund, fund 7400, fiscal year 2013, organization 0703, the Department of Revenue, Insurance Commissioner, Insurance Commission Fund, fund 7152, fiscal year 2013, organization 0704, the Department of Revenue, Lottery Commission, Revenue Center Construction Fund, fund 7209, fiscal year 2013, organization 0705, the Public Service Commission, fund 8623, fiscal year 2013, organization 0926, exceed that which is necessary for the purposes for which the accounts were established; and

WHEREAS, The Governor submitted to the Legislature the Executive Budget document, dated February 13, 2013, which included a Statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2012, and further included the estimate of revenues for the fiscal year 2013, less net appropriation balances forwarded and regular appropriations for the fiscal year 2013; and

WHEREAS, It appears from the Executive Budget document, Statement of the State Fund, General Revenue, and this legislation, there now remains an unappropriated surplus balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2013; therefore

Be it enacted by the Legislature of West Virginia:

That the balance of the funds available for expenditure in the fiscal year ending June 30, 2013, in the Governor's Office, Civil Contingent Fund, fund 0105, fiscal year 2009, organization 0100, activity 236, be decreased by expiring the amount of \$5,500,000, and in the State Election Commission, Supreme Court Public Campaign Financing Fund, fund 1690, fiscal year 2013, organization 1601, be decreased by expiring the amount of \$1,500,000, and in the Department of Administration, Office of the Secretary, State Employee Sick Leave Fund, fund 2045, fiscal year 2013, organization 0201, be decreased by

expiring the amount of \$2,500,000, and in the Department of Administration, Division of General Services, Education, Arts, Sciences and Tourism Debt Service Fund, fund 2252, fiscal year 2013, organization 0211, be decreased by expiring the amount of \$18,317,356.29, and in the Department of Administration, Division of General Services, 2004 Capitol Complex Parking Garage Fund, fund 2461, fiscal year 2013, organization 0211, be decreased by expiring the amount of \$3,800,000, and in the Department of Administration, Board of Risk and Insurance Management, Premium Tax Savings Fund, fund 2367, fiscal year 2013, organization 0218, be decreased by expiring the amount of \$8,000,000, and in the West Virginia Health Care Authority, Health Care Cost Review Fund, fund 5375, fiscal year 2013, organization 0507, be decreased by expiring the amount of \$5,000,000, and in the Department of Health and Human Resources, Division of Human Services, Low Income Energy Assistance Program Fund, fund 5081, fiscal year 2013, organization 0511, be decreased by expiring the amount of \$2,000,000, and in the Department of Revenue, State Budget Office, Public Employees Insurance Reserve Fund, fund 7400, fiscal year 2013, organization 0703, be decreased by expiring the amount of \$4,600,000, and in the Department of Revenue, Insurance Commissioner, Insurance Commission Fund, fund 7152, fiscal year 2013, organization 0704, be decreased by expiring the amount of \$24,500,000, and in the Department of Revenue, Lottery Commission, Revenue Center Construction Fund, fund 7209, fiscal year 2013, organization 0705, be decreased by expiring the amount of \$14,736,022, and in the Public Service Commission, fund 8623, fiscal year 2013, organization 0926, be decreased by expiring the amount of \$3,000,000 all to the unappropriated surplus balance of the State Fund, General Revenue, to be available for appropriation during the fiscal year ending June 30, 2013.

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0105, fiscal year 2013, organization 0100, be supplemented and amended by adding a new item of appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 EXECUTIVE

4 7-Governor's Office -
5 Civil Contingent Fund

6 (WV Code Chapter 5)

7 Fund 0105 FY 2013 Org 0100

8 9 10	Act- ivity	General Revenue Fund
11 1a 2012 Natural Disasters -		
12 Surplus (R).....	135	\$ 2,000,000

13 Any federal reimbursements received to remunerate
14 disbursements from this activity or funds transferred from this
15 activity shall be credited back to this activity.

16 Any unexpended balance remaining in the appropriation for
17 2012 Natural Disasters - Surplus (fund 0105, activity 135) at the
18 close of fiscal year 2013 is hereby reappropriated for expenditure
19 during the fiscal year 2014.

20 And, That the total appropriation for the fiscal year ending
21 June 30, 2013, to fund 0203, fiscal year 2013, organization 0209,
22 be supplemented and amended by adding a new item of
23 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from general revenue.

3 DEPARTMENT OF ADMINISTRATION

4 20-Division of Finance

5 (WV Code Chapter 5A)

6 Fund 0203 FY 2013 Org 0209

7		General
8	Act-	Revenue
9	ivity	Fund

10 10a Enterprise Resource Planning

11 10b System - Surplus..... 872 \$ 30,000,000

12 The above appropriation for Enterprise Resource Planning
13 System - Surplus (activity 872), shall be transferred to the West
14 Virginia Enterprise Resource Planning Board, fund 9080,
15 organization 0947.

16 And, That the total appropriation for the fiscal year ending
17 June 30, 2013, to fund 0256, fiscal year 2013, organization 0307,
18 be supplemented and amended by adding a new item of
19 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 **Section 1. Appropriations from general revenue.**

3 **DEPARTMENT OF COMMERCE**

4 *36-West Virginia Development Office*

5 (WV Code Chapter 5B)

6 Fund 0256 FY 2013 Org 0307

7		General
8	Act-	Revenue
9	ivity	Fund

10 5a Unclassified - Surplus (R)..... 097 \$ 3,500,000

11 Any unexpended balance remaining in the above
12 appropriation for Unclassified - Surplus (fund 0256, activity

13 097) at the close of the fiscal year 2013 is hereby reappropriated
14 for expenditure during the fiscal year 2014.

15 And, That the total appropriation for the fiscal year ending
16 June 30, 2013, to fund 0265, fiscal year 2013, organization 0310,
17 be supplemented and amended by adding a new item of
18 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from general revenue.

3 DEPARTMENT OF COMMERCE

4 39-Division of Natural Resources

5 (WV Code Chapter 20)

6 Fund 0265 FY 2013 Org 0310

	Act- ivity	General Revenue Fund
10 12a Operating Expenses -		
11 Surplus (R).	779	\$ 1,000,000

12 Any unexpended balance remaining in the above
13 appropriation for Operating Expenses - Surplus (fund 0265,
14 activity 779) at the close of the fiscal year 2013 is hereby
15 reappropriated for expenditure during the fiscal year 2014.

16 And, That the total appropriation for the fiscal year ending
17 June 30, 2013, to fund 0294, fiscal year 2013, organization 0431,
18 be supplemented and amended by adding a new item of
19 appropriation as follows:

1 TITLE II—APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF EDUCATION AND THE ARTS

4 54-Department of Education and the Arts -
5 Office of the Secretary

6 (WV Code Chapter 5F)

7 Fund 0294 FY 2013 Org 0431

8			General
9			Revenue
10			Fund
11	14a Educational	Act- ivity	
12	Enhancements - Surplus. 927		\$ 500,000

13 Any unexpended balance remaining in the above
14 appropriation for Educational Enhancements- Surplus (fund
15 0294, activity 927) at the close of the fiscal year 2013 is hereby
16 reappropriated for expenditure during the fiscal year 2014.

17 And, That the total appropriation for the fiscal year ending
18 June 30, 2013, to fund 0525, fiscal year 2013, organization 0506,
19 be supplemented and amended by increasing an existing item of
20 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 **Section 1. Appropriations from general revenue.**

3 **DEPARTMENT OF HEALTH**
4 **AND HUMAN RESOURCES**

5 *64-Consolidated Medical Service Fund*

6 (WV Code Chapter 16)

7 Fund 0525 FY 2013 Org 0506

8			General
9			Revenue
10			Fund
11	6 Behavioral Health Program -	Act- ivity	
12	Surplus (R). 631		\$ 3,662,312

13 Any unexpended balance remaining in the above
 14 appropriation for Behavioral Health Program - Surplus (fund
 15 0525, activity 631) at the close of the fiscal year 2013 is hereby
 16 reappropriated for expenditure during the fiscal year 2014.

17 And, That the total appropriation for the fiscal year ending
 18 June 30, 2013, to fund 0403, fiscal year 2013, organization 0511,
 19 be supplemented and amended by increasing existing items of
 20 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from general revenue.

3 DEPARTMENT OF HEALTH AND HUMAN
 4 RESOURCES

5 *67-Division of Human Services*

6 (WV Code Chapters 9, 48 and 49)

7 Fund 0403 FY 2013 Org 0511

8 9 10		Act- ivity	General Revenue Fund
11	9 Medical Services - Surplus (R)... 633		\$ 34,384,273
12	10 Social Services - Surplus..... 082		4,717,147

13 Any unexpended balance remaining in the above
 14 appropriation for Medical Services - Surplus (fund 0403, activity
 15 633) at the close of the fiscal year 2013 is hereby reappropriated
 16 for expenditure during the fiscal year 2014.

17 And, That the total appropriation for the fiscal year ending
 18 June 30, 2013, to fund 0430, fiscal year 2013, organization 0601,
 19 be supplemented and amended by adding new items of
 20 appropriation as follows:

1

TITLE II - APPROPRIATIONS.

2

Section 1. Appropriations from general revenue.

3

DEPARTMENT OF MILITARY AFFAIRS

4

AND PUBLIC SAFETY

5

68-Department of Military Affairs and Public Safety -

6

Office of the Secretary

7

(WV Code Chapter 5F)

8

Fund 0430 FY 2013 Org 0601

9

General

10

Act-

Revenue

11

ivity

Fund

12

9a Substance Abuse

13

9b Program - Surplus (R). 696 \$ 3,000,000

14

9c Justice Reinvestment

15

9d Training - Surplus (R). 699 500,000

16

Any unexpended balances remaining in the above

17

appropriations for Substance Abuse Program - Surplus (fund

18

0430, activity 696) and Justice Reinvestment Training - Surplus

19

(fund 0430, activity 699) at the close of the fiscal year 2013 are

20

hereby reappropriated for expenditure during the fiscal year

21

2014.

22

The above appropriations for Substance Abuse Program -

23

Surplus (fund 0430, activity 696) and Justice Reinvestment

24

Training - Surplus (fund 0430, activity 699) shall be used for

25

substance abuse and training initiatives designed to increase

26

public safety and decrease the recidivism rate in West Virginia.

27

And, That the total appropriation for the fiscal year ending

28

June 30, 2013, to fund 0450, fiscal year 2013, organization 0608,

29 be supplemented and amended by adding new items of
30 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from general revenue.

3 DEPARTMENT OF MILITARY AFFAIRS
4 AND PUBLIC SAFETY

5 74-Division of Corrections -
6 Correctional Units

7 (WV Code Chapters 25, 28, 49 and 62)

8 Fund 0450 FY 2013 Org 0608

	Act-	General
	ivity	Revenue
		Fund
12 14a Capital Improvements -		
13 Surplus (R).....	661	\$ 6,000,000
14 15a Capital Outlay, Repairs and		
15 15b Equipment - Surplus (R).	677	4,900,000
16 18a Operating Expenses -		
17 Surplus (R).....	779	2,000,000

18 Any unexpended balances remaining in the above
19 appropriations for Capital Improvements - Surplus (fund 0450,
20 activity 661), Capital Outlay, Repairs and Equipment - Surplus
21 (fund 0450, activity 677), and Operating Expenses - Surplus
22 (fund 0450, activity 779) at the close of the fiscal year 2013 are
23 hereby reappropriated for expenditure during the fiscal year
24 2014.

25 And, That the total appropriation for the fiscal year ending
26 June 30, 2013, to fund 0596, fiscal year 2013, organization 0420,
27 be supplemented and amended by adding a new item of
28 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from general revenue.

3 HIGHER EDUCATION

4 92-West Virginia Council for
5 Community and Technical College Education-
6 Control Account

7 (WV Code Chapter 18B)

8 Fund 0596 FY 2013 Org 0420

		General
	Act-	Revenue
	ivity	Fund
12 2a	Unclassified - Surplus (R). 097	\$ 80,758

13 And, That the total appropriation for the fiscal year ending
14 June 30, 2013, to fund 0586, fiscal year 2013, organization 0442,
15 be supplemented and amended by adding a new item of
16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from general revenue.

3 HIGHER EDUCATION

4 94-Higher Education Policy Commission -
5 System -
6 Control Account

7 (WV Code Chapter 18B)

8 Fund 0586 FY 2013 Org 0442

		General
	Act-	Revenue
	ivity	Fund
12 2a	Unclassified - Surplus. 097	\$ 4,247,234

13 From the above appropriation for Unclassified-Surplus (fund
14 0586, activity 097) no less than \$4,000,000 is to be used for
15 Glenville State College for capital improvements.

16 The purpose of this supplemental appropriation bill is to
17 expire, supplement, amend, increase, and add items of
18 appropriation in the aforesaid accounts for the designated
19 spending units for expenditure during the fiscal year 2013.



CHAPTER 6

**(H. B. 2541 - By Mr. Speaker, (Mr. Thompson)
and Delegate Armstead)
[By Request of the Executive]**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 22, 2013.]

AN ACT making a supplementary appropriation from the State Fund, State Excess Lottery Revenue Fund, to the Department of Health and Human Resources, Division of Human Services, fund 5365, fiscal year 2013, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 20, 2013.

WHEREAS, The Governor submitted to the Legislature the Executive Budget document, dated February 13, 2013, containing a Statement of the State Excess Lottery Revenue Fund, setting forth therein the unappropriated balance as of July 1, 2012, and further included the estimate of revenue for the fiscal year 2013, less net regular appropriations for the fiscal year 2013; and

WHEREAS, It appears from the Governor's Statement of the State Excess Lottery Revenue Fund there now remains an unappropriated

balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2013; therefore

Be it enacted by the Legislature of West Virginia:

1 That the total appropriation for the fiscal year ending June
 2 30, 2013, to fund 5365, fiscal year 2013, organization 0511, be
 3 supplemented and amended by increasing an existing item of
 4 appropriation as follows:

1 TITLE II—APPROPRIATIONS.

2 **Sec. 5. Appropriations from state**
 3 **excess lottery revenue fund.**

4 *287—Division of Human Services*

5 (WV Code Chapters, 9, 48 and 49)

6 Fund 5365 FY 2013 Org 0511

								Excess	
								Lottery	
								Funds	
10	1	Medical Services.....	189	\$	67,432,506				

CHAPTER 7

(S. B. 197 - By Senators Kessler (Mr. President) and M. Hall)
[By Request of the Executive]

[Passed March 15, 2013; in effect from passage.]
 [Approved by the Governor on March 22, 2013.]

AN ACT expiring funds to the unappropriated surplus balance in the State Fund, General Revenue, for the fiscal year ending June 30, 2013, in the amount of \$23,972,984 from the Department of

Administration - Office of the Secretary, fund 0186, fiscal year 2008, organization 0201, activity 635, and in the amount of \$5,000,000 from the Department of Commerce, Division of Natural Resources, fund 0265, fiscal year 2008, organization 0310, activity 761, and making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an unappropriated surplus balance in the State Fund, General Revenue, to the Department of Administration, Public Defender Services, fund 0226, fiscal year 2013, organization 0221, and to the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2013, organization 0511, by supplementing and amending the appropriations for the fiscal year ending June 30, 2013.

WHEREAS, The Governor finds that the account balances in the Department of Administration - Office of the Secretary, fund 0186, fiscal year 2008, organization 0201, activity 635, and in the Department of Commerce, Division of Natural Resources, fund 0265, fiscal year 2008, organization 0310, activity 761, exceed that which is necessary for the purposes for which the accounts were established; and

WHEREAS, The Governor submitted to the Legislature the Executive Budget document, dated February 13, 2013, which included a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2012, and further included the estimate of revenues for the fiscal year 2013, less net appropriation balances forwarded and regular appropriations for the fiscal year 2013; and

WHEREAS, It appears from the Governor's Executive Budget document, statement of the State Fund, General Revenue, and this legislation, there now remains an unappropriated surplus balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2013; therefore

Be it enacted by the Legislature of West Virginia:

- 1 That the balance of the funds available for expenditure in the
- 2 fiscal year ending June 30, 2013, to the Department of

3 Administration - Office of the Secretary, fund 0186, fiscal year
 4 2008, organization 0201, activity 635, be decreased by expiring
 5 the amount of \$23,972,984, and to the Department of
 6 Commerce, Division of Natural Resources, fund 0265, fiscal
 7 year 2008, organization 0310, activity 761, be decreased by
 8 expiring the amount of \$5,000,000, all to the unappropriated
 9 surplus balance of the State Fund, General Revenue, to be
 10 available for appropriation during the fiscal year ending June 30,
 11 2013.

12 And, That the total appropriation for the fiscal year ending
 13 June 30, 2013, to fund 0226, fiscal year 2013, organization 0221,
 14 be supplemented and amended by increasing an existing item of
 15 appropriation as follows:

1 TITLE II – APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF ADMINISTRATION

4 27-Public Defender Services

5 (WV Code Chapter 29)

6 Fund 0226 FY 2013 Org 0221

	Act-	General
	ivity	Revenue
	Fund	Fund
10 6 Appointed Counsel Fees-		
11 Surplus (R).....	435	\$ 11,500,000

12 Any unexpended balance remaining in the above
 13 appropriation for Appointed Counsel Fees - Surplus (fund 0226,
 14 activity 435) at the close of the fiscal year 2013 is hereby
 15 reappropriated for expenditure during the fiscal year 2014.

16 And, That the total appropriation for the fiscal year ending
 17 June 30, 2013, to fund 0403, fiscal year 2013, organization 0511,

18 be supplemented and amended by adding a new item of
19 appropriation as follows:

1 TITLE II – APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF HEALTH AND HUMAN
4 RESOURCES

5 67–Division of Human Services

6 (WV Code Chapter 9, 48 and 49)

7 Fund 0403 FY 2013 Org 0511

8			General
9		Act-	Revenue
10		ivity	Fund
11	3a Child Care - Surplus. 091	\$	17,468,806

12 The purpose of this bill is to expire funds into the
13 unappropriated surplus balance in the State Fund, General
14 Revenue, and to supplement, amend, increase an existing item
15 and add a new item of appropriation in the aforesaid accounts for
16 the designated spending units for expenditure during the fiscal
17 year 2013.

CHAPTER 8

(S. B. 208 - By Senators Kessler (Mr. President) and M. Hall)
[By Request of the Executive]

[Passed April 11, 2013; in effect from passage.]
[Approved by the Governor on April 22, 2013.]

AN ACT making a supplementary appropriation of public moneys out of the Treasury from the balance of moneys remaining as an

unappropriated balance in the State Fund, General Revenue, to the Department of Commerce, Division of Labor, fund 0260, fiscal year 2013, organization 0308, and the Department of Health and Human Resources, Division of Human Services, fund 0403, fiscal year 2013, organization 0511, by supplementing and amending the appropriation for the fiscal year ending June 30, 2013.

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated February 13, 2013, which included a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2012, and further included the estimate of revenues for fiscal year 2013, less net appropriation balances forwarded and regular appropriations for the fiscal year 2013; and

WHEREAS, It appears from the Governor’s Executive Budget Document, statement of the State Fund, General Revenue, there now remains an unappropriated balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2013; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2013, to fund 0260, fiscal year 2013, organization 0308, be supplemented and amended by decreasing an existing item of appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF COMMERCE

4 37–Division of Labor

5 (WV Code Chapters 21 and 47)

6 Fund 0260 FY 2013 Org 0308

		Act-	General
		ivity	Revenue
			Fund
10	5 Current Expenses.	130	\$ 100,000

11 And, That the total appropriation for the fiscal year ending
12 June 30, 2013, to fund 0260, fiscal year 2013, organization 0308,
13 be supplemented and amended by adding a new item of
14 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF COMMERCE

4 37-Division of Labor

5 (WV Code Chapters 21 and 47)

6 Fund 0260 FY 2013 Org 0308

	Act- ivity	General Revenue Fund
10 6a Equipment.	070	\$ 100,000

11 And, That the total appropriation for the fiscal year ending
12 June 30, 2012, to fund 0403, fiscal year 2013, organization 0511,
13 be supplemented and amended by increasing an existing item of
14 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF HEALTH AND HUMAN
4 RESOURCES

5 67-Division of Human Services

6 (WV Code Chapters 9, 48 and 49)

7 Fund 0403 FY 2013 Org 0511

	Act- ivity	General Revenue Funds
11 9 Medical Services (R).	189	\$ 1,800,000

12 The purpose of this supplemental appropriation bill is to
13 supplement, amend, decrease, increase existing items and add a
14 new item of appropriation in the aforesaid accounts for the
15 designated spending units for expenditure during the fiscal year
16 2013.

CHAPTER 9

**(S. B. No. 523 - By Senators Kessler (Mr. President)
and M. Hall)**

[By Request of the Executive]

[Passed April 13, 2013; in effect from passage.]

[Approved by the Governor on April 22, 2013.]

AN ACT making a supplementary appropriation from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2013, to the Governor's Office, Minority Affairs Fund, fund 1058, fiscal year 2013, organization 0100, to the Department of Education and the Arts, State Board of Rehabilitation - Division of Rehabilitation Services - West Virginia Rehabilitation Center - Special Account, fund 8664, fiscal year 2013, organization 0932, to the Department of Health and Human Resources, Division of Health - Hospital Services Revenue Account, Special Fund, Capital Improvements, Renovation and Operations, fund 5156, fiscal year 2013, organization 0506, to the Department of Military Affairs and Public Safety, West Virginia State Police, fund 6501, fiscal year 2013, organization 0612, to the Department of Health and Human Resources, Division of Health - Lead Abatement Account, fund 5204, fiscal year 2013, organization 0506, to the Department of Revenue, Municipal Bond Commission, fund 7253, fiscal year 2013, organization 0706, to the Department of

Transportation, Public Port Authority - Special Railroad and Intermodal Enhancement Fund, fund 8254, fiscal year 2013, organization 0806, to the Miscellaneous Boards and Commissions, WV Board of Examiners for Registered Professional Nurses, fund 8520, fiscal year 2013, organization 0907, and to the Miscellaneous Boards and Commissions, WV Board of Licensed Dietitians, fund 8680, fiscal year 2013, organization 0936, by supplementing and amending the appropriations for the fiscal year ending June 30, 2013.

WHEREAS, The Governor has established that there now remains an unappropriated balance in the Governor's Office, Minority Affairs Fund, fund 1058, fiscal year 2013, organization 0100, in the Department of Education and the Arts, State Board of Rehabilitation - Division of Rehabilitation Services - West Virginia Rehabilitation Center - Special Account, fund 8664, fiscal year 2013, organization 0932, in the Department of Health and Human Resources, Division of Health - Hospital Services Revenue Account, Special Fund, Capital Improvements, Renovation and Operations, fund 5156, fiscal year 2013, organization 0506, in the Department of Health and Human Resources, Division of Health - Lead Abatement Account, fund 5204, fiscal year 2013, organization 0506, in the Department of Military Affairs and Public Safety, West Virginia State Police, fund 6501, fiscal year 2013, organization 0612, in the Department of Revenue, Municipal Bond Commission, fund 7253, fiscal year 2013, organization 0706, to the Department of Transportation, Public Port Authority - Special Railroad and Intermodal Enhancement Fund, fund 8254, fiscal year 2013, organization 0806, in the Miscellaneous Boards and Commissions, WV Board of Examiners for Registered Professional Nurses, fund 8520, fiscal year 2013, organization 0907, and in the Miscellaneous Boards and Commissions, WV Board of Licensed Dietitians, fund 8680, fiscal year 2013, organization 0936, that is available for expenditure during the fiscal year ending June 30, 2013, which is hereby appropriated by the terms of this supplementary appropriation bill; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2013, to fund 1058, fiscal year 2013, organization 0100, be supplemented and amended to read as follows:

1 TITLE II — APPROPRIATIONS.

2 **Sec. 3. Appropriations from other funds.**

3 **EXECUTIVE**

4 *100-Governor’s Office*

5 *Minority Affairs Fund*

6 (WV Code Chapter 5)

7 Fund 1058 FY 2013 Org 0100

		Act-	Other
		ivity	Funds
10	1 Personal Services	001	\$ 125,000
11	2 Annual Increment.	004	1,000
12	3 Employee Benefits	010	46,800
13	4 Current Expense	130	<u>503,200</u>
14	5 Total.		\$ 676,000

15 And, That the total appropriation for the fiscal year ending
16 June 30, 2013, to fund 8664, fiscal year 2013, organization 0932,
17 be supplemented and amended to read as follows:

1 TITLE II — APPROPRIATIONS.

2 **Sec. 3. Appropriations from other funds.**

3 **DEPARTMENT OF EDUCATION AND THE ARTS**

4 *155-State Board of Rehabilitation -*

5 *Division of Rehabilitation Services -*

6 *West Virginia Rehabilitation Center -*

7 *Special Account*

8 (WV Code Chapter 18)

9 Fund 8664 FY 2013 Org 0932

		Act-		Other
		ivity		Funds
12	1 Personal Services	001	\$	75,000
13	2 Employee Benefits	010		20,738
14	3 Current Expenses	130		2,289,622
15	4 Repairs and Alterations	064		150,000
16	5 Equipment	070		220,000
17	6 Other Assets	690		<u>150,000</u>
18	7 Total		\$	2,905,360

19 And, That the total appropriation for the fiscal year ending
20 June 30, 2013, to fund 5156, fiscal year 2013, organization 0506,
21 be supplemented and amended by increasing existing items of
22 appropriation as follows:

1 TITLE II — APPROPRIATIONS.

2 **Sec. 3. Appropriations from other funds.**

3 **DEPARTMENT OF HEALTH AND HUMAN**
4 **RESOURCES**

5 *175-Division of Health -*
6 *Hospital Services Revenue Account*
7 *Special Fund*
8 *Capital Improvement, Renovation and Operations*

9 (WV Code Chapter 16)

10 Fund 5156 FY 2013 Org 0506

		Act-		Other
		ivity		Funds
13	1 Institutional Facilities			
14	2 Operations (R)	335	\$	5,000,000

15	3	Medical Services Trust Fund -		
16	4	Transfer (R).....	512	2,500,000

17 And, That the total appropriation for the fiscal year ending
 18 June 30, 2013, to fund 5204, fiscal year 2013, organization 0506,
 19 be supplemented and amended by increasing existing items of
 20 appropriation as follows:

1 TITLE II — APPROPRIATIONS.
 2 **Sec. 3. Appropriations from other funds.**

3 **DEPARTMENT OF HEALTH AND HUMAN**
 4 **RESOURCES**

5 *179-Division of Health -*
 6 *Lead Abatement Account*

7 (WV Code Chapter 16)

8 Fund 5204 FY 2013 Org 0506

9			Act-	Other
10			ivity	Funds
11	1	Personal Services	001	\$ 3,000
12	2	Employee Benefits	010	2,076

13 And, That the total appropriation for the fiscal year ending
 14 June 30, 2013, to fund 6501, fiscal year 2013, organization 0612,
 15 be supplemented and amended by adding a new item of
 16 appropriation as follows:

1 TITLE II — APPROPRIATIONS.
 2 **Sec. 3. Appropriations from other funds.**

3 **DEPARTMENT OF MILITARY AFFAIRS**
 4 **AND PUBLIC SAFETY**

5 *196-West Virginia State Police -*

6 *Motor Vehicle Inspection Fund*

7 (WV Code Chapter 17C)

8 Fund 6501 FY 2013 Org 0612

	Act- ivity	\$	Other Funds
11 6a. Buildings	258		534,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2013, to fund 7253, fiscal year 2013, organization 0706,
14 be supplemented and amended by adding a new item of
15 appropriation as follows:

1 TITLE II — APPROPRIATIONS.

2 **Sec. 3. Appropriations from other funds.**

3 **DEPARTMENT OF REVENUE**

4 *223-Municipal Bond Commission*

5 (WV Code Chapter 13)

6 Fund 7253 FY 2013 Org 0706

	Act- ivity	\$	Other Funds
9 4a Equipment	070		247,500

10 And, That the total appropriation for the fiscal year ending
11 June 30, 2013, to fund 8254, fiscal year 2013, organization 0806,
12 be supplemented and amended to read as follows:

1 TITLE II — APPROPRIATIONS.

2 **Sec. 3. Appropriations from other funds.**

3 **DEPARTMENT OF TRANSPORTATION**

4 *233-Public Port Authority -*

5 *Special Railroad and Intermodal Enhancement Fund*

6 (WV Code Chapter 17)

7 Fund 8254 FY 2013 Org 0806

8			Act-	Other
9			ivity	Funds
10	1	Current Expenses.....	130	\$ 250,000
11	2	Other Assets	690	<u>7,750,000</u>
12	3	Total.....		\$ 8,000,000

13 And, That the total appropriation for the fiscal year ending
 14 June 30, 2013, to fund 8520, fiscal year 2013, organization 0907,
 15 be supplemented and amended by increasing an existing item of
 16 appropriation and by adding a new item of appropriation as
 17 follows:

1 TITLE II — APPROPRIATIONS.

2 **Sec. 3. Appropriations from other funds.**

3 **MISCELLANEOUS BOARDS AND COMMISSIONS**

4 *248-WV Board of Examiners for Registered*
 5 *Professional Nurses*

6 (WV Code Chapter 30)

7 Fund 8520 FY 2013 Org 0907

8			Act-	Other
9			ivity	Funds
10	6	Equipment	070	5,000
11	6a	Other Assets.....	690	5,000

12 And, That the total appropriation for the fiscal year ending
 13 June 30, 2013, to fund 8680, fiscal year 2013, organization 0936,
 14 be supplemented and amended by increasing existing items of
 15 appropriation as follows:

1 TITLE II — APPROPRIATIONS.

2 **Sec. 3. Appropriations from other funds.**

3 **MISCELLANEOUS BOARDS AND COMMISSIONS**

4 *256-WV Board of Licensed Dietitians*

5 (WV Code Chapter 30)

6 Fund 8680 FY 2013 Org 0936

7		Act-	\$	Other
8		ivity		Funds
9	1 Personal Services	001		2,500
10	2 Employee Benefits	010		382

11 The purpose of this supplemental appropriation bill is to
12 supplement, amend, increase, decrease and add items of
13 appropriations in the aforesaid accounts for the designated
14 spending units for expenditure during the fiscal year 2013.



CHAPTER 10

**(S. B. No. 524 - By Senators Kessler (Mr. President)
and M. Hall)**

[By Request of the Executive]

[Passed April 11, 2013; in effect from passage.]
[Approved by the Governor on April 22, 2013.]

AN ACT supplementing, amending, decreasing and increasing items of the existing appropriations from the State Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2013, organization 0803, for the fiscal year ending June 30, 2013.

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated February 13, 2013, which included a statement of the State Road Fund setting forth therein the cash balances and investments as of July 1, 2012, and further included the estimate of revenues for the fiscal year 2013, less net appropriation balances forwarded and regular appropriations for the fiscal year 2013; and

WHEREAS, It appears from the statement of the State Road Fund there now remains an unappropriated balance in the State Treasury which is available for appropriation during the fiscal year ending June 30, 2013; therefore

Be it enacted by the Legislature of West Virginia:

That the items of the total appropriations from the State Road Fund to the Department of Transportation, Division of Highways, fund 9017, fiscal year 2013, organization 0803, be supplemented and amended by decreasing an existing item of appropriation as follows:

1	TITLE II - APPROPRIATIONS.		
2	Sec. 2. Appropriations from State Road Fund.		
3	DEPARTMENT OF TRANSPORTATION		
4	<i>96-Division of Highways</i>		
5	(WV Code Chapters 17 and 17C)		
6	Fund <u>9017</u> FY <u>2013</u> Org <u>0803</u>		
7			State
8		Act-	Road
9		ivity	Fund
10	11	Appalachian Programs.. 280	\$ 10,000,000

11 And, That the items of the total appropriations from the State
 12 Road Fund, to the Department of Transportation, Division of
 13 Highways, fund 9017, fiscal year 2013, organization 0803, be

14 supplemented and amended by increasing existing items of
15 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 **Sec. 2. Appropriations from State Road Fund.**

3 **DEPARTMENT OF TRANSPORTATION**

4 *96-Division of Highways*

5 (WV Code Chapters 17 and 17C)

6 Fund 9017 FY 2013 Org 0803

			State
		Act-	Road
		ivity	Fund
10	3 Maintenance, Contract Paving and		
11	Secondary Road Maintenance. . . . 272	\$	4,000,000
12	12 Nonfederal Aid Construction. . . . 281		5,000,000
13	14 Federal Economic Stimulus. 891		2,000,000

14 The purpose of this supplemental appropriation bill is to
15 supplement, amend, decrease and increase items of appropriation
16 in the aforesaid account for the designated spending unit for
17 expenditure during the fiscal year ending June 30, 2013.

CHAPTER 11

**(S. B. 525 - By Senators Kessler (Mr. President)
and M. Hall)
[By Request of the Executive]**

[Passed April 13, 2013; in effect from passage.]
[Approved by the Governor on April 22, 2013.]

AN ACT making a supplementary appropriation of federal funds out of the Treasury from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2013, to the Department of Administration, Children's Health Insurance Agency, fund 8838, fiscal year 2013, organization 0230, to the Department of Commerce, Division of Miners' Health, Safety and Training, fund 8709, fiscal year 2013, organization 0314, to the Department of Education, State Department of Education, fund 8712, fiscal year 2013, organization 0402, to the Department of Education and the Arts, Division of Culture and History, fund 8718, fiscal year 2013, organization 0432, to the Department of Health and Human Resources, Division of Health, Central Office, fund 8802, fiscal year 2013, organization 0506, to the Department of Health and Human Resources, Division of Human Services, fund 8722, fiscal year 2013, organization 0511, to the Department of Military Affairs and Public Safety, West Virginia State Police, fund 8741, fiscal year 2013, organization 0612, to the Department of Revenue, Insurance Commissioner, fund 8883, fiscal year 2013, organization 0704, and to Miscellaneous Boards and Commissions, Coal Heritage Highway Authority, fund 8861, fiscal year 2013, organization 0942, by supplementing and amending the appropriations for the fiscal year ending June 30, 2013.

WHEREAS, The Governor has established the availability of federal funds now available for expenditure in the fiscal year ending June 30, 2013, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2013, to fund 8838, fiscal year 2013, organization 0230, be supplemented and amended by increasing an existing item of appropriation as follows:

1 TITLE II--APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

3 **DEPARTMENT OF ADMINISTRATION**

4 *302-Children's Health Insurance Agency*

5 (WV Code Chapter 5)

6 Fund 8838 FY 2013 Org 0230

	Act-		Federal
	ivity		Funds
9 4 Current Expenses	130	\$	15,000,000

10 And, That the total appropriation for the fiscal year ending
11 June 30, 2013, to fund 8709, fiscal year 2013, organization 0314,
12 be supplemented and amended by adding a new item of
13 appropriation as follows:

1 TITLE II--APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

3 **DEPARTMENT OF COMMERCE**

4 *309-Division of Miners' Health,*
5 *Safety and Training*

6 (WV Code Chapter 22)

7 Fund 8709 FY 2013 Org 0314

	Act-		Federal
	ivity		Funds
10 3a Current Expenses	130	\$	150,000

11 And, That the total appropriation for the fiscal year ending
12 June 30, 2013, to fund 8712, fiscal year 2013, organization 0402,

13 be supplemented and amended by increasing existing items of
14 appropriation as follows:

1 TITLE II--APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

3 **DEPARTMENT OF EDUCATION**

4 *312-State Department of Education*

5 (WV Code Chapter 18 and 18A)

6 Fund 8712 FY 2013 Org 0402

		Act-		Federal
		ivity		Funds
9	1	Personal Services	001	\$ 490,000
10	2	Annual Increment	004	10,000
11	3	Employee Benefits	010	100,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2013, to fund 8718, fiscal year 2013, organization 0432,
14 be supplemented and amended by increasing an existing item of
15 appropriation as follows:

1 TITLE II--APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

3 **DEPARTMENT OF EDUCATION AND THE ARTS**

4 *318-Division of Culture and History*

5 (WV Code Chapter 29)

6 Fund 8718 FY 2013 Org 0432

		Act-		Federal
		ivity		Funds
9	4	Current Expenses	130	\$ 450,000

10 And, That the total appropriation for the fiscal year ending
11 June 30, 2013, to fund 8802, fiscal year 2013, organization 0506,
12 be supplemented and amended by increasing an existing item of
13 appropriation as follows:

1 TITLE II-APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

3 **DEPARTMENT OF HEALTH AND HUMAN**
4 **RESOURCES**

5 *325-Division of Health -*
6 *Central Office*

7 (WV Code Chapter 16)

8 Fund 8802 FY 2013 Org 0506

9 10		Act- ivity		Federal Funds
11	5 Current Expenses.....	130	\$	4,050,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2013, to fund 8722, fiscal year 2013, organization 0511,
14 be supplemented and amended by increasing existing items of
15 appropriation as follows:

1 TITLE II-APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

3 **DEPARTMENT OF HEALTH AND HUMAN**
4 **RESOURCES**

5 *329-Division of Human Services*

6 (WV Code Chapters 9, 48 and 49)

7 Fund 8722 FY 2013 Org 0511

		Act-		Federal
		ivity		Funds
10	7			
11	8	789	\$	18,262,124
12	9	891		11,966,060

13 And, That the total appropriation for the fiscal year ending
 14 June 30, 2013, to fund 8741, fiscal year 2013, organization 0612,
 15 be supplemented and amended by adding a new item of
 16 appropriation as follows:

1 TITLE II--APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

3 **DEPARTMENT OF MILITARY**
 4 **AFFAIRS AND PUBLIC SAFETY**

5 *334-West Virginia State Police*

6 (WV Code Chapter 15)

7 Fund 8741 FY 2013 Org 0612

		Act-		Federal
		ivity		Funds
10	5a	258	\$	750,000

11 And, That the total appropriation for the fiscal year ending
 12 June 30, 2013, to fund 8883, fiscal year 2013, organization 0704,
 13 be supplemented and amended by decreasing an existing item of
 14 appropriation as follows:

1 TITLE II--APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

3 **DEPARTMENT OF REVENUE**

4 *338-Insurance Commissioner*

5 (WV Code Chapter 33)

6 Fund 8883 FY 2013 Org 0704

7		Act- ivity		Federal Funds
8				
9	4 Current Expenses.....	130	\$	632,270

10 And, That the total appropriation for the fiscal year ending
 11 June 30, 2013, to fund 8883, fiscal year 2013, organization 0704,
 12 be supplemented and amended by increasing existing items of
 13 appropriation as follows:

1 TITLE II--APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

3 **DEPARTMENT OF REVENUE**

4 *338-Insurance Commissioner*

5 (WV Code Chapter 33)

6 Fund 8883 FY 2013 Org 0704

7		Act- ivity		Federal Funds
8				
9	1 Personal Services.....	001	\$	459,588
10	3 Employee Benefits.....	010		172,682

11 And, That the total appropriation for the fiscal year ending
 12 June 30, 2013, to fund 8861, fiscal year 2013, organization 0942,
 13 be supplemented and amended by increasing existing items of
 14 appropriation as follows:

1 TITLE II--APPROPRIATIONS.

2 **Sec. 6. Appropriations of federal funds.**

3 **MISCELLANEOUS BOARDS AND COMMISSIONS**

4 *349-Coal Heritage Highway Authority*

5 (WV Code Chapter 29)

6 Fund 8861 FY 2013 Org 0942

7			Act-	Federal
8			ivity	Funds
9	1	Personal Services.....	001	\$ 49,000
10	2	Employee Benefits.....	010	16,429
11	3	Current Expenses.....	130	9,571

12 The purpose of this supplementary appropriation bill is to
 13 supplement, amend, decrease, increase existing items and add
 14 new items of appropriation in the aforesaid accounts for the
 15 designated spending units for expenditure during the fiscal year
 16 2013.

CHAPTER 12

**(S. B. No. 526 - By Senators Kessler (Mr. President)
 and M. Hall)
 [By Request of the Executive]**

[Passed April 11, 2013; in effect from passage.]
 [Approved by the Governor on April 22, 2013.]

AN ACT making a supplementary appropriation of federal funds out of the Treasury from the balance of federal moneys remaining unappropriated for the fiscal year ending June 30, 2013, to the Department of Health and Human Resources, Division of Human Services - Temporary Assistance for Needy Families, fund 8816, fiscal year 2013, organization 0511, by supplementing and

amending the appropriation for the fiscal year ending June 30, 2013.

WHEREAS, The Governor has established the availability of federal funds now available for expenditure in the fiscal year ending June 30, 2013, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2013, to fund 8816, fiscal year 2013, organization 0511, be supplemented and amended by increasing existing items of appropriation as follows:

1 TITLE II—APPROPRIATIONS.

2 **Sec. 7. Appropriations from federal block grants.**

3 *361-Division of Human Services-*

4 *Temporary Assistance of Needy Families*

5 Fund 8816 FY 2013 Org 0511

6			Act-		Federal
7			ivity		Funds
8	1	Personal Services.....	001	\$	8,750,000
9	3	Employee Benefits.....	010		1,800,000

10 The purpose of this supplementary appropriation bill is to
11 supplement and amend by increasing existing items of
12 appropriation in the aforesaid account for the designated
13 spending unit for expenditure during the fiscal year 2013.

CHAPTER 13

**(S. B. No. 664 - By Senators Prezioso, Facemire,
Chafin, Edgell, Green, Laird, McCabe, Plymale,
Stollings, Unger, Wells, Yost, Barnes, Blair, Boley,
M. Hall and Sypolt)**

[Passed April 11, 2013; in effect from passage.]

[Approved by the Governor on April 22, 2013.]

AN ACT supplementing and amending by decreasing the appropriations of public moneys out of the Treasury in the State Fund, General Revenue, to the Governor's Office, fund 0101, fiscal year 2013, organization 0100, to the Governor's Office - Civil Contingent Fund, fund 0105, fiscal year 2013, organization 0100, to the West Virginia Conservation Agency, fund 0132, fiscal year 2013, organization 1400, to the Department of Administration - Office of the Secretary, fund 0186, fiscal year 2013, organization 0201, to the Department of Administration, Division of Finance, fund 0203, fiscal year 2013, organization 0209, to the Department of Administration, Division of General Services, fund 0230, fiscal year 2013, organization 0211, to the Department of Administration, Division of Purchasing, fund 0210, fiscal year 2013, organization 0213, to the Department of Administration, Travel Management, fund 0615, fiscal year 2013, organization 0215, to the Department of Administration, Public Employees Insurance Agency, fund 0200, fiscal year 2013, organization 0225, to the Department of Administration, Real Estate Division, fund 0610, fiscal year 2013, organization 0233, to the Department of Commerce, West Virginia Development Office, fund 0256, fiscal year 2013, organization 0307, to the Department of Commerce, Division of Natural Resources, fund 0265, fiscal year 2013,

organization 0310, to the Department of Education, State Department of Education, fund 0313, fiscal year 2013, organization 0402, to the Department of Education, West Virginia Schools for the Deaf and the Blind, fund 0320, fiscal year 2013, organization 0403, to the Department of Education and the Arts - Office of the Secretary, fund 0294, fiscal year 2013, organization 0431, to the Department of Education and the Arts, Division of Culture and History, fund 0293, fiscal year 2013, organization 0432, to the Department of Education and the Arts, Library Commission, fund 0296, fiscal year 2013, organization 0433, to the Department of Education and the Arts, Educational Broadcasting Authority, fund 0300, fiscal year 2013, organization 0439, to the Department of Environmental Protection, Division of Environmental Protection, fund 0273, fiscal year 2013, organization 0313, to the Department of Health and Human Resources - Office of the Secretary, fund 0400, fiscal year 2013, organization 0501, to the Department of Health and Human Resources, Division of Health - Central Office, fund 0407, fiscal year 2013, organization 0506, to the Department of Health and Human Resources, Consolidated Medical Service Fund, fund 0525, fiscal year 2013, organization 0506, to the Department of Health and Human Resources, Human Rights Commission, fund 0416, fiscal year 2013, organization 0510, to the Department of Military Affairs and Public Safety - Office of the Secretary, fund 0430, fiscal year 2013, organization 0601, to the Department of Military Affairs and Public Safety, Adjutant General - State Militia, fund 0433, fiscal year 2013, organization 0603, to the Department of Military Affairs and Public Safety, Adjutant General - Military Fund, fund 0605, fiscal year 2013, organization 0603, to the Department of Military Affairs and Public Safety, Division of Homeland Security and Emergency Management, fund 0443, fiscal year 2013, organization 0606, to the Department of Military Affairs and Public Safety, Division of Corrections - Central Office, fund 0446, fiscal year 2013, organization 0608, to the Department of Military Affairs and Public Safety, West Virginia State Police,

fund 0453, fiscal year 2013, organization 0612, to the Department of Military Affairs and Public Safety, Division of Justice and Community Services, fund 0546, fiscal year 2013, organization 0620, to the Department of Military Affairs and Public Safety, Division of Protective Services, fund 0585, fiscal year 2013, organization 0622, to the Department of Revenue, Office of the Secretary, fund 0465, fiscal year 2013, organization 0701, to the Department of Revenue, Tax Division, fund 0470, fiscal year 2013, organization 0702, to the Department of Revenue, State Budget Office, fund 0595, fiscal year 2013, organization 0703, to the Department of Revenue, West Virginia Office of Tax Appeals, fund 0593, fiscal year 2013, organization 0709, to the Department of Transportation, State Rail Authority, fund 0506, fiscal year 2013, organization 0804, to the Department of Transportation, Division of Public Transit, fund 0510, fiscal year 2013, organization 0805, to the Department of Transportation, Public Port Authority, fund 0581, fiscal year 2013, organization 0806, to the Department of Transportation, Aeronautics Commission, fund 0582, fiscal year 2013, organization 0807, to the Department of Veterans' Assistance, fund 0456, fiscal year 2013, organization 0613, to the Department of Veterans' Assistance - Veterans' Home, fund 0460, fiscal year 2013, organization 0618, and to the West Virginia Council for Community and Technical College Education - Control Account, fund 0596, fiscal year 2013, organization 0420, by supplementing and amending the appropriations for the fiscal year ending June 30, 2013.

WHEREAS, The Governor submitted to the Legislature the Executive Budget Document, dated February 13, 2013, which included a statement of the State Fund, General Revenue, setting forth therein the cash balance as of July 1, 2012, and further included the estimate of revenues for fiscal year 2013, less net appropriation balances forwarded and regular appropriations for the fiscal year 2013; and

WHEREAS, The Secretary of the Department of Revenue has submitted a monthly General Revenue Fund Collections Report for the first nine months of fiscal year 2013 as prepared by the State Budget Office; and

WHEREAS, This report demonstrates that the State of West Virginia has suffered a revenue shortfall of approximately \$49 million as compared to revenue estimates; and

WHEREAS, Current economic and fiscal trends will result in projected year-end revenue deficits, including projected shortfalls in Business and Occupation Tax, Severance Tax and Interest Income; and

WHEREAS, Projected year-end revenue surpluses in various other General Revenue sources will only offset a small portion of these deficits; and

WHEREAS, On March 19, 2013, the Governor issued a memorandum to cabinet secretaries implementing temporary restrictions on general revenue funded hiring to help reduce expenditures and close the anticipated budget gap in fiscal year 2013; and

WHEREAS, The Governor finds after careful analysis of fiscal year 2013 spending trends to date, other budget items also appear to be available for targeted reduction to aid in the balancing of the fiscal year 2013 budget; therefore

Be it enacted by the Legislature of West Virginia:

That the total appropriation for the fiscal year ending June 30, 2013, to fund 0101, fiscal year 2013, organization 0100, be supplemented and amended by decreasing existing items of appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 **Section 1. Appropriations from General Revenue.**3 **EXECUTIVE**4 *5-Governor's Office*

5 (WV Code Chapter 5)

6 Fund 0101 FY 2013 Org 0100

7			General
8		Act-	Revenue
9		ivity	Fund
10	1	Personal Services..... 001	\$ 175,000
11	4	Employee Benefits..... 010	40,000
12	9	GO HELP(R)..... 116	250,000
13	16	P20 Jobs Cabinet..... 954	38,000

14 And, That the total appropriation for the fiscal year ending
 15 June 30, 2013, to fund 0105, fiscal year 2013, organization 0100,
 16 be supplemented and amended by decreasing an existing item of
 17 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 **Section 1. Appropriations from General Revenue.**3 **EXECUTIVE**4 *7-Governor's Office -*5 *Civil Contingent Fund*

6 (WV Code Chapter 5)

7 Fund 0105 FY 2013 Org 0100

8			General
9		Act-	Revenue
10		ivity	Fund
11	1	Civil Contingent Fund - Total. . . . 114	\$ 525,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2013, to fund 0132, fiscal year 2013, organization 1400,
14 be supplemented and amended by decreasing existing items of
15 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 EXECUTIVE

4 *11-West Virginia Conservation Agency*

5 (WV Code Chapter 19)

6 Fund 0132 FY 2013 Org 1400

			General
			Revenue
			Fund
10	8	Soil Conservation Projects (R). . . 120	\$ 1,500,000
11	9	Marlinton Flood Wall (R). 757	750,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2013, to fund 0186, fiscal year 2013, organization 0201,
14 be supplemented and amended by decreasing existing items of
15 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF ADMINISTRATION

4 *18-Department of Administration -*
5 *Office of the Secretary*

6 (WV Code Chapter 5F)

7 Fund 0186 FY 2013 Org 0201

8					
9					General
10				Act-	Revenue
				ivity	Fund
11	8	Financial Advisor (R).	304	\$	125,000
12	9	Lease Rental Payments.	516		1,100,000

13 And, That the total appropriation for the fiscal year ending
 14 June 30, 2013, to fund 0203, fiscal year 2013, organization 0209,
 15 be supplemented and amended by decreasing existing items of
 16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.
 2 Section 1. Appropriations from General Revenue.
 3 DEPARTMENT OF ADMINISTRATION
 4 20-Division of Finance
 5 (WV Code Chapter 5A)
 6 Fund 0203 FY 2013 Org 0209

7					General
8					Revenue
9				Act-	Fund
				ivity	
10	1	Personal Services.....	001	\$	40,000
11	3	Employee Benefits.....	010		20,000
12	8	GAAP Project (R).	125		60,000

13 And, That the total appropriation for the fiscal year ending
 14 June 30, 2013, to fund 0230, fiscal year 2013, organization 0211,
 15 be supplemented and amended by decreasing existing items of
 16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.
 2 Section 1. Appropriations from General Revenue.

3 **DEPARTMENT OF ADMINISTRATION**

4 *21-Division of General Services*

5 (WV Code Chapter 5A)

6 Fund 0230 FY 2013 Org 0211

			General
		Act-	Revenue
		ivity	Fund
10	1	Personal Services..... 001	\$ 230,000
11	3	Employee Benefits..... 010	200,000

12 And, That the total appropriation for the fiscal year ending
 13 June 30, 2013, to fund 0210, fiscal year 2013, organization 0213,
 14 be supplemented and amended by decreasing existing items of
 15 appropriation as follows:

1 **TITLE II - APPROPRIATIONS.**

2 **Section 1. Appropriations from General Revenue.**

3 **DEPARTMENT OF ADMINISTRATION**

4 *22-Division of Purchasing*

5 (WV Code Chapter 5A)

6 Fund 0210 FY 2013 Org 0213

			General
		Act-	Revenue
		ivity	Fund
10	1	Personal Services..... 001	\$ 90,000
11	3	Employee Benefits..... 010	10,000

12 And, That the total appropriation for the fiscal year ending
 13 June 30, 2013, to fund 0615, fiscal year 2013, organization 0215,
 14 be supplemented and amended by decreasing existing items of
 15 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF ADMINISTRATION

4 23-Travel Management

5 (WV Code Chapter 5A)

6 Fund 0615 FY 2013 Org 0215

		Act-	General
		ivity	Revenue
			Fund
10	1 Personal Services.....	001	\$ 90,000
11	3 Employee Benefits.....	010	150,000
12	5 Current Expenses.....	130	80,000

13 And, That the total appropriation for the fiscal year ending
14 June 30, 2013, to fund 0200, fiscal year 2013, organization 0225,
15 be supplemented and amended by decreasing an existing item of
16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF ADMINISTRATION

4 29-Public Employees Insurance Agency

5 (WV Code Chapter 5)

6 Fund 0200 FY 2013 Org 0225

		Act-	General
		ivity	Revenue
			Fund
10	1 PEIA Subsidy.	801	\$ 3,500,000

11 And, That the total appropriation for the fiscal year ending
12 June 30, 2013, to fund 0610, fiscal year 2013, organization 0233,

13 be supplemented and amended by decreasing existing items of
14 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF ADMINISTRATION

4 32-Real Estate Division

5 (WV Code Chapter 5A)

6 Fund 0610 FY 2013 Org 0233

			General
		Act-	Revenue
		ivity	Fund
10	1	Personal Services..... 001	\$ 75,000
11	3	Employee Benefits..... 010	40,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2013, to fund 0256, fiscal year 2013, organization 0307,
14 be supplemented and amended by decreasing existing items of
15 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF COMMERCE

4 36-West Virginia Development Office

5 (WV Code Chapter 5B)

6 Fund 0256 FY 2013 Org 0307

			General
		Act-	Revenue
		ivity	Fund
10	1	Personal Services..... 001	\$ 600,000

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11	3	Employee Benefits.....	010	180,000
12	11	Partnership Grants (R).....	131	600,000
13	38	Local Economic Development		
14	39	Assistance (R).....	819	4,300,000
15	44	4-H Camp Improvements (R). . .	941	650,000

16 And, That the total appropriation for the fiscal year ending
 17 June 30, 2013, to fund 0265, fiscal year 2013, organization 0310,
 18 be supplemented and amended by decreasing an existing item of
 19 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF COMMERCE

4 39-Division of Natural Resources

5 (WV Code Chapter 20)

6 Fund 0265 FY 2013 Org 0310

7				General
8				Revenue
9				Fund
10	1	Personal Services.....	001	\$ 600,000

11 And, That the total appropriation for the fiscal year ending
 12 June 30, 2013, to fund 0313, fiscal year 2013, organization 0402,
 13 be supplemented and amended by decreasing existing items of
 14 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF EDUCATION

4 48-State Department of Education

5 (WV Code Chapters 18 and 18A)

6 Fund 0313 FY 2013 Org 0402

			General
		Act-	Revenue
		ivity	Fund
10	5	Current Expenses.....	130 \$ 200,000
11	11	Teacher Mentor (R).....	158 500,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2013, to fund 0320, fiscal year 2013, organization 0403,
14 be supplemented and amended by decreasing existing items of
15 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF EDUCATION

4 *53-West Virginia Schools for the Deaf and the Blind*

5 (WV Code Chapters 18 and 18A)

6 Fund 0320 FY 2013 Org 0403

			General
		Act-	Revenue
		ivity	Fund
10	1	Personal Services.....	001 \$ 200,000
11	3	Employee Benefits.....	010 40,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2013, to fund 0294, fiscal year 2013, organization 0431,
14 be supplemented and amended by decreasing existing items of
15 appropriation as follows:

1

TITLE II - APPROPRIATIONS.

2

Section 1. Appropriations from General Revenue.

3

DEPARTMENT OF EDUCATION AND THE ARTS

4

54-Department of Education and the Arts -

5

Office of the Secretary

6

(WV Code Chapter 5F)

7

Fund 0294 FY 2013 Org 0431

8

General

9

Act-

Revenue

10

ivity

Fund

11

1 Personal Services..... 001 \$ 50,000

12

3 Employee Benefits..... 010 5,000

13

6 Center for Professional

14

7 Development (R). 115 125,000

15

10 Benedum Professional Development

16

11 Collaborative (R). 427 55,000

17

And, That the total appropriation for the fiscal year ending

18

June 30, 2013, to fund 0293, fiscal year 2013, organization 0432,

19

be supplemented and amended by decreasing existing items of

20

appropriation as follows:

1

TITLE II - APPROPRIATIONS.

2

Section 1. Appropriations from General Revenue.

3

DEPARTMENT OF EDUCATION AND THE ARTS

4

55-Division of Culture and History

5

(WV Code Chapter 29)

6

Fund 0293 FY 2013 Org 0432

				General Revenue Fund
7				
8			Act-	
9			ivity	
10	1	Personal Services.....	001	\$ 150,000
11	3	Employee Benefits.....	010	150,000
12	13	Historical Highway		
13	14	Marker Program (R).....	844	75,000

14 And, That the total appropriation for the fiscal year ending
 15 June 30, 2013, to fund 0296, fiscal year 2013, organization 0433,
 16 be supplemented and amended by decreasing existing items of
 17 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 **Section 1. Appropriations from General Revenue.**

3 **DEPARTMENT OF EDUCATION AND THE ARTS**

4 *56-Library Commission*

5 (WV Code Chapter 10)

6 Fund 0296 FY 2013 Org 0433

				General Revenue Fund
7				
8			Act-	
9			ivity	
10	1	Personal Services.....	001	\$ 115,152
11	2	Annual Increment.	004	17,640
12	3	Employee Benefits.....	010	84,248
13	4	Current Expenses.....	130	24,959
14	8	BRIM Premium.....	913	3,001

15 And, That the total appropriation for the fiscal year ending
 16 June 30, 2013, to fund 0300, fiscal year 2013, organization 0439,
 17 be supplemented and amended by decreasing existing items of
 18 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF EDUCATION AND THE ARTS

4 57-Educational Broadcasting Authority

5 (WV Code Chapter 10)

6 Fund 0300 FY 2013 Org 0439

			General
			Revenue
		Act-	Fund
		ivity	
10	1	Personal Services..... 001	\$ 235,000
11	3	Employee Benefits..... 010	25,000
12	4	Current Expenses..... 130	75,000

13 And, That the total appropriation for the fiscal year ending
14 June 30, 2013, to fund 0273, fiscal year 2013, organization 0313,
15 be supplemented and amended by decreasing existing items of
16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF ENVIRONMENTAL PROTECTION

4 60-Division of Environmental Protection

5 (WV Code Chapter 22)

6 Fund 0273 FY 2013 Org 0313

			General
			Revenue
		Act-	Fund
		ivity	
10	1	Personal Services..... 001	\$ 200,000
11	3	Employee Benefits..... 010	182,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2013, to fund 0400, fiscal year 2013, organization 0501,
14 be supplemented and amended by decreasing existing items of
15 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF HEALTH AND HUMAN
4 RESOURCES

5 *62-Department of Health and Human Resources -*
6 *Office of the Secretary*

7 (WV Code Chapter 5F)

8 Fund 0400 FY 2013 Org 0501

		Act- ivity		General Revenue Funds
12	1	Personal Services.....	001	\$ 100,000
13	2	Employee Benefits.....	010	20,000
14	4	Women’s Commission (R).	191	50,000

15 And, That the total appropriation for the fiscal year ending
16 June 30, 2013, to fund 0407, fiscal year 2013, organization 0506,
17 be supplemented and amended by decreasing an existing item of
18 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF HEALTH AND HUMAN
4 RESOURCES

5 *63-Division of Health -*
6 *Central Office*

304

APPROPRIATIONS

[Ch. 13

7

(WV Code Chapter 16)

8

Fund 0407 FY 2013 Org 0506

9

General

10

Act-

Revenue

11

ivity

Fund

12 36 Emergency Response Entities -

13 37 Special Projects (R). 822 \$ 360,000

14 And, That the total appropriation for the fiscal year ending
15 June 30, 2013, to fund 0525, fiscal year 2013, organization 0506,
16 be supplemented and amended by decreasing an existing item of
17 appropriation as follows:

1

TITLE II - APPROPRIATIONS.

2

Section 1. Appropriations from General Revenue.

3

**DEPARTMENT OF HEALTH AND HUMAN
RESOURCES**

4

5

64-Consolidated Medical Service Fund

6

(WV Code Chapter 16)

7

Fund 0525 FY 2013 Org 0506

8

General

9

Act-

Revenue

10

ivity

Fund

11 13 Colin Anderson Community

12 12 Placement (R). 803 \$ 304,000

13 And, That the total appropriation for the fiscal year ending
14 June 30, 2013, to fund 0416, fiscal year 2013, organization 0510,
15 be supplemented and amended by decreasing existing items of
16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF HEALTH AND HUMAN
4 RESOURCES

5 66-Human Rights Commission

6 (WV Code Chapter 5)

7 Fund 0416 FY 2013 Org 0510

				General
				Revenue
				Fund
		Act-		
		ivity		
11	1	Personal Services	001	\$ 100,000
12	3	Employee Benefits	010	40,000

13 And, That the total appropriation for the fiscal year ending
14 June 30, 2013, to fund 0430, fiscal year 2013, organization 0601,
15 be supplemented and amended by decreasing existing items of
16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF MILITARY AFFAIRS
4 AND PUBLIC SAFETY

5 68-Department of Military Affairs and Public Safety -

6 Office of the Secretary

7 (WV Code Chapter 5F)

8 Fund 0430 FY 2013 Org 0601

				General
				Revenue
				Fund
		Act-		
		ivity		
12	1	Personal Services.....	001	\$ 120,000
13	3	Employee Benefits.....	010	80,000

14 And, That the total appropriation for the fiscal year ending
 15 June 30, 2013, to fund 0433, fiscal year 2013, organization 0603,
 16 be supplemented and amended by decreasing an existing item of
 17 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 **Section 1. Appropriations from General Revenue.**

3 **DEPARTMENT OF MILITARY AFFAIRS**
 4 **AND PUBLIC SAFETY**

5 *69-Adjutant General -*
 6 *State Militia*

7 (WV Code Chapter 15)

8 Fund 0433 FY 2013 Org 0603

9	10	11	12	1	Unclassified (R)..... 099	\$	50,000	General Revenue Fund

13 And, That the total appropriation for the fiscal year ending
 14 June 30, 2013, to fund 0605, fiscal year 2013, organization 0603,
 15 be supplemented and amended by decreasing an existing item of
 16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 **Section 1. Appropriations from General Revenue.**

3 **DEPARTMENT OF MILITARY AFFAIRS**
 4 **AND PUBLIC SAFETY**

5 *70-Adjutant General -*
 6 *Military Fund*

7 (WV Code Chapter 15)

8 Fund 0605 FY 2013 Org 0603

			General
		Act-	Revenue
		ivity	Fund
12 1	Personal Services.....	001	\$ 80,000

13 And, That the total appropriation for the fiscal year ending
 14 June 30, 2013, to fund 0443, fiscal year 2013, organization 0606,
 15 be supplemented and amended by decreasing existing items of
 16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 **Section 1. Appropriations from General Revenue.**

3 **DEPARTMENT OF MILITARY AFFAIRS**
 4 **AND PUBLIC SAFETY**

5 *72-Division of Homeland Security and*
 6 *Emergency Management*

7 (WV Code Chapter 15)

8 Fund 0443 FY 2013 Org 0606

			General
		Act-	Revenue
		ivity	Fund
12 1	Personal Services.....	001	\$ 120,000
13 3	Employee Benefits.....	010	90,000

14 And, That the total appropriation for the fiscal year ending
 15 June 30, 2013, to fund 0446, fiscal year 2013, organization 0608,
 16 be supplemented and amended by decreasing existing items of
 17 appropriation as follows:

1

TITLE II - APPROPRIATIONS.

2

Section 1. Appropriations from General Revenue.

3

DEPARTMENT OF MILITARY AFFAIRS

4

AND PUBLIC SAFETY

5

73-Division of Corrections -

6

Central Office

7

(WV Code Chapters 25, 28, 49, and 62)

8

Fund 0446 FY 2013 Org 0608

9

10

11

		General
		Revenue
		Fund

12

1	Personal Services.....	001	\$	80,000
---	------------------------	-----	----	--------

13

3	Employee Benefits.....	010		20,000
---	------------------------	-----	--	--------

14

15

16

17

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0453, fiscal year 2013, organization 0612, be supplemented and amended by decreasing existing items of appropriation as follows:

1

TITLE II - APPROPRIATIONS.

2

Section 1. Appropriations from General Revenue.

3

DEPARTMENT OF MILITARY AFFAIRS

4

AND PUBLIC SAFETY

5

75-West Virginia State Police

6

(WV Code Chapter 15)

7

Fund 0453 FY 2013 Org 0612

8

9

10

11

		General
		Revenue
		Fund

1	Personal Services.....	001	\$	809,445
---	------------------------	-----	----	---------

Ch.13]		APPROPRIATIONS	309
12	3	Employee Benefits..... 010	55,555
13	4	Children's Protection Act. 090	45,686
14	9	Communications and	
15	10	Other Equipment (R). 558	1,041,085
16	13	Capital Outlay and	
17		Maintenance (R)..... 755	248,229

18 And, That the total appropriation for the fiscal year ending
19 June 30, 2013, to fund 0546, fiscal year 2013, organization 0620,
20 be supplemented and amended by decreasing existing items of
21 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF MILITARY AFFAIRS
4 AND PUBLIC SAFETY

5 *77-Division of Justice and Community Services*

6 (WV Code Chapter 15)

7 Fund 0546 FY 2013 Org 0620

8			General
9		Act-	Revenue
10		ivity	Fund
11	1	Personal Services..... 001	\$ 90,000
12	3	Employee Benefits..... 010	20,000

13 And, That the total appropriation for the fiscal year ending
14 June 30, 2013, to fund 0585, fiscal year 2013, organization 0622,
15 be supplemented and amended by decreasing existing items of
16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF MILITARY AFFAIRS
4 AND PUBLIC SAFETY

5 79-Division of Protective Services

6 (WV Code Chapter 5F)

7 Fund 0585 FY 2013 Org 0622

			General
		Act-	Revenue
		ivity	Fund
11	1	Personal Services (R). 001	\$ 100,000
12	3	Employee Benefits.. . . . 010	30,000
13	5	Current Expenses.. . . . 130	100,000

14 And, That the total appropriation for the fiscal year ending
15 June 30, 2013, to fund 0465, fiscal year 2013, organization 0701,
16 be supplemented and amended by decreasing existing items of
17 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF REVENUE

4 80-Office of the Secretary

5 (WV Code Chapter 11)

6 Fund 0465 FY 2013 Org 0701

			General
		Act-	Revenue
		ivity	Fund
10	1	Personal Services.. . . . 001	\$ 70,000

11 3 Employee Benefits..... 010 15,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2013, to fund 0470, fiscal year 2013, organization 0702,
14 be supplemented and amended by decreasing existing items of
15 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF REVENUE

4 81-Tax Division

5 (WV Code Chapter 11)

6 Fund 0470 FY 2013 Org 0702

			General Revenue Fund
		Act- ivity	
10	1	Personal Services (R). 001	\$ 2,000,000
11	3	Employee Benefits (R). 010	500,000
12	8	GIS Development Project (R). . . . 562	150,000

13 And, That the total appropriation for the fiscal year ending
14 June 30, 2013, to fund 0595, fiscal year 2013, organization 0703,
15 be supplemented and amended by decreasing existing items of
16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF REVENUE

4 82-State Budget Office

5 (WV Code Chapter 11B)

6 Fund 0595 FY 2013 Org 0703

				General
				Revenue
				Fund
		Act-		
		ivity		
10	1	Personal Services.....	001	\$ 70,000
11	3	Employee Benefits.....	010	40,000
12	5	Current Expenses.....	130	69,000

13 And, That the total appropriation for the fiscal year ending
 14 June 30, 2013, to fund 0593, fiscal year 2013, organization 0709,
 15 be supplemented and amended by decreasing existing items of
 16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF REVENUE

4 *83-West Virginia Office of Tax Appeals*

5 (WV Code Chapter 11)

6 Fund 0593 FY 2013 Org 0709

				General
				Revenue
				Fund
		Act-		
		ivity		
10	1	Personal Services.....	001	\$ 80,000
11	3	Employee Benefits.....	010	20,000

12 And, That the total appropriation for the fiscal year ending
 13 June 30, 2013, to fund 0506, fiscal year 2013, organization 0804,
 14 be supplemented and amended by decreasing an existing item of
 15 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF TRANSPORTATION

4 *85-State Rail Authority*

5 (WV Code Chapter 29)

6 Fund 0506 FY 2013 Org 0804

7					
8					General
9					Revenue
					Fund

10	5	Other Assets.....	690	\$	100,000
----	---	-------------------	-----	----	---------

11 And, That the total appropriation for the fiscal year ending
 12 June 30, 2013, to fund 0510, fiscal year 2013, organization 0805,
 13 be supplemented and amended by decreasing an existing item of
 14 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 **Section 1. Appropriations from General Revenue.**

3 **DEPARTMENT OF TRANSPORTATION**

4 *86-Division of Public Transit*

5 (WV Code Chapter 17)

6 Fund 0510 FY 2013 Org 0805

7					
8					General
9					Revenue
					Fund

10	3	Buildings.	258	\$	150,000
----	---	-----------------	-----	----	---------

11 And, That the total appropriation for the fiscal year ending
 12 June 30, 2013, to fund 0581, fiscal year 2013, organization 0806,
 13 be supplemented and amended by decreasing existing items of
 14 appropriation as follows:

1

TITLE II - APPROPRIATIONS.

2

Section 1. Appropriations from General Revenue.

3

DEPARTMENT OF TRANSPORTATION

4

87-Public Port Authority

5

(WV Code Chapter 17)

6

Fund 0581 FY 2013 Org 0806

7

8

9

**General
Revenue
Fund**

**Act-
ivity**

10	4	Current Expenses.....	130	\$	34,000
11	5	Equipment.....	070		3,000

12 And, That the total appropriation for the fiscal year ending
13 June 30, 2013, to fund 0582, fiscal year 2013, organization 0807,
14 be supplemented and amended by decreasing an existing item of
15 appropriation as follows:

1

TITLE II - APPROPRIATIONS.

2

Section 1. Appropriations from General Revenue.

3

DEPARTMENT OF TRANSPORTATION

4

88-Aeronautics Commission

5

(WV Code Chapter 29)

6

Fund 0582 FY 2013 Org 0807

7

8

9

**General
Revenue
Fund**

**Act-
ivity**

10	4	Current Expenses.....	130	\$	250,000
----	---	-----------------------	-----	----	---------

1 And, That the total appropriation for the fiscal year ending
2 June 30, 2013, to fund 0456, fiscal year 2013, organization 0613,

3 be supplemented and amended by decreasing existing items of
4 appropriation as follows:

5 TITLE II - APPROPRIATIONS.

6 Section 1. Appropriations from General Revenue.

7 DEPARTMENT OF VETERANS' ASSISTANCE

8 *89-Department of Veterans' Assistance*

9 (WV Code Chapter 9A)

10 Fund 0456 FY 2013 Org 0613

		Act-	General
		ivity	Revenue
			Fund
14	1 Personal Services.....	001	\$ 100,000
15	2 Annual Increment.	004	20,000
16	3 Employee Benefits.....	010	80,000
17	18 Veterans Cemetery.	808	30,000

18 And, That the total appropriation for the fiscal year ending
19 June 30, 2013, to fund 0460, fiscal year 2013, organization 0618,
20 be supplemented and amended by decreasing existing items of
21 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 DEPARTMENT OF VETERANS' ASSISTANCE

4 *90-Department of Veterans' Assistance -*
5 *Veterans' Home*

6 (WV Code Chapter 9A)

7 Fund 0460 FY 2013 Org 0618

8					General
9					Revenue
10				Act-	Fund
				ivity	
11	1	Personal Services.....	001	\$	30,000
12	3	Employee Benefits.....	010		5,000

13 And, That the total appropriation for the fiscal year ending
 14 June 30, 2013, to fund 0596, fiscal year 2013, organization 0420,
 15 be supplemented and amended by decreasing existing items of
 16 appropriation as follows:

1 TITLE II - APPROPRIATIONS.

2 Section 1. Appropriations from General Revenue.

3 HIGHER EDUCATION

4 92-West Virginia Council for
 5 Community and Technical College Education -
 6 Control Account

7 (WV Code Chapter 18B)

8 Fund 0596 FY 2013 Org 0420

9					General
10					Revenue
11				Act-	Fund
				ivity	
12	20	Community College			
13	21	Workforce Development (R). . . .	878	\$	600,000
14	25	West Virginia Advance Workforce			
15	26	Development (R).	893		900,000

16 The purpose of this supplementary appropriation bill is to
 17 amend and decrease existing items of appropriation in the
 18 aforesaid accounts for the designated spending units for
 19 expenditure during the fiscal year 2013.

CHAPTER 14

**(H. B. 2851 - By Delegates Boggs, Ashley, D. Poling,
Caputo and Swartzmiller)
[By request of the State Auditor’s Office]**

[Passed April 13, 2013; in effect ninety days from passage.]
[Approved by the Governor on May 1, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §6-9-8a, relating to establishing a one time audit cost amnesty program for local governments with delinquent audit costs.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §6-9-8a, to read as follows:

ARTICLE 9. SUPERVISION OF LOCAL GOVERNMENT OFFICES.

§6-9-8a. Audit cost amnesty program.

- 1 (a) Notwithstanding any other code provision to the contrary,
- 2 the chief inspector shall establish a one time audit cost amnesty
- 3 program to be conducted during the 2014 fiscal year.

- 4 (b) The amnesty program shall apply only to:

- 5 (1) Audits conducted by the chief inspector; and

- 6 (2) Audit costs that are for fiscal years prior to the two most
- 7 recent audits completed or in progress as of July 1, 2013.

8 (c) The chief inspector shall establish procedures and forms
9 for processing applications to the program.

10 (d) An entity is not eligible to participate in the amnesty
11 program unless fees related to its two most recent audits
12 completed or in progress as of July 1, 2013, have been paid in
13 full prior to its request for amnesty.



CHAPTER 15

(Com. Sub. for H. B. 2923 - By Delegates Moore,
Hartman, E. Nelson, Ferns and Ashley)

[Passed April 9, 2013; in effect ninety days from passage.]
[Approved by the Governor on April 22, 2013.]

AN ACT to amend and reenact §31A-4-8 of the Code of West Virginia, 1931, as amended, relating to directors of state-chartered banking institutions; and eliminating the residency requirement for a majority of the directors of a state-chartered banking institution.

Be it enacted by the Legislature of West Virginia:

That §31A-4-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. BANKING INSTITUTIONS AND SERVICES GENERALLY.

§31A-4-8. Directors, their qualifications and oaths.

1 For every state-chartered banking institution there shall be
2 a board of not less than five nor more than twenty-five directors,
3 who shall meet at least once each month and who shall have

4 power to do, or cause to be done, all things that are proper to be
5 done by the banking institution; and a majority of whom shall at
6 all times be United States citizens: *Provided*, That the Commis-
7 sioner of Banking, upon application from banking institutions
8 with deposits greater than \$500 million, may issue a waiver from
9 the minimum number of meeting requirements established by
10 this section and allow no fewer than four quarterly meetings for
11 such institutions: *Provided, however*, That at least four of the
12 board of directors meetings of any state-chartered banking
13 institution shall be held within the State of West Virginia. Every
14 such director shall own capital stock in the banking institution of
15 which he or she is a director in the aggregate par value of not
16 less than \$500: *Provided*, That if a bank holding company has
17 control of that banking institution, shares owned by a director of
18 the subsidiary bank in the controlling bank holding company will
19 satisfy the requirements of this section: *Provided, however*, That
20 the director owns, in his or her own right, common or preferred
21 stock of the controlling bank holding company in an amount
22 equal to or greater than any one of the following: (i) Aggregate
23 par value of \$500; (ii) aggregate shareholders' equity of \$500; or
24 (iii) aggregate fair market value of \$500. Determination of the
25 fair market value of the controlling bank holding company's
26 stock shall be based upon the value of that stock on the date it
27 was purchased or on the date the person became a director,
28 whichever is greater. If a bank holding company controls more
29 than one bank subsidiary, a director owning at least \$500 of the
30 shares of a bank holding company is qualified, if otherwise
31 permitted by applicable law, to serve as a director of every bank
32 subsidiary controlled by that bank holding company. Before
33 entering on the discharge of his or her duties as such director, he
34 or she shall take an oath that he or she will, so far as the duty
35 devolves upon him or her, diligently and honestly administer the
36 affairs of the banking institution, and that he or she will not
37 knowingly or willingly permit to be violated any of the provi-
38 sions of the laws of this state relative to banking and banking

39 institutions, and that the stock standing in his or her name upon
40 the books of the banking institution is not hypothecated or
41 pledged in any way as security for loans obtained from or debts
42 owing to the banking institution of which he or she is a director,
43 and that the number of shares necessary to qualify a stockholder
44 to be a director are not now, and shall not at any time while he
45 or she serves as a director be pledged or hypothecated in any
46 manner for any debt or obligation of the director, or any other
47 person; which oath subscribed by him or her and certified by the
48 officer before whom it was taken shall be filed and preserved in
49 the office of the Commissioner of Banking. Should a director fail
50 to subscribe to or renew the oath herein provided within sixty
51 days after notice of his or her election or reelection, or at any
52 time after qualifying as such, sell or dispose of, or in any manner
53 hypothecate or pledge as security for a debt or obligation, such
54 qualifying shares, or any number thereof, necessary for his or her
55 qualification, thereupon the remaining directors shall elect
56 another director in his or her stead. No person shall serve as a
57 director of any banking institution who has evidenced personal
58 dishonesty and unfitness to serve as such director by his or her
59 conduct or practice with another financial institution which
60 resulted in a substantial financial loss or damage thereto or who
61 has been convicted of any crime involving personal dishonesty.



CHAPTER 16

(H. B. 2158 - By Delegates Moore, Reynolds and Azinger)

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §31A-8C-2 of the Code of West Virginia, 1931, as amended, relating to the provision of finan-

cially-related services by banks and bank holding companies, providing that a West Virginia state-chartered banking institution may engage in a financially related activity directly if a federal or state thrift, federal credit union, or state bank chartered in another state may engage in that financially related activity.

Be it enacted by the Legislature of West Virginia:

That §31A-8C-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8C. PROVISION OF FINANCIALLY-RELATED SERVICES BY BANKS AND BANK HOLDING COMPANIES.

§31A-8C-2. Banks and bank holding companies permitted to offer financially related services.

1 (a) Subject to the prior approval of the Commissioner of
2 Financial Institutions, any West Virginia state-chartered banking
3 institution or any bank holding company headquartered in this
4 state may, either through equity investment in other entities or
5 through a wholly owned subsidiary or subsidiaries, or by
6 contract or agreement with others to provide such products or
7 services, engage in any activity, exercise any power or offer any
8 product or service that is financially related. A state-chartered
9 banking institution may engage in a financially related activity
10 directly and not through an operating subsidiary, financial
11 subsidiary or affiliate if it is permissible for a national or state
12 bank, federal or state thrift, federal credit union, or other
13 financial service provider operating pursuant to federal law or
14 regulation or the laws of other states to engage in the financially
15 related activity directly. The commissioner shall grant or deny
16 any request under this section within sixty days of receipt unless
17 additional information is required.

18 (b) In determining whether an activity is financially related,
19 the commissioner shall consider:

- 20 (1) The ability of financial institutions to exercise any
21 additional powers in a safe and sound manner;
- 22 (2) The authority of national or state banks, federal or state
23 thrifts, federal credit unions and other financial service providers
24 operating pursuant to federal law or regulation or the laws of
25 other states to provide the financially related service; and
- 26 (3) Any specific limitations on financial institution opera-
27 tions or powers contained in this chapter.
- 28 (c) If a state-chartered banking institution or bank holding
29 company must make prior application to a federal bank regula-
30 tory agency for approval to engage in a financially related
31 activity, the banking institution or bank holding company shall
32 file with the commissioner a copy of the application submitted
33 to the federal agency.
- 34 (d) The commissioner shall include a list of every financially
35 related activity authorized pursuant to this section during the
36 previous twelve months in his or her annual report to the
37 Legislature.

CHAPTER 17

**(Com. Sub. for H. B. 3020 - By Delegates Miley,
Iaquinta, Longstreth, Guthrie, White, Boggs, Caputo,
Skaff, P. Smith, Moye and Ferro)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §20-9-1, §20-9-2, §20-9-3,

§20-9-4, §20-9-5 and §20-9-6, all relating to boat dock and marina safety; defining terms; requiring certain signage at certain boat docks and marinas; requiring compliance with certain safety standards on electrical work and electrical wiring at certain boat docks and marinas; requiring certain work by certain certified electricians; establishing a date for compliance; requiring certain enforcement; providing rule-making authority and authorizing emergency rules; providing penalties for certain violations; and creating a misdemeanor offense for violation of certain sections.

PREAMBLE

THIS LEGISLATION SHALL BE KNOWN AS THE "MICHAEL CUNNINGHAM ACT." WHEREAS, WEST VIRGINIA IS KNOWN FOR ITS BEAUTIFUL AND ABUNDANT WATERWAYS, LAKES AND RIVERS, WHICH PROVIDE A DRAW FOR TOURISM AND A BOOST FOR OUR ECONOMY; AND

WHEREAS, OUR WATERWAYS, LAKES AND RIVERS SHOULD BE A SAFE PLACE FOR CHILDREN AND FAMILIES TO ENJOY; AND

WHEREAS, THERE HAVE BEEN CASES RECENTLY WHERE CHILDREN HAVE DIED BECAUSE THE WATER WHERE THEY WERE SWIMMING WAS ELECTRIFIED BY THE UNGROUNDED AND IMPROPER CONNECTION OF ELECTRICITY TO BOAT DOCKS AND MARINAS; AND

WHEREAS, ELECTRICITY AND WATER CREATE A DEADLY COMBINATION THAT CAN PARALYZE A SWIMMER WHICH CAN RESULT IN THE SWIMMER DROWNING; AND WHEREAS, CHILDREN WHO ARE SWIMMING ARE PARTICULARLY VULNERABLE TO ELECTROCUTION AND SHOCK IN THE WATER; AND

WHEREAS, BRINGING BOAT DOCKS AND MARINAS UP TO THE NATIONAL FIRE PROTECTION ASSOCIATION AND

NATIONAL ELECTRIC CODE STANDARDS FOR MARINAS AND BOATYARDS IS NECESSARY FOR THE PROTECTION AND SAFETY OF ALL OF THOSE WHO ENJOY OUR WATERWAYS, LAKES AND RIVERS FOR RECREATION AND TO PROTECT OUR TOURISM INDUSTRY.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §20-9-1, §20-9-2, §20-9-3, §20-9-4, §20-9-5 and §20-9-6, all to read as follows:

ARTICLE 9. BOAT DOCK AND MARINA SAFETY REQUIREMENTS — THE MICHAEL CUNNINGHAM ACT.

§20-9-1. Definitions.

- 1 As used in this article:
- 2 (1) "ABYC" means the American Boat and Yacht Council;
- 3 (2) "Boat dock" means a man-made structure that protrudes
4 into a body of water for the purpose of mooring a boat or for
5 other water-related recreation, including boat liveries, and that
6 is connected to an electrical power source in any manner:
7 *Provided*, That "boat dock" does not include structures that are
8 privately owned and used exclusively by the owner or the
9 owner's guests for non-commercial purposes;
- 10 (3) "Boat dock or marina owner or operator" means any
11 person who:
- 12 (A) Has an ownership interest in a boat dock or marina,
13 other than a lienholder; or
- 14 (B) Operates a boat dock or marina;

15 (4) “Ground fault circuit interrupter” means a device that
16 functions to de-energize a circuit, or a portion thereof, within an
17 established period of time when current to ground exceeds a
18 predetermined value that is less than required to operate the over
19 current protective device of the supply circuit;

20 (5) “Marina” means a dock including a boat dock or basin
21 providing moorings for motorboats and offering supply, repair
22 or other services, including electrical power supply, for remunera-
23 tion: *Provided*, That “marina” does not include docks that are
24 privately owned and used exclusively by the owner or the
25 owner’s guests for non-commercial purposes;

26 (6) “Motorboat” means any vessel propelled by an electrical,
27 steam, gas, diesel or other propelled or driven motor, whether or
28 not the motor is the principal source of propulsion, but does not
29 include a vessel with a valid marine document issued by the
30 United States Bureau of Customs or any federal agency that is
31 the successor to the Bureau of Customs;

32 (7) “Person” means an individual, partnership, firm, corpora-
33 tion, association or other entity; and

34 (8) “Vessel” means every description of watercraft, other
35 than a seaplane on the water, used or capable of being used as a
36 means of transportation on the water.

§20-9-2. Boat Dock and Marina Safety Requirements - Swimming and Signage.

1 All boat dock or marina owners or operators shall install
2 permanent safety signage with print legible at eighty feet of
3 distance and placed to give adequate notice, to persons using the
4 boat dock or marina or swimming near the boat dock or marina,
5 of the electric shock hazard risks of the waters around the boat
6 dock or marina. The signage shall state: “ELECTRIC SHOCK

7 HAZARD RISK: NO SWIMMING WITHIN 100 YARDS OF
8 THE BOAT DOCK”.

§20-9-3. Boat Dock and Marina Safety Requirements-Electrical Shock and Electrocutation.

1 All boat dock or marina owners or operators shall comply
2 with the following requirements to prevent electrical shock,
3 electrocution or injury to users of their facilities and the sur-
4 rounding areas:

5 (1) All electrical wiring involving 110 AC or 220 AC shall
6 be installed by and maintained by a holder of a valid West
7 Virginia journeyman electrician license or master electrician
8 license in accordance with the most recently adopted versions of
9 the National Fire Protection Association’s Standards for Marinas
10 and Boatyards (NFPA 303) and the National Electric Code
11 (NFPA 70);

12 (2) Install ground fault circuit interrupters on all boat dock
13 and marina electrical wiring circuits; and

14 (3) Cause an inspection before August 1, 2014 and at least
15 once every three years thereafter by a West Virginia licensed
16 electrical inspector of all sources of electrical supply, including
17 ship-to-shore power pedestals, submergible pumps, and sewage
18 pump-out facilities, that could result in unsafe electrical current
19 in the water.

§20-9-4. Compliance date and enforcement.

1 Each boat dock and marina shall be in full compliance with
2 this article by August 1, 2014. The penalties contained in section
3 seven of this article apply only to conduct on or after August 1,
4 2014. Enforcement of sections three and four of this article

5 regarding the work of electricians shall be conducted by the
6 State Fire Marshal.

§20-9-5. Rule-making Authority.

1 The State Fire Marshal may promulgate emergency rules
2 pursuant to the provisions of section fifteen, article three, chapter
3 twenty-nine-a of this code and shall propose rules for legislative
4 approval in accordance with the provisions of article three,
5 chapter twenty-nine-a of this code to implement the provisions
6 of this article and incorporate boat dock and marina safety
7 standards for electricians, including but not limited to the
8 National Fire Protection Association's Standards for Marinas
9 and Boatyards (NFPA 303), Article 555 of the National Electric
10 Code and ABYC Standards Projects E-2, E-10 and E-11, as
11 appropriate to the West Virginia waterways.

§20-9-6. Penalties.

1 (a) A boat dock or marina owner or operator who violates
2 sections two or three of this article and the violation does not
3 result in the injury or death of a person, shall, for the first
4 offense, be issued a warning citation with no court appearance or
5 penalty, and for a second or subsequent offense, be fined \$100.
6 After a boat dock or marina owner or operator is put on notice of
7 a violation of sections two or three of this article and is directed
8 to cure the violation within a certain amount of time, each and
9 every day that the violation continues after the time given to cure
10 shall constitute a separate offense.

11 (b) A boat dock or marina owner or operator who violates
12 sections two or three of this article, and the violation results in
13 the injury of a person, shall be guilty of a misdemeanor and,
14 upon conviction, shall be fined not more than \$500, and for a
15 second offense or subsequent offense shall be fined not more
16 than \$1,000 or confined in jail for not more than six months, or
17 both fined and confined.

18 (c) A boat dock or marina owner who violates sections two
19 or three of this article, and the violation results in the death of a
20 person, shall be guilty of a misdemeanor and upon conviction,
21 shall fined not more than \$1,000 or confined in jail for not more
22 than one year, or both fined and confined.

CHAPTER 18

**(Com. Sub. for H. B. 2979 - By Delegates Boggs,
Skaff, E. Nelson, White, Morgan, M. Poling and Miley)**

[Passed April 12, 2013; in effect ninety days from passage.]
[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §31-15C-2, §31-15C-4, §31-15C-8, §31-15C-9 and §31-15C-10 of the Code of West Virginia, 1931, as amended, all relating to the Broadband Deployment Council; modifying and adding definitions; clarifying that the data rate for broadband will be the same as specified by the Federal Communications Commission; requiring annual reports to the Joint Committee on Government and Finance; extending the council's public outreach and education efforts beyond unserved areas; rule-making and emergency rule-making authority; revising the council's guidelines and criteria for funding assistance; modifying the application process for project assistance; and revising notice and publication requirements.

Be it enacted by the Legislature of West Virginia:

That §31-15C-2, §31-15C-4, §31-15C-8, §31-15C-9 and §31-15C-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 15C. BROADBAND DEPLOYMENT.**§31-15C-2. Definitions.**

1 For the purposes of this article:

2 (1) “Broadband” or “broadband service” means any service
3 providing advanced telecommunications capability with the
4 same downstream data rate and upstream data rate as is specified
5 by the Federal Communications Commission and that does not
6 require the end-user to dial up a connection that has the capacity
7 to always be on, and for which the transmission speeds are based
8 on regular available bandwidth rates, not sporadic or burstable
9 rates, with latency suitable for real-time applications and
10 services such as VoIP and video conferencing, and with monthly
11 usage capacity reasonably comparable to that of residential
12 terrestrial fixed broadband offerings in urban areas: *Provided,*
13 That as the Federal Communications Commission updates the
14 downstream data rate and the upstream data rate the Council will
15 publish the revised data rates in the State Register within sixty
16 days of the federal update.

17 (2) “Broadband demand promotion project” means a
18 statewide or regional project to undertake activities to promote
19 demand for broadband services and broadband applications.

20 (3) “Broadband deployment project” means a project to
21 provide broadband services in a type 2 and/or type 3 unserved
22 area, as defined in section six of this article.

23 (4) “Council” means the Broadband Deployment Council.

24 (5) “Downstream data rate” means the transmission speed
25 from the service provider source to the end-user.

26 (6) “Upstream data rate” means the transmission speed from
27 the end-user to the service provider source.

28 (7) “Unserved area” means a community that has no access
29 to broadband service.

§31-15C-4. Powers and duties of the council generally.

1 (a) The council shall:

2 (1) Explore the potential for increased use of broadband
3 service for the purposes of education, career readiness,
4 workforce preparation and alternative career training;

5 (2) Explore ways for encouraging state and municipal
6 agencies to expand the development and use of broadband
7 services for the purpose of better serving the public, including
8 audio and video streaming, voice-over Internet protocol,
9 teleconferencing and wireless networking; and

10 (3) Cooperate and assist in the expansion of electronic
11 instruction and distance education services by July 2014.

12 (b) In addition to the powers set forth elsewhere in this
13 article, the council is hereby granted, has and may exercise all
14 powers necessary or appropriate to carry out and effectuate the
15 purpose and intent of this article. The council shall have the
16 power and capacity to:

17 (1) Provide consultation services to project sponsors in
18 connection with the planning, acquisition, improvement,
19 construction or development of any broadband deployment
20 project;

21 (2) Promote awareness of public facilities that have commu-
22 nity broadband access that can be used for distance education
23 and workforce development;

24 (3) Advise on deployment of e-government portals such that
25 all public bodies and political subdivisions have homepages,

26 encourage one-stop government access and that all public
27 entities stream audio and video of all public meetings;

28 (4) To make and execute contracts, commitments and other
29 agreements necessary or convenient for the exercise of its
30 powers, including, but not limited to, the hiring of consultants to
31 assist in the mapping of the state, categorization of areas within
32 the state and evaluation of project applications: *Provided*, That
33 the provisions of article three, chapter five-a of this code do not
34 apply to the agreements and contracts executed under the
35 provisions of this article;

36 (5) Acquire by gift or purchase, hold or dispose of real
37 property and personal property in the exercise of its powers and
38 performance of its duties as set forth in this article;

39 (6) Receive and dispense funds appropriated for its use by
40 the Legislature or other funding sources or solicit, apply for and
41 receive any funds, property or services from any person,
42 governmental agency or organization to carry out its statutory
43 duties; and

44 (7) Perform any and all other activities in furtherance of its
45 purpose.

46 (c) The council shall exercise its powers and authority to
47 bring broadband service to unserved areas. The council may not
48 duplicate or displace broadband service in areas already served
49 or where private industry feasibly can be expected to offer
50 services in the reasonably foreseeable future.

51 In providing governmental funding for broadband deploy-
52 ment projects, the council shall give priority to funding for
53 projects in areas without access to broadband service of any type
54 or any speed before providing governmental funding for projects
55 in areas with existing broadband service below the minimum
56 speeds specified in section two of this article.

57 (d) The council shall report to the Joint Committee on
58 Government and Finance on or before January 1 of each year.
59 The report shall include the action that was taken by the council
60 during the previous year in carrying out the provisions of this
61 article. The council shall also make any other reports as may be
62 required by the Legislature or the Governor.

§31-15C-8. Stimulation of demand through public outreach and education.

1 In order to implement and carry out the intent of this article,
2 the council may take such actions as it deems necessary or
3 advisable in order to stimulate demand through public outreach
4 and education. The council shall consider the views, if offered,
5 of affected members of the public, including private industry.

§31-15C-9. Development of guidelines and application for funding assistance; emergency rule-making authority.

1 (a) In order to implement and carry out the intent of this
2 article in type 2 and type 3 unserved areas, the council shall
3 propose rules for legislative approval, pursuant to the provisions
4 of article three, chapter twenty-nine-a of this code, to develop
5 comprehensive, uniform guidelines for use by the council in
6 evaluating any request by a project sponsor for funding assis-
7 tance to plan, acquire, construct, improve or otherwise develop
8 and execute a broadband deployment project in a type 2 or type
9 3 unserved area. The council may promulgate emergency rules
10 pending authorization of the legislative rules.

11 (b) The guidelines shall include the following:

12 (1) The cost-effectiveness of the project;

13 (2) The economic development benefits of the project;

14 (3) The availability of alternative sources of funding that
15 could help finance the project, including, but not limited to,

16 private grants or federal funding and the efforts undertaken to
17 obtain such funding;

18 (4) If the project requires the construction of a network, the
19 applicant's ability to operate and maintain such network;

20 (5) The degree to which the project advances statewide
21 broadband access and other state broadband planning goals;

22 (6) If the project involves the construction of a network, the
23 proposed technologies, bandwidths, upstream data rates and
24 downstream data rates;

25 (7) The estimated dates the project would commence and be
26 completed;

27 (8) How the proposed project compares to alternative
28 proposals for the same unserved area with regard to the number
29 of people served, the amount of financial assistance sought, and
30 the long-term viability of the proposed project; and

31 (9) Any other consideration the council deems pertinent in
32 evaluating requests for funding assistance.

33 (c) Under no circumstances may the council's guidelines
34 allow for the approval of any project for broadband service
35 involving the construction of a network that does not meet the
36 minimum specifications for broadband service as set by the
37 Federal Communications Commission.

38 (d) The council shall create an application form that shall be
39 used by all project sponsors requesting funding assistance from
40 the council to plan, acquire, construct, improve or otherwise
41 develop and execute broadband deployment projects in type 2 or
42 type 3 unserved areas or broadband demand promotion projects.
43 The application form shall advise applicants of information
44 required by state agencies that will issue permits and certificates
45 regarding the project.

46 (e) The application form shall require the project sponsor to
47 set forth:

48 (1) The proposed location of the project;

49 (2) If the project involves the construction of a network, the
50 type(s) of unserved area(s) the project proposes to address;

51 (3) The estimated total cost of the project;

52 (4) The amount of funding assistance required and the
53 specific uses of the funding;

54 (5) Other sources of funding available or potentially
55 available for the project;

56 (6) Information demonstrating the need for the project;

57 (7) That the proposed funding of the project is the most
58 economically feasible and viable alternative to completing the
59 project; and

60 (8) Such other information as the council considers neces-
61 sary.

**§31-15C-10. Requirements for project funding assistance; review
of project application by council; competitive
applications.**

1 (a) As determined by the council, project sponsors may
2 submit applications for funding assistance.

3 (b) Broadband deployment projects, including projects
4 involving the construction of a network, may be submitted for
5 type 2 and/or type 3 unserved areas as those areas are catego-
6 rized pursuant to section six of this article. Broadband demand
7 promotion projects may be submitted on a statewide or regional
8 basis.

9 (c) When a completed application is received for a project
10 area, the council shall post notice with the Secretary of State of
11 the first completed application received for that project area. The
12 notice shall be published in the State Register for sixty days to
13 allow for competing applications to be submitted to the council.

14 (d) Within thirty days of the close of the sixty-day notice
15 period, the council shall review all applications timely received
16 during the sixty-day period and either:

17 (1) Approve funding for one or more projects after determin-
18 ing that the funding would constitute an appropriate investment
19 of public funds; or

20 (2) Deny the project funding request if the council deter-
21 mines that:

22 (A) The application does not contain all of the required
23 information;

24 (B) Is incomplete;

25 (C) A proposed project is not eligible for funding assistance;
26 or

27 (D) The proposed project is otherwise not an appropriate or
28 prudent investment of state funds.

29 (e) Prior to approving or denying any funding request, the
30 council may seek the advice of any expert consultant retained
31 pursuant to section seven of this article, but the council is not
32 bound by that advice. The council shall also consider the views,
33 if offered, of affected members of the public, including private
34 industry.

35 (f) To apply for or receive any funding assistance for a
36 broadband deployment project or a broadband demand promo-

37 tion project from the council pursuant to this section, the project
38 sponsor seeking the funding assistance shall submit a completed
39 application to the council on the form prepared for such purpose
40 by the council pursuant to section nine of this article.

41 (g) In reviewing each application, the council may use the
42 engineering, financial and technical expertise of outside consul-
43 tants in addition to the respective staffs of the government
44 agencies and private-sector entities represented on the council or
45 other government agencies.

46 (h) Notwithstanding any provision of article fifteen-a,
47 chapter thirty-one or any other provision of this code, broadband
48 deployment project proposals and broadband demand promotion
49 project proposals submitted to the council for its consideration
50 pursuant to this article and the council's decisions with regard to
51 such projects shall not be subject to review by the West Virginia
52 Infrastructure and Jobs Development Council.

CHAPTER 19

(S. B. 407 - By Senator Stollings)

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §48-18-132 of the Code of West Virginia, 1931, as amended, relating to child support enforcement; locating parents for the purpose of establishing paternity or for establishing support; locating parents for the purpose of modifying,

enforcing or distributing proceeds from support orders; and authorizing the Bureau for Child Support Enforcement to obtain names of addresses of customers and customer employers from customer records maintained by telephone companies and cellular telephone companies by administrative subpoena.

Be it enacted by the Legislature of West Virginia:

That §48-18-132 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 18. BUREAU FOR CHILD SUPPORT ENFORCEMENT.

§48-18-132. Access to information.

1 (a) All state, county and municipal agencies' offices and
2 employers, including profit, nonprofit and governmental
3 employers, receiving a request for information and assistance
4 from the Bureau for Child Support Enforcement or any out-of-
5 state agency administering a program under Title IV-D of the
6 Social Security Act shall cooperate with the bureau or with the
7 out-of-state agency in the location of parents who have aban-
8 doned and deserted children and shall provide the bureau or the
9 out-of-state agency with all available pertinent information
10 concerning the location, income and property of those parents.

11 (b) Notwithstanding any other provision of law to the
12 contrary, any entity conducting business in this state or incorpo-
13 rated under the laws of this state shall, upon certification by the
14 bureau or any out-of-state agency administering a program under
15 Title IV-D of the Social Security Act that the information is
16 needed to locate a parent for the purpose of collecting or
17 distributing child support, provide the bureau or the out-of-state
18 agency with the following information about the parent: Full
19 name, Social Security number, date of birth, home address,
20 wages and number of dependents listed for income tax purposes:
21 *Provided*, That no entity may provide any information obtained

22 in the course of providing legal services, medical treatment or
23 medical services.

24 (c) (1) The Bureau for Child Support Enforcement shall have
25 access, subject to safeguards on privacy and information
26 security, and to the nonliability of entities that afford such access
27 under this subdivision, to information contained in the following
28 records, including automated access, in the case of records
29 maintained in automated databases:

30 (A) Records of other state and local government agencies,
31 including, but not limited to:

32 (i) Vital statistics, including records of marriage, birth and
33 divorce;

34 (ii) State and local tax and revenue records, including
35 information on residence address, employer, income and assets;

36 (iii) Records concerning real and titled personal property;

37 (iv) Records of occupational and professional licenses and
38 records concerning the ownership and control of corporations,
39 partnerships and other business entities;

40 (v) Employment security records;

41 (vi) Records of agencies administering public assistance
42 programs;

43 (vii) Records of the Division of Motor Vehicles; and

44 (viii) Corrections records.

45 (B) Certain records held by private entities with respect to
46 individuals who owe or are owed support or certain individuals
47 against, or with respect to, whom a support obligation is sought,
48 consisting of:

49 (i) The names and addresses of such individuals and the
50 names and addresses of the employers of such individuals, as
51 appearing in the customer records of public utilities, cable
52 television companies, telephone companies and cellular tele-
53 phone companies, pursuant to an administrative subpoena
54 authorized by section one hundred twenty-three, article eighteen
55 of this chapter; and

56 (ii) Information, including information on assets and
57 liabilities, on such individuals held by financial institutions.

58 (2) Out-of-state agencies administering programs under Title
59 IV-D of the Social Security Act shall, without the need for any
60 court order, have the authority to access records in this state by
61 making a request through the Bureau for Child Support Enforce-
62 ment.

63 (d) All federal and state agencies conducting activities under
64 Title IV-D of the Social Security Act shall have access to any
65 system used by this state to locate an individual for purposes
66 relating to motor vehicles or law enforcement.

67 (e) Out-of-state agencies administering programs under Title
68 IV-D of the Social Security Act shall have the authority and right
69 to access and use, for the purpose of establishing or enforcing a
70 support order, the state law-enforcement and motor vehicle
71 databases.

72 (f) The Bureau for Child Support Enforcement and out-of-
73 state agencies administering programs under Title IV-D of the
74 Social Security Act shall have the authority and right to access
75 and use, for the purpose of establishing or enforcing a support
76 order, interstate networks that state law-enforcement agencies
77 and motor vehicle agencies subscribe to or participate in, such as
78 the National Law-Enforcement Telecommunications System

79 (NLETS) and the American Association of Motor Vehicle
80 Administrators (AAMVA) networks.

81 (g) No state, county or municipal agency or licensing board
82 required to release information pursuant to the provisions of this
83 section to the Bureau for Child Support Enforcement or to any
84 out-of-state agency administering programs under Title IV-D of
85 the Social Security Act may require the Bureau for Child
86 Support Enforcement or any out-of-state agency to obtain a court
87 order prior to the release of the information.

88 (h) Any information received pursuant to the provisions of
89 this section is subject to the confidentiality provisions set forth
90 in section 18-131 of this chapter.



CHAPTER 20

(S. B. 601 - By Senators Cookman, Walters and Stollings)

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §49-5-2 and §49-5-18 of the Code of West Virginia, 1931, as amended, all relating to juvenile offenders; extending circuit court jurisdiction over juvenile status offenders adjudicated delinquent for habitual truancy until the juvenile reaches twenty-one years of age or completes a court ordered education plan; establishing an age limit on adjudicated juveniles attending regular, nonalternative classes; keeping the records of a juvenile proceeding confidential; and removing the requirement of sealing the records.

Be it enacted by the Legislature of West Virginia:

That §49-5-2 and §49-5-18 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. JUVENILE PROCEEDINGS.

§49-5-2. Juvenile jurisdiction of circuit courts, magistrate courts and municipal courts; constitutional guarantees; hearings; evidence and transcripts.

1 (a) The circuit court has original jurisdiction of proceedings
2 brought under this article.

3 (b) If during a criminal proceeding in any court it is ascer-
4 tained or appears that the defendant is under the age of nineteen
5 years and was under the age of eighteen years at the time of the
6 alleged offense, the matter shall be immediately certified to the
7 juvenile jurisdiction of the circuit court. The circuit court shall
8 assume jurisdiction of the case in the same manner as cases
9 which are originally instituted in the circuit court by petition.

10 (c) Notwithstanding any other provision of this article,
11 magistrate courts have concurrent juvenile jurisdiction with the
12 circuit court for a violation of a traffic law of West Virginia, for
13 a violation of section nine, article six, chapter sixty, section three
14 or section four, article nine-a, chapter sixteen, or section
15 nineteen, article sixteen, chapter eleven of this code, or for any
16 violation of chapter twenty of this code. Juveniles are liable for
17 punishment for violations of these laws in the same manner as
18 adults except that magistrate courts have no jurisdiction to
19 impose a sentence of incarceration for the violation of these
20 laws.

21 (d) Notwithstanding any other provision of this article,
22 municipal courts have concurrent juvenile jurisdiction with the
23 circuit court for a violation of any municipal ordinance regulat-

24 ing traffic, for any municipal curfew ordinance which is enforce-
25 able or for any municipal ordinance regulating or prohibiting
26 public intoxication, drinking or possessing alcoholic liquor or
27 nonintoxicating beer in public places, any other act prohibited by
28 section nine, article six, chapter sixty or section nineteen, article
29 sixteen, chapter eleven of this code or underage possession or
30 use of tobacco or tobacco products, as provided in article nine-a,
31 chapter sixteen of this code. Municipal courts may impose the
32 same punishment for these violations as a circuit court exercis-
33 ing its juvenile jurisdiction could properly impose, except that
34 municipal courts have no jurisdiction to impose a sentence of
35 incarceration for the violation of these laws.

36 (e) A juvenile may be brought before the circuit court for
37 proceedings under this article only by the following means:

38 (1) By a juvenile petition requesting that the juvenile be
39 adjudicated as a status offender or a juvenile delinquent; or

40 (2) By certification or transfer to the juvenile jurisdiction of
41 the circuit court from the criminal jurisdiction of the circuit
42 court, from any foreign court, or from any magistrate court or
43 municipal court in West Virginia.

44 (f) (1) If a juvenile commits an act which would be a crime
45 if committed by an adult, and the juvenile is adjudicated
46 delinquent for that act, the jurisdiction of the court which
47 adjudged the juvenile delinquent continues until the juvenile
48 becomes twenty-one years of age. The court has the same power
49 over that person that it had before he or she became an adult, and
50 has the further power to sentence that person to a term of
51 incarceration: *Provided*, That any such term of incarceration may
52 not exceed six months. This authority does not preclude the court
53 from exercising criminal jurisdiction over that person if he or she
54 violates the law after becoming an adult or if the proceedings
55 have been transferred to the court's criminal jurisdiction
56 pursuant to section ten of this article.

57 (2) If a juvenile is adjudicated as a status offender because
58 he or she is habitually absent from school without good cause,
59 the jurisdiction of the court which adjudged the juvenile a status
60 offender continues until either the juvenile becomes twenty-one
61 years of age, completes high school, completes a high school
62 equivalent or other education plan approved by the court, or the
63 court otherwise voluntarily relinquishes jurisdiction, whichever
64 occurs first. If the jurisdiction of the court is extended pursuant
65 to this subdivision, the court has the same power over that
66 person that it had before he or she became an adult: *Provided,*
67 That no person so adjudicated who has attained the age of
68 nineteen may be ordered to attend school in a regular,
69 nonalternative setting.

70 (g) A juvenile is entitled to be admitted to bail or recogni-
71 zance in the same manner as an adult and shall be afforded the
72 protection guaranteed by Article III of the West Virginia
73 Constitution.

74 (h) A juvenile has the right to be effectively represented by
75 counsel at all stages of proceedings under the provisions of this
76 article. If the juvenile or the juvenile's parent or custodian
77 executes an affidavit showing that the juvenile cannot afford an
78 attorney, the court shall appoint an attorney, who shall be paid
79 in accordance with article twenty-one, chapter twenty-nine of
80 this code.

81 (i) In all proceedings under this article, the juvenile shall be
82 afforded a meaningful opportunity to be heard. This includes the
83 opportunity to testify and to present and cross-examine wit-
84 nesses. The general public shall be excluded from all proceed-
85 ings under this article except that persons whose presence is
86 requested by the parties and other persons whom the circuit court
87 determines have a legitimate interest in the proceedings may
88 attend: *Provided,* That in cases in which a juvenile is accused of
89 committing what would be a felony if the juvenile were an adult,

90 an alleged victim or his or her representative may attend any
91 related juvenile proceedings, at the discretion of the presiding
92 judicial officer: *Provided, however,* That in any case in which
93 the alleged victim is a juvenile, he or she may be accompanied
94 by his or her parents or representative, at the discretion of the
95 presiding judicial officer.

96 (j) At all adjudicatory hearings held under this article, all
97 procedural rights afforded to adults in criminal proceedings shall
98 be afforded the juvenile unless specifically provided otherwise
99 in this chapter.

100 (k) At all adjudicatory hearings held under this article, the
101 rules of evidence applicable in criminal cases apply, including
102 the rule against written reports based upon hearsay.

103 (l) Except for res gestae, extrajudicial statements made by a
104 juvenile who has not attained fourteen years of age to
105 law-enforcement officials or while in custody are not admissible
106 unless those statements were made in the presence of the
107 juvenile's counsel. Except for res gestae, extrajudicial statements
108 made by a juvenile who has not attained sixteen years of age but
109 who is at least fourteen years of age to law-enforcement officers
110 or while in custody, are not admissible unless made in the
111 presence of the juvenile's counsel or made in the presence of,
112 and with the consent of, the juvenile's parent or custodian, and
113 the parent or custodian has been fully informed regarding the
114 juvenile's right to a prompt detention hearing, the juvenile's
115 right to counsel, including appointed counsel if the juvenile
116 cannot afford counsel, and the juvenile's privilege against
117 self-incrimination.

118 (m) A transcript or recording shall be made of all transfer,
119 adjudicatory and dispositional hearings held in circuit court. At
120 the conclusion of each of these hearings, the circuit court shall
121 make findings of fact and conclusions of law, both of which shall

122 appear on the record. The court reporter shall furnish a transcript
123 of the proceedings at no charge to any indigent juvenile who
124 seeks review of any proceeding under this article if an affidavit
125 is filed stating that neither the juvenile nor the juvenile's parents
126 or custodian have the ability to pay for the transcript.

§49-5-18. Confidentiality of juvenile records.

1 (a) One year after the juvenile's eighteenth birthday, or one
2 year after personal or juvenile jurisdiction has terminated,
3 whichever is later, the records of a juvenile proceeding con-
4 ducted under this chapter, including, but not limited to,
5 law-enforcement files and records, may be kept in a separate
6 secure confidential place and the records may not be inspected
7 except by order of the circuit court.

8 (b) The records of a juvenile proceeding in which a juvenile
9 was transferred to criminal jurisdiction pursuant to the provi-
10 sions of section ten of this article shall be kept in a separate
11 secure confidential place and the records may not be inspected
12 except by order of the circuit court if the juvenile is subsequently
13 acquitted or found guilty only of an offense other than an offense
14 upon which the waiver or order of transfer was based, or if the
15 offense upon which the waiver or order of transfer was based is
16 subsequently dismissed.

17 (c) To keep the confidentiality of juvenile records, they shall
18 be returned to the circuit court in which the case was pending
19 and be kept in a separate confidential file. The records shall be
20 physically marked to show that they are to remain confidential
21 and shall be securely kept and filed in a manner so that no one
22 can have access to determine the identity of the juvenile, except
23 upon order of the circuit court.

24 (d) Marking the juvenile records to show they are to remain
25 confidential has the legal effect of extinguishing the offense as
26 if it never occurred.

27 (e) The records of a juvenile convicted under the criminal
28 jurisdiction of the circuit court pursuant to subdivision (1),
29 subsection (d), section ten of this article may not be marked and
30 kept as confidential.

31 (f) Any person who willfully violates this section is guilty of
32 a misdemeanor and, upon conviction thereof, shall be fined not
33 more than \$1,000, or confined in jail for not more than six
34 months, or both so fined and confined, and is liable for damages
35 in the amount of \$300 or actual damages, whichever is greater.



CHAPTER 21

**(H. B. 2780 - By Delegates Miley, Skinner, Poore,
Manchin, Hunt and Barill)**

[By Request of the Supreme Court of Appeals]

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT to amend and reenact §49-5D-3 and §49-5D-3c of the Code of West Virginia, 1931, as amended, all relating generally to multidisciplinary team meetings for juveniles committed to the custody of the West Virginia Division of Juvenile Services; requiring such meetings be held quarterly; authorizing the directors of detention centers to call such meetings in certain circumstances; requiring assessments be provided in all cases to the court and team members; and requiring that team members be notified that he or she may participate in team meetings electronically.

Be it enacted by the Legislature of West Virginia:

That §49-5D-3 and §49-5D-3c of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 5D. MULTIDISCIPLINARY TEAMS.

§49-5D-3. Multidisciplinary treatment planning process.

1 (a) (1) A multidisciplinary treatment planning process for
2 cases initiated pursuant to articles five and six of this chapter
3 shall be established within each county of the state, either
4 separately or in conjunction with a contiguous county, by the
5 secretary of the department with advice and assistance from the
6 prosecutor's advisory council as set forth in section four, article
7 four, chapter seven of this code. The Division of Juvenile
8 Services shall establish a similar treatment planning process for
9 delinquency cases in which the juvenile has been committed to
10 its custody, including those cases in which the juvenile has been
11 committed for examination and diagnosis.

12 (2) The provisions of this section do not require a
13 multidisciplinary team meeting to be held prior to temporarily
14 placing a child or juvenile out-of-home under exigent circum-
15 stances or upon a court order placing a juvenile in a facility
16 operated by the Division of Juvenile Services.

17 (b) The case manager in the Department of Health and
18 Human Resources for the child, family or juvenile or the case
19 manager in the Division of Juvenile Services for a juvenile shall
20 convene a treatment team in each case when it is required
21 pursuant to this article.

22 Prior to disposition, in each case in which a treatment
23 planning team has been convened, the team shall advise the court
24 as to the types of services the team has determined are needed
25 and the type of placement, if any, which will best serve the needs

26 of the child. If the team determines that an out-of-home place-
27 ment will best serve the needs of the child, the team shall first
28 consider placement with appropriate relatives then with foster
29 care homes, facilities or programs located within the state. The
30 team may only recommend placement in an out-of-state facility
31 if it concludes, after considering the best interests and overall
32 needs of the child, that there are no available and suitable in-
33 state facilities which can satisfactorily meet the specific needs of
34 the child.

35 Any person authorized by the provisions of this chapter to
36 convene a multidisciplinary team meeting may seek and receive
37 an order of the circuit court setting such meeting and directing
38 attendance. Members of the multidisciplinary team may partici-
39 pate in team meetings by telephone or video conferencing:
40 *Provided*, That the provisions of this subsection do not prevent
41 the respective agencies from designating a person other than the
42 case manager as a facilitator for treatment team meetings:
43 *Provided however*, That written notice shall be provided to all
44 team members of the availability to participate by
45 videoconferencing.

46 (c) The treatment team shall coordinate its activities and
47 membership with local family resource networks and coordinate
48 with other local and regional child and family service planning
49 committees to assure the efficient planning and delivery of child
50 and family services on a local and regional level.

51 (d) The multidisciplinary treatment team shall be afforded
52 access to information in the possession of the Department of
53 Health and Human Resources, Division of Juvenile Services,
54 law-enforcement agencies and other state, county and local
55 agencies; and the agencies shall cooperate in the sharing of
56 information, as may be provided in sections three(d) and six,
57 article five-d and section one, article seven, all of chapter forty-
58 nine, and any other relevant provision of law. Any
59 multidisciplinary team member who acquires confidential

60 information shall not disclose such information except as
61 permitted by the provisions of this code or court rules.

§49-5D-3c. Multidisciplinary treatment process for status offenders or delinquents.

1 (1) When a juvenile is adjudicated as a status offender
2 pursuant to section eleven-d, article five of this chapter, the
3 Department of Health and Human Resources shall promptly
4 convene a multidisciplinary treatment team and conduct an
5 assessment, utilizing a standard uniform comprehensive assess-
6 ment instrument or protocol, to determine the juvenile's mental
7 and physical condition, maturity and education level, home and
8 family environment, rehabilitative needs and recommended
9 service plan, which shall be provided in writing to the court and
10 team members. Upon completion of the assessment, the treat-
11 ment team shall prepare and implement a comprehensive,
12 individualized service plan for the juvenile.

13 (2) When a juvenile is adjudicated as a delinquent or has
14 been granted an improvement period pursuant to section nine,
15 article five of this chapter, the court, either upon its own motion
16 or motion of a party, may require the Department of Health and
17 Human Resources to convene a multidisciplinary treatment team
18 and conduct an assessment, utilizing a standard uniform compre-
19 hensive assessment instrument or protocol, to determine the
20 juvenile's mental and physical condition, maturity and education
21 level, home and family environment, rehabilitative needs and
22 recommended service plan, which shall be provided in writing
23 to the court and team members. A referral to the Department of
24 Health and Human Resources to convene a multidisciplinary
25 treatment team and to conduct such an assessment shall be made
26 when the court is considering placing the juvenile in the depart-
27 ment's custody or placing the juvenile out-of-home at the
28 department's expense pursuant to section thirteen, article five of
29 this chapter. In any delinquency proceeding in which the court

30 requires the Department of Health and Human Resources to
31 convene a multidisciplinary treatment team, the probation officer
32 shall notify the department at least fifteen working days before
33 the court proceeding in order to allow the department sufficient
34 time to convene and develop an individualized service plan for
35 the juvenile.

36 (3) When a juvenile has been adjudicated and committed to
37 the custody of the Director of the Division of Juvenile Services,
38 including those cases in which the juvenile has been committed
39 for examination and diagnosis, the Division of Juvenile Services
40 shall promptly convene a multidisciplinary treatment team and
41 conduct an assessment, utilizing a standard uniform comprehen-
42 sive assessment instrument or protocol, to determine the
43 juvenile's mental and physical condition, maturity and education
44 level, home and family environment, rehabilitative needs and
45 recommended service plan. Upon completion of the assessment,
46 the treatment team shall prepare and implement a comprehen-
47 sive, individualized service plan for the juvenile, which shall be
48 provided in writing to the court and team members. In cases
49 where the juvenile is committed as a post-sentence disposition
50 to the custody of the Division of Juvenile Services, the plan shall
51 be reviewed quarterly by the multidisciplinary treatment team.
52 Where a juvenile has been detained in a facility operated by the
53 Division of Juvenile Services without an active service plan for
54 more than sixty days, the director of the facility may call a
55 multidisciplinary team meeting to review the case and discuss
56 the status of the service plan.

57 (4) (A) The rules of juvenile procedure shall govern the
58 procedure for obtaining an assessment of a juvenile, preparing an
59 individualized service plan and submitting the plan and assess-
60 ment to the court.

61 (B) In juvenile proceedings conducted pursuant to article
62 five of this chapter, the treatment team shall consist of the

63 juvenile, the juvenile's case manager in the Department of
64 Health and Human Resources or the Division of Juvenile
65 Services, the juvenile's parent or parents, guardian or guardians
66 or custodial relatives, the juvenile's attorney, any attorney
67 representing a member of the treatment team, the prosecuting
68 attorney or his or her designee, an appropriate school official and
69 any other person or agency representative who may assist in
70 providing recommendations for the particular needs of the
71 juvenile and family, including domestic violence service
72 providers. In delinquency proceedings, the probation officer
73 shall be a member of a treatment team. When appropriate, the
74 juvenile case manager in the Department of Health and Human
75 Resources and the Division of Juvenile Services shall cooperate
76 in conducting multidisciplinary treatment team meetings when
77 it is in the juvenile's best interest.

78 (C) Prior to disposition, in each case in which a treatment
79 planning team has been convened, the team shall advise the court
80 as to the types of services the team has determined are needed
81 and type of placement, if any, which will best serve the needs of
82 the child. If the team determines that an out-of-home placement
83 will best serve the needs of the child, the team shall first
84 consider placement at facilities or programs located within the
85 state. The team may only recommend placement in an out-of-
86 state facility if it concludes, after considering the best interests
87 and overall needs of the child, that there are no available and
88 suitable in-state facilities which can satisfactorily meet the
89 specific needs of the child.

90 (D) The multidisciplinary treatment team shall submit
91 written reports to the court as required by applicable law or by
92 the court, shall meet with the court at least every three months,
93 as long as the juvenile remains in the legal or physical custody
94 of the state, and shall be available for status conferences and
95 hearings as required by the court.

96 (E) In any case in which a juvenile has been placed out of his
97 or her home except for a temporary placement in a shelter or
98 detention center, the multidisciplinary treatment team shall
99 cooperate with the state agency in whose custody the juvenile is
100 placed to develop an after-care plan. The rules of juvenile
101 procedure and section twenty, article five, chapter forty-nine of
102 the code shall govern the development of an after-care plan for
103 a juvenile, the submission of the plan to the court and any
104 objection to the after-care plan.

105 (F) If a juvenile respondent admits the underlying allegations
106 of the case initiated pursuant to article five, chapter forty-nine of
107 this code in the multidisciplinary treatment planning process, his
108 or her statements shall not be used in any juvenile or criminal
109 proceedings against the juvenile, except for perjury or false
110 swearing.

CHAPTER 22

**(Com. Sub. for S. B. 461 - By Senators Cookman,
Beach, Fitzsimmons, D. Hall, Jenkins, Laird, Williams,
Unger, Kessler (Mr. President), Stollings, Chafin, Miller,
Snyder, Plymale and Palumbo)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §62-6B-2, §62-6B-3 and §62-6B-4 of the Code of West Virginia, 1931, as amended, all relating to child witnesses; allowing for the consideration of testimony by video; increasing the age for which the court may consider allowing for the testimony of a child witness by closed-circuit television for

children under the age of sixteen; qualifications of experts which may be appointed to assist the court when reviewing associated motions; and adding to the factors to be considered by the court with regard to associated motions.

Be it enacted by the Legislature of West Virginia:

That §62-6B-2, §62-6B-3 and §62-6B-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 6B. PROTECTION AND PRESERVATION OF
STATEMENTS AND TESTIMONY OF
CHILD WITNESS.**

§62-6B-2. Definitions.

1 For the purposes of this article, the words or terms defined
2 in this section, and any variation of those words or terms
3 required by the context, have the meanings ascribed to them in
4 this section. These definitions are applicable unless a different
5 meaning clearly appears from the context.

6 (1) "Child witness" means a person under the age of sixteen
7 years of age who is or will be called to testify in a criminal
8 matter concerning an alleged violation of the provisions of
9 sections three, four, five and seven, article eight-b, chapter sixty-
10 one of this code in which the child is the alleged victim.

11 (2) "Live, closed-circuit television" means a simultaneous
12 transmission, by closed-circuit television or other electronic
13 means, between the courtroom and the testimonial room.

14 (3) "Operator" means the individual authorized by the court
15 to operate the closed-circuit television equipment used in
16 accordance with the provisions of this article.

17 (4) "Testimonial room" means a room within the courthouse
18 other than the courtroom from which the testimony of a child

19 witness or the defendant is transmitted to the courtroom by
20 means of live, closed-circuit television.

§62-6B-3. Findings of fact required for taking testimony of child witness by closed-circuit television; considerations for court.

1 (a) Upon a written motion filed by the prosecuting attorney,
2 the child's attorney or the child's guardian ad litem, and upon
3 findings of fact determined pursuant to subsection (b) of this
4 section, a circuit court may order that the testimony of a child
5 witness may be taken at a pretrial proceeding or at trial through
6 the use of live, closed-circuit television.

7 (b) Prior to ordering that the testimony of a child witness
8 may be taken through the use of live, closed-circuit television,
9 the circuit court must find by clear and convincing evidence,
10 after conducting an evidentiary hearing on this issue, that:

11 (1) The child is an otherwise competent witness;

12 (2) That, absent the use of live, closed-circuit television the
13 child witness will be unable to testify due solely to being
14 required to be in the physical presence of the defendant while
15 testifying;

16 (3) The child witness can only testify if live, two-way
17 closed-circuit television is used in the trial; and

18 (4) That the state's ability to proceed against the defendant
19 without the child witness' live testimony would be substantially
20 impaired or precluded.

21 (c) The court shall consider the following factors in deter-
22 mining the necessity of allowing a child witness to testify by the
23 use of live, closed-circuit television:

24 (1) The age and maturity of the child witness;

25 (2) The facts and circumstances of the alleged offense;

26 (3) The necessity of the child's live testimony to the
27 prosecution's ability to proceed as well as any prejudice to the
28 defendant by allowing testimony through closed-circuit televi-
29 sion;

30 (4) Whether or not the facts of the case involve the alleged
31 infliction of bodily injury to the child witness or the threat of
32 bodily injury to the child or another; and

33 (5) Any mental or physical handicap of the child witness.

34 (d) In determining whether to allow a child witness to testify
35 through live, closed-circuit television the court shall appoint a
36 psychiatrist or a licensed psychologist with at least five years
37 clinical experience who shall serve as an advisor or friend of the
38 court to provide the court with an expert opinion as to whether,
39 to a reasonable degree of professional certainty, the child witness
40 will suffer severe emotional harm, be unable to testify based
41 solely on being in the physical presence of the defendant while
42 testifying and that the child witness does not evidence signs of
43 being subjected to undue influence or coercion. The opinion of
44 the psychiatrist or licensed psychologist shall be filed with the
45 circuit court at least thirty days prior to the final hearing on the
46 use of live, closed-circuit television and the defendant shall be
47 allowed to review the opinion and present evidence on the issue
48 by the use of an expert or experts or otherwise.

§62-6B-4. Procedures required for taking testimony of child witness by closed-circuit television; election of defendant; jury instruction; sanction for failure to follow procedures; additional accommodation options; recordings and confidentiality.

1 (a) If the court determines that the use of live, two-way
2 closed-circuit testimony is necessary and orders its use the

3 defendant may, at any time prior to the child witness being
4 called, elect to absent himself from the courtroom during the
5 child witness' testimony. If the defendant so elects the child
6 shall be required to testify in the courtroom.

7 (b)(1) If live, closed-circuit television is used in the testi-
8 mony of the child witness, he or she shall be taken into the
9 testimonial room and be televised live, by closed-circuit
10 equipment to the view of the defendant, counsel, the court and,
11 if applicable, the jury. The projected image of the defendant
12 shall be visible for child witness to view if he or she chooses to
13 do so and the view of the child witness available to those persons
14 in the courtroom shall include a full body view. Only the
15 prosecuting attorney, the attorney for the defendant, and the
16 operator of the equipment may be present in the room with the
17 child witness during testimony. Only the court, the prosecuting
18 attorney and the attorney for the defendant may question the
19 child. In pro se proceedings, the court may modify the provisions
20 of this subdivision relating to the role of the attorney for the
21 defendant to allow the pro se defendant to question the child
22 witness in such a manner as to cause as little psychological
23 trauma as possible under the circumstances. The court shall
24 permit the defendant to observe and hear the testimony of the
25 child witness contemporaneous with the taking of the testimony.
26 The court shall provide electronic means for the defendant and
27 the attorney for the defendant to confer confidentially during the
28 taking of the testimony.

29 (2) If the defendant elects to not be physically present in the
30 courtroom during the testimony of the child witness, the
31 defendant shall be taken into the testimonial room and be
32 televised live, by two-way closed-circuit equipment to the view
33 of the finder of fact and others present in the courtroom. The
34 defendant shall be taken to the testimonial room prior to the

35 appearance of the child witness in the courtroom. There shall be
36 made and maintained a recording of the images and sounds of all
37 proceedings which were televised pursuant to this article. While
38 the defendant is in the testimonial room, the defendant shall be
39 permitted to view the live, televised image of the child witness
40 and the image of those other persons in the courtroom whom the
41 court determines the defendant is entitled to view. Only the
42 court, the prosecuting attorney and the attorney for the defendant
43 may question the child. In pro se proceedings, the court may
44 modify the provisions of this subdivision relating to the role of
45 the attorney for the defendant to allow the pro se defendant to
46 question the child witness in such a manner as to cause as little
47 emotional distress as possible under the circumstances. The
48 transmission from the courtroom to the testimonial room shall be
49 sufficient to permit the defendant to observe and hear the
50 testimony of the child witness contemporaneous with the taking
51 of the testimony. No proceedings other than the taking of the
52 testimony of the child witness shall occur while the defendant is
53 outside the courtroom. In the event that the defendant elects that
54 the attorney for the defendant remain in the courtroom while the
55 defendant is in the testimonial room, the court shall provide
56 electronic means for the defendant and the attorney for the
57 defendant to confer confidentially during the taking of the
58 testimony.

59 (c) In every case where the provisions of the article are used,
60 the jury, at a minimum, shall be instructed, unless such instruc-
61 tion is waived by the defendant, that the use of live, closed-
62 circuit television is being used solely for the child's conve-
63 nience, that the use of the medium cannot as a matter of law and
64 fact be considered as anything other than being for the conve-
65 nience of the child witness and that to infer anything else would
66 constitute a violation of the oath taken by the jurors.

CHAPTER 23

(H. B. 2992 - By Delegate White)

[By Request of the Tax and Revenue Department]

[Passed April 10, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 22, 2013.]

AN ACT to repeal §60-9-3 of the Code of West Virginia, 1931, as amended; and to amend and reenact §60-9-4 and §60-9-6 of said code, all relating to eliminating duplicative reporting requirements imposed on distributors of imported cigarettes.

Be it enacted by the Legislature of West Virginia:

That §60-9-3 of the Code of West Virginia, 1931, as amended, be repealed; and that §60-9-4 and §60-9-6 of said code be amended and reenacted, all to read as follows:

ARTICLE 9. CIGARETTES PRODUCED FOR EXPORT; IMPORTED CIGARETTES.

§60-9-4. Criminal penalties.

1 Any person that commits any of the acts prohibited by
 2 section two of this article, either knowing or having reason to
 3 know he or she is doing so is guilty of a felony and, upon
 4 conviction thereof, shall be fined not more than \$5,000, or
 5 imprisoned in a state correctional facility not more than five
 6 years, or both fined and imprisoned.

§60-9-6. Unfair trade practices.

1 A violation of section two of this article constitutes an
 2 unlawful trade practice as provided in article eleven-a, chapter

3 forty-seven of this code and, in addition to any remedies or
4 penalties set forth in this article, is subject to any remedies or
5 penalties for a violation of that article.

6 The Alcohol Beverage Control Commissioner shall enforce
7 each and every provision of the Unfair Trade Practices Act in
8 article eleven-a, chapter forty-seven of this code with respect to
9 packages of cigarettes with like effect as if that article were set
10 forth in extenso herein.

CHAPTER 24

**(H. B. 3028 - By Delegates Staggers, D. Poling,
Pethtel, Paxton and P. Smith)**

[Passed April 9, 2013; in effect from passage.]

[Approved by the Governor on April 22, 2013.]

AN ACT to amend and reenact §29-6-4 of the Code of West Virginia, 1931, as amended, relating to expanding the number of hours temporary state personnel may work in a calendar year.

Be it enacted by the Legislature of West Virginia:

That §29-6-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 6. CIVIL SERVICE SYSTEM.

§29-6-4. Classified-exempt service; additions to classified service; exemptions.

1 (a) The classified-exempt service includes all positions
2 included in the classified-exempt service on the effective date of
3 this article.

4 (b) Except for the period commencing on July 1, 1992, and
5 ending on the first Monday after the second Wednesday of the
6 following January and except for the same periods commencing
7 in the year 1996, and in each fourth year thereafter, the Governor
8 may, by executive order, with the written consent of the State
9 Personnel Board and the appointing authority concerned, add to
10 the list of positions in the classified service, but the additions
11 may not include any positions specifically exempted from
12 coverage as provided in this section.

13 (c) The following offices and positions are exempt from
14 coverage under the classified service:

15 (1) All judges, officers and employees of the judiciary;

16 (2) All members, officers and employees of the Legislature;

17 (3) All officers elected by popular vote and employees of the
18 officer;

19 (4) All secretaries of departments and employees within the
20 office of a secretary;

21 (5) Members of boards and commissions and heads of
22 departments appointed by the Governor or heads of departments
23 selected by commissions or boards when expressly exempt by
24 law or board order;

25 (6) Excluding the policy-making positions in an agency, one
26 principal assistant or deputy and one private secretary for each
27 board or commission or head of a department elected or ap-
28 pointed by the Governor or Legislature;

29 (7) All policy-making positions;

30 (8) Patients or inmates employed in state institutions;

31 (9) Persons employed in a professional or scientific capacity
32 to make or conduct a temporary and special inquiry, investiga-

33 tion or examination on behalf of the Legislature or a committee
34 thereof, an executive department or by authority of the Gover-
35 nor;

36 (10) All employees of the office of the Governor, including
37 all employees assigned to the executive mansion;

38 (11) Part-time professional personnel engaged in profes-
39 sional services without administrative duties and personnel
40 employed for one thousand hours or less during a working year;

41 (12) Members and employees of the board of trustees and
42 board of directors or their successor agencies;

43 (13) Uniformed personnel of the State Police; and

44 (14) Seasonal employees in the state forests, parks, and
45 recreational areas working less than 1,733 hours per calendar
46 year. Notwithstanding any provision of law to the contrary,
47 seasonal employees are not considered full-time employees.

48 (d) The Legislature finds that the holding of political beliefs
49 and party commitments consistent or compatible with those of
50 the Governor contributes in an essential way to the effective
51 performance of and is an appropriate requirement for occupying
52 certain offices or positions in state government, such as the
53 secretaries of departments and the employees within their
54 offices, the heads of agencies appointed by the Governor and, for
55 each such head of agency, a private secretary and one principal
56 assistant or deputy, all employees of the office of the Governor
57 including all employees assigned to the executive mansion, as
58 well as any persons appointed by the Governor to fill pol-
59 icy-making positions, in that those offices or positions are
60 confidential in character and require their holders to act as
61 advisors to the Governor or the Governor's appointees, to
62 formulate and implement the policies and goals of the Governor
63 or the Governor's appointees, or to help the Governor or the

64 Governor's appointees communicate with and explain their
65 policies and views to the public, the Legislature and the press.

66 (e) All county road supervisor positions are covered under
67 the classified service effective July 1, 1999. A person employed
68 as a county road supervisor on the effective date of this section,
69 is not required to take or pass a qualifying or competitive
70 examination upon or as a condition of becoming a classified
71 service employee. All county road supervisors who become
72 classified service employees pursuant to this subsection who are
73 severed, removed or terminated in his or her employment must
74 be severed, removed or terminated as if the person was a
75 classified service employee.

CHAPTER 25

**(Com. Sub. for H. B. 2897 - By Delegates Marshall,
Iaquinta, Williams, Anderson, A. Evans,
Pethtel, White, Fleischauer and Barill)**

[Passed April 13, 2013; in effect from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

Be it enacted by the Legislature of West Virginia:

CLAIMS AGAINST THE STATE.

§1. Finding and declaring certain claims against the Board of Veterinary Medicine; Consolidated Public Retirement

Board; Department of Administration; Department of Administration/Division of Real Estate; Department of Education; Division of Corrections; Division of Highways; Division of Motor Vehicles; Division of Veterans Affairs; Public Defender Services; Regional Jail Authority; State Fire Commission and State of West Virginia to be moral obligations of the state and directing payment thereof.

1 The Legislature has considered the findings of fact and
2 recommendations reported to it by the Court of Claims concern-
3 ing various claims against the state and agencies thereof and in
4 respect to each of the following claims, the Legislature adopts
5 those findings of fact as its own and in respect of certain claims
6 herein, the Legislature has independently made findings of fact
7 and determinations of award and hereby declares it to be the
8 moral obligation of the state to pay each such claim in the amount
9 specified below and directs the Auditor to issue warrants for the
10 payment thereof out of any fund appropriated and available for
11 the purpose.

12 (a) *Claim against the Board of Veterinary Medicine:*
13 (TO BE PAID FROM SPECIAL REVENUE FUND)

14 (1) Wanda Goodwin. \$6,564.00

15 (b) *Claim against the Consolidated Public Retirement*
16 *Board:*

17 (TO BE PAID FROM GENERAL REVENUE FUND)

18 (1) Regina H. Williams. \$1,505.13

19 (c) *Claims against the Department of Administration:*

20 (TO BE PAID FROM GENERAL REVENUE FUND)

21 (1) Design & Production Inc.. \$80,296.00

22 (2) Discount Industrial Supply Corporation. \$5,000.00

23 (d) *Claim against the Department of Administration/*
24 *Division of Real Estate:*

25 (TO BE PAID FROM SPECIAL REVENUE FUND)

26 (1) Vicky L. Means. \$11,534.04

27 (e) *Claim against the Department of Education:*

28	(TO BE PAID FROM GENERAL REVENUE FUND)	
29	(1) Winchester Speech Pathologists PC.	\$12,480.00
30	(f) <i>Claims against the Division of Corrections:</i>	
31	(TO BE PAID FROM GENERAL REVENUE FUND)	
32	(1) Robert Blake.	\$331.47
33	(2) Allen Carr.	\$15.60
34	(3) Kenneth Chance.	\$39.65
35	(4) Kevin Felder.	\$320.00
36	(5) Justin E. Marcum.	\$39.50
37	(6) Brian C. Morgan.	\$155.86
38	(7) Joseph Pettaway.	\$15.00
39	(8) Lawrence Stuckey.	\$25.00
40	(g) <i>Claims against the Division of Highways:</i>	
41	(TO BE PAID FROM STATE ROAD FUND)	
42	(1) James Adkins.	\$279.00
43	(2) Sally J. Adkins.	\$500.00
44	(3) Timothy W. Adkins.	\$500.00
45	(4) Deborah A. Allen.	\$500.00
46	(5) Dustin Allen.	\$224.61
47	(6) Lisa Anderson.	\$500.00
48	(7) Sheila D. Anderson.	\$387.74
49	(8) Jason R. Ashworth.	\$207.53
50	(9) Kelly Ayers.	\$108.38
51	(10) Johnna Bailey.	\$50.00
52	(11) Doloris A. Baker.	\$180.00
53	(12) Jeremy Ball.	\$658.66
54	(13) Dennis E. Ballard and Whitney K. Ballard. .	\$806.52
55	(14) Kenneth Bambic.	\$1,271.96
56	(15) Norma Barnett.	\$9,000.00
57	(16) Grant Barnette.	\$500.00
58	(17) Sonja S. Bass.	\$553.45
59	(18) Beverly Bell and Lee Bell.	\$500.00
60	(19) Christy Beveridge.	\$201.74
61	(20) Richard Bills.	\$210.79
62	(21) John W. Bittinger.	\$81,000.00

63	(22) Jack L. Black and Rachel L. Black.	\$177.01
64	(23) Sara N. Black.	\$500.00
65	(24) Tari L. Blanchard.	\$307.87
66	(25) Tom C. Bloom.	\$298.92
67	(26) Jason Bolyard.	\$99.11
68	(27) Brenda Booker.	\$1,403.44
69	(28) Robert Booker.	\$10,378.03
70	(29) George Bossie III.	\$1,000.00
71	(30) Jay Bowen.	\$147.32
72	(31) Daniel James Bowes.	\$348.28
73	(32) Betty L. Brabham.	\$150.52
74	(33) Penelope A. Brandenburg.	\$291.50
75	(34) Deneise S. Bray and Raymond Bray Jr.	\$297.86
76	(35) Wesley A. Brown.	\$259.70
77	(36) Amos Bunner.	\$9,500.00
78	(37) Tammy M. Cantley.	\$500.00
79	(38) Eric S. Cayton.	\$263.42
80	(39) Jon A. Chafin.	\$1,000.00
81	(40) William F. Chambers and	
82	Sharon T. Chambers.	\$500.00
83	(41) Tracey Williams and Patricia Choma.	\$500.00
84	(42) Fritz Christ.	\$277.60
85	(43) Johnithan Clark.	\$400.00
86	(44) Gordan Clendenin.	\$1,551.16
87	(45) Amal S. Corey.	\$500.00
88	(46) Corwin Ford Sales Inc..	\$205.95
89	(47) Ralph Cozad and Barbara Cozad.	\$100.00
90	(48) Eleesha Culver	\$478.57
91	(49) Luther Dempsey dba Dempsey	
92	Engineering Company.	\$887.00
93	(50) Lois Mae Dick.	\$100.00
94	(51) LeeAnn Dignan.	\$273.33
95	(52) Mindi L. Dillon.	\$267.15
96	(53) Judy Duffey.	\$136.00
97	(54) Charles Duncan.	\$285.14

98	(55) Kevin E. Dunlap.....	\$258.60
99	(56) Nikki L. Durst.	\$834.09
100	(57) Brian D. Dye.	\$100.00
101	(58) Jill R. Dye.	\$169.63
102	(59) Hannah Eaves.....	\$500.00
103	(60) Susan Edgel.	\$263.22
104	(61) John M. Efaw.....	\$800.00
105	(62) Jennifer Egnor.	\$667.80
106	(63) Benjamin Ekelman.....	\$129.47
107	(64) Robert Ellington.....	\$1,500.00
108	(65) Thomas C. Farnsworth.....	\$227.37
109	(66) Jeremy I. Ferrell and Nelda J. Ferrell.	\$500.00
110	(67) Jodie Ferrell and Michelle Ferrell.	\$409.17
111	(68) Maxwell Ferrell.	\$110.00
112	(69) Philip Ferrell.	\$389.02
113	(70) Robert F. Fetty.....	\$406.05
114	(71) Ralph Freddolino.....	\$125.46
115	(72) Brooks D. Freed.....	\$250.00
116	(73) Patricia E. Full and Larry D. Full.	\$250.00
117	(74) Vincent A. Gala Jr.	\$500.00
118	(75) James Gantzer.	\$410.00
119	(76) Trena Garvin.	\$355.37
120	(77) Jimmy Benson and John Ghiz.....	\$1,556.00
121	(78) Brenda Gorman.	\$233.68
122	(79) Toni Graham and Alan Fell.....	\$190.75
123	(80) Betty Y. Gear.	\$107.70
124	(81) Daniel L. Hadley.	\$3,100.00
125	(82) Ella Hamilton.....	\$992.11
126	(83) Joseph C. Hanna.....	\$312.99
127	(84) Cynthia Hanneman-Banks.....	\$606.01
128	(85) Danielle Hanshew.	\$500.00
129	(86) Peggy S. Hapney.	\$270.87
130	(87) Shawn Harbiso.....	\$349.00
131	(88) Holly Hardesty.....	\$250.00
132	(89) Albert J. Hardy and Lorena L. Hardy.	\$313.49

133	(90) Randy C. Harper.	\$500.00
134	(91) Evelyn L. Harris..	\$1,000.00
135	(92) John Harter..	\$112.96
136	(93) Roger A. Haynes.	\$214.12
137	(94) Jeremy Herback.	\$500.00
138	(95) Roy G. Hess Jr..	\$314.33
139	(96) Robert Jay Hite.	\$328.96
140	(97) Connie Hobbs and Phillip Hobbs..	\$500.00
141	(98) William Holland.	\$387.68
142	(99) Krista Honaker..	\$200.34
143	(100) Darlene Howell.	\$250.49
144	(101) Deborah L. Howell..	\$1,000.00
145	(102) Richard C. Hoy and Harriet L. Hoy..	\$286.01
146	(103) Danny C. Huffman and	
147	Audella C. Huffman.	\$500.00
148	(104) Robert A. Hull.	\$1,620.61
149	(105) Shawn M. Hutchinson.	\$500.00
150	(106) Vernia E. Jeffries.	\$433.00
151	(107) Felix M. Jenkins..	\$280.00
152	(108) Judy Jenkins..	\$107.00
153	(109) Lewis Dean Johnson.	\$205.00
154	(110) Anita Jones..	\$500.00
155	(111) David Christopher E. Jones..	\$328.42
156	(112) Orville Jones.	\$78.99
157	(113) Sharon A. Jones.	\$118.61
158	(114) Jackie E. Judy.	\$320.12
159	(115) Bryson J. Karp.	\$335.73
160	(116) Nathan Kyle Kee.	\$2,301.00
161	(117) Robert Kehrer and Brice Kehrer.	\$108.73
162	(118) Stacy King.	\$149.44
163	(119) Susie E. Kniceley..	\$172.97
164	(120) Terri L. Konchesky and	
165	Andrew Konchesky..	\$307.39
166	(121) Ronald Derrick Lamb.	\$500.00
167	(122) Rickey Dean Lambert and	

168	Donna D. Lambert.....	\$40,000.00
169	(123) Charlene Lanham.....	\$939.85
170	(124) Jerry Lantz.....	\$200.00
171	(125) Frank Larson.....	\$474.98
172	(126) Chad Michael Leport.....	\$500.00
173	(127) Christy Nicole Lilly.....	\$500.00
174	(128) Angela D. Linsbeck and	
175	David E. Linsbeck.....	\$443.41
176	(129) Beulah Longwell.....	\$200.00
177	(130) Brian Looney and Sandra Looney.....	\$322.18
178	(131) Donald Lynch.....	\$350.04
179	(132) Mary E. Maine.....	\$463.35
180	(133) Ronald G. Markle.....	\$7,306.00
181	(134) Tristin Mathews.....	\$2,246.60
182	(135) Sam L. May.....	\$1,270.88
183	(136) Peggy J. Mayle.....	\$7,737.00
184	(137) Benjamin Maynard.....	\$427.34
185	(138) Vivian Maynor.....	\$626.20
186	(139) W. Timothy McClain.....	\$512.80
187	(140) Madaline McCoy.....	\$136.38
188	(141) Carey McCullough.....	\$926.78
189	(142) Bridget A. McDonie.....	\$200,000.00
190	(143) Mary A. McKinney.....	\$353.19
191	(144) Randy McMillion and Rita McMillion... ..	\$1,000.00
192	(145) Miranda McPherson.....	\$500.00
193	(146) Charles D. Meade.....	\$90.10
194	(147) Charles F. Meadows.....	\$9,825.43
195	(148) Robin M. Meadows.....	\$500.00
196	(149) Elizabeth Melott.....	\$500.00
197	(150) Robert M. Meyer.....	\$500.00
198	(151) Jeffrey Milam.....	\$307.18
199	(152) Robert Miller Jr.....	\$500.00
200	(153) Kathy Minor.....	\$100.00
201	(154) Evelyn Money Penny.....	\$230.04
202	(155) Teresa Moore.....	\$1,009.00

203	(156) C. Suzanne Morgan.....	\$375.00
204	(157) Aaron W. Myers and Helen Fay Myers...	\$1,936.34
205	(158) Janet H. Newhouse.....	\$124.57
206	(159) O. Kermit Null.....	\$572.50
207	(160) Sylvia Jane Oakes.....	\$500.00
208	(161) Ernest J. Owens.....	\$250.00
209	(162) Philip Padon.....	\$500.00
210	(163) Kristina Painter.....	\$250.00
211	(164) Mark D. Panepinto.....	\$6,123.34
212	(165) Wesley Parmer.....	\$125,000.00
213	(166) Donald G. Parsons.....	\$266.21
214	(167) Emmitt C. Patterson.....	\$230.00
215	(168) Jack L. Pennington and	
216	Janet S. Pennington.....	\$11,800.00
217	(169) Charles W. Pettry.....	\$500.00
218	(170) Richard F. Pierce.....	\$308.00
219	(171) Danny Plybon and Linda Plybon.....	\$5,159.44
220	(172) Charles P. Puglisi.....	\$250.00
221	(173) Patty L. Pulliam.....	\$1,179.51
222	(174) Martha Jo Queen.....	\$162.18
223	(175) Susan Quick and John Quick.....	\$137.53
224	(176) John Rairden.....	\$500.00
225	(177) Richard Ramsey.....	\$446.52
226	(178) Glen E. Ratliff.....	\$500.00
227	(179) Tonia Reed.....	\$250.00
228	(180) Sharon Reid.....	\$318.00
229	(181) Michael E. Rhodes.....	\$115.47
230	(182) Donna J. Richards.....	\$137.69
231	(183) Mary K. Rizzo.....	\$74.15
232	(184) Daniel M. Roberts.....	\$276.12
233	(185) Felicia Christian Roberts.....	\$18,000.00
234	(186) Anita J. Robertson.....	\$500.00
235	(187) Donna Robertson.....	\$250.00
236	(188) Evelyn Robertson.....	\$500.00
237	(189) Audrey Robinette and Phillip Robinette..	\$1,000.00

238	(190) Donald Rogers.....	\$552.85
239	(191) Tammy R. Rumon.....	\$233.34
240	(192) Sahley Realty Co..	\$80,000.00
241	(193) Travis Sandy.....	\$168.01
242	(194) Steven B. Sarver.....	\$116.69
243	(195) Pete Sauchuck and Benita Sauchuck.....	\$8,500.00
244	(196) Tara N. Sayre.....	\$783.34
245	(197) Carl R. Seacrist.....	\$622.95
246	(198) Gary W. Sendling and Ruth A. Sendling...	\$106.00
247	(199) Bobby Shafer II.....	\$500.00
248	(200) Julie Sharp.....	\$2,025.00
249	(201) Chancy Shaw.....	\$410.08
250	(202) Roy G. Shawver.....	\$1,000.00
251	(203) Maria Sheen.....	\$162.79
252	(204) James Edra Shinn Jr.....	\$345.41
253	(205) Michael H. Showen.....	\$100.00
254	(206) Linda S. Sing.....	\$656.53
255	(207) Warren Sizemore and James Sizemore....	\$252.00
256	(208) Cynthia W. Skiles.....	\$458.72
257	(209) Kathy L. Slone.....	\$209.78
258	(210) Damon R. Smith.....	\$287.33
259	(211) David L. Smith.....	\$424.38
260	(212) Marylou Smith.....	\$500.00
261	(213) Trixie Smith and Michael Smith.....	\$151.58
262	(214) Southern Appalachian Labor School.....	\$67.19
263	(215) Theresa M. Spano.....	\$244.48
264	(216) Gary St. Clair and Sheila St. Clair.....	\$498.00
265	(217) Jessica Stockett.....	\$350.00
266	(218) Wanda Sullivan.....	\$250.00
267	(219) Betty L. Swann.....	\$122.30
268	(220) Wendy S. Swanson.....	\$250.00
269	(221) Matt Sweeney.....	\$254.63
270	(222) Alexa Talkington and Melinda Talkington.	\$554.61
271	(223) Gregory B. Thompson.....	\$1,000.00
272	(224) John M. Turner and Jana L. Turner.....	\$426.17

273	(225) Charles A. Tyree.	\$1,452.11
274	(226) Betty Y. VanHouten.....	\$500.00
275	(227) Susanna Villers.	\$994.28
276	(228) Danny A. Walker.....	\$1,700.00
277	(229) Tammy Walker and David Trivett.....	\$202.50
278	(230) Hoile D. Walker.....	\$284.00
279	(231) Leon Walker and Sherry Walker.....	\$250.00
280	(232) Travis W. Walker.....	\$500.00
281	(233) Beverly Wallace and Jeremy Wallace.....	\$500.00
282	(234) Charles Brandon Ward.....	\$1,000.00
283	(235) Vincent Wardlow.....	\$715.50
284	(236) Randy J. Warner and Libby K. Warner.....	\$909.43
285	(237) Darlene Watkins and Teddy Watkins.	\$238.20
286	(238) Ella Watson.	\$4,325.00
287	(239) Kedar Watson.	\$500.00
288	(240) Christopher Webley.....	\$500.00
289	(241) Jamie E. Webster.....	\$425.34
290	(242) Jeff Welker.....	\$95.55
291	(243) Ricky White.....	\$289.62
292	(244) James E. Williams.....	\$238.55
293	(245) Alice Wilmouth.	\$117.61
294	(246) Marvin C. Wilson.	\$475.91
295	(247) Robert Wolfe.	\$589.52
296	(248) Roger Woodard and Andrea Woodard. ...	\$252.28
297	(249) Diane Woods.	\$250.00
298	(250) Ginger Workman.....	\$141.87
299	(251) Ronald T. Workman Jr.....	\$107.75
300	(252) Brooke Wright and Robert Wright.	\$129.32
301	(253) Aaron C. Yanuzo.....	\$1,000.00
302	(254) Charles L. Yates Jr.....	\$460.00
303	(255) Debbie Young.	\$500.00
304	(h) <i>Claims against the Division of Motor Vehicles:</i>	
305	(TO BE PAID FROM STATE ROAD FUND)	
306	(1) Daniel R. Allman.....	\$100.01
307	(2) Vernon Nexsen.....	\$190.00

308	(3) Tri-Star Motors Inc.....	\$2,509.00
309	(i) <i>Claim against the Division of Veterans Affairs:</i>	
310	(TO BE PAID FROM FEDERAL REVENUE FUND)	
311	(1) G.A. Brown & Son Inc.....	\$582,677.32
312	(j) <i>Claim against the Public Defender Services:</i>	
313	(TO BE PAID FROM GENERAL REVENUE FUND)	
314	(1) David R. Karr Jr.	\$9,888.50
315	(k) <i>Claims against the Regional Jail Authority:</i>	
316	(TO BE PAID FROM SPECIAL REVENUE FUND)	
317	(1) James Angel.....	\$27.03
318	(2) Jack M. Bowles Jr.....	\$280.00
319	(3) Kevin Boxley.....	\$70.00
320	(4) Cheryl D. Gray.....	\$117.00
321	(5) Robert W. Moats.	\$380.00
322	(6) MS Consultants Inc.....	\$200,000.00
323	(7) Adam Ruthers.	\$61.00
324	(8) Don Taylor.....	\$123.80
325	(l) <i>Claims against the State Fire Commission:</i>	
326	(TO BE PAID FROM SPECIAL REVENUE FUND)	
327	(1) Hospitality Ventures LLC.	\$846.00
328	(m) <i>Claims against the State of West Virginia:</i>	
329	(TO BE PAID FROM GENERAL REVENUE FUND)	
330	(1) Daniel Carter Matzdorff.	\$92,300.00

331 The Legislature finds that the above moral obligations and
332 the appropriations made in satisfaction thereof shall be the full
333 compensation for all claimants and that prior to the payments to
334 any claimant provided in this bill, the Court of Claims shall
335 receive a release from said claimant releasing any and all claims
336 for moral obligations arising from the matters considered by the
337 Legislature in the finding of the moral obligations and the
338 making of the appropriations for said claimant. The Court of
339 Claims shall deliver all releases obtained from claimants to the
340 department against which the claim was allowed.

CHAPTER 26

**(S. B. 496 - By Senators Facemire,
Laird, Blair and Plymale)**

[Passed April 8, 2013; in effect from passage.]
[Approved by the Governor on April 18, 2013.]

AN ACT finding and declaring certain claims against the state and its agencies to be moral obligations of the state; and directing the Auditor to issue warrants for the payment thereof.

Be it enacted by the Legislature of West Virginia:

CLAIMS AGAINST THE STATE.

§1. Finding and declaring certain claims against the Department of Education and West Virginia Racing Commission to be moral obligations of the state and directing payments thereof.

1 The Legislature has heretofore made findings of fact that the
 2 state has received the benefit of the commodities received and/or
 3 services rendered by certain claimants herein and has considered
 4 these claims against the state, and agencies thereof, which have
 5 arisen due to overexpenditures of the departmental appropri-
 6 ations by officers of the state spending units, the claims having
 7 been previously considered by the Court of Claims which also
 8 found that the state has received the benefit of the commodities
 9 received and/or services rendered by the claimants, but were
 10 denied by the Court of Claims on the purely statutory grounds
 11 that to allow the claims would be condoning illegal acts contrary
 12 to the laws of the state. The Legislature, pursuant to its findings

13 of fact and also by the adoption of the findings of fact by the
 14 Court of Claims as its own, while not condoning such illegal
 15 acts, hereby declares it to be the moral obligation of the state to
 16 pay these claims in the amounts specified below and directs the
 17 Auditor to issue warrants upon receipt of properly executed
 18 requisitions supported by itemized invoices, statements or other
 19 satisfactory documents as required by section ten, article three,
 20 chapter twelve of the Code of West Virginia, 1931, as amended,
 21 for the payments thereof out of any fund appropriated and
 22 available for the purpose.

23 (a) *Claim against the Department of Education:*

24 (TO BE PAID FROM GENERAL REVENUE FUND)

25 (1) Winchester Speech Pathologists PC. \$2643.75

26 (b) *Claims against the West Virginia Racing Commission:*

27 (TO BE PAID FROM GENERAL REVENUE FUND)

28 (1) Duane Barber. \$720.00

29 (2) Ronney Brown. \$5,820.00

30 (3) Nancy Camp. \$660.00

31 (4) James W. Casey. \$15,180.00

32 (5) Diana Lee Chinn. \$660.00

33 (6) Kari L. Conner. \$6,477.00

34 (7) Robin Figgins. \$1,320.00

35 (8) Janet Hoke. \$12,784.40

36 (9) Jennifer A. Johnson. \$1,235.40

37 (10) Bonnie A. Kempe. \$660.00

38 (11) Carrol Langley. \$4,796.60

39 (12) Wilson Langley. \$5,507.50

40 (13) Thomas Lee. \$568.40

41 (14) Farah Mahar for Amir Associates. \$5,718.00

42 (15) Gloria McCormick. \$960.00

43 (16) Theresa A. McPherson. \$1,577.60

44 (17) Rene Moore. \$5,104.20

45	(18) Tex Mullins.	\$1,560.00
46	(19) Charles Parker.	\$1,680.00
47	(20) Ronald Riffle.	\$551.00
48	(21) Vito Riggi.	\$2,563.60
49	(22) Skoobie Schneider.	\$1,500.00
50	(23) Lenworth Sewell.	\$540.00
51	(24) Marc J. Sharp.	\$1,680.00
52	(25) Edgar M. Sneed Sr..	\$1,440.00
53	(26) Karen E. Steele.	\$3,704.80
54	(27) Gary Ray Welsh.	\$1,152.90

CHAPTER 27

**(H. B. 2487 - By Delegates Perdue, Perry,
Ellington, Moye, Moore, Diserio, Campbell,
Morgan, Poore and Ferns)**

[Passed April 1, 2013; in effect ninety days from passage.]
[Approved by the Governor on April 10, 2013.]

AN ACT to repeal §16-5A-9a of the Code of West Virginia, 1931, as amended, relating to prohibiting the use of laetrile.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5A. CANCER CONTROL.

§1. Repeal of section relating to the use of laetrile in certain circumstances.

1 §16-5A-9a of the Code of West Virginia, 1931, as amended,
2 is hereby repealed.

CHAPTER 28

**(H. B. 2463 - By Delegates Perdue, Perry, Fleischauer,
Marshall, Moye, Poore and Stagers)**

[Passed April 9, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 22, 2013.]

AN ACT to repeal §27-16-1, §27-16-2, §27-16-3, §27-16-4 and §27-16-5 of the Code of West Virginia, 1931, as amended, relating to sterilization of mental defectives.

Be it enacted by the Legislature of West Virginia:

ARTICLE 16. STERILIZATION OF MENTAL DEFECTIVES.

§1. Repeal of article relating to sterilization of mental defectives.

- 1 §27-16-1, §27-16-2, §27-16-3, §27-16-4 and §27-16-5 of the
- 2 Code of West Virginia, 1931, as amended, are hereby repealed.

CHAPTER 29

**(H. B. 3161 - By Delegates White, Marshall,
Iaquinta, Cowles, Miller, R. Phillips,
L. Phillips, E. Nelson and Perdue)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to repeal §48-2-604 of the Code of West Virginia, 1931, as amended, relating to marriage license fees.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. MARRIAGES.

§1. Repeal of section relating to additional fee to be collected for each marriage license issued.

1 §48-2-604 of the Code of West Virginia, 1931, as amended,
2 is hereby repealed.



CHAPTER 30

**(S. B. 489 - By Senators Facemire, Cann, Chafin, Edgell,
Kirkendoll, Snyder and Stollings)**

[Passed April 13, 2013; in effect from passage.]
[Approved by the Governor on May 2, 2013.]

AN ACT to amend and reenact §16-13E-8 of the Code of West Virginia, 1931, as amended, relating to permitting community enhancement districts to decrease the amounts of annual property assessments; providing a process that a community enhancement board is to use to certify the decrease to the county sheriff; requiring that any decrease be included in the tax ticket or a modified tax ticket; and providing that the assessment reduction applies to all property in the district.

Be it enacted by the Legislature of West Virginia:

That §16-13E-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 13E. COMMUNITY ENHANCEMENT ACT.**§16-13E-8. Notice to property owners of assessments; correcting and laying assessments; report on project completion; credits.**

1 (a) Prior to the issuance of assessment bonds or pledging any
2 amounts to payment of tax increment financing obligation debt
3 service, the board shall cause a report to be prepared describing
4 each lot or parcel of land located within the community enhance-
5 ment district and setting forth the total cost of the project based
6 on the contract with the governmental agency, the accepted bid
7 or bids, or a cost estimate certified by a professional engineer,
8 and all other costs incurred prior to the commencement of
9 construction and the future administrative costs, and the respec-
10 tive amounts chargeable upon each lot or parcel of land and the
11 proper amount to be assessed against the respective lots or
12 parcels of land with a description of the lots and parcels of land
13 as to ownership and location. If two or more different kinds of
14 projects are involved, the report shall set forth the portion of the
15 assessment attributable to each respective project. The board
16 shall thereupon give notice to the owners of real property to be
17 assessed that on or after a date specified in the notice an assess-
18 ment will be deemed granted against the property. The notice
19 shall state that the owner of assessed property, or other interested
20 party, may on said date appear before the board to move the
21 revision or correction of the proposed assessment and shall show
22 the total cost of the project, whether the assessments will pay for
23 all or part of the total cost of the project and the lots or parcels
24 of property to be assessed and the respective amounts to be
25 assessed against such lots or parcels, with a description of the
26 respective lots and parcels of land as to ownership and location.
27 The notice shall also be published as a Class II-0 legal advertise-
28 ment in compliance with the provisions of article three, chapter
29 fifty-nine of the code, and the publication area for such publica-
30 tion is the assessment district. On or after the date so advertised,

31 the board may revise, amend, correct and verify the report and
32 proceed by resolution to establish the assessments as corrected
33 and verified and shall certify the same to the governing body
34 which created the district.

35 (b) During the pendency of the project, the board may
36 decrease the amount of the assessments certified to the county
37 sheriff for collection following the June 7 certification of those
38 assessments by the community enhancement district to the
39 sheriff as provided by subdivision (6), subsection (b), section six
40 of this article, upon a finding or determination by the community
41 enhancement board that the decrease is necessary or appropriate
42 as the total cost of the project is less than projected or that the
43 need for the assessment amount has decreased under the
44 circumstances, and so certify to the sheriff of the county where
45 the property is located. The modified assessment shall be granted
46 against all property in the district for inclusion in the tax ticket
47 or the preparation of modified tax tickets by that sheriff for the
48 affected parcels.

49 (c) Upon completion of a project, the board shall prepare a
50 final report certifying the completion of the project and showing
51 the total cost of the project and whether the cost is greater or less
52 than the cost originally estimated. If the total cost of the project
53 is less or greater than the cost shown in the report prepared prior
54 to construction, the board may revise the assessment charged on
55 each lot or parcel of land pursuant to subsection (a) of this
56 section to reflect the total cost of the project as completed, and
57 in so doing shall, in the case of an assessment increase only,
58 follow the same procedure with regard to notice and providing
59 each owner of assessed property the right to appear before the
60 board to move for the revision or correction of such proposed
61 reassessment as required for the original assessment. If an
62 assessment is decreased, the board shall, by resolution and
63 written notice to the sheriff of the county in which the commu-
64 nity enhancement district is located, cause the next installment

64 nity enhancement district is located, cause the next installment
65 or installments of assessments then due and payable by each
66 affected property owner to be reduced pro rata, and shall provide
67 written notice to such property owners of the amount of such
68 decrease by the deposit of such notice in the United States mail,
69 postage prepaid.

70 (d) The value of the projects financed with the assessments
71 shall be treated as a credit toward any impact fees related to the
72 service or services provided levied under article twenty, chapter
73 seven of this code.

CHAPTER 31

**(Com. Sub. for S. B. 103 - By Senators Snyder,
Miller and Beach)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 2, 2013.]

AN ACT to amend and reenact §29-18-3 and §29-18-6 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §29-18-24, all relating to commuter rail access in West Virginia; providing authority for the State Rail Authority to negotiate an agreement with the State of Maryland for operation of commuter rail in West Virginia; providing terms of minimum daily service requirements in the agreement; providing for the payment of track access fees pursuant to the agreement; and creating a special fund to pay track access fees.

Be it enacted by the Legislature of West Virginia:

That §29-18-3 and §29-18-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §29-18-24, all to read as follows:

ARTICLE 18. WEST VIRGINIA STATE RAIL AUTHORITY.

§29-18-3. Definitions.

1 As used in this article unless the context clearly requires a
2 different meaning:

3 (1) “Authority” means the West Virginia State Rail Author-
4 ity created by this article, the duties, powers, responsibilities and
5 functions of which are specified in this article.

6 (2) “Bond” or “state rail authority bond” means a revenue
7 bond or rate issued by the State Rail Authority to effectuate the
8 intents and purposes of this article.

9 (3) “Commuter rail” means a transit mode that is an electric
10 or diesel propelled railway for urban passenger train service
11 consisting of local short distance travel operating between a
12 central city and adjacent suburbs. Service must be operated on
13 a regular basis by or under contract with a transit operator for the
14 purpose of transporting passengers within urbanized areas or
15 between urbanized areas and outlying areas. The rail service,
16 using either locomotive-hauled or self-propelled railroad
17 passenger cars, is generally characterized by multitrip tickets,
18 specific station-to-station fares or railroad employment practices
19 and usually has only one or two stations in the central business
20 district. It does not include heavy rail rapid transit or light
21 rail/streetcar transit service. Intercity rail service is excluded
22 except for that portion of service operated by or under contract
23 with a public transit agency for predominantly commuter

24 services. Only the predominantly commuter service portion of an
25 intercity route is eligible for inclusion when determining
26 commuter rail route miles.

27 (4) “Heavy rail” means a transit mode that is an electric
28 railway with the capacity for a heavy volume of traffic. It is
29 characterized by high speed and rapid acceleration passenger rail
30 cars operating singly or in multicar trains on fixed rails, separate
31 rights-of-way from which all other vehicular and foot traffic are
32 excluded, sophisticated signaling and high platform loading.

33 (5) “Income” means and includes all money accruing to the
34 authority from any source.

35 (6) “Light rail” means a transit mode that typically is an
36 electric railway with a light volume traffic capacity compared to
37 heavy rail. It is characterized by passenger rail cars operating
38 singly or in short, usually two-car, trains, on fixed rails in shared
39 or exclusive rights-of-way, low- or high-platform loading and
40 vehicle power drawn from an overhead electric line via a trolley
41 or a pantograph.

42 (7) “Owner” means and includes all individuals,
43 copartnerships, associations, corporations, companies, transpor-
44 tation companies, public service corporations, the United States
45 or any agency or instrumentality thereof, common carriers by
46 rail and railroad companies having any title or interest in any rail
47 properties authorized to be acquired, leased or used by this
48 article.

49 (8) “Person” means individuals, corporations, partnerships
50 or foreign and domestic associations, including railroads.

51 (9) “Predominantly commuter services” means that for any
52 given trip segment (i.e., distance between two stations), more
53 than fifty percent of the average daily ridership travels on the
54 train at least three times a week.

55 (10) “Rail properties” means assets or rights owned, leased
56 or otherwise controlled by a railroad or other person which are
57 used, or useful, in rail transportation service: *Provided*, That rail
58 properties does not include any properties owned, leased, or
59 otherwise controlled by a railroad not in reorganization, unless
60 it consents to such properties’ inclusion in the particular
61 transaction.

62 (11) “Rail service” means both freight and passenger service.

63 (12) “Railroad” means a common carrier by railroad as
64 defined in section 1(3) of Part I of the Interstate Commerce Act
65 (49 U. S. C. (1) 3).

66 (13) “Railroad project” means the initiation, acquisition,
67 construction, maintenance, repair, equipping or operation of rail
68 properties or rail service, or the provisions of loans or grants to
69 or with government agencies, or to persons for such purposes, by
70 the authority.

§29-18-6. Powers, duties and responsibilities of authority generally.

1 The West Virginia State Rail Authority is hereby granted,
2 has and may exercise all powers necessary or appropriate to
3 carry out and effectuate its corporate purpose.

4 (a) The authority may:

5 (1) Adopt and, from time to time, amend and repeal bylaws
6 necessary and proper for the regulation of its affairs and the
7 conduct of its business and propose rules for legislative approval
8 in accordance with the provisions of article three of this chapter
9 to implement and make effective its powers and duties.

10 (2) Adopt an official seal.

11 (3) Maintain a principal office and, if necessary, regional
12 suboffices at locations properly designated or provided.

13 (4) Sue and be sued in its own name and plead and be
14 impleaded in its own name and particularly to enforce the
15 obligations and covenants made under sections ten, eleven and
16 sixteen of this article. Any actions against the authority shall be
17 brought in the circuit court of Kanawha County. The location of
18 the principal office of the authority shall be determined by the
19 Governor.

20 (5) Make loans and grants to governmental agencies and
21 persons for carrying out railroad projects by any governmental
22 agency or person and, in accordance with chapter twenty-nine-a
23 of this code, propose rules for legislative approval and proce-
24 dures for making such loans and grants.

25 (6) Acquire, construct, reconstruct, enlarge, improve,
26 furnish, equip, maintain, repair, operate, lease or rent to or
27 contract for operation by a governmental agency or person,
28 railroad projects and, in accordance with chapter twenty-nine-a
29 of this code, propose legislative rules for the use of these
30 projects.

31 (7) Make available the use or services of any railroad project
32 to one or more persons, one or more governmental agencies or
33 any combination thereof.

34 (8) Issue State Rail Authority bonds and notes and refunding
35 bonds of the state, payable solely from revenues as provided in
36 section ten of this article unless the bonds are refunded by
37 refunding bonds for the purpose of paying any part of the cost of
38 one or more railroad projects or parts thereof.

39 (9) Acquire, by gift or purchase, hold and dispose of real and
40 personal property in the exercise of its powers and the perfor-
41 mance of its duties as set forth in this article.

42 (10) Acquire in the name of the state, by purchase or
43 otherwise, on terms and in the manner it considers proper, or by

44 the exercise of the right of eminent domain in the manner
45 provided in chapter fifty-four of this code, rail properties and
46 appurtenant rights and interests necessary for carrying out
47 railroad projects.

48 (11) (A) Make and enter into all contracts and agreements
49 and execute all instruments necessary or incidental to the
50 performance of its duties and the execution of its powers
51 including, but not limited to, the power to make contracts and
52 agreements in accordance with the provisions set forth in
53 paragraph (B) of this subdivision.

54 (B) Make and enter into contracts and agreements to acquire
55 rolling stock or equipment with a value of \$500,000 or less
56 exempt from the provisions of article three, chapter five-a of this
57 code.

58 The authority shall propose rules for legislative approval in
59 accordance with the provisions of article three, chapter
60 twenty-nine-a of this code which set forth the methods for
61 determining value of rolling stock or equipment to be purchased
62 in accordance with the provisions of paragraph (B) of this
63 subdivision.

64 (C) Where rolling stock, equipment or trackage of the
65 authority is in need of immediate maintenance, repair or
66 reconstruction in order to avoid a cessation of its operations,
67 economic loss, the inability to provide essential service to
68 customers or danger to authority personnel or the public, the
69 following requirements and procedures for entering into the
70 contract or agreement to remedy the condition shall be in lieu of
71 those provided in article three, chapter five-a of this code or any
72 legislative rule promulgated pursuant thereto:

73 (i) If the cost under the contract or agreement involves an
74 expenditure of more than \$1,000, but \$10,000 or less, the

75 authority shall award the contract to or enter into the agreement
76 with the lowest responsible bidder based upon at least three oral
77 bids made pursuant to the requirements of the contract or
78 agreement.

79 (ii) If the cost under the contract or agreement, other than
80 one for compensation for personal services, involves an expendi-
81 ture of more than \$10,000, but \$100,000 or less, the authority
82 shall award the contract to or enter into the agreement with the
83 lowest responsible bidder based upon at least three bids,
84 submitted to the authority in writing on letterhead stationery,
85 made pursuant to the requirements of the contract or agreement.

86 (D) Notwithstanding any other provision of this code to the
87 contrary, a contract or lease for the operation of a railroad
88 project constructed and owned by the authority or an agreement
89 for cooperation in the acquisition or construction of a railroad
90 project pursuant to section sixteen of this article is not subject to
91 the provisions of article three, chapter five-a of this code or any
92 legislative rule promulgated pursuant thereto and the authority
93 may enter into the contract or lease or the agreement pursuant to
94 negotiation and upon such terms and conditions and for a period
95 of time as it finds to be reasonable and proper under the circum-
96 stances and in the best interests of proper operation or of
97 efficient acquisition or construction of the railroad project.

98 (E) The authority may reject any and all bids. A bond with
99 good and sufficient surety, approved by the authority, is required
100 of all contractors in an amount equal to at least fifty percent of
101 the contract price, conditioned upon the faithful performance of
102 the contract.

103 (12) Appoint a director and employ managers, superinten-
104 dents and other employees and retain or contract with consulting
105 engineers, financial consultants, accountants, attorneys and other
106 consultants and independent contractors as are necessary in its

107 judgment to carry out the provisions of this article and fix the
108 compensation or fees thereof. All expenses thereof are payable
109 from the proceeds of State Rail Authority revenue bonds or notes
110 issued by the authority, from revenues and funds appropriated
111 for this purpose by the Legislature or from grants from the
112 federal government which may be used for such purpose.

113 (13) Receive and accept from any state or federal agency
114 grants for or in aid of the construction of any railroad project or
115 for research and development with respect to railroads and
116 receive and accept aid or contributions from any source of
117 money, property, labor or other things of value, to be held, used
118 and applied only for the purposes for which the grants and
119 contributions are made.

120 (14) Engage in research and development with respect to
121 railroads.

122 (15) Purchase fire and extended coverage and liability
123 insurance for any railroad project and for the principal office and
124 suboffices of the authority, insurance protecting the authority
125 and its officers and employees against liability, if any, for
126 damage to property or injury to or death of persons arising from
127 its operations and be a member of, and to participate in, the state
128 workers' compensation program.

129 (16) Charge, alter and collect rates, rentals and other charges
130 for the use or services of any railroad project as provided in this
131 article.

132 (17) Do all acts necessary and proper to carry out the powers
133 expressly granted to the authority in this article.

134 (b) In addition, the authority has the power to:

135 (1) Acquire rail properties both within and not within the
136 jurisdiction of the Interstate Commerce Commission and rail

137 properties within the purview of the federal Regional Rail
138 Reorganization Act of 1973, any amendments to it and any other
139 relevant federal legislation.

140 (2) Enter into agreements with owners of rail properties for
141 the acquisition of rail properties or use, or both, of rail properties
142 upon the terms, conditions, rates or rentals that can best effectuate
143 the purposes of this article.

144 (3) Acquire rail properties and other property of a railroad in
145 concert with another state or states as is necessary to ensure
146 continued rail service in this state.

147 (4) Administer and coordinate the state plan.

148 (5) Provide in the state plan for the equitable distribution of
149 federal rail service continuation subsidies among state, local and
150 regional transportation authorities.

151 (6) Promote, supervise and support safe, adequate and
152 efficient rail services.

153 (7) Employ sufficiently trained and qualified personnel for
154 these purposes.

155 (8) Maintain adequate programs of investigation, research,
156 promotion and development in connection with the purposes and
157 to provide for public participation therein.

158 (9) Provide satisfactory assurances on behalf of the state that
159 fiscal control and fund accounting procedures will be adopted by
160 the state necessary to assure proper disbursement of and account-
161 ing for federal funds paid to the state as rail service continuation
162 subsidies.

163 (10) Comply with the regulations of the Secretary of
164 Transportation of the United States Department of Transporta-
165 tion affecting federal rail service continuation programs.

166 (11) Do all things otherwise necessary to maximize federal
167 assistance to the state under Title IV of the federal Regional Rail
168 Reorganization Act of 1973 and to qualify for rail service
169 continuation subsidies pursuant to the federal Regional Rail
170 Reorganization Act of 1973.

171 (c) Additional authority in regard to the Maryland Area
172 Regional Commuter.

173 (1) The Rail Authority is hereby granted, has and may
174 exercise all aforementioned powers necessary or appropriate to
175 coordinate all activities with the Maryland Transit Administra-
176 tion to assure the continued operation of the Maryland Area
177 Regional Commuter into the eastern panhandle of the state.

178 (2) In addition to the authority provided in subdivision (1) of
179 this subsection, the Rail Authority shall negotiate agreements
180 with the State of Maryland or the Maryland Transit Administra-
181 tion for the continued operation of the commuter rail operation
182 between Maryland and the Washington D. C. metropolitan area
183 and West Virginia. A commuter rail operation agreement shall
184 provide for quantity and quality of commuter rail service,
185 including certain minimum daily service at least equivalent to
186 the level service on the effective date of the amendments to this
187 subsection enacted in the Regular Session of the Legislature,
188 2013, unless daily ridership diminishes significantly from said
189 date. The agreement may provide for the payment of track access
190 fees attributed to commuter rail operation within the boundaries
191 of the state. Any payments of track access fees pursuant to the
192 agreement shall be paid from the special fund created in section
193 twenty-four of this article as provided by appropriation of the
194 Legislature.

§29-18-24. Creation of the West Virginia Commuter Rail Access Fund.

1 There is hereby established a special fund in the State
2 Treasury known as the West Virginia Commuter Rail Access

3 Fund. The fund shall be administered by the director and shall
4 consist of appropriations by the Legislature. Subject to legisla-
5 tive appropriation, the director shall administer the fund to pay
6 track access fees pursuant to the agreement required by section
7 six of this article. Balances in the fund at the end of any fiscal
8 year shall not expire, but shall be expended for those purposes in
9 ensuing fiscal years.

CHAPTER 32

**(Com. Sub. for H. B. 2716 - By Delegates Diserio,
Walker, Ferro, Skinner, Barill, Swartzmiller,
E. Nelson, Ellem, Storch, Marcum and White)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT to amend and reenact §5-22-1 of the Code of West Virginia, 1931, as amended, relating to the West Virginia Fairness in Competitive Bidding Act; defining “state spending units”; lowering the threshold amount from \$500,000 to \$250,000 for triggering a low bidder’s duty to submit a list of subcontractors on state spending unit contracts; and to further modify reporting for the subcontractor list.

Be it enacted by the Legislature of West Virginia:

That §5-22-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 22. GOVERNMENT CONSTRUCTION CONTRACTS.**§5-22-1. Bidding required; government construction contracts to go to lowest qualified responsible bidder; procedures to be followed in awarding government construction projects; penalties for violation of procedures and requirements debarment; exceptions.**

1 (a) This section and the requirements in this section may be
2 referred to as the West Virginia Fairness In Competitive Bidding
3 Act.

4 (b) As used in this section:

5 (1) "Lowest qualified responsible bidder" means the bidder
6 that bids the lowest price and that meets, as a minimum, all the
7 following requirements in connection with the bidder's response
8 to the bid solicitation. The bidder must certify that it:

9 (A) Is ready, able and willing to timely furnish the labor and
10 materials required to complete the contract;

11 (B) Is in compliance with all applicable laws of the State of
12 West Virginia; and

13 (C) Has supplied a valid bid bond or other surety authorized
14 or approved by the contracting public entity.

15 (2) "The state and its subdivisions" means the State of West
16 Virginia, every political subdivision thereof, every administra-
17 tive entity that includes such a subdivision, all municipalities and
18 all county boards of education.

19 (3) "State spending unit" means a department, agency or
20 institution of the state government for which an appropriation is
21 requested, or to which an appropriation is made by the Legisla-
22 ture.

23 (c) The state and its subdivisions shall, except as provided in
24 this section, solicit competitive bids for every construction
25 project exceeding \$25,000 in total cost. A vendor who has been
26 debarred pursuant to the provisions of sections thirty-three-b
27 through thirty-three-f, inclusive, article three, chapter five-a of
28 this code may not bid on or be awarded a contract under this
29 section. All bids submitted pursuant to this chapter shall include
30 a valid bid bond or other surety as approved by the State of West
31 Virginia or its subdivisions.

32 (d) Following the solicitation of bids, the construction
33 contract shall be awarded to the lowest qualified responsible
34 bidder who shall furnish a sufficient performance and payment
35 bond. The state and its subdivisions may reject all bids and
36 solicit new bids on the project.

37 (e) The apparent low bidder on a contract valued at more
38 than \$250,000 for the construction, alteration, decoration,
39 painting or improvement of a new or existing building or
40 structure with a state spending unit shall submit a list of all
41 subcontractors who will perform more than \$25,000 of work on
42 the project including labor and materials. This section does not
43 apply to other construction projects such as highway, mine
44 reclamation, water or sewer projects. The list shall include the
45 names of the bidders and the license numbers as required by
46 article eleven, chapter twenty-one of this code. This information
47 shall be provided to the state spending unit within one business
48 day of the opening of bids for review prior to the awarding of a
49 construction contract. If no subcontractors who will perform
50 more than \$25,000 of work are to be used to complete the project
51 it will be noted on the subcontractor list. Failure to submit the
52 subcontractor list within one business day after the deadline for
53 submitting bids shall result in disqualification of the bid.

54 (f) Written approval must be obtained from state spending
55 unit before any subcontractor substitution is permitted. Substitu-
56 tions are not permitted unless:

57 (1) The subcontractor listed in the original bid has filed for
58 bankruptcy;

59 (2) The state spending unit refuses to approve a subcontrac-
60 tor in the original bid because the subcontractor is under a
61 debarment pursuant to section thirty-three-d, article three,
62 chapter five-a of this code or a suspension under section
63 thirty-two, article three, chapter five-a of this code; or

64 (3) The contractor certifies in writing that the subcontractor
65 listed in the original bill fails, is unable or refuses to perform the
66 subcontract.

67 (g) The contracting public entity may not award the contract
68 to a bidder which fails to meet the minimum requirements set
69 out in this section. As to a prospective low bidder which the
70 contracting public entity determines not to have met one or more
71 of the requirements of this section or other requirements as
72 determined by the public entity in the written bid solicitation,
73 prior to the time a contract award is made, the contracting public
74 entity shall document in writing and in reasonable detail the
75 basis for the determination and shall place the writing in the bid
76 file. After the award of a bid under this section, the bid file of the
77 contracting public agency and all bids submitted in response to
78 the bid solicitation shall be open and available for public
79 inspection.

80 (h) A public official or other person who individually or
81 together with others knowingly makes an award of a contract
82 under this section in violation of the procedures and require-
83 ments of this section is subject to the penalties set forth in

84 section twenty-nine, article three, chapter five-a of the Code of
85 West Virginia.

86 (i) No officer or employee of this state or of a public agency,
87 public authority, public corporation or other public entity and no
88 person acting or purporting to act on behalf of an officer or
89 employee or public entity shall require that a performance bond,
90 payment bond or surety bond required or permitted by this
91 section be obtained from a particular surety company, agent,
92 broker or producer.

93 (j) All bids shall be open in accordance with the provisions
94 of section two of this article, except design-build projects which
95 are governed by article twenty-two-a of this chapter and are
96 exempt from these provisions.

97 (k) Nothing in this section applies to:

98 (1) Work performed on construction or repair projects by
99 regular full-time employees of the state or its subdivisions;

100 (2) Prevent students enrolled in vocational educational
101 schools from being utilized in construction or repair projects
102 when the use is a part of the student's training program;

103 (3) Emergency repairs to building components and systems.
104 For the purpose of this subdivision, the term emergency repairs
105 means repairs that if not made immediately will seriously impair
106 the use of building components and systems or cause danger to
107 persons using the building components and systems; and

108 (4) A situation where the state or subdivision thereof reaches
109 an agreement with volunteers, or a volunteer group, in which the
110 governmental body will provide construction or repair materials,
111 architectural, engineering, technical or other professional
112 services and the volunteers will provide the necessary labor
113 without charge to, or liability upon, the governmental body.

CHAPTER 33

(Com. Sub. for S. B. 158 - By Senators Beach and Stollings)

[Passed April 10, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 19, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §17-4A-1, §17-4A-2 and §17-4A-3, all relating to creation of the Complete Streets Act; promoting consideration by the Division of Highways of complete streets policies for all streets, roads and highways and other transportation infrastructure facilities under the jurisdiction of the Division of Highways; providing for model complete streets policies for use by Division of Highways, counties and municipalities; providing instances when the Division of Highways need not consider complete street policies; creating a Complete Streets Advisory Board; providing for reimbursement of mileage expenses of board members; and requiring annual reports.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §17-4A-1, §17-4A-2 and §17-4A-3, all to read as follows:

ARTICLE 4A. COMPLETE STREETS ACT.

§17-4A-1. Complete Streets.

- 1 (a) Vehicular, public transportation, bicycle and pedestrian
- 2 modes are integral to the transportation system of this state. The
- 3 Division of Highways may view all transportation improvements
- 4 as opportunities to improve safety, access and mobility for all
- 5 travelers.

6 (b) All transportation projects receiving federal or state
7 funds should strive to improve safety, access and mobility for
8 users of all ages and abilities, defined to include pedestrians,
9 bicyclists, public transportation vehicles and their passengers,
10 motorists, movers of commercial goods, persons with disabili-
11 ties, older adults and children.

12 (c) Accommodation of all users should be considered in the
13 planning, design, construction, reconstruction, rehabilitation,
14 maintenance and operations of any state, county or local
15 transportation facilities receiving funds from the Division of
16 Highways. The Division of Highways is encouraged to create a
17 safe, comprehensive, integrated and connected network to
18 accommodate all users in a manner that is suitable to the rural,
19 suburban or urban context.

20 (d) The Division of Highways is encouraged to use the latest
21 and best design standards as they apply to bicycle, pedestrian,
22 transit and highway facilities, which may include, but are not
23 limited to, the latest editions of:

24 (1) A Policy on Geometric Design of Highways and Streets,
25 from the American Association of State Highway and Transpor-
26 tation Officials;

27 (2) Designing Walkable Urban Thoroughfares: A Context
28 Sensitive Approach: An ITE Recommended Practice, from the
29 Institute of Transportation Engineers;

30 (3) Guide for the Development of Bicycle Facilities, from
31 the American Association of State Highway and Transportation
32 Officials;

33 (4) Guide for the Planning, Design and Operation of
34 Pedestrian Facilities, from the American Association of State
35 Highway and Transportation Officials;

36 (5) Public Rights-of-Way Accessibility Guidelines, from the
37 U. S. Access Board; and

38 (6) Other relevant federal, state or local guidance as appro-
39 priate.

40 (e) The Division of Highways may provide assistance to and
41 coordinate with regional and local agencies in developing and
42 implementing complementary complete streets policies. In the
43 development of projects within municipal boundaries, the
44 Division of Highways and municipality may share expertise in
45 multimodal transportation planning.

46 (f) The Division of Highways is encouraged to modify its
47 procedures, documents, training systems and performance
48 measures in a timely manner to ensure the needs of all users of
49 the transportation system are included in all phases of the
50 projects. The Division of Highways is encouraged to create an
51 implementation plan, including a schedule and a regional and
52 local government and public outreach plan, in consultation with
53 the advisory board as outlined in section three of this article.

§17-4A-2. Exceptions.

1 (a) Accommodation of all users of a transportation facility
2 need not be considered in the planning, designing, construction,
3 reconstruction, rehabilitation, maintenance or operations of any
4 state, county or local transportation facilities receiving funds
5 from the Division of Highways if the commissioner determines
6 that:

7 (1) Use of a transportation facility by pedestrians, bicyclists
8 or other users is prohibited by law;

9 (2) The cost of new accommodation would be disproportion-
10 ate to the need or probable use;

11 (3) There is a demonstrated absence of future need as
12 determined by factors such as current and future land use,
13 current and projected user volumes, population density and crash
14 data;

15 (4) The time-sensitive or expedited nature of the project
16 would be adversely affected; or

17 (5) The project has already moved beyond the initial
18 planning stage at the time this article goes into effect.

19 (b) The commissioner is encouraged to consult local and
20 regional plans and leaders, as appropriate, in assessing excep-
21 tions.

22 (c) Documentation of any granted exceptions may be made
23 publicly available and shared with the advisory board as
24 established in section three of this article.

§17-4A-3. Complete Streets Advisory Board.

1 (a) A Complete Streets Advisory Board to the Division of
2 Highways is established to:

3 (1) Provide and facilitate communication, education and
4 advice between the Division of Highways, counties, municipali-
5 ties, interest groups and the public;

6 (2) Make recommendations to the Division of Highways,
7 counties and municipalities for restructuring procedures,
8 updating design guidance, providing educational opportunities
9 to employees and creating new measures to track the success of
10 multimodal planning and design; and

11 (3) Submit to the Joint Committee on Government and
12 Finance, through the Division of Highways, an annual report as
13 outlined herein.

14 (b) The advisory board shall consist of sixteen members,
15 designated as follows:

16 (1) The Commissioner of Highways or his or her designee;

17 (2) The Secretary of the Department of Transportation or his
18 or her designee;

19 (3) The Secretary of the Department of Health and Human
20 Resources or his or her designee; and

21 (4) Thirteen members that serve at the will and pleasure of
22 the Governor and appointed by the Governor as follows:

23 (A) One member who is a licensed engineer with expertise
24 in transportation or civil engineering;

25 (B) One member representing the American Planning
26 Association;

27 (C) One member representing a state association of counties;

28 (D) One member representing state association of municipal-
29 ities;

30 (E) One member representing a major regional or local
31 public transportation agency;

32 (F) One member representing a national association of
33 retired persons;

34 (G) One member representing an organization interested in
35 the promotion of bicycling;

36 (H) One member representing an organization interested in
37 the promotion of walking and health;

38 (I) One member representing an organization representing
39 persons with disabilities;

40 (J) One member representing an automobile and/or trucking
41 organization; and

42 (K) Three members of the general public interested in
43 promoting complete streets policies, one representing each
44 congressional district, as determined by the Governor.

45 (c) The Commissioner of Highways shall serve as the first
46 chair of the board. The board shall meet at least twice a year and
47 at the call of the chair or a majority of the members. The
48 members of the board shall annually elect one of its members to
49 serve as chair after the first year.

50 (d) The initial terms of appointment for members appointed
51 by the Governor shall be as follows: Three members appointed
52 to a term of one year, three members appointed to a term of two
53 years, three members appointed to a term of three years and four
54 members appointed to a term of four years. Thereafter each
55 member shall be appointed for four years. A member shall serve
56 until his or her successor is appointed. In the case of a vacancy
57 the appointee shall serve the remainder of the unexpired term.
58 Members of the board may succeed themselves and shall serve
59 without compensation. The members appointed by the Governor
60 are entitled to be reimbursed in a manner consistent with the
61 guidelines of the Travel Management Office of the Department
62 of Administration for actual and necessary mileage expenses
63 incurred while attending official meetings of the board.

64 (e) On December 1, 2013, and on December 1 every year
65 thereafter, the board shall submit an annual report to the Gover-
66 nor, the Commissioner of Highways and the Joint Committee on
67 Government and Finance on the status of implementation of
68 section one of this article.

69 (1) The annual report shall include the following informa-
70 tion:

71 (A) A summary of actions taken by the Division of High-
72 ways in the preceding year to improve the safety, access and
73 mobility of roadways pursuant to section one of this article;

74 (B) Modifications made to or recommended for protocols,
75 guidance, standards or other requirements to facilitate complete
76 streets implementation;

77 (C) Status of the development of multimodal performance
78 indicators;

79 (D) Any information obtained on the use made of bicycle,
80 pedestrian, transit and highway facilities together with the
81 existing target level of use for these modes, if any;

82 (E) Available crash statistics by mode, age, road type and
83 location and other relevant factors; and

84 (F) Other related information that may be requested by the
85 Governor or Legislature.

86 (2) The Division of Highways may assist the board in the
87 preparation of the board's annual report.

CHAPTER 34

**(Com. Sub. for H. B. 2431 - By Delegates R. Phillips,
Cowles, Hunt, Marcum, Moye, Pethtel and Stowers)**

[Amended and again passed, as a result of the objections of the Governor,
April 17, 2013; in effect ninety days from passage.]
[Approved by the Governor on May 1, 2013.]

AN ACT to amend and reenact §61-7-4 and §61-7-7 of the Code of West Virginia, 1931, as amended, all relating to the process for obtaining a state license to carry a concealed deadly weapon;

conforming state licensure law to meet federal “Brady Exemption” requirements; clarifying certain restrictions and prohibitions; clarifying effect of expungement, pardons or reversal of prior offenses on permit applications; clarifying training and certification requirements; and clarifying background check requirements.

Be it enacted by the Legislature of West Virginia:

That §61-7-4 and §61-7-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-4. License to carry deadly weapons; how obtained.

1 (a) Except as provided in subsection (h) of this section, any
2 person desiring to obtain a state license to carry a concealed
3 deadly weapon shall apply to the sheriff of his or her county for
4 the license, and shall pay to the sheriff, at the time of applica-
5 tion, a fee of \$75, of which \$15 of that amount shall be deposited
6 in the Courthouse Facilities Improvement Fund created by
7 section six, article twenty-six, chapter twenty-nine of this code.
8 Concealed weapons permits may only be issued for pistols or
9 revolvers. Each applicant shall file with the sheriff a complete
10 application, as prepared by the Superintendent of the West
11 Virginia State Police, in writing, duly verified, which sets forth
12 only the following licensing requirements:

13 (1) The applicant’s full name, date of birth, Social Security
14 number, a description of the applicant’s physical features, the
15 applicant’s place of birth, the applicant’s country of citizenship
16 and, if the applicant is not a United States citizen, any alien or
17 admission number issued by the United States Bureau of
18 Immigration and Customs enforcement, and any basis, if
19 applicable, for an exception to the prohibitions of 18 U. S. C.
20 §922(g)(5)(B);

21 (2) That, on the date the application is made, the applicant is
22 a bona fide resident of this state and of the county in which the
23 application is made and has a valid driver's license or other
24 state-issued photo identification showing the residence;

25 (3) That the applicant is twenty-one years of age or older:
26 *Provided*, That any individual who is less than twenty-one years
27 of age and possesses a properly issued concealed weapons
28 license as of the effective date of this article shall be licensed to
29 maintain his or her concealed weapons license notwithstanding
30 the provisions of this section requiring new applicants to be at
31 least twenty-one years of age: *Provided, however*, That upon a
32 showing of any applicant who is eighteen years of age or older
33 that he or she is required to carry a concealed weapon as a
34 condition for employment, and presents satisfactory proof to the
35 sheriff thereof, then he or she shall be issued a license upon
36 meeting all other conditions of this section. Upon discontinuance
37 of employment that requires the concealed weapons license, if
38 the individual issued the license is not yet twenty-one years of
39 age, then the individual issued the license is no longer eligible
40 and must return his or her license to the issuing sheriff;

41 (4) That the applicant is not addicted to alcohol, a controlled
42 substance or a drug and is not an unlawful user thereof as
43 evidenced by either of the following within the three years
44 immediately prior to the application:

45 (A) Residential or court-ordered treatment for alcoholism or
46 alcohol detoxification or drug treatment; or

47 (B) Two or more convictions for driving while under the
48 influence or driving while impaired;

49 (5) That the applicant has not been convicted of a felony
50 unless the conviction has been expunged or set aside or the
51 applicant's civil rights have been restored or the applicant has
52 been unconditionally pardoned for the offense;

53 (6) That the applicant has not been convicted of a misde-
54 meanor crime of violence other than an offense set forth in
55 subsection (7) of this section in the five years immediately
56 preceding the application.

57 (7) That the applicant has not been convicted of a misde-
58 meanor crime of domestic violence as defined in 18 U. S. C.
59 §921(a)(33), or a misdemeanor offense of assault or battery
60 either under the provisions of section twenty-eight, article two of
61 this chapter or the provisions of subsection (b) or (c), section
62 nine, article two of this chapter in which the victim was a current
63 or former spouse, current or former sexual or intimate partner,
64 person with whom the defendant cohabits or has cohabited, a
65 parent or guardian, the defendant's child or ward or a member of
66 the defendant's household at the time of the offense, or a
67 misdemeanor offense with similar essential elements in a
68 jurisdiction other than this state;

69 (8) That the applicant is not under indictment for a felony
70 offense or is not currently serving a sentence of confinement,
71 parole, probation or other court-ordered supervision imposed by
72 a court of any jurisdiction or is the subject of an emergency or
73 temporary domestic violence protective order or is the subject of
74 a final domestic violence protective order entered by a court of
75 any jurisdiction;

76 (9) That the applicant has not been adjudicated to be
77 mentally incompetent or involuntarily committed to a mental
78 institution. If the applicant has been adjudicated mentally
79 incompetent or involuntarily committed the applicant must
80 provide a court order reflecting that the applicant is no longer
81 under such disability and the applicant's right to possess or
82 receive a firearm has been restored.

83 (10) That the applicant has qualified under the minimum
84 requirements set forth in subsection (d) of this section for

85 handling and firing the weapon: *Provided*, That this requirement
86 shall be waived in the case of a renewal applicant who has
87 previously qualified; and

88 (11) That the applicant authorizes the sheriff of the county,
89 or his or her designee, to conduct an investigation relative to the
90 information contained in the application.

91 (b) For both initial and renewal applications, the sheriff shall
92 conduct an investigation including a nationwide criminal
93 background check consisting of inquiries of the National Instant
94 Criminal Background Check System, the West Virginia criminal
95 history record responses and the National Interstate Identifica-
96 tion Index and shall review the information received in order to
97 verify that the information required in subsection (a) of this
98 section is true and correct.

99 (c) Sixty dollars of the application fee and any fees for
100 replacement of lost or stolen licenses received by the sheriff
101 shall be deposited by the sheriff into a Concealed Weapons
102 License Administration Fund. The fund shall be administered by
103 the sheriff and shall take the form of an interest-bearing account
104 with any interest earned to be compounded to the fund. Any
105 funds deposited in this Concealed Weapon License Administra-
106 tion Fund are to be expended by the sheriff to pay for the costs
107 associated with issuing concealed weapons licenses. Any surplus
108 in the fund on hand at the end of each fiscal year may be
109 expended for other law-enforcement purposes or operating needs
110 of the sheriff's office, as the sheriff may consider appropriate.

111 (d) All persons applying for a license must complete a
112 training course in handling and firing a handgun. The successful
113 completion of any of the following courses fulfills this training
114 requirement:

115 (1) Any official National Rifle Association handgun safety
116 or training course;

117 (2) Any handgun safety or training course or class available
118 to the general public offered by an official law-enforcement
119 organization, community college, junior college, college or
120 private or public institution or organization or handgun training
121 school utilizing instructors duly certified by the institution;

122 (3) Any handgun training or safety course or class conducted
123 by a handgun instructor certified as such by the state or by the
124 National Rifle Association;

125 (4) Any handgun training or safety course or class conducted
126 by any branch of the United States Military, Reserve or National
127 Guard or proof of other handgun qualification received while
128 serving in any branch of the United States Military, Reserve or
129 National Guard.

130 A photocopy of a certificate of completion of any of the
131 courses or classes or an affidavit from the instructor, school,
132 club, organization or group that conducted or taught said course
133 or class attesting to the successful completion of the course or
134 class by the applicant or a copy of any document which shows
135 successful completion of the course or class shall constitute
136 evidence of qualification under this section.

137 (e) All concealed weapons license applications must be
138 notarized by a notary public duly licensed under article four,
139 chapter twenty-nine of this code. Falsification of any portion of
140 the application constitutes false swearing and is punishable
141 under the provisions of section two, article five, chapter
142 sixty-one of this code.

143 (f) The sheriff shall issue a license unless he or she deter-
144 mines that the application is incomplete, that it contains state-
145 ments that are materially false or incorrect or that applicant
146 otherwise does not meet the requirements set forth in this
147 section. The sheriff shall issue, reissue or deny the license within

148 forty-five days after the application is filed if all required
149 background checks authorized by this section are completed.

150 (g) Before any approved license shall be issued or become
151 effective, the applicant shall pay to the sheriff a fee in the
152 amount of \$25 which the sheriff shall forward to the Superinten-
153 dent of the West Virginia State Police within thirty days of
154 receipt. The license shall be valid for five years throughout the
155 state, unless sooner revoked.

156 (h) Each license shall contain the full name and address of
157 the licensee and a space upon which the signature of the licensee
158 shall be signed with pen and ink. The issuing sheriff shall sign
159 and attach his or her seal to all license cards. The sheriff shall
160 provide to each new licensee a duplicate license card, in size
161 similar to other state identification cards and licenses, suitable
162 for carrying in a wallet, and the license card is considered a
163 license for the purposes of this section.

164 (i) The Superintendent of the West Virginia State Police
165 shall prepare uniform applications for licenses and license cards
166 showing that the license has been granted and shall do any other
167 act required to be done to protect the state and see to the
168 enforcement of this section.

169 (j) If an application is denied, the specific reasons for the
170 denial shall be stated by the sheriff denying the application. Any
171 person denied a license may file, in the circuit court of the
172 county in which the application was made, a petition seeking
173 review of the denial. The petition shall be filed within thirty days
174 of the denial. The court shall then determine whether the
175 applicant is entitled to the issuance of a license under the criteria
176 set forth in this section. The applicant may be represented by
177 counsel, but in no case may the court be required to appoint
178 counsel for an applicant. The final order of the court shall
179 include the court's findings of fact and conclusions of law. If the

180 final order upholds the denial, the applicant may file an appeal
181 in accordance with the Rules of Appellate Procedure of the
182 Supreme Court of Appeals.

183 (k) If a license is lost or destroyed, the person to whom the
184 license was issued may obtain a duplicate or substitute license
185 for a fee of \$5 by filing a notarized statement with the sheriff
186 indicating that the license has been lost or destroyed.

187 (l) Whenever any person after applying for and receiving a
188 concealed handgun license moves from the address named in the
189 application to another county within the state, the license
190 remains valid for the remainder of the five years: *Provided*, That
191 the licensee within twenty days thereafter notifies the sheriff in
192 the new county of residence in writing of the old and new
193 addresses.

194 (m) The sheriff shall, immediately after the license is
195 granted as aforesaid, furnish the Superintendent of the West
196 Virginia State Police a certified copy of the approved applica-
197 tion. The sheriff shall furnish to the Superintendent of the West
198 Virginia State Police at any time so requested a certified list of
199 all licenses issued in the county. The Superintendent of the West
200 Virginia State Police shall maintain a registry of all persons who
201 have been issued concealed weapons licenses.

202 (n) Except when subject to an exception under section six,
203 article seven of this chapter, all licensees must carry with them
204 a state-issued photo identification card with the concealed
205 weapons license whenever the licensee is carrying a concealed
206 weapon. Any licensee who, in violation of this subsection, fails
207 to have in his or her possession a state-issued photo identifica-
208 tion card and a current concealed weapons license while carrying
209 a concealed weapon is guilty of a misdemeanor and, upon
210 conviction thereof, shall be fined not less than \$50 or more than
211 \$200 for each offense.

212 (o) The sheriff shall deny any application or revoke any
213 existing license upon determination that any of the licensing
214 application requirements established in this section have been
215 violated by the licensee.

216 (p) A person who is engaged in the receipt, review or in the
217 issuance or revocation of a concealed weapon license does not
218 incur any civil liability as the result of the lawful performance of
219 his or her duties under this article.

220 (q) Notwithstanding the provisions of subsection (a) of this
221 section, with respect to application by a former law-enforcement
222 officer honorably retired from agencies governed by article
223 fourteen, chapter seven of this code; article fourteen, chapter
224 eight of this code; article two, chapter fifteen of this code; and
225 article seven, chapter twenty of this code, an honorably retired
226 officer is exempt from payment of fees and costs as otherwise
227 required by this section. All other application and background
228 check requirements set forth in this shall be applicable to these
229 applicants.

230 (r) Except as restricted or prohibited by the provisions of this
231 article or as otherwise prohibited by law, the issuance of a
232 concealed weapon permit issued in accordance with the provi-
233 sions of this section authorizes the holder of the permit to carry
234 a concealed pistol or revolver on the lands or waters of this state.

**§61-7-7. Persons prohibited from possessing firearms; classifica-
tions; reinstatement of rights to possess; offenses;
penalties.**

1 (a) Except as provided in this section, no person shall
2 possess a firearm, as such is defined in section two of this article,
3 who:

4 (1) Has been convicted in any court of a crime punishable by
5 imprisonment for a term exceeding one year;

6 (2) Is habitually addicted to alcohol;

7 (3) Is an unlawful user of or habitually addicted to any
8 controlled substance;

9 (4) Has been adjudicated to be mentally incompetent or who
10 has been involuntarily committed to a mental institution pursuant
11 to the provisions of chapter twenty-seven of this code or in
12 similar law of another jurisdiction: *Provided*, That once an
13 individual has been adjudicated as a mental defective or involun-
14 tarily committed to a mental institution, he or she shall be duly
15 notified that they are to immediately surrender any firearms in
16 their ownership or possession: *Provided, however*, That the
17 mental hygiene commissioner or circuit judge shall first make a
18 determination of the appropriate public or private individual or
19 entity to act as conservator for the surrendered property;

20 (5) Is an alien illegally or unlawfully in the United States;

21 (6) Has been discharged from the armed forces under
22 dishonorable conditions;

23 (7) Is subject to a domestic violence protective order that:

24 (A) Was issued after a hearing of which such person
25 received actual notice and at which such person had an opportu-
26 nity to participate;

27 (B) Restrains such person from harassing, stalking or
28 threatening an intimate partner of such person or child of such
29 intimate partner or person, or engaging in other conduct that
30 would place an intimate partner in reasonable fear of bodily
31 injury to the partner or child; and

32 (C)(i) Includes a finding that such person represents a
33 credible threat to the physical safety of such intimate partner or
34 child; or

35 (ii) By its terms explicitly prohibits the use, attempted use or
36 threatened use of physical force against such intimate partner or
37 child that would reasonably be expected to cause bodily injury;
38 or

39 (8) Has been convicted of a misdemeanor offense of assault
40 or battery either under the provisions of section twenty-eight,
41 article two of this chapter or the provisions of subsection (b) or
42 (c), section nine of said article or a federal or state statute with
43 the same essential elements in which the victim was a current or
44 former spouse, current or former sexual or intimate partner,
45 person with whom the defendant has a child in common, person
46 with whom the defendant cohabits or has cohabited, a parent or
47 guardian, the defendant's child or ward or a member of the
48 defendant's household at the time of the offense or has been
49 convicted in any court of any jurisdiction of a comparable
50 misdemeanor crime of domestic violence.

51 Any person who violates the provisions of this subsection
52 shall be guilty of a misdemeanor and, upon conviction thereof,
53 shall be fined not less than \$100 nor more than \$1,000 or
54 confined in the county jail for not less than ninety days nor more
55 than one year, or both.

56 (b) Notwithstanding the provisions of subsection (a) of this
57 section, any person:

58 (1) Who has been convicted in this state or any other
59 jurisdiction of a felony crime of violence against the person of
60 another or of a felony sexual offense; or

61 (2) Who has been convicted in this state or any other
62 jurisdiction of a felony controlled substance offense involving a
63 Schedule I controlled substance other than marijuana, a Schedule

64 II or a Schedule III controlled substance as such are defined in
65 sections two hundred four, two hundred five and two hundred
66 six, article two, chapter sixty-a of this code and who possesses
67 a firearm as such is defined in section two of this article shall be
68 guilty of a felony and, upon conviction thereof, shall be confined
69 in a state correctional facility for not more than five years or
70 fined not more than \$5,000, or both. The provisions of subsec-
71 tion (c) of this section shall not apply to persons convicted of
72 offenses referred to in this subsection or to persons convicted of
73 a violation of this subsection.

74 (c) Any person prohibited from possessing a firearm by the
75 provisions of subsection (a) of this section may petition the
76 circuit court of the county in which he or she resides to regain
77 the ability to possess a firearm and if the court finds by clear and
78 convincing evidence that the person is competent and capable of
79 exercising the responsibility concomitant with the possession of
80 a firearm, the court may enter an order allowing the person to
81 possess a firearm if such possession would not violate any
82 federal law: *Provided*, That a person prohibited from possessing
83 a firearm by the provisions of subdivision (4), subsection (a) of
84 this section may petition to regain the ability to possess a firearm
85 in accordance with the provisions of section five, article seven-a
86 of this chapter.

87 (d) Any person who has been convicted of an offense which
88 disqualifies him or her from possessing a firearm by virtue of a
89 criminal conviction whose conviction was expunged or set aside
90 or who subsequent thereto receives an unconditional pardon for
91 said offense shall not be prohibited from possessing a firearm by
92 the provisions of the section.

CHAPTER 35

**(Com. Sub. for S. B. 369 - By Senators Unger,
Kessler (Mr. President), D. Hall, Cookman, Cann, Laird, Beach,
Fitzsimmons, Jenkins and Williams)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT to amend and reenact §61-7-6 and §61-7-6a of the Code of West Virginia, 1931, as amended, all relating to exemptions and exceptions for West Virginia conceal and carry handgun license requirements; allowing a resident of another state to carry a handgun in West Virginia if the nonresident person holds a valid permit or license to possess or carry a handgun from another state when certain conditions are met; establishing a precondition that West Virginia residents with a West Virginia-issued conceal and carry permit must be authorized to carry a concealed handgun in that other state; removing or modifying other concealed handgun reciprocity requirements; prescribing methods of verification of reciprocal conceal and carry handgun rights between West Virginia and another state; clarifying or modifying reciprocity requirements and responsibilities of the Attorney General and the State Police; exempting judicial officers, magistrates, prosecutors, assistant prosecutors and investigators employed by prosecutors staff from paying handgun conceal and carry license fees when applying for a conceal and carry permit in this state; requiring the judicial officers, magistrates, prosecutors, assistant prosecutors and investigators employed by prosecutors to satisfy all other licensing requirements and possess a conceal and carry license before carrying a concealed handgun in this state on and after July 1, 2013; removing exemption from remaining conceal and carry licensing requirements for judicial officers, prosecutors and prosecutor investigators as of July 1, 2013; and amending provisions of bill consistent with other legislative action.

Be it enacted by the Legislature of West Virginia:

That §61-7-6 and §61-7-6a of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-6. Exceptions as to prohibitions against carrying concealed handguns; exemptions from licensing fees.

1 (a) The licensure provisions set forth in this article do not
2 apply to:

3 (1) Any person:

4 (A) Carrying a deadly weapon upon his or her own premises;

5 (B) Carrying a firearm, unloaded, from the place of purchase
6 to his or her home, residence or place of business or to a place of
7 repair and back to his or her home, residence or place of
8 business; or

9 (C) Possessing a firearm while hunting in a lawful manner
10 or while traveling from his or her home, residence or place of
11 business to a hunting site and returning to his or her home,
12 residence or place of business;

13 (2) Any person who is a member of a properly organized
14 target-shooting club authorized by law to obtain firearms by
15 purchase or requisition from this state or from the United States
16 for the purpose of target practice from carrying any pistol, as
17 defined in this article, unloaded, from his or her home, residence
18 or place of business to a place of target practice and from any
19 place of target practice back to his or her home, residence or
20 place of business, for using any such weapon at a place of target
21 practice in training and improving his or her skill in the use of
22 the weapons;

23 (3) Any law-enforcement officer or law-enforcement official
24 as defined in section one, article twenty-nine, chapter thirty of
25 this code;

26 (4) Any employee of the West Virginia Division of Correc-
27 tions duly appointed pursuant to the provisions of section eleven-
28 c, article one, chapter twenty-five of this code while the em-
29 ployee is on duty;

30 (5) Any member of the armed forces of the United States or
31 the militia of this state while the member is on duty;

32 (6) Any resident of another state who holds a valid permit or
33 license to possess or carry a handgun issued by a state or a
34 political subdivision subject to the provisions and limitations set
35 forth in section six-a of this article;

36 (7) Any federal law-enforcement officer or federal police
37 officer authorized to carry a weapon in the performance of the
38 officer's duty;

39 (8) Any Hatfield-McCoy Regional Recreation Authority
40 Ranger while the ranger is on duty; and

41 (9) Any parole officer appointed pursuant to section four-
42 teen, article twelve, chapter sixty-two of this code in the
43 performance of their duties.

44 (b) On and after July 1, 2013, the following judicial officers
45 and prosecutors and staff shall be exempted from paying any
46 application fees or licensure fees required under this article.
47 However, on and after that same date, they shall be required to
48 make application and satisfy all licensure and handgun safety
49 and training requirements set forth in section four of this article
50 before carrying a concealed handgun in this state:

51 (1) Any justice of the Supreme Court of Appeals of West
52 Virginia;

- 53 (2) Any circuit judge;
- 54 (3) Any retired justice or retired circuit judge designated
55 senior status by the Supreme Court of Appeals of West Virginia;
- 56 (4) Any family court judge;
- 57 (5) Any magistrate;
- 58 (6) Any prosecuting attorney;
- 59 (7) Any assistant prosecuting attorney; or
- 60 (8) Any duly appointed investigator employed by a prosecut-
61 ing attorney.

§61-7-6a. Reciprocity and recognition; out-of-state concealed handgun permits.

- 1 (a) A valid out-of-state permit or license to possess or carry
2 a handgun is valid in this state for the carrying of a concealed
3 handgun, if the following conditions are met:
- 4 (1) The permit or license holder is twenty-one years of age
5 or older;
- 6 (2) The permit or license is in his or her immediate posses-
7 sion;
- 8 (3) The permit or license holder is not a resident of the State
9 of West Virginia; and
- 10 (4) The Attorney General has been notified by the Governor
11 of the other state that the other state allows residents of West
12 Virginia who are licensed in West Virginia to carry a concealed
13 handgun to carry a concealed handgun in that state or the
14 Attorney General has entered into a written reciprocity agree-
15 ment with the appropriate official of the other state whereby the
16 state agrees to honor West Virginia concealed handgun licenses
17 in return for same treatment in this state.

18 (b) A holder of a valid permit or license from another state
19 who is authorized to carry a concealed handgun in this state
20 pursuant to provisions of this section is subject to the same laws
21 and restrictions with respect to carrying a concealed handgun as
22 a resident of West Virginia who is so permitted and must carry
23 the concealed handgun in compliance with the laws of this state.

24 (c) A license or permit from another state is not valid in this
25 state if the holder is or becomes prohibited by law from possess-
26 ing a firearm.

27 (d) The West Virginia Attorney General shall seek to obtain
28 recognition of West Virginia concealed handgun licenses and
29 enter into and execute reciprocity agreements on behalf of the
30 State of West Virginia with states for the recognition of con-
31 cealed handgun permits issued pursuant to this article.

32 (e) The West Virginia State Police shall maintain a registry
33 of states with which the State of West Virginia has entered into
34 reciprocity agreements or which recognize West Virginia
35 concealed handgun licenses on the criminal information network
36 and make the registry available to law-enforcement officers for
37 investigative purposes.

38 (f) Every twelve months after the effective date of this
39 section, the West Virginia Attorney General shall make written
40 inquiry of the concealed handgun licensing or permitting
41 authorities in each other state as to: (i) Whether a West Virginia
42 resident may carry a concealed handgun in their state based upon
43 having a valid West Virginia concealed handgun permit; and (ii)
44 whether a West Virginia resident may carry a concealed handgun
45 in that state based upon having a valid West Virginia concealed
46 handgun permit, pursuant to the laws of that state or by the
47 execution of a valid reciprocity agreement between the states.

48 (g) The West Virginia State Police shall make available to
49 the public a list of states which have entered into reciprocity

50 agreements with the State of West Virginia or that allow
 51 residents of West Virginia who are licensed in West Virginia to
 52 carry a concealed handgun to carry a concealed handgun in that
 53 state.

CHAPTER 36

**(S. B. 412 - By Senators Miller, Williams,
 Kessler (Mr. President) and Sypolt)**

[Passed April 8, 2013; in effect from passage.]
 [Approved by the Governor on April 18, 2013.]

AN ACT to amend and reenact §19-21A-6 and §19-21A-7 of the Code of West Virginia, 1931, as amended, all relating to county conservation district supervisors; extending unexpired terms when filling vacancies; and providing for the removal of elected county conservation district supervisors from office.

Be it enacted by the Legislature of West Virginia:

That §19-21A-6 and §19-21A-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 21A. CONSERVATION DISTRICTS.

§19-21A-6. Election of supervisors for each district; filling vacancies.

1 (a) Each county in a district shall elect two nonpartisan
 2 supervisors: *Provided*, That any county with a population of one
 3 hundred thousand based on the most recent decennial census
 4 shall elect one additional supervisor and any county with a

5 population over one hundred thousand based on the most recent
6 decennial census shall elect one additional supervisor for each
7 fifty thousand residents over one hundred thousand.

8 (b) A candidate for supervisor must be a landowner and an
9 active farmer with a minimum of five years' experience or a
10 retired farmer who has had a minimum of five years' experience
11 and must have the education, training and experience necessary
12 to carry out the duties required by this article. The State Conser-
13 vation Committee shall propose for promulgation in accordance
14 with the requirements of article three-a, chapter twenty-nine of
15 this code legislative rules to establish criteria for the necessary
16 education, training and experience.

17 (c) All registered voters in the district are eligible to vote in
18 the election for candidates from the county within the boundaries
19 of the district in which the voter resides. The candidates in each
20 county who receive the largest number of votes cast in the
21 election shall be elected supervisors for that county.

22 (d) Supervisors shall be elected in the primary election and
23 serve a term of four years. The provisions of chapter three of this
24 code apply to election of supervisors.

25 (e) Persons holding the position of supervisor, regardless of
26 the expiration of the designated term of office, continue to serve
27 until the election and qualification of his or her successor.

28 (f) Any vacancy occurring in the office of supervisor shall
29 be filled by the committee by appointment of a person from the
30 county in which the vacancy occurs. Within fifteen days after the
31 vacancy occurs, the district shall submit a list of names of
32 persons qualified to be a supervisor. If the unexpired term is for
33 less than two years and six months, the appointed person holds
34 office until the expiration of the term. If the unexpired term is
35 for more than two years and six months, the appointed person

36 holds the office until a successor is elected in the next primary
37 or general election and qualified.

**§19-21A-7. Supervisors to constitute governing body of district;
qualifications and terms of supervisors; powers and
duties; removal.**

1 (a) The governing body of the district consists of the
2 supervisors, appointed or elected, as provided in this article. The
3 supervisors shall be persons who are by training and experience
4 qualified to perform the specialized skilled services which are
5 required of them in the performance of their duties under this
6 section and shall be legal residents and landowners in the
7 district.

8 (b) The supervisors shall designate a chairperson and may,
9 from time to time, change the designation. On and after the
10 election of supervisors in 2008, the term of office of each elected
11 supervisor is four years. A supervisor holds office until his or her
12 successor has been elected or appointed. In case a new county is
13 added to a district, the committee may appoint two supervisors
14 to represent the county until the next regular election of supervi-
15 sors for the district takes place.

16 (c) A supervisor is entitled to reasonable and necessary
17 expenses and a per diem of not more than \$150 nor less than \$30
18 when engaged in the performance of his or her duties. The
19 expense and per diem rate shall be established by the state
20 committee based on availability of funds.

21 (d) The supervisors may, with the approval of the State
22 Conservation Committee, employ a secretary, dam monitors,
23 technical experts and any other officers, agents and employees,
24 permanent and temporary, either with or without compensation,
25 as they may require and shall determine their qualifications,
26 duties and compensation, if any. Dam monitors, as specified in

27 any emergency action plan or monitoring plan approved by the
28 Department of Environmental Protection pursuant to its dam
29 safety rules, pertaining to a flood control structure operated or
30 maintained by a soil conservation district and any other employ-
31 ees, agents or officers employed pursuant to this section are
32 “employees” of the district within the meaning of subsection (a),
33 section three, article twelve-a, chapter twenty-nine of this code.

34 (e) The supervisors may delegate to their chairperson, to one
35 or more supervisors or to one or more agents, or employees,
36 those administrative powers and duties they consider proper. The
37 supervisors shall furnish to the State Conservation Committee,
38 upon request, copies of the ordinances, rules, orders, contracts,
39 forms and other documents they adopt or employ and any other
40 information concerning their activities required in the perfor-
41 mance of State Conservation Committee’s duties under this
42 article.

43 (f) The supervisors shall:

44 (1) Require the execution of surety bonds for all employees
45 and officers who are entrusted with funds or property;

46 (2) Provide for the keeping of a full and accurate record of
47 all proceedings and of all resolutions, rules and orders issued or
48 adopted; and

49 (3) Provide for an annual audit of the accounts of receipts
50 and disbursements.

51 (g) Any supervisor may be removed from office pursuant to
52 section seven, article six, chapter six of this code.

53 (h) The supervisors may invite the legislative body of any
54 municipality or county located near the territory comprised
55 within the district to designate a representative to advise and
56 consult with the supervisors of a district on all questions of

- 57 program and policy which may affect the property, water supply
58 or other interests of the municipality or county.

CHAPTER 37

(Com. Sub. for H. B. 2521 - By Delegates Skaff and Marcum)

[Passed April 9, 2013; in effect ninety days from passage.]
[Approved by the Governor on April 22, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §60A-7-705a, relating to the West Virginia Contraband Forfeiture Act; providing procedures for voluntary administrative forfeiture of forfeitable money used in or obtained through the illegal trafficking of controlled substances; establishing time frames; providing notice requirements; and providing for use of existing forfeiture law in contested cases.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §60A-7-705a, to read as follows:

ARTICLE 7. WEST VIRGINIA CONTRABAND FORFEITURE ACT.

§60A-7-705a. Additional procedures for forfeiture.

- 1 (a) Notwithstanding the provisions of section seven hundred
- 2 five of this article, forfeitable moneys are subject to administra-
- 3 tive forfeiture by the prosecuting attorney of a county or duly
- 4 appointed special prosecutor.

5 (b) An administrative forfeiture notice shall be provided by
6 the prosecuting attorney after the seizure of the money in
7 question. The notice shall contain the following:

8 (1) A description of the money seized;

9 (2) A statement as to who is responsible for the seizure;

10 (3) A statement of the time and place of seizure;

11 (4) The identity of the owner or owners of the money, if
12 known; and

13 (5) The identity of the person or persons in possession of the
14 money at the time seized.

15 (c) At the time of filing or as soon as practicable thereafter,
16 a copy of the petition for forfeiture shall be served upon the
17 owner or owners of the seized money. Should diligent efforts fail
18 to disclose the lawful owner or owners of the seized money, a
19 copy of the petition for forfeiture shall be served upon any
20 person who was in possession or alleged to be in possession of
21 the money at the time of seizure, where such person's identity is
22 known. The above service shall be made pursuant to the provi-
23 sions of the West Virginia Rules of Civil Procedure.

24 (d) The administrative forfeiture notice shall include a
25 statement substantially as follows: To any claimant: "The
26 confiscated money is subject to administrative forfeiture unless
27 you provide a written notice, within thirty days of receipt of this
28 notice, that you wish to contest this forfeiture. If you fail to
29 provide a notice to the prosecuting attorney, you will immedi-
30 ately and forever lose all right, claim, title and interest to the
31 confiscated money, and it will be disposed of according to law."

32 (e) If, after thirty days of the delivery of notice from the
33 prosecuting attorney as provided in subsections (c) and (d) of

34 this section, no notice is received from any person indicating a
35 desire to contest the administrative forfeiture, all right, title and
36 interest to the confiscated money shall immediately vest in the
37 state, and shall be disposed of in the same manner as in a civil
38 forfeiture.

39 (f) If notice is received from any person, within the required
40 period of time, indicating a desire to contest the administrative
41 forfeiture, then no forfeiture may be obtained except through a
42 civil forfeiture proceeding under section seven hundred five of
43 this article.

CHAPTER 38

(Com. Sub. for H. B. 2590 - By Mr. Speaker, (Mr. Thompson))
[By Request of the Executive]

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §31-21-1, §31-21-2, §31-21-3, §31-21-4, §31-21-5, §31-21-6, §31-21-7, §31-21-8, §31-21-9, §31-21-10, §31-21-11, §31-21-12, §31-21-13, §31-21-14, §31-21-15, §31-21-16, §31-21-17, §31-21-18, §31-21-19 and §31-21-20, all relating to authorizing the creation of a public nonprofit corporation and governmental instrumentality to facilitate the redevelopment of former commercial, industrial and mining properties subject to federal and state regulations because of contamination or pollution discharge; providing short title; declaring policy and purpose of article; defining terms; creating West Virginia Land Stewardship Corporation; requiring corporation to apply for recognition of nonprofit status; providing

eligibility for properties to participate; stating certain tax requirements; setting forth powers and limitations of West Virginia Land Stewardship Corporation; providing for board of directors and composition of same; providing for creation of voluntary land stewardship program; providing for underwriting review of land stewardship program applicants; authorizing establishment of state certified sites program; setting forth minimum standards for certification under state certified sites program and assessment of fees therefor; authorizing establishment of voluntary state land bank program; prohibiting the transfer of certain liabilities to land bank by prior owner; permitting land stewardship corporation to preserve property value of properties held by land stewardship corporation; authorizing land bank to acquire, dispose or otherwise manage real property; providing requirements for handling of contaminated properties by land stewardship corporation; providing for liberal construction of article; authorizing the Department of Environmental Protection to investigate corporation activities and take necessary actions; exempting corporation from certain state and local taxes; specifying payments in lieu of tax and tax exemption for leased property; requiring corporation to notify certain county officials upon receipt of an application for a site to participate in the land bank program; requiring audits and biannual reports; providing procedure for dissolution of land stewardship corporation upon completion of purpose and for disposal of properties possessed by the corporation; providing provision for conflict of interest of land stewardship corporation officers, employees and board members; stating preservation of sovereign immunity; and providing that obligations of land stewardship corporation are not obligations of the Department of Environmental Protection or the state.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §31-21-1, §31-21-2, §31-21-3, §31-21-4, §31-21-5, §31-21-6, §31-21-7, §31-21-8, §31-21-9, §31-21-

10, §31-21-11, §31-21-12, §31-21-13, §31-21-14, §31-21-15, §31-21-16, §31-21-17, §31-21-18, §31-21-19 and §31-21-20, all to read as follows:

ARTICLE 21. WEST VIRGINIA LAND STEWARDSHIP CORPORATION.

PART I. SHORT TITLE, DECLARATION OF POLICY, PURPOSE OF ARTICLE AND DEFINITIONS.

§31-21-1. Short title.

- 1 This article shall be known and may be cited as The West
- 2 Virginia Land Stewardship Corporation Act.

§31-21-2. Definitions.

- 1 The following words used in this article, unless the context
- 2 clearly indicates a different meaning, are defined as follows:

- 3 (1) "Agreement" means any agreement being entered into
- 4 between the nonprofit corporation and a business, corporation,
- 5 private party or local or state government.

- 6 (2) "All appropriate inquiries" or "AAI" means the process
- 7 of evaluating a property's environmental conditions and assess-
- 8 ing the likelihood of any contamination. Every Phase I environ-
- 9 mental assessment must be conducted in compliance with the All
- 10 Appropriate Inquiries Final Rule at 40 CFR Part 312.

- 11 (3) "Board of directors" or "board" means the board of
- 12 directors of the corporation to be appointed under the provisions
- 13 of section six of this article.

- 14 (4) "Certified sites" means those sites that are developable
- 15 properties that have been prequalified as having proper land use
- 16 designation, utilities, transportation improvements, availability,

17 and pricing. Criteria for prequalification include, but are not
18 limited to, established pricing terms and conditions so that
19 property acquisition can be negotiated quickly and without time-
20 consuming delays.

21 (5) “Charitable purposes” means the 501(c)(3) subclasses of
22 “lessening the burden of the government” where the government
23 identifies a need for the nonprofit entity to assist with a govern-
24 mental service and the nonprofit collaborates with the govern-
25 ment entity, and “environmental protection for the benefit of the
26 public” where the services of the corporation benefit the general
27 public by protecting public health and the environment as well
28 as assisting with state and local economic development initia-
29 tives.

30 (6) “Contaminants” has the same meaning as defined in the
31 environmental acts referenced in subdivision (13) of this section.

32 (7) “Corporation” means the West Virginia Land Steward-
33 ship Corporation, a nonstock, nonprofit corporation to be
34 established under the West Virginia Nonprofit Corporation Act,
35 article two, chapter thirty-one-e of this code, and with nonprofit
36 status under one or more charitable purposes under 501(c) of the
37 Internal Revenue Code of 1986, as amended.

38 (8) “Corporate directors” means the members of the board
39 of directors of the corporation.

40 (9) “Department of Environmental Protection” or the “DEP”
41 means the West Virginia Department of Environmental Protec-
42 tion or any successor agency.

43 (10) “Enforcement tools” means any order, permit, consent
44 decree or environmental covenant or similar mechanisms which
45 restrict or control certain land uses implemented at IEC Sites.

46 (11) “Engineering controls” or “ECs” means physical
47 controls or measures designed to eliminate the potential for

48 human exposure to contamination by limiting direct contact with
49 contaminated areas, or controlling contaminants from migrating
50 through environmental media into soil, groundwater or off-site.

51 (12) “Enrolled sites” means properties enrolled and accepted
52 for participation in the voluntary Land Stewardship Program.

53 (13) “Environmental acts” means the Surface Coal Mining
54 and Reclamation Act set forth in article three, chapter twenty-
55 two of this code; the Air Pollution Control Act set forth in article
56 five, chapter twenty-two of this code; the Water Pollution
57 Control Act set forth in article eleven, chapter twenty-two of this
58 code; the Groundwater Protection Act set forth in article twelve,
59 chapter twenty-two of this code; the Solid Waste Management
60 Act set forth in article fifteen, chapter twenty-two of this code;
61 the Solid Waste Landfill Closure Assistance Program set forth
62 in article sixteen, chapter twenty-two of this code; the Under-
63 ground Storage Tank Act set forth in article seventeen, chapter
64 twenty-two of this code; the Hazardous Waste Management Act
65 set forth in article eighteen, chapter twenty-two of this code;
66 section 103(a) of the Comprehensive Environmental Response,
67 Compensation and Liability Act of 1980 (42 U. S. C. §9603(a));
68 section 304 of the Emergency Planning and Community Right-
69 To-Know Act of 1986 (42 U. S. C. §§11001 to 11050); the
70 Occupational Safety and Health Act set forth in 29 U. S. C.
71 §§651 to 678; the Hazardous and Solid Waste Amendments of
72 1984, as amended, set forth in 42 U. S. C. §§6901, *et seq.*; and
73 the Toxic Substances Control Act set forth in 15 U. S. C.
74 §§2601, *et seq.*; and any applicable regulations promulgated
75 under the foregoing environmental statutes.

76 (14) “Governmental controls” means any state laws,
77 ordinances, orders, permits, consent decrees and similar mecha-
78 nisms which restrict or control certain land uses implemented at
79 IEC Sites in this state.

80 (15) “Institutional and Engineering Control Sites” or “IEC
81 Sites” means sites in this state that have been remediated or
82 closed under a federal or state environmental program, includ-
83 ing, but not limited to, brownfields, underground storage tanks,
84 closed landfills, open dumps, hazardous waste sites, and former
85 mining sites with ongoing water treatment as part of mine
86 reclamation efforts.

87 (16) “Informational devices” means deed notices or other
88 written documents that describe the remediation that was
89 conducted on an IEC Site, the constituents of concern, and the
90 remediation standards that were achieved. Informational devices
91 shall be filed with property records in the office of the county
92 clerk of the county in which the property is located as an
93 advisory to provide environmental information to future buyers
94 or users of the IEC Site.

95 (17) “Institutional Controls” or “ICs” means administrative
96 and legal controls that do not involve construction or physically
97 changing the site and are generally divided into four categories:
98 1) Government controls, 2) Proprietary controls, 3) Enforcement
99 tools, and 4) Informational devices. ICs are nonengineering
100 measures that help minimize the potential for human exposure
101 to contamination and/or protect the integrity of the remedy by
102 limiting land or resource use.

103 (18) “Nonprofit corporation” means a corporation estab-
104 lished under the West Virginia Nonprofit Corporation Act,
105 article two, chapter thirty-one-e of this code, to fulfill the
106 purposes of this article.

107 (19) “Pollutants” has the same meaning as defined in the
108 environmental acts referenced in subdivision (13) of this section.

109 (20) “Proprietary controls” mean legal property interests
110 created under real property laws that rely on legal documents

111 recorded in the chain of title for the site, and “run with the land”
112 to bind future landowners. Examples of proprietary controls
113 include, but are not limited to, environmental covenants, deed
114 land use restrictions, water withdrawal prohibitions and continu-
115 ing right-of-entry easements for former owners or regulators to
116 inspect, monitor and maintain the IECs.

117 (21) “Regulated substances” has the same meaning as
118 defined in the environmental acts referenced in subdivision (13)
119 of this section.

120 (22) “Releases” has the same meaning as defined in the
121 environmental acts referenced in subdivision (13) of this section.

§31-21-3. Declaration of policy.

1 (a) The Legislature finds and declares that developable land
2 is one of West Virginia’s most valuable resources in terms of net
3 contributions to the state’s economy and tax base.

4 (b) The Legislature further finds that:

5 (1) Due to topography, the state has somewhat limited
6 amounts of developable land and that promoting the productive
7 reuse of idled and underutilized commercial, industrial and
8 mining properties will maximize this valuable resource and
9 foster reuse of sites with existing public infrastructure;

10 (2) An entity that specializes in promoting the productive
11 reuse of idled or underutilized commercial, industrial and mining
12 properties will help the state and its citizenry to plan more
13 wisely for sustainable property reuse and economic development
14 efforts;

15 (3) An entity created to address and reduce regulatory and
16 economic uncertainty by being a repository of site history and
17 remediation information about formerly used properties can be

18 a benefit to attracting new employers or encouraging businesses
19 to relocate, remain or expand within the state;

20 (4) An entity that assists the Department of Environmental
21 Protection with a voluntary land stewardship program for the
22 long-term safeguarding of remediated sites using institutional
23 controls and engineering controls can ensure that the remedy
24 remains protective of human health and the environment;

25 (5) An entity that also assists in identifying formerly used
26 properties that are ready for redevelopment and construction
27 within twelve months or less from acquisition and certifies these
28 properties as “project-ready” for specific industry profiles can
29 increase economic development efforts within the state;

30 (6) An entity that also acts as a land bank to accept title to
31 formerly used properties as an intermediary step to help seek a
32 purchaser, and ready the properties for reuse through environ-
33 mental assessment, remediation, building demolition or other
34 efforts, can be a useful ally to the state, local governments, real
35 estate developers and businesses for transacting property
36 conveyances, redevelopment and creating or retaining jobs; and

37 (7) The promotion of private investment in our developable
38 land and West Virginia businesses will reduce unemployment by
39 creating new or maintaining existing opportunities for the
40 citizens of this state.

§31-21-4. Purpose of article.

1 The purpose of this article is to provide for the creation of a
2 special purpose nonprofit corporation with a comprehensive
3 mission to:

4 (1) Assist the DEP in utilizing a voluntary land stewardship
5 program for the long-term safeguarding of IEC Sites to ensure
6 that the remedy remains protective of human health and the

- 7 environment and to facilitate further economic development and
8 reuse opportunities;
- 9 (2) Provide the DEP and other parties with a reliable source
10 of oversight, monitoring and information about IEC Sites under
11 the voluntary land stewardship program;
- 12 (3) Establish a land bank as a legal and financial mechanism
13 to accept title to properties and assist in transforming idled and
14 underutilized properties back to productive reuse;
- 15 (4) Facilitate reuse and redevelopment by authorizing the
16 conveyance of certain properties to a land bank under a volun-
17 tary land bank program and assist the state and local govern-
18 ments with the assembly and clearance of title to property in a
19 coordinated manner;
- 20 (5) Promote economic growth by implementing a state
21 certified sites program to identify sites that are ready for
22 construction within twelve months or less and that are certified
23 “project-ready” for specific industry profiles as well as other
24 categories of sites identified for economic development opportu-
25 nities;
- 26 (6) Provide voluntary programs on a fee or subscription basis
27 with the nonprofit corporation to protect human health and the
28 environment as well as assist with a variety of economic
29 development efforts throughout the state; and
- 30 (7) Prescribe the powers and duties of the nonprofit corpora-
31 tion; provide for the creation and appointment of a board to
32 govern the nonprofit corporation and to prescribe its powers and
33 duties; and to extend protections against certain environmental
34 liabilities to the nonprofit corporation in order to protect it from
35 liabilities created by third parties.

PART II. WEST VIRGINIA
LAND STEWARDSHIP CORPORATION.

§31-21-5. Creation of the West Virginia Land Stewardship Corporation; powers and limitations.

1 (a) The corporation shall be organized as a nonprofit,
2 nonstock corporation under the West Virginia Nonprofit
3 Corporation Act, article two, chapter thirty-one-e of this code.
4 The property thereof is deemed to be held for an area economic
5 development purpose under subdivision fourteen, subsection (a),
6 section nine, article three, chapter eleven of this code.

7 (b) The corporation shall apply for recognition of nonprofit
8 exempt status by the United States Internal Revenue Service
9 under one or more charitable purposes within the meaning of
10 section 501(c) of the Internal Revenue Code of 1986, as
11 amended.

12 (c) The corporate name for the corporation shall be the
13 "West Virginia Land Stewardship Corporation".

14 (d) The corporation shall have all of the powers of a non-
15 profit corporation as set forth in chapter thirty-one-e of this code.

16 (e) Except as otherwise provided in chapter thirty-one-e of
17 this code or in this article, the corporation may do all things
18 necessary or convenient to implement the purposes, objectives
19 and provisions of this article and the purposes, objectives and
20 powers delegated to the board of directors of a nonprofit
21 corporation by other laws or executive orders, including, but not
22 limited to, all of the following:

23 (1) Adopt, amend and repeal bylaws for the regulation of its
24 affairs and the conduct of its business;

25 (2) Establish the service offerings and related fees for such
26 services under each of the voluntary programs described herein;

27 (3) Sue and be sued in its own name and plead and be
28 impleaded, including, but not limited to, defending the corpora-
29 tion in an action arising or resulting from the services, programs
30 and responsibilities arising under this article;

31 (4) Solicit and accept gifts, grants, labor, loans, services and
32 other aid from any person, or the federal government, this state
33 or a political subdivision of this state or any agency of the
34 federal government or a state institution of higher education or
35 nonprofit affiliates or an intergovernmental entity created under
36 the laws of this state, or participate in any other way in a
37 program of the federal government;

38 (5) Procure insurance against risk and loss in connection
39 with the programs, property, assets or activities of the corpora-
40 tion;

41 (6) Invest money of the corporation, at the discretion of the
42 board of directors, in instruments, obligations, securities or
43 property determined proper by the board of directors of the
44 corporation and name and use depositories for its money;

45 (7) Employ legal and technical experts, contractors, consul-
46 tants, agents or employees, permanent or temporary, paid from
47 the funds of the corporation. The corporation shall determine the
48 qualifications, duties and compensation of those it employs;

49 (8) Contract for goods and services and engage personnel as
50 necessary, contract with Regional Brownfield Assistance Centers
51 as set out in section seven, article eleven, chapter eighteen-b of
52 this code, and engage the services of private consultants,
53 managers, legal counsel, engineers, accountants and auditors for
54 rendering professional environmental, legal and financial
55 assistance and advice payable from funds of the corporation;

56 (9) Create limited liability companies or other sole purpose
57 entities or devices to accept and hold real property as part of
58 administering its programs;

59 (10) Study, develop and prepare the reports or plans the
60 corporation considers necessary to assist it in the exercise of its
61 powers under this article and to monitor and evaluate progress
62 under this article; and

63 (11) Enter into contracts for the management of, the collec-
64 tion of rent from, or the sale of real property held by the corpora-
65 tion.

66 (f) The enumeration of a power in this article may not be
67 construed as a limitation upon the general powers of the corpora-
68 tion. The powers granted under this article are in addition to
69 those powers granted by any other statute or as provided in
70 articles of incorporation filed with the Secretary of State.

71 (g) The property of the corporation and its income and
72 operations are exempt from all taxation by this state or any of its
73 political subdivisions. Property owned and leased by the
74 corporation as lessor to a commercial lessee or an industrial
75 lessee is hereby declared to be tax exempt and held by the
76 corporation for a public purpose. A payment in lieu of taxes,
77 payable by the lessee, shall be established for any property so
78 leased, in an amount not less than the property tax otherwise
79 payable on the property. The lessee's leasehold interest therein
80 is hereby declared to be a tax exempt leasehold interest held for
81 a public purpose so long as the payment in lieu of taxes is timely
82 paid. Payments made to any county commission, county school
83 board or municipality in lieu of tax pursuant to such agreement
84 shall be distributed as if the payments resulted from ad valorem
85 property taxation.

86 (h) The corporation may not issue tax-exempt financing or
87 issue bonds.

88 (i) The corporation does not have the power of eminent
89 domain or the ability to condemn property.

90 (j) The exercise by the corporation of powers and duties
91 under this article and its activities under the programs described
92 herein shall be considered a necessary public purpose and for the
93 benefit of the public.

94 (k) The corporation is not liable under the environmental
95 acts or common law equivalents to the state or to any other
96 person by virtue of the fact that the corporation is fulfilling the
97 purposes of this article including, but not limited to, providing
98 land stewardship services or accepting title to property under any
99 program established under this article unless:

100 (1) The corporation, its employees or agents directly cause
101 an immediate release or directly exacerbate a release of regu-
102 lated substances on or from a property that is an enrolled site or
103 accepted into the land bank program; or

104 (2) The corporation, its employees or agents knowingly and
105 willfully do an action which causes an immediate release of
106 regulated substances or violates an environmental act. Liability
107 pursuant to this article is limited to the cost for a response action
108 which may be directly attributable to the corporation's activities,
109 and only if these activities are the proximate and efficient cause
110 of the release or violation. Ownership or control of the property
111 after accepting title in the land bank program does not by itself
112 trigger liability.

113 (l) The corporation shall adopt a code of ethics for its
114 directors, officers and employees.

115 (m) The corporation shall establish policies and procedures
116 requiring the disclosure of relationships that may give rise to a
117 conflict of interest. The board of directors of the corporation
118 shall require that any member of the board with a direct or
119 indirect interest in any matter before the corporation disclose the
120 member's interest to the governing body before the board takes
121 any action on the matter.

122 (n) The programs that are established under this article and
123 administered by the corporation are voluntary programs. Parties
124 can participate in the land stewardship program, certified sites
125 program and land bank program at their option.

126 (o) In the event of a conveyance of property to the corpora-
127 tion, at the discretion of the corporation, the prior owner may be
128 required to post a bond or other type of financial assurance for
129 any potential future remediation, in order to ensure the original
130 owner's liability is maintained.

131 (p) The state may contract with the corporation for services
132 for properties for which the state is responsible and may enter
133 into long-term contracts for services that are funded under a trust
134 agreement or provided in an escrow account.

§31-21-6. Board of directors.

1 (a) The purposes, powers and duties of the corporation shall
2 be exercised by its board of directors. Board meetings shall be
3 chaired by the Governor or his or her designee. The corpora-
4 tion's board shall also consist of the following thirteen members:

5 (1) The Governor shall appoint three residents of this state;

6 (2) The West Virginia Chamber of Commerce shall nomi-
7 nate three residents of this state for the Governor's consider-
8 ation, one of whom the Governor shall appoint;

9 (3) The West Virginia Manufacturers' Association shall
10 nominate three residents of this state for the Governor's consid-
11 eration, one of whom the Governor shall appoint;

12 (4) The West Virginia Coal Association shall nominate three
13 residents of this state for the Governor's consideration, one of
14 whom the Governor shall appoint;

15 (5) The United Mine Workers Association shall nominate
16 three residents of this state for the Governor's consideration, one
17 of whom the Governor shall appoint;

18 (6) The West Virginia Environmental Council shall nomi-
19 nate three residents of this state for the Governor's consider-
20 ation, one of whom the Governor shall appoint;

21 (7) The AFL-CIO shall nominate three residents of this state
22 for the Governor's consideration, one of whom the Governor
23 shall appoint;

24 (8) The Secretary of the DEP or his or her designee;

25 (9) The Secretary of the Department of Commerce or his or
26 her designee;

27 (10) One member of the Senate appointed by the Senate
28 President who shall serve as an ex officio nonvoting member;
29 and

30 (11) One member of the House of Delegates appointed by
31 the Speaker who shall serve as an ex officio nonvoting member.

32 (b) The members appointed by the Governor shall serve
33 terms of four years: *Provided*, That for the initial appointments
34 the Governor shall designate five to serve for four years each,
35 three to serve for three years each and one to serve for two years.
36 When an appointee resigns, dies or is removed during that
37 person's term, his or her successor shall be appointed for the
38 remaining portion of the unexpired term. Once appointed, a
39 person may be reappointed to successive four-year terms.

40 (c) Corporate directors shall serve without compensation, but
41 shall be reimbursed for actual and necessary expenses in
42 accordance with the regulations of the board.

43 (d) The corporate directors shall appoint a person to serve as
44 the executive director of the corporation and at the will and
45 pleasure of the board. A member of the board is not eligible to
46 hold the position of executive director.

47 (e) Subject to the approval of the board, the executive
48 director shall supervise, and be responsible for, the performance
49 of the functions and programs of the corporation under this
50 article. The executive director shall attend the meetings of the
51 board and shall provide the board of directors with a regular
52 report describing the activities and financial condition of the
53 corporation. The executive director shall furnish the board of
54 directors with information or reports governing the operation of
55 the corporation as the board requires.

56 (f) The board may do all other things necessary or conve-
57 nient to achieve the objectives and purposes of the corporation
58 or other laws that relate to the purposes and responsibilities of
59 the corporation.

PART III. VOLUNTARY LAND STEWARDSHIP PROGRAM.

§31-21-7. Voluntary land stewardship program.

1 (a) When the voluntary land stewardship program is
2 implemented, remediation parties and site owners of IEC Sites
3 will have the option, for a fee, to participate in this program. The
4 fee shall be established by the corporation for services provided
5 for an enrolled site as that term is defined in section four of this
6 article. The fees once established may be revised from time to
7 time in the discretion of the board.

8 (b) The universe of sites or properties covered under this
9 section of this article includes, but is not limited to, those IEC
10 Sites remediated or closed under a federal or state environmental
11 program, including brownfields, underground storage tanks,

12 closed landfills, open dumps, hazardous waste sites, and former
13 mining sites with ongoing water treatment as part of mine
14 reclamation efforts.

15 (c) The corporation is further authorized to provide at a
16 minimum the following voluntary land stewardship services for
17 enrolled sites:

18 (1) Establish or maintain any ICs by filing the appropriate
19 documents or updating such documents when the site is leased,
20 conveyed, subdivided or when remediation occurs: *Provided*,
21 That the corporation's responsibilities for those activities are
22 expressly identified in agreements for the IEC Site that will be
23 negotiated when a site is enrolled in the voluntary land steward-
24 ship program;

25 (2) Conduct physical inspections of the enrolled sites,
26 including inspecting or monitoring any ECs (e.g., media
27 treatment systems, fences, caps and other mechanisms used as
28 part of the remedy at the IEC Site) and site activities to assure
29 that the enrolled sites continue to comply with the IECs, such as
30 maintenance of ECs and inspecting for compliance with restric-
31 tions of specific land uses;

32 (3) Monitor and operate any required media treatment
33 systems and/or conduct routine surface water, groundwater and
34 or gas monitoring and prepare any monitoring or inspection
35 reports that may be part of the corporation's responsibilities
36 under site enrollment agreements;

37 (4) Conduct periodic reviews of the county land records to
38 monitor transfers or deed filings to assure that the records are
39 consistent with the required IECs for the enrolled sites, and
40 provide notices to the clerk of the county commission about the
41 results of monitoring or tracking of such records;

42 (5) Develop administrative records concerning the
43 remediation at enrolled sites in an electronic database, respond
44 to inquiries and coordinate the sharing of such data among
45 various stakeholders, including the DEP, current owners, the
46 remediating parties if not the owners, other state or local
47 agencies (such as county and regional economic development
48 authorities), assessors, potential purchasers, landowners and
49 tenants;

50 (6) Develop and maintain records and information about
51 enrolled sites for posting on the DEP environmental registry, or
52 any other registry that is used for tracking IECs for IEC Sites in
53 West Virginia and provide for public access to such information;
54 and

55 (7) Coordinate and share data with West Virginia Miss
56 Utility, the "One-Call" System, including verifying the location
57 of ECs on enrolled sites, providing information about
58 remediation, and sharing any health and safety plans or soil
59 management plans that may be associated with an enrolled site
60 in order to assist any planned excavation at the enrolled site.

§31-21-8. Underwriting.

1 The enrollment and acceptance process to participate in the
2 land stewardship program shall be developed to include an
3 underwriting review that focuses on: (1) The nature and extent
4 of contamination; (2) the selected remedy; (3) the type of
5 services selected and duration thereof; and (4) the financial costs
6 and risks associated with fulfilling the services.

PART IV. STATE CERTIFIED SITES PROGRAM.

§31-21-9. State certified sites program.

1 (a) This article hereby authorizes the establishment of a
2 statewide certified sites program. The program shall consist of

3 the development and preparation of certain site specific decision
4 ready documentation or reports that will enable the expedited
5 property transaction for sites that participate in the certified sites
6 program.

7 (b) The objectives of the certified sites program include, but
8 are not limited to:

9 (1) Establishing an inventory of identified sites that are
10 ready for development or redevelopment and construction within
11 twelve months or less from the date of acquisition and certify
12 these properties as “project-ready” for specific industry profiles
13 and other categories of developable properties available that can
14 increase economic development efforts within the state;

15 (2) Improving the state’s competitive edge by giving more
16 certainty in time, steps and costs to businesses expanding or
17 locating within the state;

18 (3) Developing standard criteria that most real estate
19 developers or businesses need when selecting a site for develop-
20 ment;

21 (4) Developing a central source of certified sites and
22 assisting local governments in identifying potential redevelop-
23 ment properties; and

24 (5) Demonstrating that the state is committed to promoting
25 and expediting economic development projects for the benefit of
26 its citizenry.

27 (c) The corporation shall issue a site certification if it
28 determines that the decision ready document has been prepared
29 and completed in accordance with the requirements set forth by
30 the corporation. The corporation may require some or all of the
31 following information set forth in section ten of this article based
32 on the site specific circumstances of the property to be certified.

33 (d) The issuance of a site certification shall be based on the
34 review and approval of the information submitted to the corpora-
35 tion in an application for the site certification.

§31-21-10. Minimum standards for certified sites.

1 (a) The corporation shall establish minimum standards that
2 a site must meet to be considered for certification. Minimum
3 standards include, but are not limited to:

4 (1) Letter of support from a mayor, county commissioner, or
5 county, regional, or municipal economic development official;

6 (2) Site ownership/control:

7 (A) Preliminary fifty-year title report and description of liens
8 and encumbrances, unless the corporation determines a shorter
9 period is adequate, or a longer period is necessary, to protect the
10 corporation and a subsequent purchaser of the site;

11 (B) Letter from the property owner/option holder stating that
12 the site is for sale/lease. If possible, proposed pricing or
13 transactional requirements with a description of any on-site
14 improvements, the current level of investment, and whether the
15 property can be parceled;

16 (C) Acreage; and

17 (D) Full legal property description.

18 (3) Maps:

19 (A) ALTA map;

20 (B) Site map showing lot layout, transportation access, roads
21 and likely access points;

22 (C) USGS topographical map; and

23 (D) Aerial map.

24 (4) Phase I environmental site assessment performed by a
25 certified professional within the prior six months, and, if
26 appropriate, any additional environmental site assessments
27 performed by a certified professional within the prior six
28 months. For any properties being remediated, documentation
29 shall be provided about the status and cleanup objectives. For
30 remediated sites, documentation shall be provided about liability
31 protection.

32 (5) Wetland delineation demonstrating that impacts to waters
33 of the state will be avoided or a mitigation plan approved by the
34 DEP.

35 (6) Water and wastewater infrastructure to the property line
36 with capacity clearly defined, or a demonstration of the ability
37 to construct and pay for the infrastructure up to the property line.

38 (7) Transportation infrastructure to the property line,
39 including, but not limited to, the type of roads near the site and
40 whether the roads are local, state or U. S. roads.

41 (8) Electric infrastructure to the property line with its
42 capacity clearly identified.

43 (9) Natural gas infrastructure to the property line with its
44 capacity clearly identified.

45 (10) Water infrastructure to the property line with its
46 capacity clearly identified.

47 (11) Sewer infrastructure to the property line with its
48 capacity clearly identified.

49 (12) Telecommunications and/or high speed communications
50 infrastructure to the property line with its capacity clearly
51 identified.

52 (b) The complete list of certified sites criteria shall be
53 developed into a program application along with appropriate fees
54 for participation as the certified sites program is implemented,
55 and may be revised from time to time as warranted.

PART V. LAND BANK PROGRAM.

§31-21-11. Land bank program.

1 (a) This article hereby authorizes the establishment of a
2 voluntary state land bank program. Under this program, the
3 corporation is authorized to acquire properties, hold title and
4 prepare them for future use. Prior to acquiring any properties, the
5 corporation shall conduct all appropriate inquiries to determine
6 the environmental conditions or issues associated with a
7 particular property. The corporation shall not acquire title to any
8 property unless all pending liens have been satisfied and
9 released. Liabilities, including, but not limited to, environmental
10 liabilities, shall not pass to the corporation by its acquisition of
11 title. Participation in the land bank program under this article
12 shall not relieve an entity of any of its liabilities.

13 (b) The objective of the land bank program is to assist state
14 and local government efforts for economic development by
15 accepting formerly used or developable properties and preparing
16 the properties so they can be conveyed to other parties to locate
17 or expand businesses and create or retain jobs in this state.

18 (c) The corporation may acquire by gift, devise, transfer,
19 exchange, foreclosure, purchase or otherwise on terms and
20 conditions and in a manner the corporation considers proper, real
21 or personal property or rights or interests in real or personal
22 property. The corporation may not accept by any conveyance or
23 other action, any liability for prior pollution or contamination
24 liabilities that occurred on the property prior to its conveyance
25 to the corporation.

26 (d) Real property acquired by the corporation may be by
27 purchase and sale agreement, lease purchase agreement, install-
28 ment sales contract, land contract or otherwise as may be
29 negotiated or structured. The corporation may acquire real
30 property or rights or interests in real property for any purpose the
31 corporation considers necessary to carry out the purposes of this
32 article including, but not limited to, one or more of the following
33 purposes:

34 (1) Use or development of property the corporation has
35 otherwise acquired;

36 (2) To facilitate the assembly of property for sale or lease to
37 any other public or private person, including, but not limited to,
38 a nonprofit or for profit corporation;

39 (3) To conduct environmental remediation and monitoring
40 activities.

41 (e) The corporation may also acquire by purchase, on terms
42 and conditions and in a manner the corporation considers proper,
43 property or rights or interests in property.

44 (f) The corporation may hold and own in its name any
45 property acquired by it or conveyed to it by this state, a foreclos-
46 ing governmental unit, a local unit of government, an intergov-
47 ernmental entity created under the laws of this state or any other
48 public or private person.

49 (g) All deeds, mortgages, contracts, leases, purchases or
50 other agreements regarding property of the corporation, includ-
51 ing agreements to acquire or dispose of real property, shall be
52 approved by the board of directors and executed in the name of
53 the corporation or any single purpose entity created by the board
54 for the transaction.

55 (h) All property held by the corporation or a single purpose
56 entity created by the board for a transaction shall be inventoried

57 and classified by the corporation according to title status and
58 suitability for use.

59 (i) A document including, but not limited to, a deed evidenc-
60 ing the transfer under this article of one or more parcels of
61 property to the corporation by this state or a political subdivision
62 of this state may be recorded within the office of the county
63 clerk of the county in which the property is located without the
64 payment of a fee.

65 (j) The corporation shall notify the county commission and
66 county assessor in the affected county or counties upon receipt
67 of an application for participation in the land bank program.

§31-21-12. Preserve property value.

1 (a) The corporation may, without the approval of a local unit
2 of government in which property held by the corporation is
3 located, control, hold, manage, maintain, operate, repair, lease as
4 lessor, secure, prevent the waste or deterioration of, demolish
5 and take all other actions necessary to preserve the value of the
6 property held or owned directly by the corporation or by a single
7 purpose entity created by the board for that purpose.

8 (b) The corporation may take or perform the following with
9 respect to property held or owned by the corporation or by any
10 special purpose entity created by the board:

11 (1) Grant or acquire a license, easement, or option with
12 respect to property as the corporation determines is reasonably
13 necessary to achieve the purposes of this article;

14 (2) Fix, charge, and collect rents, fees and charges for use of
15 property under the direct or indirect control of the corporation or
16 for services provided by the corporation;

17 (3) Take any action, provide any notice or institute any
18 proceeding required to clear or quiet title to property held by the

19 corporation in order to establish ownership by and vest title to
20 property in the corporation or a special purpose entity created by
21 the board; and

22 (4) Remediate environmental contamination on any property
23 held by the corporation.

24 (c) Except as the corporation otherwise agrees by agreement
25 or otherwise, on terms and conditions, and in a manner and for
26 an amount of consideration the corporation considers proper, fair
27 and valuable, including for no monetary consideration, the
28 corporation may convey, sell, transfer, exchange, lease as lessor
29 or otherwise dispose of property or rights or interests in property
30 in which the corporation directly or indirectly holds a legal
31 interest to any public or private person for value determined by
32 the corporation.

33 (d) The corporation shall be made a party to and shall defend
34 any action or proceeding concerning title claims against property
35 held directly or indirectly by the corporation.

§31-21-13. Contaminated property.

1 (a) If the DEP determines that conditions on a property
2 transferred to the corporation under this article present an
3 immediate threat to public health, safety and welfare, or to the
4 environment, the corporation may not convey, sell, transfer,
5 exchange, lease or otherwise dispose of the property until after
6 a determination by the DEP that the threat has been remediated
7 and/or eliminated and that conveyance, sale, transfer, exchange,
8 lease or other disposal of the property by the corporation will not
9 interfere with any of the DEP's response activities and will
10 coordinate with the DEP regarding the corporation's activities at
11 the property.

12 (b) If the corporation has reason to believe that property held
13 by the corporation may be the site of environmental contamina-

14 tion, the corporation shall provide the DEP with any information
15 in the possession of the corporation that suggests that the
16 property may be the site of environmental contamination.

17 (c) If property held directly or indirectly by the corporation
18 is a site impacted by contamination, pollution, hazardous
19 substances, hazardous or other wastes as defined in the environ-
20 mental acts described in section four of this article, prior to the
21 sale or transfer of the property under this section, the property is
22 subject to all of the following:

23 (1) Upon reasonable written notice from the DEP, the
24 corporation shall provide access to the DEP, its employees, its
25 contractors and any other person expressly authorized by the
26 DEP to conduct an investigation and/or response activities at the
27 property. Reasonable written notice may include, but is not
28 limited to, notice by electronic mail or facsimile, in advance of
29 access as the DEP and corporation may agree.

30 (2) If the DEP determines it is necessary to protect public
31 health, safety and welfare or the environment, the corporation
32 shall place and record deed restrictions on the property as
33 authorized under state environmental statutes.

§31-21-14. Liberal construction.

1 This article shall be construed liberally to effectuate the
2 legislative intent and the purposes as complete and independent
3 authorization for the performance of every act and thing autho-
4 rized by this article. All powers granted shall be broadly
5 interpreted to effectuate the intent and purposes of this article
6 and not as a limitation thereof. The corporation has complete
7 control as if it is a private property owner.

§31-21-15. Exemption from taxation.

1 The property of the corporation shall be exempt from ad
2 valorem property taxation. Property owned and leased by the

3 corporation as lessor to a commercial lessee or an industrial
4 lessee is hereby declared to be tax exempt and held by the
5 corporation for a public purpose. A payment in lieu of taxes,
6 payable by the lessee, shall be established for any property so
7 leased, in an amount not less than the property tax otherwise
8 payable on the property. The lessee's leasehold interest therein
9 is hereby declared to be a tax exempt leasehold interest held for
10 a public purpose so long as the payment in lieu of taxes is timely
11 paid. Payments made to any county commission, county school
12 board or municipality in lieu of tax pursuant to such agreement
13 shall be distributed as if the payments resulted from ad valorem
14 property taxation. The corporation shall be exempt from the
15 taxes imposed by chapter eleven of this code, except that the
16 corporation shall comply with the employer withholding of tax
17 requirements in sections seventy-one through seventy-six, article
18 twenty-one of said chapter eleven. The corporation shall be
19 exempt from sales and use taxes, business and occupation taxes
20 and all other taxes imposed by a county commission, a municipal
21 corporation or other unit of local government, whether now or
22 hereinafter in effect.

§31-21-16. Audits and reports.

1 (a) As soon as possible after the close of each year, the
2 corporation shall cause an annual audit to be made by an
3 independent certified public accountant of its books, records,
4 accounts and operations. The person performing this audit shall
5 furnish copies of the audit report to the Governor, the secretary
6 of the DEP and the Joint Committee on Government and Finance
7 of the Legislature.

8 (b) The corporation shall report biannually to the Joint
9 Committee on Government and Finance of the Legislature on the
10 activities of the corporation. The first report shall be filed on or
11 before the second Wednesday in January, 2016.

§31-21-17. Completed purpose.

1 If the corporation has completed the purposes for which the
2 corporation was organized, the board of directors, by vote of at
3 least a majority of a quorum of the directors and with the written
4 consent of the Governor, may provide for the dissolution of the
5 corporation and may provide for the transfer of any property
6 held by the corporation as required by agreement or, if there are
7 no related agreements, then to the DEP or another state agency
8 or to another nonprofit corporation as directed by the DEP.

§31-21-18. Conflicts of interest.

1 Notwithstanding any other provision of this article to the
2 contrary, officers and employees of the corporation and its board
3 of directors may hold appointments to offices of any other
4 corporations or businesses and be corporate directors or officers
5 or employees of other entities but are prohibited to be a party or
6 otherwise participate in the transfer of real property and funds
7 from the corporation to the corporations or businesses for which
8 they serve.

§31-21-19. No waiver of sovereign immunity.

1 Nothing contained in this article may be determined or
2 construed to waive or abrogate in any way the sovereign
3 immunity of the state or to deprive the nonprofit corporation
4 created pursuant to this article, its board of directors, or any
5 officer or employee thereof of sovereign immunity.

§31-21-20. No obligation of the state.

1 Obligations of the corporation are not debts or obligations of
2 the DEP or the state.

CHAPTER 39

**(Com. Sub. for H. B. 3086 - By Mr. Speaker,
(Mr. Thompson) and Delegate Armstead)
[By Request of the Executive]**

[Passed April 9, 2013; in effect July 1, 2013.]
[Approved by the Governor on April 22, 2013.]

AN ACT to repeal §28-3-1a, §28-3-1b, §28-3-2, §28-3-4, §28-3-5, §28-3-6, §28-3-7, §28-3-8, §28-3-9, §28-3-10, §28-3-11, §28-3-12, §28-3-13, §28-3-14, §28-3-15, §28-3-16, §28-3-17 and §28-3-18 of the Code of West Virginia, 1931, as amended; to amend and reenact §25-1-3 of said code; and to amend and reenact §28-3-1 of said code, all relating to state correctional and penal institutions; renaming the Industrial Home for Youth the Salem Correctional Center; transferring control of the Salem Correctional Center to the Division of Corrections; and authorizing the Parkersburg Correctional Center and placing it under the control of the Division of Corrections.

Be it enacted by the Legislature of West Virginia:

That §28-3-1a, §28-3-1b, §28-3-2, §28-3-4, §28-3-5, §28-3-6, §28-3-7, §28-3-8, §28-3-9, §28-3-10, §28-3-11, §28-3-12, §28-3-13, §28-3-14, §28-3-15, §28-3-16, §28-3-17 and §28-3-18 of the Code of West Virginia, 1931, as amended, be repealed; that §25-1-3 of said code be amended and reenacted; and that §28-3-1 of said code be amended and reenacted, all to read as follows:

CHAPTER 25. DIVISION OF CORRECTIONS.

ARTICLE 1. ORGANIZATION, INSTITUTIONS AND CORRECTIONS MANAGEMENT.

§25-1-3. Institutions managed by Commissioner of Corrections; certain institutions transferred to Department of Health and Human Resources; establishment of work and study release units; contracting with certain entities for reentry and direct placement services; reports to Governor.

1 (a) The Commissioner of Corrections shall manage, direct,
2 control and govern the following penal or correctional institu-
3 tions and any others placed under his or her jurisdiction or
4 control:

- 5 Mount Olive Correctional Complex;
- 6 Huttonsville Correctional Center;
- 7 Anthony Correctional Center;
- 8 Denmar Correctional Center;
- 9 Pruntytown Correctional Center;
- 10 Northern West Virginia Correctional Center;
- 11 St. Marys Correctional Center;
- 12 Lakin Correctional Center;
- 13 Ohio County Correctional Center;
- 14 Beckley Correctional Center;
- 15 Martinsburg Correctional Center;
- 16 Salem Correctional Center; and
- 17 Parkersburg Correctional Center.

18 (b) The Commissioner of Corrections may contract with the
19 County Commission of McDowell County to house and incarcer-

20 ate inmates at the Stevens Correctional Center consistent with all
21 requirements and standards governing the Division of Correc-
22 tions.

23 (c) Jurisdiction of and title to the West Virginia Children's
24 Home at Elkins are hereby transferred to the Department of
25 Health and Human Resources, which is the custodian of all
26 deeds and other muniments of title to the property and shall
27 record those that are susceptible of recordation to be recorded in
28 the proper offices. Notwithstanding any provision of this code to
29 the contrary, the West Virginia Children's Home shall be
30 managed and controlled by a superintendent appointed by the
31 Commissioner of the Division of Human Services.

32 (d) The Commissioner of Corrections may establish work
33 and study release units as extensions and subsidiaries of those
34 state institutions under his or her control and authority. The work
35 and study release units may be coeducational and shall be
36 managed, directed and controlled as provided in this article.

37 (e) (1) The commissioner may contract with nonprofit or
38 charitable entities including, but not limited to, nonprofit
39 community mental health clinics, operating half-way houses or
40 transitional housing facilities for the placement of persons in the
41 commissioner's custody, whether confined or under parole
42 supervision, as long as such facilities meet standards and criteria
43 established by the commissioner.

44 (2) (A) The Commissioner of Corrections may direct that a
45 person who is placed in a half-way house or transitional housing
46 facility under this section make reimbursement to the state in the
47 amount of a reasonable sum calculated to offset all or part of the
48 costs of the placement.

49 (B) Prior to ordering the person to make the reimbursement,
50 the commissioner, or his or her designee, shall consider the
51 following:

- 52 (i) The person's ability to pay;
- 53 (ii) The nature and extent of the person's responsibilities to
54 his or her dependents, if any;
- 55 (iii) The length of probable incarceration under the court's
56 sentence; and
- 57 (iv) The effect, if any, that reimbursement might have on the
58 person's rehabilitation.
- 59 (f) The Division of Corrections shall provide the number of
60 persons placed in a half-way house or a transitional housing
61 facility pursuant to subsection (e) of this section in its report
62 made pursuant to section twenty, article one, chapter five of this
63 code, and shall describe its plans to use the authority provided
64 under the provisions of subsection (e) of this section in further-
65 ance of the duties and responsibilities imposed by this article.
- 66 (g) Any person employed by the Office of Public Institutions
67 is a classified civil service employee within the limits contained
68 in section two, article six, chapter twenty-nine of this code.

CHAPTER 28. STATE CORRECTIONAL AND PENAL INSTITUTIONS.

ARTICLE 3. INDUSTRIAL HOME FOR YOUTH.

§28-3-1. Renaming West Virginia Industrial Home for Youth as Salem Correctional Center; transferring control to Division of Corrections.

- 1 (a) Effective July 1, 2013, the West Virginia Industrial
2 Home for Youth shall be known as the Salem Correctional
3 Center. The Salem Correctional Center is hereby transferred to
4 the Division of Corrections.

5 (b) Commencing July 1, 2013, wherever the “West Virginia
6 Industrial Home for Youth” is referred to in this code, it shall
7 mean the “Salem Correctional Center”.

CHAPTER 40

**(Com. Sub. for H. B. 2806 - By Delegates Perry,
Moore, Barill, Campbell, Pino, Stagers,
Morgan and M. Poling)**

[Passed April 12, 2013; in effect ninety days from passage.]
[Approved by the Governor on April 30, 2013.]

AN ACT to amend and reenact §25-1A-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §25-1A-2a, all relating to requiring that a prisoner first exhaust administrative remedies prior to resorting to litigation; defining ordinary administrative remedies; authorizing the Commissioner of Corrections and the Executive Director of the Regional Jail Authority to each establish procedures for ordinary administrative remedies; setting forth when a remedy is considered exhausted; setting and computing time periods for issuance of final decision; providing exceptions for when an agency may not obtain an extension of time to issue a final decision; defining sexual assault and sexual abuse; providing that no staff member who is the subject of the complaint may be involved in reviewing or hearing the grievance; permitting certain third parties to assist inmates in filing requests for administrative remedies; providing time for an initial response and final decision; directing proposal of rules for legislative approval by the commissioner and director relating to an allegation of imminent violence; permitting discipline of inmate if grievance filed in bad

faith; permitting inmate to file certain court actions; and providing that inmate pay filing costs if civil or criminal action is dismissed as frivolous.

Be it enacted by the Legislature of West Virginia:

That §25-1A-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §25-1A-2a, all to read as follows:

ARTICLE 1A. WEST VIRGINIA PRISONER LITIGATION REFORM ACT.

§25-1A-2. Exhaustion of ordinary administrative remedies.

1 (a) As used in this section, an “ordinary administrative
2 remedy” is a formal administrative process by which an inmate
3 submits a grievance seeking redress or presenting concerns
4 regarding any general or particular aspect of prison life which
5 does not involve violence, sexual assault or sexual abuse against
6 an inmate. An ordinary administrative remedy includes, but is
7 not limited to, complaints concerning food quality, health care,
8 appeals of prison discipline, physical plant, classification, staff
9 treatment or some other alleged wrong.

10 (b) The Commissioner of the Division of Corrections and the
11 Executive Director of the Regional Jail Authority are authorized
12 to establish procedures for ordinary administrative remedies
13 according to their respective authority for issuance of policies
14 governing the conduct of inmates.

15 (c) An inmate may not bring a civil action regarding an
16 ordinary administrative remedy until the procedures promulgated
17 by the agency have been exhausted.

18 (d) An ordinary administrative remedy is considered
19 exhausted when the inmate’s grievance complies with duly

20 promulgated rules and regulations regarding inmate grievance
21 procedures, has been accepted, fully appealed and has received
22 a final decision from the Commissioner of Corrections or the
23 Commissioner's designee, or the Executive Director of the
24 Regional Jail Authority, or the director's designee.

25 (e) The agency shall issue a final decision regarding an
26 ordinary administrative remedy no later than sixty days from the
27 date the inmate filed his or her initial grievance. Computation of
28 the sixty-day time period shall not include time consumed by
29 inmates in preparing any administrative appeal. The agency may
30 claim an extension of time to issue a final decision regarding an
31 ordinary administrative remedy of up to thirty days if the sixty
32 day final decision time frame is insufficient to make an appropri-
33 ate decision, except in cases involving a threat to health, life or
34 safety of the prisoner. The agency shall notify the inmate in
35 writing of any such extension and provide a date by which the
36 final decision regarding an ordinary administrative remedy will
37 be made.

**§25-1A-2a. Exhaustion of administrative remedies which address
sexual assault and sexual abuse.**

1 (a) The agency shall not require an inmate to use any
2 informal grievance process, or to otherwise attempt to resolve
3 with staff, an alleged incident involving sexual assault or sexual
4 abuse against an inmate. For purposes of this article, "sexual
5 assault" or "sexual abuse" means any offense which would
6 constitute a violation of article eight-b, chapter sixty-one of this
7 code. The agency shall ensure that:

8 (1) An inmate who alleges an incident involving sexual
9 assault or sexual abuse may submit a grievance without submit-
10 ting it to a staff member who is the subject of the complaint; and,

11 (2) Such grievance may not be referred to a staff member
12 who is the subject of the complaint.

13 (b) The agency shall issue a final agency decision on the
14 merits of any portion of a grievance within sixty days of the
15 initial filing of the grievance. Computation of the sixty-day time
16 period shall not include time consumed by inmates in preparing
17 any administrative appeal. The agency may claim an extension
18 of time to respond, of up to thirty days, if the normal time period
19 for response is insufficient to make an appropriate decision,
20 except in cases involving threat to health, life or safety of the
21 prisoner. The agency shall notify the inmate in writing of any
22 such extension and provide a date by which a decision will be
23 made.

24 (c) At any level of the administrative process, including the
25 final level, if the inmate does not receive a response within the
26 time allotted for reply, including any properly noticed extension,
27 the inmate may consider the absence of a response to be a denial
28 at that level.

29 (d) Third parties, including fellow inmates, staff members,
30 family members, attorneys and outside advocates, shall be
31 permitted to assist inmates in filing requests for administrative
32 remedies relating to incidents involving sexual assault or sexual
33 abuse, and shall also be permitted to file such requests on behalf
34 of inmates. If a third party files such a request on behalf of an
35 inmate, the facility may require as a condition of processing the
36 request that the alleged victim agree to have the request filed on
37 his or her behalf, and may also require the alleged victim to
38 personally pursue any subsequent steps in the administrative
39 remedy process. If the inmate declines to have the request
40 processed on his or her behalf, the agency shall document the
41 inmate's decision.

42 (e) After receiving an emergency grievance alleging an
43 inmate is subject to a substantial risk of sexual assault or sexual
44 abuse, the agency shall immediately forward the grievance, or
45 any portion thereof that alleges the substantial risk of sexual

46 assault or sexual abuse, to a level of review at which immediate
47 corrective action may be taken, shall provide an initial response
48 within forty-eight hours, and shall issue a final agency decision
49 within five calendar days. The initial response and final agency
50 decision shall document the agency's determination whether the
51 inmate is in substantial risk of sexual assault or sexual abuse and
52 the action taken in response to the emergency grievance.

53 (f) The agency shall establish procedures for processing an
54 inmate grievance which alleges imminent violence. The commis-
55 sioner and the executive director shall, by December 31, 2013,
56 propose rules for legislative approval in accordance with the
57 provisions of article three, chapter twenty-nine-a of this code to
58 meet the requirements of this subsection.

59 (g) An administrative remedy for an allegation of violence,
60 sexual assault or sexual abuse against an inmate is considered
61 exhausted when the inmate's grievance has complied with duly
62 promulgated rules and regulations regarding inmate grievance
63 procedures for imminent violence, sexual assault or sexual
64 abuse, has been accepted, fully appealed and has received a final
65 decision from the Commissioner of Corrections or the Commis-
66 sioner's designee, or the Executive Director of the Regional Jail
67 Authority, or the director's designee.

68 (h) The agency may discipline an inmate for filing a
69 grievance related to sexual assault or sexual abuse only where
70 the agency demonstrates that the inmate filed the grievance in
71 bad faith.

72 (i) Notwithstanding any other provision of this code, no
73 inmate shall be prevented from filing an appeal of his or her
74 conviction or from bringing a civil or criminal action alleging
75 violence, sexual assault or sexual abuse, after exhaustion of
76 administrative remedies. If such a civil or criminal action is
77 ultimately dismissed by a judge as frivolous, then the inmate

78 shall pay the filing costs associated with the civil or criminal
79 action as provided for in this article.

CHAPTER 41

**(S. B. 423 - By Senators Laird, Kirkendoll,
Stollings, Kessler (Mr. President),
Cookman and Plymale)**

[Passed April 13, 2013; in effect ninety days from passage.]
[Approved by the Governor on April 30, 2013.]

AN ACT to amend and reenact §31-20-5d of the Code of West Virginia, 1931, as amended, relating to providing persons convicted of a criminal offense and sentenced to a six-month confinement in a regional jail a reduction in sentence for successful completion of education and rehabilitation programs.

Be it enacted by the Legislature of West Virginia:

That §31-20-5d of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 20. WEST VIRGINIA REGIONAL JAIL AND CORRECTIONAL FACILITY AUTHORITY.

§31-20-5d. Good-time credit.

- 1 (a) Any person convicted of a criminal offense and sen-
- 2 tenced to confinement in a regional jail is to be granted reduction
- 3 of his or her sentence for good conduct in accordance with this
- 4 section.

5 (b) The reduction of sentence or good time is to be deducted
6 from the fixed term of determinate sentences. An inmate under
7 two or more consecutive sentences is allowed good time as if the
8 several sentences, when the maximum terms thereof are added
9 together, were all one sentence.

10 (c) Every inmate sentenced to a regional jail for a term of
11 confinement exceeding six months who, in the judgment of the
12 administrator of the regional jail facility, faithfully complies
13 with all rules of the regional jail during his or her term of
14 confinement is entitled to a deduction of five days from each
15 month of his or her sentence. No inmate may be granted any
16 good time under the provisions of this section for time spent on
17 bond or for time served on parole or in any other status in which
18 he or she is not physically incarcerated.

19 (d) Each inmate sentenced to a term of confinement in a
20 regional jail facility who participates in a general equivalency
21 diploma program is to be granted three days of good time for the
22 completion of each educational literacy level, as demonstrated
23 by achieving a passing score on standardized tests required by
24 the Department of Education, and ten days of good time for
25 completion of the requirements for a general equivalency
26 diploma or high school diploma.

27 (e) An inmate sentenced to a term of confinement in a
28 regional jail for a period of six months or more, shall be granted
29 five days of good time for the successful completion of any of
30 the following rehabilitation programs: Domestic violence,
31 parenting, substance abuse, life skills, alcohol abuse, anger
32 management or any special rehabilitation or educational program
33 designated by the executive director. Good time credit pursuant
34 to this subsection is cumulative, however an inmate is eligible
35 for a maximum of thirty days good time credit for the successful

36 completion of rehabilitation programs authorized by this
37 subsection. The fee for each class is \$25 which is due upon
38 enrollment. If an inmate is unable to pay a fee or fees in full at
39 the time of enrollment, it may be paid by deductions from his or
40 her inmate trust account, subject to the provisions of subsection
41 (f), section thirty-one of this article. No more than one half of the
42 amount in the inmate trust account during any one-week period
43 may be so deducted.

44 (f) The administrator of a regional jail facility may, with the
45 approval of the Governor, allow extra good time for inmates who
46 perform exceptional work or service.

47 (g) The Regional Jail and Correctional Facility Authority
48 shall promulgate disciplinary rules for the regional jail facilities.
49 The rules are to describe prohibited acts, procedures for charging
50 individual inmates for violations of the rules and for determining
51 the guilt or innocence of inmates charged with the violations and
52 sanctions that may be imposed for the violations. For each
53 violation by an inmate, any part or all of the good time that has
54 been granted to the inmate may be forfeited and revoked by the
55 administrator of the regional jail facility. The administrator,
56 when appropriate and with approval of the executive director,
57 may restore any good time forfeited for a violation of the rules
58 promulgated or adopted pursuant to this subsection.

59 (h) Each inmate sentenced to a term of confinement in a
60 regional jail in excess of six months shall, within seventy-two
61 hours of being received into a regional jail, be given a copy of
62 the disciplinary rules, a statement setting forth the term or length
63 of his or her sentence or sentences and the time of his or her
64 minimum discharge.

CHAPTER 42

(Com. Sub. for H. B. 2314 - By Delegates Poore,
Guthrie, Wells, Lawrence, Miley and Skaff)

[Passed April 9, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §49-6-9a, relating to authorizing a family court judge to order the emergency custody of a child in the physical custody of a party to an action or proceeding before the family court; requiring the Department of Health and Human Resources to immediately respond and assist the family court judge in emergency placement of the child; providing for circuit court order for department to file an investigative report; providing for termination of family court order; extending order of family court by filing petition; and providing additional procedures for department when a child is ordered taken into emergency custody.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §49-6-9a, to read as follows:

ARTICLE 6. PROCEDURE IN CASES OF CHILD NEGLECT OR ABUSE.

§49-6-9a. Authorizing a family court judge to order custody of a child in emergency situations.

- 1 (a) Notwithstanding the jurisdictional limitations contained
- 2 in section two, article two-A, chapter fifty-one of this code,

3 family court judges are authorized to order the department to
4 take emergency custody of a child who is in the physical custody
5 of a party to an action or proceeding before the family court, if
6 the family court judge finds that there is clear and convincing
7 evidence that:

8 (1) There exists an imminent danger to the physical
9 well-being of the child as defined in subsection (g), section
10 three, article one of this chapter;

11 (2) The child is not the subject of a pending action before the
12 circuit court alleging abuse and neglect of the child; and

13 (3) There are no reasonable available alternatives to the
14 emergency custody order.

15 (b) An order entered pursuant to subsection (a) must include
16 specific written findings.

17 (c) A copy of the order issued pursuant to subsection (a)
18 shall be transmitted forthwith to the department, the circuit court
19 and the prosecuting attorney.

20 (d) Upon receipt of an order issued pursuant to subsection
21 (a), the department shall immediately respond and assist the
22 family court judge in emergency placement of the child.

23 (e) (1) Upon receipt of an order issued pursuant to subsec-
24 tion (a), the circuit court shall forthwith cause to be entered and
25 served, an administrative order in the name of and regarding the
26 affected child, directing the department to submit, within ninety-
27 six hours from the time the child was taken into custody, an
28 investigative report to both the circuit and family court.

29 (2) The investigative report shall include a statement of
30 whether the department intends to file a petition under section
31 three of this article.

32 (f) (1) An order issued pursuant to subsection (a) terminates
33 by operation of law upon expiration of ninety-six hours from the
34 time the child is initially taken into protective custody unless a
35 petition is filed with the circuit court under section three of this
36 article within ninety-six hours from the time the child is initially
37 taken into protective custody.

38 (2) The filing of a petition within ninety-six hours from the
39 time the child is initially taken into protective custody extends
40 the emergency custody order issued pursuant to subsection (a)
41 until a preliminary hearing is held before the circuit court, unless
42 the circuit court orders otherwise.

43 (g) (1) Any worker for the department assuming custody of
44 a child pursuant to the provisions of this section shall immedi-
45 ately notify the parents, parent, grandparents, grandparent,
46 guardian or custodian of the child of the taking of the custody
47 and the reasons therefor if the whereabouts of the parents,
48 parent, grandparents, grandparent, guardian or custodian are
49 known or can be discovered with due diligence and, if not, a
50 notice and explanation shall be given to the child's closest
51 relative if his or her whereabouts are known or can be discovered
52 with due diligence within a reasonable time. An inquiry shall be
53 made of relatives and neighbors and, if an appropriate relative or
54 neighbor is willing to assume custody of the child, the child shall
55 temporarily be placed in that person's custody.

56 (2) In the event no other reasonable alternative is available
57 for temporary placement of a child pursuant to subdivision (1),
58 the child may be housed by the department in an authorized child
59 shelter facility.

CHAPTER 43

(Com. Sub. for H. B. 2548 - By Delegates Ferro, Stowers, Pethel, Swartzmiller, Storch, Marcum, Boggs, Ferns, D. Poling, Diserio and L. Phillips)

[Passed April 12, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §61-2-15a of the Code of West Virginia, 1931, as amended, relating to increasing the criminal penalties for assaults and batteries against athletic officials.

Be it enacted by the Legislature of West Virginia:

That §61-2-15a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-15a. Assault, battery on athletic officials; penalties.

1 (a) If any person commits an assault as defined in subsection
2 (b), section nine of this article, to the person of an athletic
3 official during the time the official is acting as an athletic
4 official, the offender is guilty of a misdemeanor and, upon
5 conviction thereof, shall be fined not more than \$500, or
6 confined in jail not more than six months, or both fined and
7 confined.

8 (b) If any person commits a battery, as defined in subsection
9 (c), section nine of this article, against an athletic official during
10 the time the official is acting as an athletic official, the offender
11 is guilty of a misdemeanor and, upon conviction thereof, shall

12 be fined not more than \$1,000, or confined in jail not more than
13 twelve months, or both fined and confined.

14 (c) For the purpose of this section, “athletic official” means
15 a person at a sports event who enforces the rules of that event,
16 such as an umpire or referee, or a person who supervises the
17 participants, such as a coach.

CHAPTER 44

**(H. B. 2933 - By Delegates L. Phillips, P. Smith,
Marcum, Barill, White, Moye, Skinner and Poore)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §62-12-23 of the Code of West Virginia, 1931, as amended, relating to the Parole Board’s duty to notify prosecuting attorneys and circuit judges of an offender’s release and the grounds therefor.

Be it enacted by the Legislature of West Virginia:

That §62-12-23 of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

ARTICLE 12. PROBATION AND PAROLE.

§62-12-23. Notification of parole hearing; victim’s right to be heard; notification of release on parole.

1 (a) Following the sentencing of a person who has been
2 convicted of murder, aggravated robbery, sexual assault in the
3 first or second degree, kidnapping, child abuse resulting in

4 injury, child neglect resulting in injury, arson or a sexual offense
5 against a minor, the prosecuting attorney who prosecuted the
6 offender shall prepare a Parole Hearing Notification Form. This
7 form shall contain the following information:

8 (1) The name of the county in which the offender was
9 prosecuted and sentenced;

10 (2) The name of the court in which the offender was
11 prosecuted and sentenced;

12 (3) The name of the prosecuting attorney or assistant
13 prosecuting attorney who prosecuted the offender;

14 (4) The name of the judge who presided over the criminal
15 case and who sentenced the offender;

16 (5) The names of the law-enforcement agencies and officers
17 who were primarily involved with the investigation of the crime
18 for which the offender was sentenced; and

19 (6) The names, addresses and telephone numbers of the
20 victims of the crime for which the offender was sentenced or the
21 names, addresses and telephone numbers of the immediate
22 family members of each victim of the crime, including, but not
23 limited to, each victim's spouse, father, mother, brothers, sisters
24 and any adult household member residing with the victim.

25 (b) The prosecuting attorney shall retain the original of the
26 Parole Hearing Notification Form and shall provide copies of it
27 to the circuit court which sentenced the offender, the Parole
28 Board, the Commissioner of Corrections and to all persons
29 whose names and addresses are listed on the form.

30 (c) At least forty-five days prior to the date of a parole
31 hearing, the Parole Board shall notify all persons who are listed
32 on the Parole Hearing Notification Form, including the circuit
33 court which sentenced the offender and office of the prosecuting
34 attorney that prosecuted the offender, of the date, time and place
35 of the hearing. Such notice shall be sent by certified mail, return
36 receipt requested. The notice shall state that the victims of the
37 crime have the right to submit a written statement to the Parole
38 Board and to attend the parole hearing to be heard regarding the
39 propriety of granting parole to the prisoner. The notice shall also
40 state that only the victims may submit written statements and
41 speak at the parole hearing unless a victim is deceased, is a
42 minor or is otherwise incapacitated.

43 (d) The panel considering the parole shall inquire during the
44 parole hearing as to whether the victims of the crime or their
45 representatives, as provided in this section, are present. If so, the
46 panel shall permit those persons to speak at the hearing regard-
47 ing the propriety of granting parole for the prisoner.

48 (e) If the panel grants parole, it shall immediately set a date
49 on which the prisoner will be released. Such date shall be no
50 earlier than thirty days after the date on which parole is granted.
51 On the date on which parole is granted, the Parole Board shall
52 notify all persons listed on the Parole Hearing Notification Form,
53 including the circuit court which sentenced the offender and
54 office of the prosecuting attorney that prosecuted the offender,
55 that parole has been granted and the date of release. This notice
56 shall be sent by certified mail, return receipt requested. A written
57 statement of reasons for releasing the prisoner, prepared pursuant
58 to subsection (b), section thirteen of this article, shall be pro-
59 vided upon request to all persons listed on the Parole Hearing
60 Notification Form, including the circuit court which sentenced
61 the offender and office of the prosecuting attorney that prose-
62 cuted the offender.

CHAPTER 45

**(H. B. 2784 - By Delegates Pethtel, Jones, Craig,
Canterbury, Kump, Lynch and Stowers)
[By Request of the Consolidated
Public Retirement Board]**

[Passed March 28, 2013; in effect ninety days from passage.]
[Approved by the Governor on April 10, 2013.]

AN ACT to amend and reenact §7-14D-2, §7-14D-7, §7-14D-9, §7-14D-16 and §7-14D-19 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §7-14D-7a, all relating to the Deputy Sheriff Retirement System Act; defining member, retire and retirement; providing for the correction of errors; providing that an estimation of benefits is provided prior to the submission of a retirement application from a member; and providing for recertification of disability.

Be it enacted by the Legislature of West Virginia:

That §7-14D-2, §7-14D-7, §7-14D-9, §7-14D-16 and §7-14D-19 of the Code of West Virginia, 1931, as amended, be amended and reenacted, and that said code be amended by adding thereto a new section, designated §7-14D-7a, all to read as follows:

**ARTICLE 14D. DEPUTY SHERIFF RETIREMENT SYSTEM
ACT.**

§7-14D-2. Definitions.

- 1 As used in this article, unless a federal law or regulation or
- 2 the context clearly requires a different meaning:

3 (a) "Accrued benefit" means on behalf of any member two
4 and one-quarter percent of the member's final average salary
5 multiplied by the member's years of credited service. A mem-
6 ber's accrued benefit may not exceed the limits of Section 415
7 of the Internal Revenue Code and is subject to the provisions of
8 section nine-a of this article.

9 (b) "Accumulated contributions" means the sum of all
10 amounts deducted from the compensation of a member, or paid
11 on his or her behalf pursuant to article ten-c, chapter five of this
12 code, either pursuant to section seven of this article or section
13 twenty-nine, article ten, chapter five of this code as a result of
14 covered employment together with regular interest on the
15 deducted amounts.

16 (c) "Active member" means a member who is active and
17 contributing to the plan.

18 (d) "Active military duty" means full-time active duty with
19 any branch of the armed forces of the United States, including
20 service with the National Guard or reserve military forces when
21 the member has been called to active full-time duty and has
22 received no compensation during the period of that duty from
23 any board or employer other than the armed forces.

24 (e) "Actuarial equivalent" means a benefit of equal value
25 computed upon the basis of the mortality table and interest rates
26 as set and adopted by the retirement board in accordance with
27 the provisions of this article: *Provided*, That when used in the
28 context of compliance with the federal maximum benefit
29 requirements of Section 415 of the Internal Revenue Code,
30 "actuarial equivalent" shall be computed using the mortality
31 tables and interest rates required to comply with those require-
32 ments.

33 (f) "Annual compensation" means the wages paid to the
34 member during covered employment within the meaning of

35 Section 3401(a) of the Internal Revenue Code, but determined
36 without regard to any rules that limit the remuneration included
37 in wages based upon the nature or location of employment or
38 services performed during the plan year plus amounts excluded
39 under Section 414(h)(2) of the Internal Revenue Code and less
40 reimbursements or other expense allowances, cash or noncash
41 fringe benefits or both, deferred compensation and welfare
42 benefits. Annual compensation for determining benefits during
43 any determination period may not exceed the maximum compen-
44 sation allowed as adjusted for cost of living in accordance with
45 section seven, article ten-d, chapter five of this code and Section
46 401(a)(17) of the Internal Revenue Code.

47 (g) “Annual leave service” means accrued annual leave.

48 (h) “Annuity starting date” means the first day of the first
49 calendar month following receipt of the retirement application
50 by the board or the required beginning date, if earlier: *Provided*,
51 That the member has ceased covered employment and reached
52 early or normal retirement age.

53 (i) “Base salary” means a member’s cash compensation
54 exclusive of overtime from covered employment during the last
55 twelve months of employment. Until a member has worked
56 twelve months, annualized base salary is used as base salary.

57 (j) “Board” means the Consolidated Public Retirement Board
58 created pursuant to article ten-d, chapter five of this code.

59 (k) “County commission” has the meaning ascribed to it in
60 section one, article one, chapter seven of this code.

61 (l) “Covered employment” means either: (1) Employment as
62 a deputy sheriff and the active performance of the duties
63 required of a deputy sheriff; or (2) the period of time which
64 active duties are not performed but disability benefits are
65 received under section fourteen or fifteen of this article; or (3)

66 concurrent employment by a deputy sheriff in a job or jobs in
67 addition to his or her employment as a deputy sheriff where the
68 secondary employment requires the deputy sheriff to be a
69 member of another retirement system which is administered by
70 the Consolidated Public Retirement Board pursuant to article
71 ten-d, chapter five of this code: Provided, That the deputy sheriff
72 contributes to the fund created in section six of this article the
73 amount specified as the deputy sheriff's contribution in section
74 seven of this article.

75 (m) "Credited service" means the sum of a member's years
76 of service, active military duty, disability service and annual
77 leave service.

78 (n) "Deputy sheriff" means an individual employed as a
79 county law-enforcement deputy sheriff in this state and as
80 defined by section two, article fourteen of this chapter.

81 (o) "Dependent child" means either:

82 (1) An unmarried person under age eighteen who is:

83 (A) A natural child of the member;

84 (B) A legally adopted child of the member;

85 (C) A child who at the time of the member's death was
86 living with the member while the member was an adopting
87 parent during any period of probation; or

88 (D) A stepchild of the member residing in the member's
89 household at the time of the member's death; or

90 (2) Any unmarried child under age twenty-three:

91 (A) Who is enrolled as a full-time student in an accredited
92 college or university;

93 (B) Who was claimed as a dependent by the member for
94 federal income tax purposes at the time of the member's death;
95 and

96 (C) Whose relationship with the member is described in
97 subparagraph (A), (B) or (C), paragraph (1) of this subdivision.

98 (p) "Dependent parent" means the father or mother of the
99 member who was claimed as a dependent by the member for
100 federal income tax purposes at the time of the member's death.

101 (q) "Disability service" means service credit received by a
102 member, expressed in whole years, fractions thereof or both,
103 equal to one half of the whole years, fractions thereof or both,
104 during which time a member receives disability benefits under
105 section fourteen or fifteen of this article.

106 (r) "Early retirement age" means age forty or over and
107 completion of twenty years of service.

108 (s) "Employer error" means an omission, misrepresentation,
109 or violation of relevant provisions of the West Virginia Code or
110 of the West Virginia Code of State Regulations or the relevant
111 provisions of both the West Virginia Code and of the West
112 Virginia Code of State Regulations by the participating public
113 employer that has resulted in an underpayment or overpayment
114 of contributions required. A deliberate act contrary to the
115 provisions of this section by a participating public employer does
116 not constitute employer error.

117 (t) "Effective date" means July 1, 1998.

118 (u) "Final average salary" means the average of the highest
119 annual compensation received for covered employment by the
120 member during any five consecutive plan years within the
121 member's last ten years of service. If the member did not have
122 annual compensation for the five full plan years preceding the

123 member's attainment of normal retirement age and during that
124 period the member received disability benefits under section
125 fourteen or fifteen of this article then "final average salary"
126 means the average of the monthly salary determined paid to the
127 member during that period as determined under section seven-
128 teen of this article multiplied by twelve.

129 (v) "Fund" means the West Virginia Deputy Sheriff Retirement
130 Fund created pursuant to section six of this article.

131 (w) "Hour of service" means:

132 (1) Each hour for which a member is paid or entitled to
133 payment for covered employment during which time active
134 duties are performed. These hours shall be credited to the
135 member for the plan year in which the duties are performed; and

136 (2) Each hour for which a member is paid or entitled to
137 payment for covered employment during a plan year but where
138 no duties are performed due to vacation, holiday, illness,
139 incapacity including disability, layoff, jury duty, military duty,
140 leave of absence or any combination thereof and without regard
141 to whether the employment relationship has terminated. Hours
142 under this paragraph shall be calculated and credited pursuant to
143 West Virginia Division of Labor rules. A member will not be
144 credited with any hours of service for any period of time he or
145 she is receiving benefits under section fourteen or fifteen of this
146 article; and

147 (3) Each hour for which back pay is either awarded or agreed
148 to be paid by the employing county commission, irrespective of
149 mitigation of damages. The same hours of service shall not be
150 credited both under this paragraph and paragraph (1) or (2) of
151 this subdivision. Hours under this paragraph shall be credited to
152 the member for the plan year or years to which the award or

153 agreement pertains rather than the plan year in which the award,
154 agreement or payment is made.

155 (x) "Member" means a person first hired as a deputy sheriff
156 after the effective date of this article, as defined in subsection ~~(r)~~
157 (t) of this section, or a deputy sheriff first hired prior to the
158 effective date and who elects to become a member pursuant to
159 section five or seventeen of this article. A member shall remain
160 a member until the benefits to which he or she is entitled under
161 this article are paid or forfeited or until cessation of membership
162 pursuant to section five of this article.

163 (y) "Monthly salary" means the portion of a member's
164 annual compensation which is paid to him or her per month.

165 (z) "Normal form" means a monthly annuity which is one
166 twelfth of the amount of the member's accrued benefit which is
167 payable for the member's life. If the member dies before the sum
168 of the payments he or she receives equals his or her accumulated
169 contributions on the annuity starting date, the named beneficiary
170 shall receive in one lump sum the difference between the
171 accumulated contributions at the annuity starting date and the
172 total of the retirement income payments made to the member.

173 (aa) "Normal retirement age" means the first to occur of the
174 following: (1) Attainment of age fifty years and the completion
175 of twenty or more years of service; (2) while still in covered
176 employment, attainment of at least age fifty years and when the
177 sum of current age plus years of service equals or exceeds
178 seventy years; (3) while still in covered employment, attainment
179 of at least age sixty years and completion of five years of
180 service; or (4) attainment of age sixty-two years and completion
181 of five or more years of service.

182 (bb) "Partially disabled" means a member's inability to
183 engage in the duties of deputy sheriff by reason of any medically
184 determinable physical or mental impairment that can be expected
185 to result in death or that has lasted or can be expected to last for

186 a continuous period of not less than twelve months. A member
187 may be determined partially disabled for the purposes of this
188 article and maintain the ability to engage in other gainful
189 employment which exists within the state but which ability
190 would not enable him or her to earn an amount at least equal to
191 two thirds of the average annual compensation earned by all
192 active members of this plan during the plan year ending as of the
193 most recent June 30, as of which plan data has been assembled
194 and used for the actuarial valuation of the plan.

195 (cc) "Public Employees Retirement System" means the West
196 Virginia Public Employees Retirement System created by article
197 ten, chapter five of this code.

198 (dd) "Plan" means the West Virginia Deputy Sheriff Death,
199 Disability and Retirement Plan established by this article.

200 (ee) "Plan year" means the twelve-month period commenc-
201 ing on July 1 of any designated year and ending the following
202 June 30.

203 (ff) "Qualified public safety employee" means any employee
204 of a participating state or political subdivision who provides
205 police protection, fire-fighting services or emergency medical
206 services for any area within the jurisdiction of the state or
207 political subdivision, or such other meaning given to the term by
208 Section 72(t)(10)(B) of the Internal Revenue Code or by
209 Treasury Regulation §1.401(a)-1(b)(2)(v) as they may be
210 amended from time to time.

211 (gg) "Regular interest" means the rate or rates of interest per
212 annum, compounded annually, as the board adopts in accordance
213 with the provisions of this article.

214 (hh) "Required beginning date" means April 1 of the
215 calendar year following the later of: (i) The calendar year in
216 which the member attains age seventy and one-half; or (ii) the

217 calendar year in which he or she retires or otherwise separates
218 from covered employment.

219 (ii) "Retire" or "retirement" means a member's withdrawal
220 from the employ of a participating public employer and the
221 commencement of an annuity by the plan.

222 (jj) "Retirement income payments" means the annual
223 retirement income payments payable under the plan.

224 (kk) "Spouse" means the person to whom the member is
225 legally married on the annuity starting date.

226 (ll) "Surviving spouse" means the person to whom the
227 member was legally married at the time of the member's death
228 and who survived the member.

229 (mm) "Totally disabled" means a member's inability to
230 engage in substantial gainful activity by reason of any medically
231 determined physical or mental impairment that can be expected
232 to result in death or that has lasted or can be expected to last for
233 a continuous period of not less than twelve months. For purposes
234 of this subdivision:

235 (1) A member is totally disabled only if his or her physical
236 or mental impairment or impairments are so severe that he or she
237 is not only unable to perform his or her previous work as a
238 deputy sheriff but also cannot, considering his or her age,
239 education and work experience, engage in any other kind of
240 substantial gainful employment which exists in the state regard-
241 less of whether: (A) The work exists in the immediate area in
242 which the member lives; (B) a specific job vacancy exists; or (C)
243 the member would be hired if he or she applied for work.

244 (2) "Physical or mental impairment" is an impairment that
245 results from an anatomical, physiological or psychological
246 abnormality that is demonstrated by medically accepted clinical

247 and laboratory diagnostic techniques. A member's receipt of
 248 Social Security disability benefits creates a rebuttable presumption
 249 that the member is totally disabled for purposes of this plan.
 250 Substantial gainful employment rebuts the presumption of total
 251 disability.

252 (nn) "Year of service". — A member shall, except in his or
 253 her first and last years of covered employment, be credited with
 254 year of service credit based upon the hours of service performed
 255 as covered employment and credited to the member during the
 256 plan year based upon the following schedule:

257	Hours of Service	Years of Service Credited
258	Less than 500	0
259	500 to 999	1/3
260	1,000 to 1,499	2/3
261	1,500 or more	1

262 During a member's first and last years of covered employ-
 263 ment, the member shall be credited with one twelfth of a year of
 264 service for each month during the plan year in which the member
 265 is credited with an hour of service. A member is not entitled to
 266 credit for years of service for any time period during which he or
 267 she received disability payments under section fourteen or
 268 fifteen of this article. Except as specifically excluded, years of
 269 service include covered employment prior to the effective date.
 270 Years of service which are credited to a member prior to his or
 271 her receipt of accumulated contributions upon termination of
 272 employment pursuant to section thirteen of this article or section
 273 thirty, article ten, chapter five of this code, shall be disregarded
 274 for all purposes under this plan unless the member repays the
 275 accumulated contributions with interest pursuant to section
 276 thirteen of this article or had prior to the effective date made the
 277 repayment pursuant to section eighteen, article ten, chapter five
 278 of this code.

§7-14D-7. Members' contributions; employer contributions.

1 (a) There shall be deducted from the monthly salary of each
2 member and paid into the fund an amount equal to eight and
3 one-half percent of his or her monthly salary. An additional
4 amount shall be paid to the fund by the county commission of
5 the county in which the member is employed in covered employ-
6 ment in an amount determined by the board: *Provided*, That in
7 any year preceding July 1, 2011, the total of the contributions
8 provided in this section, to be paid by the county commission,
9 may not exceed ten and one-half percent of the total payroll for
10 the members in the employ of the county commission; *Provided*,
11 *however*, That on or after July 1, 2011, the total of the contribu-
12 tions provided in this section, to be paid by the county commis-
13 sion, may not exceed thirteen percent of the total payroll for the
14 members in the employ of the county commission. If the board
15 finds that the benefits provided by this article can be actually
16 funded with a lesser contribution, then the board shall reduce the
17 required member or employer contributions or both. The sums
18 withheld each calendar month shall be paid to the fund no later
19 than fifteen days following the end of the calendar month.

20 (b) Any active member who has concurrent employment in
21 an additional job or jobs and the additional employment requires
22 the deputy sheriff to be a member of another retirement system
23 which is administered by the Consolidated Public Retirement
24 Board pursuant to article ten-d, chapter five of this code shall
25 make an additional contribution to the fund of eight and one-half
26 percent of his or her monthly salary earned from any additional
27 employment which requires the deputy sheriff to be a member of
28 another retirement which is administered by the Consolidated
29 Public Retirement Board pursuant to article ten-d, chapter five
30 of this code. An additional amount shall be paid to the fund by
31 the concurrent employer for which the member is employed in
32 an amount determined by the board: *Provided*, That in any year
33 preceding July 1, 2011, the total of the contributions provided in

34 this section, to be paid by the concurrent employer, may not
35 exceed ten and one- half percent of the monthly salary of the
36 employee: *Provided, however,* That on or after July 1, 2011, the
37 total of the contributions provided in this section, to be paid by
38 the concurrent employer, may not exceed thirteen percent of the
39 monthly salary of the employee. If the board finds that the
40 benefits provided by this article can be funded with a lesser
41 contribution, then the board shall reduce the required member or
42 employer contributions or both. The sums withheld each
43 calendar month shall be paid to the fund no later than fifteen
44 days following the end of the calendar month.

§7-14D-7a. Correction of errors; underpayments; overpayments.

1 (a) General rule: If any change or employer error in the
2 records of any participating public employer or the plan results
3 in any member, retirant or beneficiary receiving from the plan
4 more or less than he or she would have been entitled to receive
5 had the records been correct, the board shall correct the error. If
6 correction of the error occurs after the effective retirement date
7 of a retirant, and as far as is practicable, the board shall adjust
8 the payment of the benefit in a manner that the actuarial equiva-
9 lent of the benefit to which the retirant was correctly entitled
10 shall be paid.

11 (b) Underpayments: Any error resulting in an underpayment
12 to the retirement system of required contributions may be
13 corrected by the member or retirant remitting the required
14 employee contribution and the participating public employer
15 remitting the required employer contribution. Interest shall
16 accumulate in accordance with the Legislative Rule 162 CSR 7
17 concerning retirement board refund, reinstatement, retroactive
18 service, loan and employer error interest factors and any
19 accumulating interest owed on the employee and employer
20 contributions resulting from an employer error shall be the
21 responsibility of the participating public employer. The partici-
22 pating public employer may remit total payment and the

23 employee reimburse the participating public employer through
24 payroll deduction over a period equivalent to the time period
25 during which the employer error occurred. If the correction of an
26 error involving an underpayment of required contributions to the
27 retirement system will result in increased payments to a retirant,
28 including increases to payments already made, any adjustments
29 shall be made only after the board receives full payment of all
30 required employee and employer contributions, including
31 interest.

32 (c) Overpayments: (1) When mistaken or excess employer
33 contributions, including any overpayments, have been made to
34 the retirement system by a participating public employer, due to
35 error or other reason, the board shall credit the participating
36 public employer with an amount equal to the erroneous contribu-
37 tions, to be offset against the participating public employer's
38 future liability for employer contributions to the system.
39 Earnings or interest shall not be credited to the employer.

40 (2) When mistaken or excess employee contributions,
41 including any overpayments, have been made to the retirement
42 system, due to error or other reason, the board shall have sole
43 authority for determining the means of return, offset or credit to
44 or for the benefit of the employee of the amounts, and may use
45 any means authorized or permitted under the provisions of
46 Section 401(a), et seq. of the Internal Revenue Code and
47 guidance issued thereunder applicable to governmental plans.
48 Alternatively, in its full and complete discretion, the board may
49 require the participating public employer to pay the employee
50 the amounts as wages, with the board crediting the participating
51 public employer with a corresponding amount to offset against
52 its future contributions to the plan: *Provided*, That the wages
53 paid to the employee shall not be considered compensation for
54 any purposes under this article. Earnings or interest shall not be
55 returned, offset, or credited under any of the means utilized by
56 the board for returning mistaken or excess employee contribu-
57 tions, including any overpayments, to an employee.

§7-14D-9. Retirement; commencement of benefits.

1 A member may retire and commence to receive retirement
2 income payments on the first day of the calendar month follow-
3 ing the board's receipt of the member's voluntary written
4 application for retirement or the required beginning date, if
5 earlier. Before receiving retirement income payments, the
6 member shall have ceased covered employment and reached
7 early or normal retirement age. The retirement income payments
8 shall be in an amount as provided under section eleven of this
9 article: *Provided*, That retirement income payments under this
10 plan shall be subject to the provisions of this article. Upon
11 receipt of a request for estimation of benefits, the board shall
12 promptly provide the member with an explanation of his or her
13 optional forms of retirement benefits and the estimated gross
14 monthly annuity. Upon receipt of properly executed retirement
15 application forms from the member, the board shall process the
16 member's request and commence payments as soon as adminis-
17 tratively feasible.

**§7-14D-16. Awards and benefits for disability — Physical exami-
nations; termination of disability.**

1 (a) The board may require any member who has applied for
2 or is receiving disability benefits under this article to submit to
3 a physical examination, mental examination or both, by a
4 physician or physicians selected or approved by the board and
5 may cause all costs incident to the examination and approved by
6 the board to be paid from the fund. The costs may include
7 hospital, laboratory, X ray, medical and physicians' fees. A
8 report of the findings of any physician shall be submitted in
9 writing to the board for its consideration. If, from the report,
10 independent information, or from the report and any hearing on
11 the report, the board is of the opinion and finds that: (1) The
12 member has become reemployed as a law-enforcement officer;
13 (2) two physicians who have examined the member have found

14 that considering the opportunities for law enforcement in West
15 Virginia, the member could be so employed as a deputy sheriff;
16 or (3) other facts exist to demonstrate that the member is no
17 longer totally disabled or partially disabled as the case may be,
18 then the disability benefits shall cease. If the member was totally
19 disabled and is found to have recovered, the board shall deter-
20 mine whether the member continues to be partially disabled. If
21 the board finds that the member is no longer totally disabled but
22 is partially disabled, then the member shall continue to receive
23 partial disability benefits in accordance with this article. Benefits
24 shall cease once the member has been found to be no longer
25 either totally or partially disabled: *Provided*, That the board shall
26 require recertification for each partial or total disability at
27 regular intervals as specified by the guidelines adopted by the
28 Deputy Sheriff Retirement System.

29 (b) If a retirant refuses to submit to a medical examination
30 or submit a statement by his or her physician certifying contin-
31 ued disability in any period, his or her disability annuity may be
32 discontinued by the board until the retirant complies. If the
33 refusal continues for one year, all the retirants rights in and to
34 the annuity may be revoked by the board.

**§7-14D-19. Awards and benefits to surviving spouse — When
member dies from nonservice-connected causes.**

1 (a) In any case where a member who has been a member for
2 at least ten years, while in covered employment after the
3 effective date of this article, has died or dies from any cause
4 other than those specified in section eighteen of this article and
5 not due to vicious habits, intemperance or willful misconduct on
6 his or her part, the fund shall pay annually in equal monthly
7 installments to the surviving spouse during his or her lifetime, a
8 sum equal to the greater of: (i) One half of the annual compensa-
9 tion received in the preceding twelve-month employment period
10 by the deceased member; or (ii) if the member dies after his or

11 her early or normal retirement age, the monthly amount which
12 the spouse would have received had the member retired the day
13 before his or her death, elected a one hundred percent joint and
14 survivor annuity with the spouse as the joint annuitant, and then
15 died. Where the member is receiving disability benefits under
16 section fifteen of this article at the time of his or her death, the
17 most recent monthly compensation determined under section
18 seventeen of this article shall be substituted for the annual
19 compensation in (i) of this section.

20 (b) Benefits for a surviving spouse received under this
21 section, section twenty and section twenty-one of this article are
22 in lieu of receipt of any other benefits under this article for the
23 spouse or any other person or under the provisions of any other
24 state retirement system based upon the member's covered
25 employment.

CHAPTER 46

**(Com. Sub. for H. B. 2717 - By Delegates Ashley,
Skaff, Raines, Swartzmiller, Ferns, Reynolds,
Stowers, White, Miley and Walker)**

[Passed April 13, 2013; in effect July 1, 2013.]

[Approved by the Governor on May 1, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §7-7-14a, relating to requiring that sheriffs provide ballistic resistant vests to deputy sheriffs; providing standards for personal body armor; requiring payment of expenses by county commission; limiting the construction of provisions; and encouraging defrayment of expenses.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §7-7-14a, to read as follows:

ARTICLE 7. COMPENSATION OF ELECTED COUNTY OFFICIALS.

§7-7-14a. Personal body armor to be provided to deputy sheriffs; standards; payment of expenses thereof by county commission.

1 (a)(1) The sheriff of each county shall provide an item of
2 personal body armor commonly known as a ballistic resistant
3 vest to each of his or her deputy sheriffs, subject to the follow-
4 ing:

5 (A) Each of his or her deputy sheriffs who is so employed on
6 July 1, 2013 and who holds a valid law enforcement certification
7 issued under article twenty-nine, chapter thirty of this code on
8 that date, shall receive the vest on or within a reasonable time
9 after July 1, 2013;

10 (B) Each of his or her deputy sheriffs who is so employed on
11 July 1, 2013 and who is certifiable under the provisions of
12 section five, article twenty-nine, chapter thirty of this code on
13 that date, but who subsequently meets the requirements for
14 certification under that section, shall receive the vest on or
15 within a reasonable time after the date he or she is issued a valid
16 law enforcement certification;

17 (C) Each of his or her deputy sheriffs who is so employed on
18 a conditional basis on July 1, 2013 and who is not certified or
19 certifiable under the provisions of section five, article
20 twenty-nine, chapter thirty of this code on that date, but who
21 subsequently meets the requirements for certification under that

22 section, shall receive the vest on or within a reasonable time
23 after the date he or she is issued a valid law enforcement
24 certification;

25 (D) Each of his or her deputy sheriffs who is so employed
26 after July 1, 2013 and who holds a valid law enforcement
27 certification issued under article twenty-nine, chapter thirty of
28 this code on the date of his or her employment, shall receive the
29 vest on or within a reasonable time after July 1, 2013; or

30 (E) Each of his or her deputy sheriffs who is so employed
31 after July 1, 2013, and who is certifiable as described in para-
32 graph (B) of this subdivision on the date of employment, or who
33 is not certified or certifiable on the date of employment as
34 described in paragraph (C) of this subdivision on the date of
35 conditional employment, but who subsequently meets the
36 requirements for certification under section five, article
37 twenty-nine, chapter thirty of this code, shall receive the vest on
38 or within a reasonable time after the date he or she is issued a
39 valid law enforcement certification.

40 (2)(A) A ballistic resistant vest or other personal body armor
41 provided under this section or otherwise shall meet the minimum
42 performance standards for the ballistic resistance of personal
43 body armor established by Standards and Testing Program
44 sponsored by the Office of Science and Technology of the
45 National Institute of Justice (NIJ), Office of Justice Programs,
46 U.S. Department of Justice on the date the personal body armor
47 is provided.

48 (B) Notwithstanding any other provision of this section to
49 the contrary, no body armor model determined to be unsuitable
50 by the National Institute of Justice may be provided to any
51 deputy sheriff under the provisions of this section.

52 (3) A sheriff is not required to provide a ballistic resistant
53 vest or other model of personal body armor under this section to
54 a deputy sheriff where:

55 (A) The sheriff had provided personal body armor meeting
56 the standards established by this section prior to the date upon
57 which the sheriff would otherwise be required to provide it under
58 this section; or

59 (B) The deputy sheriff owns personal body armor meeting
60 the standards established by this section on the date upon which
61 the sheriff would otherwise be required to provide personal body
62 armor under this section and elects in writing to decline
63 acceptance of the personal body armor that would be provided
64 under this section.

65 (b) The county commission of each county shall expend
66 from the general county fund, upon request and requisition by
67 the sheriff of the county, the necessary and proper expenses of
68 providing the personal body armor described in subsection (a) of
69 this section.

70 (c) No provision of this section may be construed to prevent
71 a county commission, in its discretion, from expending such
72 funds as may be necessary and proper to provide additional
73 ballistic resistant vests, ballistic resistance jackets or other
74 models of personal body armor equipment for the use of the
75 sheriff and his or her deputies, nor to in any manner limit a
76 sheriff from incurring actual and necessary expenses in the
77 discharge of his or her duties for any purpose specified under
78 section thirteen of this article.

79 (d) Each county commission and sheriff is encouraged to
80 seek available federal and other lawful funds or assistance to
81 defray the expenses incurred under this section.

CHAPTER 47

**(Com. Sub. for S. B. 437 - By Senators Unger,
Beach and Yost)**

[Passed April 12, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §19-20-26, relating to protecting dogs by creating regulations for commercial dog-breeding operations; providing definitions; providing exceptions; allowing commercial breeders to sell dogs only as household pets; requiring a business license if required by the locality; authorizing county commissions to charge a fee to a commercial dog breeder to obtain an annual permit to operate; limiting the amount of the fee; setting forth responsibilities of the commercial dog breeder; setting forth the requirements for maintaining adequate enclosures; providing for inspections; prohibiting a commercial dog breeder to operate if convicted of animal cruelty; providing no exemption for United States Department of Agriculture licensees; and providing criminal penalties or granting an improvement period.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §19-20-26, to read as follows:

ARTICLE 20. DOGS AND CATS.

§19-20-26. Commercial dog-breeding operations.

1 (a) As used in this section:

2 (1) "Advertisement" means any media used to promote the
3 sale of dogs including, but not limited to, the Internet, newspa-
4 pers, flyers, magazines, radio, television, bulletins and signs.

5 (2) "Commercial dog breeder" means any person who:

6 (A) Maintains eleven or more unsterilized dogs over the age
7 of one year for the exclusive purpose of actively breeding;

8 (B) Is engaged in the business of breeding dogs as household
9 pets for direct or indirect sale or for exchange in return for
10 consideration; and

11 (C) Commercial dog breeder shall not include:

12 (i) Any person who keeps or breeds dogs exclusively for the
13 purpose of herding or guarding livestock or farm animals,
14 hunting, tracking or exhibiting in dog shows, performance events
15 or field and obedience trials; and

16 (ii) With respect to greyhound dogs only, any person who
17 holds an occupational permit from, and has registered a grey-
18 hound kennel name with, the West Virginia Racing Commission.

19 (3) "Class I Commercial Dog Breeder" means a commercial
20 dog breeder that possesses eleven to thirty unsterilized dogs over
21 the age of one year at any one time for the exclusive purpose of
22 actively breeding.

23 (4) "Class II Commercial Dog Breeder" means a commercial
24 dog breeder that possesses more than thirty unsterilized dogs
25 over the age of one year at any time.

26 (5) "Housing facility" means a structure in which dogs are
27 kept that provides them with shelter, protection from the
28 elements and protection from temperature extremes.

29 (6) “Primary enclosure” means a structure that restricts a
30 dog’s ability to move in a limited amount of space, such as a
31 room, cage or compartment.

32 (b) No commercial dog breeder may breed dogs without a
33 business registration certificate in accordance with section three,
34 article twelve, chapter eleven of this code and a valid business
35 license issued by the locality in which the dog breeding opera-
36 tion is located, if the locality so requires.

37 (c) A commercial dog breeder shall:

38 (1) Obtain a permit annually to operate, as required by the
39 county commission in which the commercial dog breeding
40 operation is located. County commissions are authorized to
41 charge a fee to commercial dog breeders and shall deposit the
42 fees collected in a specially designated account to be used for
43 animal shelters, animal rescue and spay neuter programs
44 administered by county animal shelters or other humane
45 organizations. The fee for a Class I commercial dog-breeding
46 permit shall be an amount determined by the county commis-
47 sion, not to exceed \$250 per year. The fee for a Class II commer-
48 cial dog breeding permit shall be an amount determined by the
49 county commission, not to exceed \$500 per year;

50 (2) Breed female dogs only after the breeder has obtained an
51 annual certification by a licensed veterinarian that the dog is in
52 suitable health for breeding;

53 (3) Dispose of dogs only by gift, sale, transfer, barter or
54 euthanasia by a licensed veterinarian;

55 (4) Maintain current, valid rabies certificates for every dog
56 pursuant to article twenty-a of this chapter;

57 (5) Include the breeder’s annual permit number on any
58 advertisement for the sale of a dog;

59 (6) If selling directly to the public, post a conspicuous notice
60 containing the breeder's name, address and annual permit
61 number on each cage;

62 (7) Provide for the humane treatment of dogs in accordance
63 with section nineteen, article eight, chapter sixty-one of this
64 code;

65 (8) Provide dogs with easy and convenient access to
66 adequate amounts of clean food and water. Food and water
67 receptacles must be regularly cleaned and sanitized. All enclo-
68 sures must contain potable water that is not frozen, is substan-
69 tially free from debris and is readily accessible to all dogs in the
70 enclosure at all times unless otherwise directed by a veterinarian
71 for the health of the dog;

72 (9) Provide veterinary care without delay when necessary;

73 (10) Maintain adequate staffing levels to ensure compliance
74 with this section; and

75 (11) Maintain adequate housing facilities and primary
76 enclosures that meet the following minimum requirements:

77 (A) Housing facilities and primary enclosures must be kept
78 in a sanitary condition and in good repair; must be sufficiently
79 ventilated at all times to minimize odors, drafts, ammonia levels
80 and to prevent moisture condensation; must have a means of fire
81 suppression, such as functioning fire extinguishers or a sprinkler
82 system on the premises; and must have sufficient lighting to
83 allow for observation of the dogs at any time of day or night;

84 (B) Housing facilities and primary enclosures must enable
85 all dogs to remain dry and clean;

86 (C) Housing facilities must provide shelter and protection
87 from extreme temperatures and weather conditions that may be
88 uncomfortable or hazardous to the dogs;

89 (D) Housing facilities must provide sufficient shade to
90 simultaneously shelter all of the dogs housed therein;

91 (E) A primary enclosure must have solid floors that are
92 constructed in a manner that protects the dogs' feet and legs
93 from injury;

94 (F) Primary enclosures must be placed no higher than forty-
95 two inches above the floor and may not be placed over or
96 stacked on top of another cage or primary enclosure;

97 (G) Feces, hair, dirt, debris and food waste must be removed
98 from primary enclosures and housing facilities at least daily or
99 more often if necessary to prevent accumulation and to reduce
100 disease hazards, insects, pests and odors;

101 (H) All dogs in the same enclosure at the same time must be
102 compatible, as determined by observation. Breeding females in
103 heat may not be in the same enclosure at the same time with
104 sexually mature males, except for breeding purposes. Breeding
105 females and their litters may not be in the same enclosure at the
106 same time with other adult dogs. Puppies under twelve weeks
107 may not be in the same enclosure at the same time with other
108 adult dogs, other than the dam or foster dam unless under
109 immediate supervision; and

110 (I) Sick dogs shall be isolated sufficiently so as not to
111 endanger the health of other dogs.

112 (d) To ensure compliance with state animal care laws and
113 regulations, commercial dog breeding locations are subject to
114 biannual inspections by animal control officers or law-enforce-
115 ment officers.

116 (e) It is unlawful for a commercial dog breeder to operate if
117 he or she has been convicted of animal cruelty in any local, state
118 or federal jurisdiction.

119 (f) Any commercial dog breeder who violates any provision
120 of this section is guilty of a misdemeanor and, upon conviction
121 thereof, shall be fined not more than \$1,000 per violation. In any
122 proceeding brought pursuant to the provisions of this section, a
123 circuit judge or magistrate may grant a person accused of
124 violating this section an improvement period not to exceed one
125 year upon such terms and conditions as the judge or magistrate
126 may determine. Upon successful completion of the improvement
127 period the judge or magistrate shall dismiss the charges.

128 (g) Nothing in this section exempts a facility licensed by the
129 United States Department of Agriculture from compliance.

130 (h) Nothing in this section prevents any local, state or federal
131 law-enforcement agency from investigating animal cruelty in
132 commercial dog breeding operations.

CHAPTER 48

(Com. Sub. for S. B. 60 - By Senators Tucker and Fitzsimmons)

[Passed April 11, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 18, 2013.]

AN ACT to amend and reenact §48-25-101 of the Code of West Virginia, 1931, as amended, relating to change of name; establishing certain time frames to publish the notice for name change; requiring the published notice to include the petitioner's proposed new name; providing an exception to the inclusion of the proposed new name in the publication; and providing for a closed hearing in certain circumstances.

Be it enacted by the Legislature of West Virginia:

That §48-25-101 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 25. CHANGE OF NAME.

§48-25-101. Petition to circuit court or family court for change of name; contents thereof; notice of application.

1 (a) A person desiring a change of his or her own name, or
2 that of his or her child, may apply to the circuit court or family
3 court of the county in which he or she resides by a verified
4 petition setting forth and affirming the following:

5 (1) That he or she has been a bona fide resident of the county
6 for at least one year prior to the filing of the petition or that he or
7 she is a nonresident of the county who was born in the county,
8 was married in the county and was previously a resident of the
9 county for a period of at least fifteen years;

10 (2) The cause for which the change of name is sought;

11 (3) The new name desired;

12 (4) The name change is not for purposes of avoiding debt or
13 creditors;

14 (5) The petitioner seeking the name change is not a regis-
15 tered sex offender pursuant to any state or federal law;

16 (6) The name change sought is not for purposes of avoiding
17 any state or federal law regarding identity;

18 (7) The name change sought is not for any improper or
19 illegal purpose;

20 (8) The petitioner is not a convicted felon in any jurisdiction;

21 (9) The name change sought is not for any purpose of
22 evading detection, identification or arrest by any local, state or
23 federal law-enforcement agency; and

24 (10) Whether or not the petitioner desires to protect his or
25 her identity for personal safety reasons.

26 (b) After filing the petition and at least ten days before the
27 hearing to consider the application, the person shall cause a
28 notice of the time and place that the application will be made to
29 be published as a Class I legal advertisement in compliance with
30 the provisions of article three, chapter fifty-nine of this code.
31 The petitioner shall in the notice set forth the name to which his
32 or her name will be changed, unless as shown in the petition to
33 the court, the name change is being requested because the
34 petitioner desires to protect his or her identity for personal safety
35 reasons: *Provided*, That upon good cause shown, there may be
36 a closed hearing. The publication area for the publication is the
37 county. The publication shall contain a provision that the hearing
38 may be rescheduled without further notice or publication.

CHAPTER 49

**(Com. Sub. for S. B. 538 - By Senators Palumbo,
Laird, Miller and Fitzsimmons)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §48-27-601 of the Code of West Virginia, 1931, as amended, relating generally to disposition of domestic violence orders; requiring the filing of domestic violence orders with the domestic violence database; and modifying law enforcement's record-keeping requirement for domestic violence orders.

Be it enacted by the Legislature of West Virginia:

That §48-27-601 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 27. PREVENTION AND TREATMENT OF DOMESTIC VIOLENCE.

PART 6. DISPOSITION OF DOMESTIC VIOLENCE ORDERS.

§48-27-601. Transmitting orders to domestic violence database; affidavit as to award of possession of real property; service of order on respondent.

1 (a) Upon entry of an order pursuant to section 27-403 or part
2 27-501, et seq., or an order entered pursuant to part 5-501, et
3 seq., granting relief provided for by this article, a copy of the
4 order shall be immediately transmitted electronically by the
5 court or the clerk of the court to the domestic violence database
6 established pursuant to the provisions of section twenty-one,
7 article one, chapter fifty-one of this code. No later than the close
8 of the next business day the court or the clerk of the court shall
9 transmit the order to a local office of the municipal police, the
10 county sheriff and the West Virginia State Police for service
11 upon the respondent named in the order. The law-enforcement
12 agency or agencies to which a copy of the order is supplied are
13 not required to maintain a copy of the order after the respondent
14 is served.

15 (b) A sworn affidavit may be executed by a party who has
16 been awarded exclusive possession of the residence or house-
17 hold, pursuant to an order entered pursuant to section 27-503,
18 and shall be delivered to law-enforcement agencies simulta-
19 neously with any order giving the party's consent for a
20 law-enforcement officer to enter the residence or household,
21 without a warrant, to enforce the protective order or temporary
22 order.

23 (c) Orders shall be promptly served upon the respondent.
24 Failure to serve a protective order on the respondent does not

25 stay the effect of a valid order if the respondent has actual notice
26 of the existence and contents of the order.

27 (d) Any law-enforcement agency in this state in possession
28 of or with notice of the existence of an order issued pursuant to
29 the provisions of sections 27-403 or 27-501 of this article or the
30 provisions of section 5-509 of this chapter which is in effect or
31 has been expired for thirty days or less that receives a report that
32 a person protected by an order has been reported to be missing
33 shall immediately follow its procedures for investigating missing
34 persons. No agency or department policy delaying the beginning
35 of an investigation has any force or effect.

36 (e) The provisions of subsection (d) of this section shall be
37 applied where a report of a missing person is made which is
38 accompanied by a sworn affidavit that the person alleged to be
39 missing was, at the time of his or her alleged disappearance,
40 being subjected to treatment which meets the definition of
41 domestic battery or assault set forth in section twenty-eight,
42 article two, chapter sixty-one of this code.

CHAPTER 50

**(Com. Sub. for H. B. 2351 - By Delegates Moore,
Poore, Fleischauer and Skaff)**

[Passed April 12, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §17C-19-3 of the Code of West Virginia, 1931, as amended, relating to requiring an arresting law-enforcement officer to promptly present before a magistrate or court an individual charged with driving with a suspended or revoked license, and providing the option to issue a citation if a magistrate or court is not on duty or reasonably available.

Be it enacted by the Legislature of West Virginia:

That §17C-19-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 19. PARTIES, PROCEDURE UPON ARREST AND REPORTS IN CRIMINAL CASES.

§17C-19-3. When person arrested must be taken immediately before a magistrate or court.

1 (a) Whenever any person is arrested for any violation of this
2 chapter punishable as a misdemeanor, the arrested person shall
3 be immediately taken before a magistrate or court within the
4 county in which the offense charged is alleged to have been
5 committed and who has jurisdiction of the offense and is nearest
6 or most accessible with reference to the place where the arrest is
7 made, in any of the following cases:

8 (1) When a person arrested demands an immediate appear-
9 ance before a magistrate or court;

10 (2) When the person is arrested upon a charge of negligent
11 homicide;

12 (3) When the person is arrested upon a charge of driving
13 while under the influence of alcohol, or under the influence of
14 any controlled substance, or under the influence of any other
15 drug, or under the combined influence of alcohol and any
16 controlled substance or any other drug;

17 (4) When the person is arrested upon a charge of failure to
18 stop in the event of an accident causing death, personal injury or
19 damage to property;

20 (5) When the person is arrested upon a charge of violating
21 section fourteen, article seventeen of this chapter relating to
22 weight violations, except as otherwise provided in that section;

23 (6) When the person arrested is a resident of a state that has
24 not entered into a nonresident violator compact with this state;

25 (7) In any other event when the person arrested refuses to
26 accept the written notice to appear in court as his or her promise
27 to appear in court or to comply with the terms of the written
28 notice to appear in court as provided in section four of this
29 article; and

30 (8) When a person is arrested for driving with a suspended
31 or revoked driver's license for miscellaneous reasons. *Provided,*
32 That when a person is arrested for driving with a suspended or
33 revoked driver's license for miscellaneous reasons, the arresting
34 officer may issue a charge by citation if a magistrate or judge is
35 not on duty or reasonably available.

36 (b) When the person arrested is a resident of a state that has
37 entered into a nonresident violator compact with this state, the
38 arresting officer shall issue the person a written notice as
39 provided for in section four of this article and may not take the
40 person immediately before a magistrate or court, except under
41 the terms of the compact or under the circumstances set forth in
42 subsection (a) of this section.

CHAPTER 51

**(Com. Sub. for H. B. 2513 - By Mr. Speaker,
(Mr. Thompson) and Delegate Armstead)
[By Request of the Executive]**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto two new sections designated §17C-1-67 and

§17C-1-68; to amend and reenact §17C-5-4, §17C-5-6, §17C-5-7, §17C-5-8 and §17C-5-9 of said code; and to amend said code by adding thereto a new section, designated §17C-5-12, all relating to the enforcement of laws prohibiting the operation of a motor vehicle, motorboat, jet ski or other motorized vessel while under the influence of alcohol controlled substance, or drugs generally; defining “drug” and “controlled substance”; correcting reference to period of license suspension for failure to submit to certain tests to provide consistency with other provisions of law; authorizing law-enforcement agencies to designate more than one secondary chemical test to be administered; maintaining the exception to a license revocation for the refusal to submit to a blood test; requiring training of law-enforcement officers; including controlled substances and drugs in blood test administration procedures; providing the drugs or classes of drug to be included in a chemical analysis; requiring the Bureau for Public Health to prescribe minimum levels of substance or drugs in order to be admissible; authorizing emergency rules; requiring the Bureau for Public Health to review current methods and standards; requiring a blood specimen to test for controlled substances or drugs to be taken within four hours of arrest; prohibiting testing results to be used as evidence in a criminal prosecution for the possession of a controlled substance; providing that refusal to provide a blood sample may be admissible in a criminal prosecution for operation of a motor vehicle while under the influence of alcohol controlled substance or drugs; eliminating urine test as a possible secondary chemical test; and requiring the Bureau for Public Health to report to the Legislature.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto two new sections designated §17C-1-67 and §17C-1-68; that §17C-5-4, §17C-5-6, §17C-5-7, §17C-5-8 and §17C-5-9 of said code be amended and reenacted; and that said code be amended by

adding thereto a new section, designated §17C-5-12, all to read as follows:

ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-67. Drug.

1 “Drug” has the same meaning as set forth in section one
2 hundred one, article one, chapter sixty-a of this code, the
3 Uniform Controlled Substances Act, that when taken into the
4 human body can impair the ability of a person to operate a
5 vehicle safely and in compliance with traffic regulations and the
6 laws of the road.

§17C-1-68. Controlled substance.

1 “Controlled substance” means any substance classified under
2 the provisions of chapter sixty-a of this code, the Uniform
3 Controlled Substances Act, and includes all substances listed on
4 Schedules I through V, inclusive, of article two of said chapter,
5 as revised.

ARTICLE 5. SERIOUS TRAFFIC OFFENSES.

§17C-5-4. Implied consent to test; administration at direction of law-enforcement officer; designation of type of test; definition of law-enforcement officer.

1 (a) Any person who drives a motor vehicle in this state is
2 considered to have given his or her consent by the operation of
3 the motor vehicle to a preliminary breath analysis and a second-
4 ary chemical test of either his or her blood or breath to determine
5 the alcohol concentration in his or her blood, or the concentra-
6 tion in the person’s body of a controlled substance, drug, or any
7 combination thereof.

8 (b) A preliminary breath analysis may be administered in
9 accordance with the provisions of section five of this article

10 whenever a law-enforcement officer has reasonable cause to
11 believe a person has committed an offense prohibited by section
12 two of this article or by an ordinance of a municipality of this
13 state which has the same elements as an offense described in
14 section two of this article.

15 (c) A secondary test of blood or breath is incidental to a
16 lawful arrest and is to be administered at the direction of the
17 arresting law-enforcement officer having probable cause to
18 believe the person has committed an offense prohibited by
19 section two of this article or by an ordinance of a municipality of
20 this state which has the same elements as an offense described
21 in section two of this article.

22 (d) The law-enforcement agency that employs the arresting
23 law-enforcement officer shall designate the secondary tests to be
24 administered: Notwithstanding the provisions of section seven
25 of this article, the refusal to submit to a blood test only may not
26 result in the revocation of the arrested person's license to operate
27 a motor vehicle in this state.

28 (e) Any person to whom a preliminary breath test is adminis-
29 tered who is arrested shall be given a written statement advising
30 him or her that his or her refusal to submit to the secondary
31 chemical test pursuant to subsection (d) of this section will result
32 in the revocation of his or her license to operate a motor vehicle
33 in this state for a period of at least forty-five days and up to life.

34 (f) Any law-enforcement officer who has been properly
35 trained in the administration of any secondary chemical test
36 authorized by this article, including, but not limited to, certifica-
37 tion by the Bureau for Public Health in the operation of any
38 equipment required for the collection and analysis of a breath
39 sample, may conduct the test at any location in the county
40 wherein the arrest is made: *Provided*, That the law-enforcement
41 officer may conduct the test at the nearest available properly

42 functioning secondary chemical testing device located outside
43 the county in which the arrest was made, if: (i) There is no
44 properly functioning secondary chemical testing device located
45 within the county the arrest was made; or (ii) there is no magis-
46 trate available within the county the arrest was made for the
47 arraignment of the person arrested. A law-enforcement officer
48 who is directing that a secondary chemical test be conducted has
49 the authority to transport the person arrested to where the
50 secondary chemical testing device is located.

51 (g) If the arresting officer lacks proper training in the
52 administration of a secondary chemical test, then any other
53 law-enforcement officer who has received training in the
54 administration of the secondary chemical test to be administered
55 may, upon the request of the arresting law-enforcement officer
56 and in his or her presence, conduct the secondary test. The
57 results of a test conducted pursuant to this subsection may be
58 used in evidence to the same extent and in the same manner as
59 if the test had been conducted by the arresting law-enforcement
60 officer.

61 (h) Only the person actually administering or conducting a
62 test conducted pursuant to this article is competent to testify as
63 to the results and the veracity of the test.

64 (i) (1) For the purpose of this article, the term
65 “law-enforcement officer” or “police officer” means: (1) Any
66 member of the West Virginia State Police; (2) any sheriff and
67 any deputy sheriff of any county; (3) any member of a police
68 department in any municipality as defined in section two, article
69 one, chapter eight of this code; (4) any natural resources police
70 officer of the Division of Natural Resources; and (5) any special
71 police officer appointed by the Governor pursuant to the
72 provisions of section forty-one, article three, chapter sixty-one
73 of this code who has completed the course of instruction at a
74 law-enforcement training academy as provided for under the

75 provisions of section nine, article twenty-nine, chapter thirty of
76 this code.

77 (2) In addition to standards promulgated by the Governor's
78 Committee on Crime, Delinquency and Correction, pursuant to
79 section three, article twenty-nine, chapter thirty of this code,
80 governing the qualification of law-enforcement officers and the
81 entry-level law-enforcement training curricula, the Governor's
82 Committee on Crime, Delinquency and Correction shall require
83 the satisfactory completion of a minimum of not less than six
84 hours of training in the recognition of impairment in drivers who
85 are under the influence of controlled substances or drugs other
86 than alcohol.

87 (3) In addition to standards promulgated by the Governor's
88 Committee on Crime, Delinquency and Correction, pursuant to
89 section three, article twenty-nine, chapter thirty of this code,
90 establishing standards governing in-service law-enforcement
91 officer training curricula and in-service supervisory level
92 training curricula, the Governor's Committee on Crime, Delin-
93 quency and Correction shall require the satisfactory completion
94 of a minimum of not less than six hours of training in the
95 recognition of impairment in drivers who are under the influence
96 of controlled substances or drugs other than alcohol.

97 (4) That after December 31, 2014, a law-enforcement officer
98 who has not satisfactorily completed the minimum number of
99 hours of training in the recognition of impairment in drivers who
100 are under the influence of controlled substances or drugs other
101 than alcohol, required by subdivisions (2) or (3), may no longer
102 require any person to submit to secondary chemical test of his or
103 her blood for the purposes of determining the concentration in
104 the person's body of a controlled substance, drug, or any
105 combination thereof.

106 (j) A law-enforcement officer who has reasonable cause to
107 believe that person has committed an offense prohibited by

108 section eighteen, article seven, chapter twenty of this code,
109 relating to the operation of a motorboat, jet ski or other motor-
110 ized vessel, shall follow the provisions of this section in admin-
111 istering, or causing to be administered, a preliminary breath
112 analysis and incidental to a lawful arrest, a secondary chemical
113 test of the accused person's blood or breath to determine the
114 alcohol concentration in his or her blood, or the concentration in
115 the person's body of a controlled substance, drug, or any
116 combination thereof.

**§17C-5-6. How blood test administered; additional test at option of
person tested; use of test results; certain immunity
from liability incident to administering test.**

1 Only a doctor of medicine or osteopathy, or registered nurse,
2 or trained medical technician at the place of his or her employ-
3 ment, acting at the request and direction of the law-enforcement
4 officer, may withdraw blood to determine the alcohol concentra-
5 tion in the blood, or the concentration in the blood of a con-
6 trolled substance, drug, or any combination thereof. These
7 limitations shall not apply to the taking of a breath test. In
8 withdrawing blood to determine the alcohol concentration in the
9 blood, or the presence in the blood of a controlled substance,
10 drug, or any combination thereof, only a previously unused and
11 sterile needle and sterile vessel may be utilized and the with-
12 drawal shall otherwise be in strict accord with accepted medical
13 practices. A nonalcoholic antiseptic shall be used for cleansing
14 the skin prior to venapuncture. The person tested may, at his or
15 her own expense, have a doctor of medicine or osteopathy, or
16 registered nurse, or trained medical technician at the place of his
17 or her employment, of his or her own choosing, administer a
18 chemical test in addition to the test administered at the direction
19 of the law-enforcement officer. Upon the request of the person
20 who is tested, full information concerning the test taken at the
21 direction of the law-enforcement officer shall be made available
22 to him or her. No person who administers any such test upon the

23 request of a law-enforcement officer as herein defined, no
24 hospital in or with which such person is employed or is other-
25 wise associated or in which such test is administered, and no
26 other person, firm or corporation by whom or with which such
27 person is employed or is in any way associated, shall be in any
28 way criminally liable for the administration of such test, or
29 civilly liable in damages to the person tested unless for gross
30 negligence or willful or wanton injury.

**§17C-5-7. Refusal to submit to tests; revocation of license or
privilege; consent not withdrawn if person arrested
is incapable of refusal; hearing.**

1 (a) If any person under arrest as specified in section four of
2 this article refuses to submit to any secondary chemical test, the
3 tests shall not be given: *Provided*, That prior to the refusal, the
4 person is given an oral warning and a written statement advising
5 him or her that his or her refusal to submit to the secondary test
6 finally designated will result in the revocation of his or her
7 license to operate a motor vehicle in this state for a period of at
8 least forty-five days and up to life; and that after fifteen minutes
9 following the warnings the refusal is considered final. The
10 arresting officer after that period of time expires has no further
11 duty to provide the person with an opportunity to take the
12 secondary test. The officer shall, within forty-eight hours of the
13 refusal, sign and submit to the Commissioner of Motor Vehicles
14 a written statement of the officer that: (1) He or she had probable
15 cause to believe the person had been driving a motor vehicle in
16 this state while under the influence of alcohol, controlled
17 substances or drugs; (2) the person was lawfully placed under
18 arrest for an offense relating to driving a motor vehicle in this
19 state while under the influence of alcohol, controlled substances
20 or drugs; (3) the person refused to submit to the secondary
21 chemical test finally designated in the manner provided in
22 section four of this article; and (4) the person was given a written
23 statement advising him or her that his or her license to operate

24 a motor vehicle in this state would be revoked for a period of at
25 least forty-five days and up to life if he or she refused to submit
26 to the secondary test finally designated in the manner provided
27 in section four of this article. The signing of the statement
28 required to be signed by this section constitutes an oath or
29 affirmation by the person signing the statement that the state-
30 ments contained in the statement are true and that any copy filed
31 is a true copy. The statement shall contain upon its face a
32 warning to the officer signing that to willfully sign a statement
33 containing false information concerning any matter or thing,
34 material or not material, is false swearing and is a misdemeanor.
35 Upon receiving the statement the commissioner shall make and
36 enter an order revoking the person's license to operate a motor
37 vehicle in this state for the period prescribed by this section.

38 For the first refusal to submit to the designated secondary
39 chemical test, the commissioner shall make and enter an order
40 revoking the person's license to operate a motor vehicle in this
41 state for a period of one year or forty-five days, with an addi-
42 tional one year of participation in the Motor Vehicle Alcohol
43 Test and Lock Program in accordance with the provisions of
44 section three-a, article five-a of this chapter: *Provided*, That a
45 person revoked for driving while under the influence of drugs is
46 not eligible to participate in the Motor Vehicle Test and Lock
47 Program. The application for participation in the Motor Vehicle
48 Alcohol Test and Lock Program shall be considered to be a
49 waiver of the hearing provided in section two of said article. If
50 the person's license has previously been revoked under the
51 provisions of this section, the commissioner shall, for the refusal
52 to submit to the designated secondary chemical test, make and
53 enter an order revoking the person's license to operate a motor
54 vehicle in this state for a period of ten years: *Provided, however*,
55 That the license may be reissued in five years in accordance with
56 the provisions of section three, article five-a of this chapter. If
57 the person's license has previously been revoked more than once
58 under the provisions of this section, the commissioner shall, for

59 the refusal to submit to the designated secondary chemical test,
60 make and enter an order revoking the person's license to operate
61 a motor vehicle in this state for a period of life. A copy of each
62 order shall be forwarded to the person by registered or certified
63 mail, return receipt requested, and shall contain the reasons for
64 the revocation and shall specify the revocation period imposed
65 pursuant to this section. A revocation shall not become effective
66 until ten days after receipt of the copy of the order. Any person
67 who is unconscious or who is otherwise in a condition rendering
68 him or her incapable of refusal shall be considered not to have
69 withdrawn his or her consent for a test of his or her blood or
70 breath as provided in section four of this article and the test may
71 be administered although the person is not informed that his or
72 her failure to submit to the test will result in the revocation of his
73 or her license to operate a motor vehicle in this state for the
74 period provided for in this section. A revocation under this
75 section shall run concurrently with the period of any suspension
76 or revocation imposed in accordance with other provisions of
77 this code and growing out of the same incident which gave rise
78 to the arrest for driving a motor vehicle while under the influ-
79 ence of alcohol, controlled substances or drugs and the subse-
80 quent refusal to undergo the test finally designated in accordance
81 with the provisions of section four of this article.

82 (b) For the purposes of this section, where reference is made
83 to previous suspensions or revocations under this section, the
84 following types of suspensions or revocations shall also be
85 regarded as suspensions or revocations under this section:

86 (1) Any suspension or revocation on the basis of a convic-
87 tion under a municipal ordinance of another state or a statute of
88 the United States or of any other state of an offense which has
89 the same elements as an offense described in section two of this
90 article for conduct which occurred on or after June 10, 1983; and

91 (2) Any revocation under the provisions of section one or
92 two, article five-a of this chapter for conduct which occurred on
93 or after June 10, 1983.

94 (c) A person whose license to operate a motor vehicle in this
95 state has been revoked shall be afforded an opportunity to be
96 heard, in accordance with the provisions of section two, article
97 five-a of this chapter.

98 (d) The refusal to submit to a blood test may be admissible
99 at the court's discretion in a trial for the offense of driving a
100 motor vehicle in this state while under the influence of alcohol
101 a controlled substance or drug or the combination of alcohol and
102 drugs.

§17C-5-8. Interpretation and use of chemical test.

1 (a) Upon trial for the offense of driving a motor vehicle in
2 this state while under the influence of alcohol, controlled
3 substances or drugs, or upon the trial of any civil or criminal
4 action arising out of acts alleged to have been committed by any
5 person driving a motor vehicle while under the influence of
6 alcohol, controlled substances or drugs, evidence of the amount
7 of alcohol in the person's blood at the time of the arrest or of the
8 acts alleged, as shown by a chemical analysis of his or her blood
9 or breath, is admissible, if the sample or specimen was taken
10 within the time period provided in subsection (g).

11 (b) The evidence of the concentration of alcohol in the
12 person's blood at the time of the arrest or the acts alleged gives
13 rise to the following presumptions or has the following effect:

14 (1) Evidence that there was, at that time, five hundredths of
15 one percent or less, by weight, of alcohol in his or her blood, is
16 prima facie evidence that the person was not under the influence
17 of alcohol;

18 (2) Evidence that there was, at that time, more than five
19 hundredths of one percent and less than eight hundredths of one
20 percent, by weight, of alcohol in the person's blood is relevant

21 evidence, but it is not to be given prima facie effect in indicating
22 whether the person was under the influence of alcohol;

23 (3) Evidence that there was, at that time, eight hundredths of
24 one percent or more, by weight, of alcohol in his or her blood,
25 shall be admitted as prima facie evidence that the person was
26 under the influence of alcohol.

27 (c) A determination of the percent, by weight, of alcohol in
28 the blood shall be based upon a formula of:

29 (1) The number of grams of alcohol per one hundred cubic
30 centimeters of blood;

31 (2) The number of grams of alcohol per two hundred ten
32 liters of breath; or

33 (3) The number of grams of alcohol per eighty-six milliliters
34 of serum.

35 (d) A chemical analysis of blood for the purpose of deter-
36 mining the controlled substance or drug concentration of a
37 person's blood, must include, but is not limited to, the following
38 drugs or classes of drugs:

39 (1) Marijuana metabolites;

40 (2) Cocaine metabolites;

41 (3) Amphetamines;

42 (4) Opiate metabolites;

43 (5) Phencyclidine (PCP);

44 (6) Benzodiazepines;

45 (7) Propoxyphene;

- 46 (8) Methadone;
- 47 (9) Barbiturates; and
- 48 (10) Synthetic narcotics.

49 (e) (1) A chemical analysis of a person's blood or breath, in
50 order to give rise to the presumptions or to have the effect
51 provided for in this section, must be performed in accordance
52 with methods and standards approved by the state Bureau for
53 Public Health.

54 (A) The Bureau for Public Health shall prescribe, by
55 legislative rules promulgated pursuant to article three, chapter
56 twenty-nine-a of this code, methods and standards for the
57 chemical analysis of a person's blood or breath.

58 (B) Legislative rules proposed by the Bureau for Public
59 Health must specify the test or tests that are approved for
60 reliability of result and ease of administration using scientific
61 methods and instrumentation generally accepted in the forensic
62 community, and must provide an approved method of adminis-
63 tration which must be followed in all such tests given under this
64 section.

65 (C) The bureau shall review prescribed standards and
66 methods at least every two years to ensure that the methods and
67 standards are approved for reliability of result and ease of
68 administration using scientific methods and instrumentation
69 generally accepted in the forensic community.

70 (2) A chemical analysis of blood to determine the alcohol
71 content or the controlled substance or drug content of blood shall
72 be conducted by a qualified laboratory or by the State Police
73 scientific laboratory of the West Virginia State Police Forensic
74 Laboratory.

75 (f) The provisions of this article do not limit the introduction
76 in any administrative or judicial proceeding of any other
77 competent evidence bearing on the question of whether the
78 person was under the influence of alcohol, controlled substances
79 or drugs.

80 (g) For the purposes of the admissibility of a chemical test
81 under subsection (a):

82 (1) A sample or specimen taken to determine the alcohol
83 concentration of a person's blood, must be taken within two
84 hours from the time of the person's arrest; or

85 (2) For a sample or specimen to determine the controlled
86 substance or drug content of a person's blood, must be taken
87 within four hours of the person's arrest.

88 (h) The results of any test administered pursuant to this
89 section for the purpose of detecting the concentration of any
90 controlled substance shall not be admissible as evidence in a
91 criminal prosecution for the possession of a controlled substance.

§17C-5-9. Right to demand test.

1 Any person lawfully arrested for driving a motor vehicle in
2 this state while under the influence of alcohol, controlled
3 substances or drugs shall have the right to demand that a sample
4 or specimen of his or her blood or breath to determine the
5 alcohol concentration of his or her blood be taken within two
6 hours from and after the time of arrest and a sample or specimen
7 of his or her blood or breath to determine the controlled sub-
8 stance or drug content of his or her blood, be taken within four
9 hours from and after the time of arrest, and that a chemical test
10 thereof be made. The analysis disclosed by such chemical test
11 shall be made available to such arrested person forthwith upon
12 demand.

§17C-5-12. Report to the Legislature.

1 On or before December 31, 2013, the Bureau for Public
2 Health shall submit to the Joint Committee on Government and
3 Finance a report that includes the following:

4 (1) Recommendations for the minimum levels of those drugs
5 or controlled substances contained in subsection (d), section
6 eight of this article, that must be present in a person’s blood in
7 order for the test to be admitted as prima facie evidence that the
8 person was under the influence of a controlled substance or drug
9 in a prosecution for the offense of driving a motor vehicle in this
10 state; and

11 (2) Recommendations for the minimum levels of those drugs
12 or controlled substances contained in subsection (d), section
13 eight of this article, that laboratories approved to test blood for
14 drug or controlled substance content can reliably identify and
15 measure for the concentrations of drugs, controlled substances
16 and their metabolites, in blood.



CHAPTER 52

**(Com. Sub. for H. B. 2733 - By Delegates R. Phillips,
Staggers, Ferro, Diserio and Reynolds)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to amend and reenact §17C-5A-2 of the Code of West Virginia, 1931, as amended, relating to hearings before the Office of Administrative Hearings; specifying methods of service;

providing permissible hearing locations; deleting the requirement that the Office of Administrative Hearings shall send hearing notices to certain witnesses; deleting an instance of a duplication of an element for driving under the influence; clarifying that the Office of Administrative Hearings shall rescind or modify the order of the Commissioner of the Division of Motor Vehicles in certain cases; noting that the Office of Administrative Hearings is not a party to an appeal; stating that a party filing an appeal is financially responsible for the transcription of the hearing and transmission of file copy; and stating that the court shall provide a copy of its final order to the Office of Administrative Hearings.

Be it enacted by the Legislature of West Virginia:

That §17C-5A-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5A. ADMINISTRATIVE PROCEDURES FOR SUSPENSION AND REVOCATION OF LICENSES FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL, CONTROLLED SUBSTANCES OR DRUGS.

§17C-5A-2. Hearing; revocation; review.

1 (a) Written objections to an order of revocation or suspen-
2 sion under the provisions of section one of this article or section
3 seven, article five of this chapter shall be filed with the Office of
4 Administrative Hearings. Upon the receipt of an objection, the
5 Office of Administrative Hearings shall notify the Commissioner
6 of the Division of Motor Vehicles, who shall stay the imposition
7 of the period of revocation or suspension and afford the person
8 an opportunity to be heard by the Office of Administrative
9 Hearings. The written objection must be filed with Office of
10 Administrative Hearings in person, by registered or certified
11 mail, return receipt requested, or by facsimile transmission or

12 electronic mail within thirty calendar days after receipt of a copy
13 of the order of revocation or suspension or no hearing will be
14 granted: *Provided*, That a successful transmittal sheet shall be
15 necessary for proof of written objection in the case of filing by
16 fax. The hearing shall be before a hearing examiner employed by
17 the Office of Administrative Hearings who shall rule on eviden-
18 tiary issues. Upon consideration of the designated record, the
19 hearing examiner shall, based on the determination of the facts
20 of the case and applicable law, render a decision affirming,
21 reversing or modifying the action protested. The decision shall
22 contain findings of fact and conclusions of law and shall be
23 provided to all parties by registered or certified mail, return
24 receipt requested, or with a party's written consent, by facsimile
25 or electronic mail.

26 (b) The hearing shall be held at an office of the Division of
27 Motor Vehicles suitable for hearing purposes located in or near
28 the county in which the arrest was made in this state or at some
29 other suitable place in the county in which the arrest was made
30 if an office of the division is not available. At the discretion of
31 the Office of Administrative Hearings, the hearing may also be
32 held at an office of the Office of Administrative Hearings
33 located in or near the county in which the arrest was made in this
34 state. The Office of Administrative Hearings shall send a notice
35 of hearing to the person whose driving privileges are at issue and
36 the person's legal counsel if the person is represented by legal
37 counsel, by regular mail, or with the written consent of the
38 person whose driving privileges are at issue or their legal
39 counsel, by facsimile or electronic mail. The Office of Adminis-
40 trative Hearings shall also send a notice of hearing by regular
41 mail, facsimile or electronic mail to the Division of Motor
42 Vehicles, and the Attorney General's Office, if the Attorney
43 General has filed a notice of appearance of counsel on behalf of
44 the Division of Motor Vehicles.

45 (c) (1) Any hearing shall be held within one hundred eighty
46 days after the date upon which the Office of Administrative
47 Hearings received the timely written objection unless there is a
48 postponement or continuance.

49 (2) The Office of Administrative Hearings may postpone or
50 continue any hearing on its own motion or upon application by
51 the party whose license is at issue in that hearing or by the
52 commissioner for good cause shown.

53 (3) The Office of Administrative Hearings may issue
54 subpoenas commanding the appearance of witnesses and
55 subpoenas duces tecum commanding the submission of docu-
56 ments, items or other things. Subpoenas duces tecum shall be
57 returnable on the date of the next scheduled hearing unless
58 otherwise specified. The Office of Administrative hearings shall
59 issue subpoenas and subpoenas duces tecum at the request of a
60 party or the party's legal representative. The party requesting the
61 subpoena shall be responsible for service of the subpoena upon
62 the appropriate individual. Every subpoena or subpoena duces
63 tecum shall be served at least five days before the return date
64 thereof, either by personal service made by a person over
65 eighteen years of age or by registered or certified mail, return
66 receipt requested, and received by the party responsible for
67 serving the subpoena or subpoena duces tecum: *Provided*, That
68 the Division of Motor Vehicles may serve subpoenas to
69 law-enforcement officers through electronic mail to the depart-
70 ment of his or her employer. If a person does not obey the
71 subpoena or fails to appear, the party who issued the subpoena
72 to the person may petition the circuit court wherein the action
73 lies for enforcement of the subpoena.

74 (d) Law-enforcement officers shall be compensated for the
75 time expended in their travel and appearance before the Office
76 of Administrative Hearings by the law-enforcement agency by
77 whom they are employed at their regular rate if they are sched-

78 uled to be on duty during said time or at their regular overtime
79 rate if they are scheduled to be off duty during said time.

80 (e) The principal question at the hearing shall be whether the
81 person did drive a motor vehicle while under the influence of
82 alcohol, controlled substances or drugs, or did drive a motor
83 vehicle while having an alcohol concentration in the person's
84 blood of eight hundredths of one percent or more, by weight, or
85 did refuse to submit to the designated secondary chemical test,
86 or did drive a motor vehicle while under the age of twenty-one
87 years with an alcohol concentration in his or her blood of two
88 hundredths of one percent or more, by weight, but less than eight
89 hundredths of one percent, by weight.

90 (f) In the case of a hearing in which a person is accused of
91 driving a motor vehicle while under the influence of alcohol,
92 controlled substances or drugs, or accused of driving a motor
93 vehicle while having an alcohol concentration in the person's
94 blood of eight hundredths of one percent or more, by weight, or
95 accused of driving a motor vehicle while under the age of
96 twenty-one years with an alcohol concentration in his or her
97 blood of two hundredths of one percent or more, by weight, but
98 less than eight hundredths of one percent, by weight, the Office
99 of Administrative Hearings shall make specific findings as to:
100 (1) Whether the investigating law-enforcement officer had
101 reasonable grounds to believe the person to have been driving
102 while under the influence of alcohol, controlled substances or
103 drugs, or while having an alcohol concentration in the person's
104 blood of eight hundredths of one percent or more, by weight, or
105 to have been driving a motor vehicle while under the age of
106 twenty-one years with an alcohol concentration in his or her
107 blood of two hundredths of one percent or more, by weight, but
108 less than eight hundredths of one percent, by weight; (2) whether
109 the person was lawfully placed under arrest for an offense
110 involving driving under the influence of alcohol, controlled
111 substances or drugs, or was lawfully taken into custody for the

112 purpose of administering a secondary test: *Provided*, That this
113 element shall be waived in cases where no arrest occurred due to
114 driver incapacitation; (3) whether the person committed an
115 offense involving driving under the influence of alcohol,
116 controlled substances or drugs and (4) whether the tests, if any,
117 were administered in accordance with the provisions of this
118 article and article five of this chapter.

119 (g) If, in addition to a finding that the person did drive a
120 motor vehicle while under the influence of alcohol, controlled
121 substances or drugs, or did drive a motor vehicle while having an
122 alcohol concentration in the person's blood of eight hundredths
123 of one percent or more, by weight, or did drive a motor vehicle
124 while under the age of twenty-one years with an alcohol concen-
125 tration in his or her blood of two hundredths of one percent or
126 more, by weight, but less than eight hundredths of one percent,
127 by weight, the Office of Administrative Hearings also finds by
128 a preponderance of the evidence that the person when driving did
129 an act forbidden by law or failed to perform a duty imposed by
130 law, which act or failure proximately caused the death of a
131 person and was committed in reckless disregard of the safety of
132 others and if the Office of Administrative Hearings further finds
133 that the influence of alcohol, controlled substances or drugs or
134 the alcohol concentration in the blood was a contributing cause
135 to the death, the commissioner shall revoke the person's license
136 for a period of ten years: *Provided*, That if the person's license
137 has previously been suspended or revoked under the provisions
138 of this section or section one of this article within the ten years
139 immediately preceding the date of arrest, the period of revoca-
140 tion shall be for the life of the person.

141 (h) If, in addition to a finding that the person did drive a
142 motor vehicle while under the influence of alcohol, controlled
143 substances or drugs, or did drive a motor vehicle while having an
144 alcohol concentration in the person's blood of eight hundredths
145 of one percent or more, by weight, the Office of Administrative

146 Hearings also finds by a preponderance of the evidence that the
147 person when driving did an act forbidden by law or failed to
148 perform a duty imposed by law, which act or failure proximately
149 caused the death of a person, the commissioner shall revoke the
150 person's license for a period of five years: *Provided*, That if the
151 person's license has previously been suspended or revoked under
152 the provisions of this section or section one of this article within
153 the ten years immediately preceding the date of arrest, the period
154 of revocation shall be for the life of the person.

155 (i) If, in addition to a finding that the person did drive a
156 motor vehicle while under the influence of alcohol, controlled
157 substances or drugs, or did drive a motor vehicle while having an
158 alcohol concentration in the person's blood of eight hundredths
159 of one percent or more, by weight, the Office of Administrative
160 Hearings also finds by a preponderance of the evidence that the
161 person when driving did an act forbidden by law or failed to
162 perform a duty imposed by law, which act or failure proximately
163 caused bodily injury to a person other than himself or herself, the
164 commissioner shall revoke the person's license for a period of
165 two years: *Provided*, That if the license has previously been
166 suspended or revoked under the provisions of this section or
167 section one of this article within the ten years immediately
168 preceding the date of arrest, the period of revocation shall be ten
169 years: *Provided, however*, That if the person's license has
170 previously been suspended or revoked more than once under the
171 provisions of this section or section one of this article within the
172 ten years immediately preceding the date of arrest, the period of
173 revocation shall be for the life of the person.

174 (j) If the Office of Administrative Hearings finds by a
175 preponderance of the evidence that the person did drive a motor
176 vehicle while under the influence of alcohol, controlled sub-
177 stances or drugs, or did drive a motor vehicle while having an
178 alcohol concentration in the person's blood of eight hundredths
179 of one percent or more, by weight, but less than fifteen hun-

180 dredths of one percent or more, by weight, or finds that the
181 person knowingly permitted the persons vehicle to be driven by
182 another person who was under the influence of alcohol, con-
183 trolled substances or drugs, or knowingly permitted the person's
184 vehicle to be driven by another person who had an alcohol
185 concentration in his or her blood of eight hundredths of one
186 percent or more, by weight, the commissioner shall revoke the
187 person's license for a period of six months or a period of fifteen
188 days with an additional one hundred and twenty days of partici-
189 pation in the Motor Vehicle Alcohol Test and Lock Program in
190 accordance with the provisions of section three-a of this article:
191 *Provided*, That any period of participation in the Motor Vehicle
192 Alcohol Test and Lock Program that has been imposed by a
193 court pursuant to section two-b, article five of this chapter shall
194 be credited against any period of participation imposed by the
195 commissioner: *Provided, however*, That a person whose license
196 is revoked for driving while under the influence of drugs is not
197 eligible to participate in the Motor Vehicle Alcohol Test and
198 Lock Program: *Provided further*, That if the person's license has
199 previously been suspended or revoked under the provisions of
200 this section or section one of this article within the ten years
201 immediately preceding the date of arrest, the period of revoca-
202 tion shall be ten years: *And provided further*, That if the person's
203 license has previously been suspended or revoked more than
204 once under the provisions of this section or section one of this
205 article within the ten years immediately preceding the date of
206 arrest, the period of revocation shall be for the life of the person.

207 (k) (1) If in addition to finding by a preponderance of the
208 evidence that the person did drive a motor vehicle while under
209 the influence of alcohol, controlled substance or drugs, the
210 Office of Administrative Hearings also finds by a preponderance
211 of the evidence that the person did drive a motor vehicle while
212 having an alcohol concentration in the person's blood of fifteen
213 hundredths of one percent or more, by weight, the commissioner
214 shall revoke the person's license for a period of forty-five days

215 with an additional two hundred and seventy days of participation
216 in the Motor Vehicle Alcohol Test and Lock Program in
217 accordance with the provisions of section three-a, article five-a,
218 chapter seventeen-c of this code: *Provided*, That if the person's
219 license has previously been suspended or revoked under the
220 provisions of this section or section one of this article within the
221 ten years immediately preceding the date of arrest, the period of
222 revocation shall be ten years: *Provided, however*, That if the
223 person's license has previously been suspended or revoked the
224 person's license more than once under the provisions of this
225 section or section one of this article within the ten years immedi-
226 ately preceding the date of arrest, the period of revocation shall
227 be for the life of the person.

228 (2) If a person whose license is revoked pursuant to subdivi-
229 sion (1) of this subsection proves by clear and convincing
230 evidence that they do not own a motor vehicle upon which the
231 alcohol test and lock device may be installed or is otherwise
232 incapable of participating in the Motor Vehicle Alcohol Test and
233 Lock Program, the period of revocation shall be one hundred
234 eighty days: *Provided*, That if the person's license has previ-
235 ously been suspended or revoked under the provisions of this
236 section or section one of this article within the ten years immedi-
237 ately preceding the date of arrest, the period of revocation shall
238 be ten years: *Provided, however*, That if the person's license has
239 previously been suspended or revoked more than once under the
240 provisions of this section or section one of this article within the
241 ten years immediately preceding the date of arrest, the period of
242 revocation shall be for the life of the person.

243 (1) If, in addition to a finding that the person did drive a
244 motor vehicle while under the age of twenty-one years with an
245 alcohol concentration in his or her blood of two hundredths of
246 one percent or more, by weight, but less than eight hundredths of
247 one percent, by weight, the Office of Administrative Hearings
248 also finds by a preponderance of the evidence that the person

249 when driving did an act forbidden by law or failed to perform a
250 duty imposed by law, which act or failure proximately caused
251 the death of a person, and if the Office of Administrative
252 Hearings further finds that the alcohol concentration in the blood
253 was a contributing cause to the death, the commissioner shall
254 revoke the person's license for a period of five years: *Provided,*
255 That if the person's license has previously been suspended or
256 revoked under the provisions of this section or section one of this
257 article within the ten years immediately preceding the date of
258 arrest, the period of revocation shall be for the life of the person.

259 (m) If, in addition to a finding that the person did drive a
260 motor vehicle while under the age of twenty-one years with an
261 alcohol concentration in his or her blood of two hundredths of
262 one percent or more, by weight, but less than eight hundredths of
263 one percent, by weight, the Office of Administrative Hearings
264 also finds by a preponderance of the evidence that the person
265 when driving did an act forbidden by law or failed to perform a
266 duty imposed by law, which act or failure proximately caused
267 bodily injury to a person other than himself or herself, and if the
268 Office of Administrative Hearings further finds that the alcohol
269 concentration in the blood was a contributing cause to the bodily
270 injury, the commissioner shall revoke the person's license for a
271 period of two years: *Provided,* That if the person's license has
272 previously been suspended or revoked under the provisions of
273 this section or section one of this article within the ten years
274 immediately preceding the date of arrest, the period of revoca-
275 tion shall be ten years: *Provided, however,* That if the person's
276 license has previously been suspended or revoked more than
277 once under the provisions of this section or section one of this
278 article within the ten years immediately preceding the date of
279 arrest, the period of revocation shall be for the life of the person.

280 (n) If the Office of Administrative Hearings finds by a
281 preponderance of the evidence that the person did drive a motor
282 vehicle while under the age of twenty-one years with an alcohol
283 concentration in his or her blood of two hundredths of one

284 percent or more, by weight, but less than eight hundredths of one
285 percent, by weight, the commissioner shall suspend the person's
286 license for a period of sixty days: *Provided*, That if the person's
287 license has previously been suspended or revoked under the
288 provisions of this section or section one of this article, the period
289 of revocation shall be for one year, or until the person's
290 twenty-first birthday, whichever period is longer.

291 (o) If, in addition to a finding that the person did drive a
292 motor vehicle while under the influence of alcohol, controlled
293 substances or drugs, or did drive a motor vehicle while having an
294 alcohol concentration in the person's blood of eight hundredths
295 of one percent or more, by weight, the Office of Administrative
296 Hearings also finds by a preponderance of the evidence that the
297 person when driving did have on or within the Motor vehicle
298 another person who has not reached his or her sixteenth birthday,
299 the commissioner shall revoke the person's license for a period
300 of one year: *Provided*, That if the person's license has previously
301 been suspended or revoked under the provisions of this section
302 or section one of this article within the ten years immediately
303 preceding the date of arrest, the period of revocation shall be ten
304 years: *Provided, however*, That if the person's license has
305 previously been suspended or revoked more than once under the
306 provisions of this section or section one of this article within the
307 ten years immediately preceding the date of arrest, the period of
308 revocation shall be for the life of the person.

309 (p) For purposes of this section, where reference is made to
310 previous suspensions or revocations under this section, the
311 following types of criminal convictions or administrative
312 suspensions or revocations shall also be regarded as suspensions
313 or revocations under this section or section one of this article:

314 (1) Any administrative revocation under the provisions of
315 the prior enactment of this section for conduct which occurred
316 within the ten years immediately preceding the date of arrest;

317 (2) Any suspension or revocation on the basis of a conviction under a municipal ordinance of another state or a statute of
318 the United States or of any other state of an offense which has
319 the same elements as an offense described in section two, article
320 five of this chapter for conduct which occurred within the ten
321 years immediately preceding the date of arrest; or
322

323 (3) Any revocation under the provisions of section seven,
324 article five of this chapter for conduct which occurred within the
325 ten years immediately preceding the date of arrest.

326 (q) In the case of a hearing in which a person is accused of
327 refusing to submit to a designated secondary test, the Office of
328 Administrative Hearings shall make specific findings as to: (1)
329 Whether the arresting law-enforcement officer had reasonable
330 grounds to believe the person had been driving a motor vehicle
331 in this state while under the influence of alcohol, controlled
332 substances or drugs; (2) whether the person was lawfully placed
333 under arrest for an offense involving driving under the influence
334 of alcohol, controlled substances or drugs, or was lawfully taken
335 into custody for the purpose of administering a secondary test:
336 *Provided*, That this element shall be waived in cases where no
337 arrest occurred due to driver incapacitation; (3) whether the
338 person committed an offense relating to driving a motor vehicle
339 in this state while under the influence of alcohol, controlled
340 substances or drugs; (4) whether the person refused to submit to
341 the secondary test finally designated in the manner provided in
342 section four, article five of this chapter; and (5) whether the
343 person had been given a written statement advising the person
344 that the person's license to operate a motor vehicle in this state
345 would be revoked for at least forty-five days and up to life if the
346 person refused to submit to the test finally designated in the
347 manner provided in said section.

348 (r) If the Office of Administrative Hearings finds by a
349 preponderance of the evidence that: (1) The investigating officer

350 had reasonable grounds to believe the person had been driving
351 a motor vehicle in this state while under the influence of alcohol,
352 controlled substances or drugs; (2) whether the person was
353 lawfully placed under arrest for an offense involving driving
354 under the influence of alcohol, controlled substances or drugs, or
355 was lawfully taken into custody for the purpose of administering
356 a secondary test: *Provided*, That this element shall be waived in
357 cases where no arrest occurred due to driver incapacitation; (3)
358 the person committed an offense relating to driving a motor
359 vehicle in this state while under the influence of alcohol,
360 controlled substances or drugs; (4) the person refused to submit
361 to the secondary test finally designated in the manner provided
362 in section four, article five of this chapter; and (5) the person had
363 been given a written statement advising the person that the
364 person's license to operate a motor vehicle in this state would be
365 revoked for at least forty-five days and up to life if the person
366 refused to submit to the test finally designated, the commissioner
367 shall revoke the person's license to operate a motor vehicle in
368 this state for the periods specified in section seven, article five
369 of this chapter. The revocation period prescribed in this subsection
370 shall run concurrently with any other revocation period
371 ordered under this section or section one of this article arising
372 out of the same occurrence. The revocation period prescribed in
373 this subsection shall run concurrently with any other revocation
374 period ordered under this section or section one of this article
375 arising out of the same occurrence.

376 (s) If the Office of Administrative Hearings finds to the
377 contrary with respect to the above issues, it shall rescind or
378 modify the commissioner's order and, in the case of modifica-
379 tion, the commissioner shall reduce the order of revocation to the
380 appropriate period of revocation under this section or section
381 seven, article five of this chapter. A copy of the Office of
382 Administrative Hearings' final order containing its findings of
383 fact and conclusions of law made and entered following the
384 hearing shall be served upon the person whose license is at issue

385 or upon the person's legal counsel if the person is represented by
386 legal counsel by registered or certified mail, return receipt
387 requested, or by facsimile or by electronic mail if available. The
388 final order shall be served upon the commissioner by electronic
389 mail. During the pendency of any hearing, the revocation of the
390 person's license to operate a motor vehicle in this state shall be
391 stayed.

392 A person whose license is at issue and the commissioner
393 shall be entitled to judicial review as set forth in chapter
394 twenty-nine-a of this code. Neither the commissioner nor the
395 Office of Administrative Hearings may stay enforcement of the
396 order. The court may grant a stay or supersede as of the order
397 only upon motion and hearing, and a finding by the court upon
398 the evidence presented, that there is a substantial probability that
399 the appellant shall prevail upon the merits and the appellant will
400 suffer irreparable harm if the order is not stayed: *Provided*, That
401 in no event shall the stay or supersede as of the order exceed one
402 hundred fifty days. The Office of Administrative Hearings may
403 not be made a party to an appeal. The party filing the appeal
404 shall pay the Office of Administrative Hearings for the produc-
405 tion and transmission of the certified file copy and the hearing
406 transcript to the court. Notwithstanding the provisions of section
407 four, article five of said chapter, the Office of Administrative
408 Hearings may not be compelled to transmit a certified copy of
409 the file or the transcript of the hearing to the circuit court in less
410 than sixty days. Circuit Clerk shall provide a copy of the circuit
411 court's final order on the appeal to the Office of Administrative
412 Hearings by regular mail, by facsimile, or by electronic mail if
413 available.

414 (t) In any revocation or suspension pursuant to this section,
415 if the driver whose license is revoked or suspended had not
416 reached the driver's eighteenth birthday at the time of the
417 conduct for which the license is revoked or suspended, the
418 driver's license shall be revoked or suspended until the driver's

419 eighteenth birthday or the applicable statutory period of revoca-
420 tion or suspension prescribed by this section, whichever is
421 longer.

422 (u) Funds for this section's hearing and appeal process may
423 be provided from the Drunk Driving Prevention Fund, as created
424 by section forty-one, article two, chapter fifteen of this code,
425 upon application for the funds to the Commission on Drunk
426 Driving Prevention.

CHAPTER 53

**(Com. Sub. for S. B. 71 - By Senators Sypolt,
McCabe and Williams)**

[Passed April 11, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 18, 2013.]

AN ACT to amend and reenact §36-3-5a of the Code of West Virginia, 1931, as amended, relating to descriptions of easements and rights-of-way in deeds and similar instruments; and amending the centerline method of description to include width after a certain date.

Be it enacted by the Legislature of West Virginia:

That §36-3-5a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. FORM AND EFFECT OF DEEDS AND CONTRACTS.

§36-3-5a. Easement and right-of-way; description of property; exception for certain public utility facilities and mineral leases.

1 (a) Any deed or instrument that initially grants or reserves an
2 easement or right-of-way shall describe the easement or right-of-
3 way by any of the following:

4 (1) Metes and bounds;

5 (2) Specification of centerline: *Provided*, That any deed or
6 instrument, executed on or after September 1, 2013, that initially
7 grants or reserves an easement or right-of-way using the
8 centerline method must also include the width;

9 (3) Station and offset; or

10 (4) Reference to an attached drawing or plat which may not
11 require a survey or instrument based on the use of the global
12 positioning system which may not require a survey.

13 (b) Oil and gas, gas storage and mineral leases shall not be
14 required to describe the easement, but shall describe the land on
15 which the easement or right-of-way will be situate by source of
16 title or reference to a tax map and parcel, recorded deed,
17 recorded lease, plat or survey sufficient to reasonably identify
18 and locate the property on which the easement or right-of-way
19 is situate: *Provided*, That the easement or right-of-way is not
20 invalid because of the failure of the easement or right-of-way to
21 meet the requirements of this subsection or subsection (a) above.

22 (c) This section does not apply to the construction of a
23 service extension from a main distribution system of a public
24 utility when the service extension is located entirely on, below
25 or above the property to which the utility service is to be
26 provided.

27 (d) The clerk of the county commission of any county in
28 which an easement or right-of-way is recorded pursuant to this
29 section may only accept for recordation a document that
30 complies with this section and that otherwise complies with the
31 requirements of article one, chapter thirty-nine of this code,
32 without need for a survey or certification under section two-a,
33 article one, chapter thirty-nine of this code.

CHAPTER 54

**(H. B. 2508 - By Mr. Speaker, (Mr. Thompson)
and Delegate Armstead)
[By Request of the Executive]**

[Passed April 12, 2013; in effect July 1, 2013.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §7-22-7 of the Code of West Virginia, 1931, as amended; and to amend and reenact §8-38-7 of said code, all relating to the amount of capital investment required as a prerequisite to approval of an economic opportunity development district project; increasing the capital investment threshold amount from more than \$25 million to more than \$75 million for development expenditures proposed to be made in county economic opportunity development districts and in municipal economic opportunity development districts in the first twenty-four months following their creation; and increasing the capital investment threshold amount from more than \$25 million to more than \$75 million for development expenditures in a project involving remediation to be made in county economic opportunity development districts and in municipal economic opportunity development districts in the first forty-eight months following their creation.

Be it enacted by the Legislature of West Virginia:

That §7-22-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §8-38-7 of said code be amended and reenacted, all to read as follows:

CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.

ARTICLE 22. COUNTY ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.

§7-22-7. Application to Development Office for approval of an economic opportunity development district project.

1 (a) *General.* — The Development Office shall receive and
2 act on applications filed with it by county commissions pursuant
3 to section six of this article. Each application must include:

4 (1) A true copy of the notice described in section six of this
5 article;

6 (2) The total cost of the project;

7 (3) A reasonable estimate of the number of months needed
8 to complete the project;

9 (4) A general description of the capital improvements,
10 additional or extended services and other proposed development
11 expenditures to be made in the district as part of the project;

12 (5) A description of the proposed method of financing the
13 development expenditures, together with a description of the
14 reserves to be established for financing ongoing development
15 expenditures necessary to permanently maintain the optimum
16 economic viability of the district following its inception:
17 *Provided*, That the amounts of the reserves may not exceed the
18 amounts that would be required by prevailing commercial capital
19 market considerations;

20 (6) A description of the sources and anticipated amounts of
21 all financing, including, but not limited to, proceeds from the
22 issuance of any bonds or other instruments, revenues from the
23 special district excise tax and enhanced revenues from property
24 taxes and fees;

25 (7) A description of the financial contribution of the county
26 commission to the funding of development expenditures;

27 (8) Identification of any businesses that the county commis-
28 sion expects to relocate their business locations from the district
29 to another place in the state in connection with the establishment
30 of the district or from another place in this state to the district:
31 *Provided*, That for purposes of this article, any entities shall be
32 designated “relocated entities”;

33 (9) Identification of any businesses currently conducting
34 business in the proposed economic opportunity development
35 district that the county commission expects to continue doing
36 business there after the district is created;

37 (10) A good faith estimate of the aggregate amount of
38 consumers sales and service tax that was actually remitted to the
39 Tax Commissioner by all business locations identified as
40 provided in subdivisions (8) and (9) of this subsection with
41 respect to their sales made and services rendered from their then
42 current business locations that will be relocated from, or to, or
43 remain in the district, for the twelve full calendar months next
44 preceding the date of the application: *Provided*, That for
45 purposes of this article, the aggregate amount is designated as
46 “the base tax revenue amount”;

47 (11) A good faith estimate of the gross annual district tax
48 revenue amount;

49 (12) The proposed application of any surplus from all
50 funding sources to further the objectives of this article;

51 (13) The Tax Commissioner's certification of: (i) The
52 amount of consumers sales and service taxes collected from
53 businesses located in the economic opportunity district during
54 the twelve calendar months preceding the calendar quarter
55 during which the application will be submitted to the Develop-
56 ment Office; (ii) the estimated amount of economic opportunity
57 district excise tax that will be collected during the first twelve
58 months after the month in which the Tax Commissioner would
59 first begin to collect that tax; and (iii) the estimated amount of
60 economic opportunity district excise tax that will be collected
61 during the first thirty-six months after the month in which the
62 Tax Commissioner would first begin to collect that tax; and

63 (14) Any additional information the Development Office
64 may require.

65 (b) *Review of applications.* — The Development Office shall
66 review all project proposals for conformance to statutory and
67 regulatory requirements, the reasonableness of the project's
68 budget and timetable for completion and the following criteria:

69 (1) The quality of the proposed project and how it addresses
70 economic problems in the area in which the project will be
71 located;

72 (2) The merits of the project determined by a cost-benefit
73 analysis that incorporates all costs and benefits, both public and
74 private;

75 (3) Whether the project is supported by significant private
76 sector investment and substantial credible evidence that, but for
77 the existence of sales tax increment financing, the project would
78 not be feasible;

79 (4) Whether the economic opportunity district excise tax
80 dollars will leverage or be the catalyst for the effective use of

81 private, other local government, state or federal funding that is
82 available;

83 (5) Whether there is substantial and credible evidence that
84 the project is likely to be started and completed in a timely
85 fashion;

86 (6) Whether the project will, directly or indirectly, improve
87 the opportunities in the area where the project will be located for
88 the successful establishment or expansion of other industrial or
89 commercial businesses;

90 (7) Whether the project will, directly or indirectly, assist in
91 the creation of additional long-term employment opportunities
92 in the area and the quality of jobs created in all phases of the
93 project, to include, but not be limited to, wages and benefits;

94 (8) Whether the project will fulfill a pressing need for the
95 area, or part of the area, in which the economic opportunity
96 district is located;

97 (9) Whether the county commission has a strategy for
98 economic development in the county and whether the project is
99 consistent with that strategy;

100 (10) Whether the project helps to diversify the local econ-
101 omy;

102 (11) Whether the project is consistent with the goals of this
103 article;

104 (12) Whether the project is economically and fiscally sound
105 using recognized business standards of finance and accounting;
106 and

107 (13) (A) The ability of the county commission and the
108 project developer or project team to carry out the project:

109 *Provided*, That no project may be approved by the Development
110 Office unless the amount of all development expenditures
111 proposed to be made in the first twenty-four months following
112 the creation of the district results in capital investment of more
113 than \$75 million in the district and the county submits clear and
114 convincing information, to the satisfaction of the Development
115 Office, that the investment will be made if the Development
116 Office approves the project and the Legislature authorizes the
117 county commission to levy an excise tax on sales of goods and
118 services made within the economic opportunity district as
119 provided in this article.

120 (B) Notwithstanding any provision of paragraph (A) of this
121 subdivision to the contrary, no project involving remediation
122 may be approved by the Development Office unless the amount
123 of all development expenditures proposed to be made in the first
124 forty-eight months following the creation of the district results
125 in capital investment of more than \$75 million in the district. In
126 addition to the remaining provisions of paragraph (A) of this
127 subdivision the Development Office may not approve a project
128 involving remediation authorized under section five of this
129 article unless the county commission submits clear and convinc-
130 ing information, to the satisfaction of the Development Office,
131 that the proposed remediation expenditures to be financed by the
132 issuance of bonds or notes pursuant to section sixteen of this
133 article do not constitute more than twenty-five percent of the
134 total development expenditures associated with the project.

135 (c) *Additional criteria.* — The Development Office may
136 establish other criteria for consideration when approving the
137 applications.

138 (d) *Action on the application.* — The Executive Director of
139 the Development Office shall act to approve or not approve any
140 application within thirty days following the receipt of the
141 application or the receipt of any additional information requested
142 by the Development Office, whichever is the later.

143 (e) *Certification of project.* — If the Executive Director of
144 the Development Office approves a county's economic opportu-
145 nity district project application, he or she shall issue to the
146 county commission a written certificate evidencing the approval.

147 The certificate shall expressly state a base tax revenue
148 amount, the gross annual district tax revenue amount and the
149 estimated net annual district tax revenue amount which, for
150 purposes of this article, is the difference between the gross
151 annual district tax revenue amount and the base tax revenue
152 amount, all of which the Development Office has determined
153 with respect to the district's application based on any investiga-
154 tion it considers reasonable and necessary, including, but not
155 limited to, any relevant information the Development Office
156 requests from the Tax Commissioner and the Tax Commissioner
157 provides to the Development Office: *Provided*, That in determin-
158 ing the net annual district tax revenue amount, the Development
159 Office may not use a base tax revenue amount less than that
160 amount certified by the Tax Commissioner but, in lieu of
161 confirmation from the Tax Commissioner of the gross annual
162 district tax revenue amount, the Development Office may use the
163 estimate of the gross annual district tax revenue amount provided
164 by the county commission pursuant to subsection (a) of this
165 section.

166 (f) *Certification of enlargement of geographic boundaries of*
167 *previously certified district.* — If the Executive Director of the
168 Development Office approves a county's economic opportunity
169 district project application to expand the geographic boundaries
170 of a previously certified district, he or she shall issue to the
171 county commission a written certificate evidencing the approval.

172 The certificate shall expressly state a base tax revenue
173 amount, the gross annual district tax revenue amount and the
174 estimated net annual district tax revenue amount which, for
175 purposes of this article, is the difference between the gross

176 annual district tax revenue amount and the base tax revenue
177 amount, all of which the Development Office has determined
178 with respect to the district's application based on any investiga-
179 tion it considers reasonable and necessary, including, but not
180 limited to, any relevant information the Development Office
181 requests from the Tax Commissioner and the Tax Commissioner
182 provides to the Development Office: *Provided*, That in determin-
183 ing the net annual district tax revenue amount, the Development
184 Office may not use a base tax revenue amount less than that
185 amount certified by the Tax Commissioner but, in lieu of
186 confirmation from the Tax Commissioner of the gross annual
187 district tax revenue amount, the Development Office may use the
188 estimate of the gross annual district tax revenue amount provided
189 by the county commission pursuant to subsection (a) of this
190 section.

191 (g) *Promulgation of rules.* — The Executive Director of the
192 Development Office may promulgate rules to implement the
193 economic opportunity development district project application
194 approval process and to describe the criteria and procedures it
195 has established in connection therewith. These rules are not
196 subject to the provisions of chapter twenty-nine-a of this code
197 but shall be filed with the Secretary of State.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 38. MUNICIPAL ECONOMIC OPPORTUNITY DEVELOPMENT DISTRICTS.

§8-38-7. Application to Development Office for approval of an economic opportunity development district project.

1 (a) *General.* — The Development Office shall receive and
2 act on applications filed with it by municipalities pursuant to
3 section six of this article. Each application must include:

4 (1) A true copy of the notice described in section six of this
5 article;

6 (2) The total cost of the project;

7 (3) A reasonable estimate of the number of months needed
8 to complete the project;

9 (4) A general description of the capital improvements,
10 additional or extended services and other proposed development
11 expenditures to be made in the district as part of the project;

12 (5) A description of the proposed method of financing the
13 development expenditures, together with a description of the
14 reserves to be established for financing ongoing development
15 expenditures necessary to permanently maintain the optimum
16 economic viability of the district following its inception:
17 *Provided*, That the amounts of the reserves may not exceed the
18 amounts that would be required by prevailing commercial capital
19 market considerations;

20 (6) A description of the sources and anticipated amounts of
21 all financing, including, but not limited to, proceeds from the
22 issuance of any bonds or other instruments, revenues from the
23 special district excise tax and enhanced revenues from property
24 taxes and fees;

25 (7) A description of the financial contribution of the
26 municipality to the funding of development expenditures;

27 (8) Identification of any businesses that the municipality
28 expects to relocate their business locations from the district to
29 another place in the state in connection with the establishment of
30 the district or from another place in this state to the district:
31 *Provided*, That for purposes of this article, any entities shall be
32 designated "relocated entities";

33 (9) Identification of any businesses currently conducting
34 business in the proposed economic opportunity development
35 district that the municipality expects to continue doing business
36 there after the district is created;

37 (10) A good faith estimate of the aggregate amount of
38 consumers sales and service tax that was actually remitted to the
39 Tax Commissioner by all business locations identified as
40 provided in subdivisions (8) and (9) of this subsection with
41 respect to their sales made and services rendered from their then
42 current business locations that will be relocated from, or to, or
43 remain in the district for the twelve full calendar months next
44 preceding the date of the application: *Provided*, That for
45 purposes of this article, the aggregate amount is designated as
46 “the base tax revenue amount”;

47 (11) A good faith estimate of the gross annual district tax
48 revenue amount;

49 (12) The proposed application of any surplus from all
50 funding sources to further the objectives of this article;

51 (13) The Tax Commissioner’s certification of: (i) The
52 amount of consumers sales and service taxes collected from
53 businesses located in the economic opportunity district during
54 the twelve calendar months preceding the calendar quarter
55 during which the application will be submitted to the Develop-
56 ment Office; (ii) the estimated amount of economic opportunity
57 district excise tax that will be collected during the first twelve
58 months after the month in which the Tax Commissioner would
59 first begin to collect that tax; and (iii) the estimated amount of
60 economic opportunity district excise tax that will be collected
61 during the first thirty-six months after the month in which the
62 Tax Commissioner would first begin to collect that tax; and

63 (14) Any additional information the Development Office
64 may require.

65 (b) *Review of applications.* — The Development Office shall
66 review all project proposals for conformance to statutory and
67 regulatory requirements, the reasonableness of the project's
68 budget and timetable for completion and the following criteria:

69 (1) The quality of the proposed project and how it addresses
70 economic problems in the area in which the project will be
71 located;

72 (2) The merits of the project determined by a cost-benefit
73 analysis that incorporates all costs and benefits, both public and
74 private;

75 (3) Whether the project is supported by significant private
76 sector investment and substantial credible evidence that, but for
77 the existence of sales tax increment financing, the project would
78 not be feasible;

79 (4) Whether the economic opportunity development district
80 excise tax dollars will leverage or be the catalyst for the effective
81 use of private, other local government, state or federal funding
82 that is available;

83 (5) Whether there is substantial and credible evidence that
84 the project is likely to be started and completed in a timely
85 fashion;

86 (6) Whether the project will, directly or indirectly, improve
87 the opportunities in the area where the project will be located for
88 the successful establishment or expansion of other industrial or
89 commercial businesses;

90 (7) Whether the project will, directly or indirectly, assist in
91 the creation of additional long-term employment opportunities
92 in the area and the quality of jobs created in all phases of the
93 project, to include, but not be limited to, wages and benefits;

94 (8) Whether the project will fulfill a pressing need for the
95 area, or part of the area, in which the economic opportunity
96 district is located: *Provided*, That the Development Office
97 should consider whether the economic development project is
98 large enough to require that it contain a mixed use development
99 provision consisting of a housing component with at least ten
100 percent of housing units in the district allocated for affordable
101 housing;

102 (9) Whether the municipality has a strategy for economic
103 development in the municipality and whether the project is
104 consistent with that strategy;

105 (10) Whether the project helps to diversify the local econ-
106 omy;

107 (11) Whether the project is consistent with the goals of this
108 article;

109 (12) Whether the project is economically and fiscally sound
110 using recognized business standards of finance and accounting;
111 and

112 (13) (A) The ability of the municipality and the project
113 developer or project team to carry out the project: *Provided*, That
114 no project may be approved by the Development Office unless
115 the amount of all development expenditures proposed to be made
116 in the first twenty-four months following the creation of the
117 district results in capital investment of more than \$75 million in
118 the district and the municipality submits clear and convincing
119 information, to the satisfaction of the Development Office, that
120 the investment will be made if the Development Office approves
121 the project and the Legislature authorizes the municipality to
122 levy an excise tax on sales of goods and services made within the
123 economic opportunity development district as provided in this
124 article.

125 (B) Notwithstanding any provision of paragraph (A) of this
126 subdivision to the contrary, no project involving remediation
127 may be approved by the Development Office unless the amount
128 of all development expenditures proposed to be made in the first
129 forty-eight months following the creation of the district results
130 in capital investment of more than \$75 million in the district. In
131 addition to the remaining provisions of paragraph (A) of this
132 subdivision the Development Office may not approve a project
133 involving remediation authorized under section five of this
134 article unless the municipality submits clear and convincing
135 information, to the satisfaction of the Development Office, that
136 the proposed remediation expenditures to be financed by the
137 issuance of bonds or notes pursuant to section sixteen of this
138 article do not constitute more than twenty-five percent of the
139 total development expenditures associated with the project.

140 (c) *Additional criteria.* — The Development Office may
141 establish other criteria for consideration when approving the
142 applications.

143 (d) *Action on the application.* — The Executive Director of
144 the Development Office shall act to approve or not approve any
145 application within thirty days following the receipt of the
146 application or the receipt of any additional information requested
147 by the Development Office, whichever is the later.

148 (e) *Certification of project.* — If the Executive Director of
149 the Development Office approves a municipality's economic
150 opportunity district project application, he or she shall issue to
151 the municipality a written certificate evidencing the approval.

152 The certificate shall expressly state a base tax revenue
153 amount, the gross annual district tax revenue amount and the
154 estimated net annual district tax revenue amount which, for
155 purposes of this article, is the difference between the gross
156 annual district tax revenue amount and the base tax revenue

157 amount, all of which the Development Office has determined
158 with respect to the district's application based on any investiga-
159 tion it considers reasonable and necessary, including, but not
160 limited to, any relevant information the Development Office
161 requests from the Tax Commissioner and the Tax Commissioner
162 provides to the Development Office: *Provided*, That in determin-
163 ing the net annual district tax revenue amount, the Development
164 Office may not use a base tax revenue amount less than that
165 amount certified by the Tax Commissioner but, in lieu of
166 confirmation from the Tax Commissioner of the gross annual
167 district tax revenue amount, the Development Office may use the
168 estimate of the gross annual district tax revenue amount provided
169 by the municipality pursuant to subsection (a) of this section.

170 (f) *Certification of enlargement of geographic boundaries of*
171 *previously certified district.* — If the Executive Director of the
172 Development Office approves a municipality's economic
173 opportunity district project application to expand the geographic
174 boundaries of a previously certified district, he or she shall issue
175 to the municipality a written certificate evidencing the approval.

176 The certificate shall expressly state a base tax revenue
177 amount, the gross annual district tax revenue amount and the
178 estimated net annual district tax revenue amount which, for
179 purposes of this article, is the difference between the gross
180 annual district tax revenue amount and the base tax revenue
181 amount, all of which the Development Office has determined
182 with respect to the district's application based on any investiga-
183 tion it considers reasonable and necessary, including, but not
184 limited to, any relevant information the Development Office
185 requests from the Tax Commissioner and the Tax Commissioner
186 provides to the Development Office: *Provided*, That in determin-
187 ing the net annual district tax revenue amount, the Development
188 Office may not use a base tax revenue amount less than that
189 amount certified by the Tax Commissioner, but, in lieu of
190 confirmation from the Tax Commissioner of the gross annual

191 district tax revenue amount, the Development Office may use the
192 estimate of the gross annual district tax revenue amount provided
193 by the municipality pursuant to subsection (a) of this section.

194 (g) *Promulgation of rules.* — The Executive Director of the
195 Development Office may promulgate rules to implement the
196 economic opportunity development district project application
197 approval process and to describe the criteria and procedures it
198 has established in connection therewith. These rules are not
199 subject to the provisions of chapter twenty-nine-a of this code
200 but shall be filed with the Secretary of State.

CHAPTER 55

**(Com. Sub. for S. B. 359 - By Senators Kessler
(Mr. President) and M. Hall)
[By Request of the Executive]**

[Passed March 22, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 10, 2013.]

AN ACT to repeal §18-2-23a and §18-2-32 of the Code of West Virginia, 1931, as amended; to repeal §18-2E-5c of said code; to repeal §18-2I-6 and §18-2I-7 of said code; to repeal §18A-3A-2a and §18A-3A-6 of said code; to amend and reenact §18-1-4 of said code; to amend and reenact §18-2-24 of said code; to amend said code by adding thereto a new section, designated §18-2-39; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-1, §18-2I-2, §18-2I-3, §18-2I-4 and §18-2I-5 of said code; to amend and reenact §18-3-1 and §18-3-12 of said code; to amend said code by adding thereto a new section, designated §18-3-9b; to amend and reenact §18-5-18, §18-5-44 and §18-5-45 of said code; to amend and reenact §18-5A-5 of said code; to amend and reenact

§18A-2-1 and §18A-2-7 of said code; to amend said code by adding thereto a new section, designated §18A-3-1d; to amend and reenact §18A-3A-1, §18A-3A-2 and §18A-3A-3 of said code; to amend and reenact §18A-4-2a, §18A-4-7a, §18A-4-8, §18A-4-8a and §18A-4-14 of said code; to amend and reenact §18A-5-2 of said code; to amend and reenact §18C-1-2 of said code; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3 and §18C-4-4 of said code; and to amend said code by adding thereto three new sections, designated §18C-4A-1, §18C-4A-2 and §18C-4A-3, all relating to transforming and improving public education; removing outdated language; requiring the State Board of Education, the Higher Education Policy Commission and the Council for Community and Technical College Education to collaborate in formally adopting uniform and specific college- and career-readiness standards for English/language arts and math; providing methods for determining whether students have met the college- and career-readiness standards; requiring that an explicit focus be embedded in each course on the development of English/language arts and math skills; requiring a twelfth-grade transitional course for both English/language arts and math for students not on track to be college ready; requiring professional development on teaching the college- and career-readiness standards to be included in the State Board's Master Plan for Professional Staff Development; requiring the state board to require all teacher preparation programs to include appropriate training for teaching adopted standards in at least grades eight through twelve; requiring the use of certain assessments, exams or tests for determining whether a student is to enroll in a remedial course; requiring accountability for increasing the percentage of students who meet the standards and for increasing the percentage of students who are making adequate progress toward meeting the standards; removing requirement applicable to annual county and school strategic improvement plans; modifying requirements for high-quality education standards for student, school and school system performance and processes; modifying requirements pertaining to a comprehensive statewide student

assessment program; removing provisions relating to No Child Left Behind annual measures; modifying provisions pertaining to the state annual performance measures for school and school system accreditation; removing provisions pertaining to requiring the standards to include indicators of exemplary student, school and school system performance and progress; eliminating the Process for Improving Education Council; modifying component of system of education performance audits; expanding state board authority pertaining to the Office of Education Performance Audit's reporting formats; eliminating condition for on-site review; removing prohibition of certain duplicate reviews or inspections; removing provisions pertaining to persons who are to conduct an on-site review; removing list of areas for which the office may not review; modifying provisions pertaining to school accreditation; removing provision allowing a student to transfer from a low-performing school under certain conditions; professional development; establishing clear state-level leadership of professional development; providing findings on the importance of professional development; requiring State Board of Education to develop a master plan for professional development; requiring submission of plan to certain entities; requiring goals to be established and included in the master plan; requiring state board rules; setting forth minimum components of the rule; requiring annual report on the statewide professional development plan; modifying language pertaining to the Strategic Staff Development Fund; modifying State Superintendent of Schools qualifications and removing his or her salary limit; requiring state superintendent to reduce the amount budgeted for personal services, related employee benefits and contractual expenditures related to employment in fiscal years 2014 and 2015; increasing the number of schools to be included in a special community development pilot program; modifying other provisions pertaining to the pilot program; requiring kindergarten and early childhood aides to transition to one of three new assistant teacher positions beginning July 1, 2014; exempting those eligible for retirement before July

1, 2020; requiring early childhood education programs to be made available five days a week for the full day; allowing program to be for fewer than five days per week and less than full day under certain circumstances; allowing parent to withdraw child for good cause; providing for local control of the school calendar; defining terms and establishing findings about the school calendar; requiring a 200-day employment term; limiting beginning and closing dates to forty-eight weeks; requiring one hundred eighty separate days of actual instruction are to be provided for students; requiring twenty noninstructional days; requiring school term to include out-of-calendar days that are to be used for instructional days in the event school is canceled; requiring county policy for adding minutes or days to school calendar for certain purpose; limiting noninstructional interruptions to instructional day; requiring state board or state superintendent approval of proposed county calendar; requiring public meetings for discussions of a school system's calendar; allowing the state board to grant a waiver to certain code sections that prevent a school system from meeting one hundred eighty instructional days; requiring state board rule to implement the calendar section provisions; modifying provisions pertaining to a process for a faculty senate to submit recommendations regarding employment to the principal; requiring state board to promulgate rule to implement the provisions relating to the process; removing language about faculty senates on instructional support and enhancement days; requiring the local board to provide at least four additional two-hour blocks of time during noninstructional days, with each block scheduled once at least every forty-five instructional days; prohibiting principals from recommending for employment certain individuals that are related to him or her; allowing reassignment of teachers when a vacancy was not foreseen before March 1 based on pupil-teacher ratio; requiring state board to conduct a study on alternative certification programs; providing for salary bonus for classroom teachers with a National Board for Professional Teaching Standards renewal certificate; providing for reimbursement of the

renewal certification fee; removing language that limits the number of board-certified teachers who can receive reimbursement per year; modifying process for filling vacancies in professional positions of employment including the criteria to be considered; allowing a county board to determine the appropriate weight to apply to each criterion except when one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting; providing that for a classroom teaching position if the recommendation of the principal and resulting from the faculty senate process are the same and the superintendent concurs, the county board is required to appoint the applicant; requiring state board rule to implement and interpret certain employment provisions; allowing released employees to be hired for certain vacancies prior to the job being posted; allowing for multiple postings within a thirty-day period under certain conditions; allowing reassignment of a teacher within his or her school upon consent of teacher and county board; creating three new types of early childhood classroom assistant teacher positions; assigning a pay grade to the new positions; modifying provisions pertaining to the length of planning periods; requiring state board study on planning periods; clarifying that not all holidays will be counted as a day of the employment term and that pay per pay period cannot change as a result; providing that snow days are not counted as days of employment or days of instruction; providing definitions; scholarships and loan assistance for teachers in critical need areas; creating loan assistance program; determining subject and geographic areas of critical need; requiring legislative rules for program administration; revising eligibility criteria and specifying effective date; determining eligibility and awarding loan assistance; establishing criteria for inclusion in scholarship and loan assistance agreements; requiring payments to be made directly to a lending entity; requiring model contract agreements; specifying loan amount, limits and duration of loan assistance; requiring repayment under certain conditions; specifying excusal from

repayment under certain conditions; and making technical corrections and deleting obsolete language.

Be it enacted by the Legislature of West Virginia:

That §18-2-23a and §18-2-32 of the Code of West Virginia, 1931, as amended, be repealed; that §18-2E-5c of said code be repealed; that §18-2I-6 and §18-2I-7 of said code be repealed; that §18A-3A-2a and §18A-3A-6 of said code be repealed; that §18-1-4 of said code be amended and reenacted; that §18-2-24 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-2-39; that §18-2E-5 of said code be amended and reenacted; that §18-2I-1, §18-2I-2, §18-2I-3, §18-2I-4 and §18-2I-5 of said code be amended and reenacted; that §18-3-1 and §18-3-12 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-3-9b; that §18-5-18, §18-5-44 and §18-5-45 of said code be amended and reenacted; that §18-5A-5 of said code be amended and reenacted; that §18A-2-1 and §18A-2-7 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18A-3-1d; that §18A-3A-1, §18A-3A-2 and §18A-3A-3 of said code be amended and reenacted; that §18A-4-2a, §18A-4-7a, §18A-4-8, §18A-4-8a and §18A-4-14 of said code be amended and reenacted; that §18A-5-2 of said code be amended and reenacted; that §18C-1-2 of said code be amended and reenacted; that §18C-4-1, §18C-4-2, §18C-4-3 and §18C-4-4 of said code be amended and reenacted; and that said code be amended by adding thereto three new sections, designated §18C-4A-1, §18C-4A-2 and §18C-4A-3, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR EDUCATION.

§18-1-4. Vision 2020: An Education Blueprint for Two Thousand Twenty.

1 (a) This section, together with section one-a, article one,
2 chapter eighteen-b of this code and article one-d of said chapter,
3 shall be known as and may be cited as Vision 2020: An Educa-
4 tion Blueprint for Two Thousand Twenty.

5 (b) For the purposes of this section:

6 (1) “Goals” means those long-term public purposes which
7 are the desired end result and only may include those items listed
8 in subsection (e) of this section;

9 (2) “Objectives” means the ends to be accomplished or
10 attained within a specified period of time for the purpose of
11 meeting the established goals; and

12 (3) “Strategies” means specific activities carried out by the
13 public education system which are directed toward accomplish-
14 ing specific objectives.

15 (c) The Legislature finds that:

16 (1) The measure of a thorough and efficient system of
17 education is whether students graduate prepared to meet the
18 challenges of the future as contributing members of society and
19 that these challenges change, becoming ever more complex and
20 involving a global context more than at any other time in the
21 history of our nation;

22 (2) The state recently has embraced and is implementing the
23 Partnership for 21st Century Skills model for teaching and
24 learning including six key elements (core subjects, 21st Century
25 content, learning and thinking skills, information and communi-
26 cations technology literacy, life skills and 21st Century assess-
27 ments) to help better prepare students for the challenges of the
28 21st Century;

29 (3) Published national studies by several organizations
30 routinely examine various elements of state education systems

31 and selected underlying socioeconomic variables and rate and
32 rank West Virginia and the other states, the District of Columbia
33 and the territories based on the measurement systems and
34 priorities established by the organizations, and these measure-
35 ment systems and priorities change;

36 (4) While the state should take pride in studies that show
37 West Virginia is among the leaders in several of its efforts and
38 is making progress, its students often outperforming expectations
39 based on typical indicators of the likelihood for student success,
40 such as the income and education levels of their parents, it
41 should also recognize that the state must do even more to ensure
42 that high school graduates are fully prepared for post-secondary
43 education or gainful employment;

44 (5) Therefore, the purpose of this section is to provide for the
45 establishment of a clear plan that includes goals, objectives,
46 strategies, indicators and benchmarks to help guide the state's
47 policymakers on the continuous development of the state's
48 education system for the 21st Century.

49 (d) As part of Vision 2020: An Education Blueprint for Two
50 Thousand Twenty, the state board shall establish a plan in
51 accordance with the provisions of this section for submission to
52 and consideration by the Legislative Oversight Commission on
53 Education Accountability. The plan shall include only the goals,
54 objectives, strategies, indicators and benchmarks for public
55 education set forth in this section and that meet the requirements
56 of this section. To add clarity and avoid confusion, the goals for
57 public education set forth in the plan pursuant to this section are
58 the exclusive goals for public education. The plan shall include:

59 (1) The goals set forth in this section and no other goals;

60 (2) At least the objectives set forth in this section and
61 specified periods of time for achieving those objectives and any
62 other objectives that may be included in the plan;

- 63 (3) Strategies for achieving the specific objectives;
- 64 (4) Indicators for measuring progress toward the goals and
65 objectives established in this section; and
- 66 (5) Benchmarks for determining when the goals and
67 objectives have been achieved.

68 (e) The plan shall include the following list of exclusive
69 goals for the public education system in West Virginia:

70 (1) Academic achievement according to national and
71 international measures will exceed national and international
72 averages. These national and international measures should
73 include scores on assessments such as the National Assessment
74 of Educational Progress (NAEP), the ACT, the SAT and the
75 Programme for International Assessment (PISA);

76 (2) The public education system will prepare fully all
77 students for post-secondary education or gainful employment;

78 (3) All working-age adults will be functionally literate;

79 (4) The public education system will maintain and promote
80 the health and safety of all students and will develop and
81 promote responsibility, citizenship and strong character in all
82 students; and

83 (5) The public education system will provide equitable
84 education opportunity to all students.

85 (f) The plan also shall include at least the following policy-
86 oriented objectives:

87 (1) *Rigorous 21st Century curriculum and engaging*
88 *instruction for all students.* – All students in West Virginia
89 public schools should have access to and benefit from a rigorous

90 21st Century curriculum that develops proficiency in core
91 subjects, 21st Century content, learning skills and technology
92 tools. These students also should have that curriculum delivered
93 through engaging, research-based instructional strategies that
94 develop deep understanding and the ability to apply content to
95 real-world situations;

96 (2) *A 21st Century accountability and accreditation system.*

97 – The prekindergarten through twelve education system should
98 have a public accrediting system that: (i) Holds local school
99 districts accountable for the student outcomes the state values;
100 and (ii) provides the public with understandable accountability
101 data for judging the quality of local schools. The outcomes on
102 which the system is based should be rigorous and should align
103 with national and international standards such as the National
104 Assessment of Educational Progress (NAEP), the ACT, the SAT
105 and the Programme for International Assessment (PISA). The
106 broad standards established for these outcomes should include a
107 focus on: (A) Mastery of basic skills by all students; (B) closing
108 the achievement gap among student subgroups; and (C) high
109 levels of proficiency in a wide range of desired 21st Century
110 measures and processes. The system for determining school and
111 district accreditation should include school and district self
112 analysis and generate appropriate research-based strategies for
113 improvement. It also should allow opportunities to create
114 innovative approaches to instructional delivery and design. Thus,
115 the system will incorporate processes for encouraging innova-
116 tion, including streamlined applications for waivers to state
117 board policy, financial support for successful initiatives and
118 recognition of those practices that can be brought to a district or
119 statewide scale. The primary goal of the accreditation system is
120 to drive school improvement. This 21st Century accountability
121 and accreditation system also should include the methods of
122 addressing capacity set forth in section five, article two-e of this
123 chapter;

124 (3) *A statewide balanced assessment process.* – State,
125 district, school and classroom decisionmaking should be
126 grounded in 21st Century balanced assessment processes that
127 reflect national and international rigorous performance standards
128 and examine student proficiency in 21st Century content, skills
129 and technology tools. A balanced assessment system includes
130 statewide summative assessments, local benchmark assessments
131 and classroom assessments for learning;

132 (4) *A personnel allocation, licensure and funding process*
133 *that aligns with the needs of 21st Century school systems and is*
134 *supported by a quality coordinated professional development*
135 *delivery system.* – Increased accountability demands, as well as
136 the focus on 21st Century learning, require a reexamination of
137 traditional approaches to personnel allocation, licensure and
138 funding. Creating schools of the 21st Century requires new
139 staffing roles and staffing patterns. It also requires ongoing
140 professional development activities focused on enhancing
141 student achievement and achieving specific goals of the school
142 and district strategic plans. Thus, schools should have the ability
143 to access, organize and deliver high quality embedded profes-
144 sional development that provides staff with in-depth sustained
145 and supported learning. Effective school improvement should
146 allow opportunity for staff to collectively learn, plan and
147 implement curricular and instructional improvements on behalf
148 of the students they serve;

149 (5) *School environments that promote safe, healthy and*
150 *responsible behavior and provide an integrated system of student*
151 *support services.* – Each school should create an environment
152 focused on student learning and one where students know they
153 are valued, respected and safe. Furthermore, the school should
154 incorporate programs and processes that instill healthy, safe and
155 responsible behaviors and prepare students for interactions with
156 individuals of diverse racial, ethnic and social backgrounds.
157 School and district processes should include a focus on develop-

158 ing ethical and responsible character, personal dispositions that
159 promote personal wellness through planned daily physical
160 activity and healthy eating habits consistent with high nutritional
161 guidelines and multicultural experiences that develop an
162 appreciation of and respect for diversity;

163 (6) *A leadership recruitment, development and support*
164 *continuum.* – Quality schools and school systems of the 21st
165 Century cannot be created without high-quality leaders. Thus,
166 West Virginia should have an aligned leadership professional
167 development continuum that attracts, develops and supports
168 educational leadership at the classroom, school and district level.
169 This leadership development continuum should focus on
170 creating: (i) Learning-centered schools and school systems; (ii)
171 collaborative processes for staff learning and continuous
172 improvement; and (iii) accountability measures for student
173 achievement;

174 (7) *Equitable access to 21st Century technology and*
175 *education resources and school facilities conducive to 21st*
176 *Century teaching and learning.* – A quality educational system
177 of the 21st Century should have access to technology tools and
178 processes that enhance effective and efficient operation. Admin-
179 istrators should have the digital resources to monitor student
180 performance, manage a variety of data and communicate
181 effectively. In the classroom, every teacher in every school
182 should be provided with the instructional resources and educa-
183 tional technology necessary to deliver the West Virginia content
184 standards and objectives. Schools of the 21st Century require
185 facilities that accommodate changing technologies, 21st Century
186 instructional processes and 21st Century staffing needs and
187 patterns. These school facilities should mirror the best in green
188 construction and be environmentally and educationally respon-
189 sive to the communities in which they are located;

190 (8) *Aligned public school with post-secondary and work-*
191 *place readiness programs and standards.* – An educational

192 system in the 21st Century should be seen as a continuum from
193 the public school (prekindergarten through twelve) program
194 through post-secondary education. In order to be successful in a
195 global competitive marketplace, learning should be an ongoing,
196 life-long experience. Thus, the public schools and the institutions
197 of post-secondary education in West Virginia should create a
198 system of common standards, expectations and accountability.
199 Creating such an aligned system will enhance opportunities for
200 success and assure a seamless educational process for West
201 Virginia students; and

202 (9) *A universal prekindergarten system.* – A high-quality,
203 universal prekindergarten system should be readily available to
204 every eligible student. The system should promote oral language
205 and preliteracy skills and reduce the deficit of these foundational
206 skills through proactive, early intervention. Research indicates
207 that universal prekindergarten systems improve graduation rates,
208 reduce grade level retentions and reduce the number of special
209 education placements. Therefore, local school systems should
210 create the supports and provide the resources to assure a quality
211 prekindergarten foundation is available to all eligible students.

212 (g) In addition to the policy-oriented objectives set forth in
213 subsection (f) of this section, the plan established pursuant to
214 this section also shall include at least the following performance-
215 oriented objectives:

216 (1) All children entering the first grade will be ready for the
217 first grade;

218 (2) The performance of students falling in the lowest quartile
219 on national and international measures of student performance
220 will improve by fifty percent;

221 (3) Ninety percent of ninth graders will graduate from high
222 school;

223 (4) By 2012, the gap between the county with the lowest
224 college-going rate and the state average as of the effective date
225 of this act will decrease by fifty percent and the college-going
226 rate of the state will equal the college-going rate of the member
227 states of the Southern Regional Education Board; and

228 (5) By 2012, the gap between the county with the lowest
229 college-going rate and the state average for school year 2012
230 will decrease by fifty percent and the college-going rate of the
231 state will exceed the college-going rate of the member states of
232 the Southern Regional Education Board by five percentage
233 points.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-24. Collaboration of state institutions of higher education having a teacher preparation program with the Center for Professional Development, state board and the regional education service agencies.

1 (a) For the purposes of this section, “teacher preparation
2 institution” means a state institution of higher education with a
3 teacher preparation program.

4 (b) The intent of this section is to establish a structure to
5 enhance collaboration between the teacher preparation institu-
6 tions, the Center for Professional Development, state board and
7 the regional education service agencies in providing professional
8 development.

9 (c) The Legislature finds that:

10 (1) There is insufficient collaboration of the teacher prepara-
11 tion institutions with the Center for Professional Development,
12 state board and each of the regional education service agencies;

13 (2) More collaboration would prevent duplication of services
14 and result in higher quality professional development;

15 (3) Creating a structure and assigning responsibility would
16 promote more effective collaboration;

17 (4) The state's research and doctoral degree-granting public
18 institutions of higher education, West Virginia University and
19 Marshall University, have the most capacity to be important
20 sources of research and expertise on professional development;

21 (5) West Virginia University and Marshall University are the
22 only institutions in the state that offer course work leading to a
23 doctoral degree in education administration;

24 (6) As the largest state institutions of higher education, West
25 Virginia University and Marshall University have more capacity
26 than any other institution in the state to handle the additional
27 responsibilities assigned in this section;

28 (7) The coordination by West Virginia University and
29 Marshall University of the efforts of other teacher preparation
30 institutions to collaborate with the Center for Professional
31 Development, state board and each of the regional education
32 service agencies will provide points of accountability for the
33 collaboration efforts of the other institutions; and

34 (8) The state board's authority over the regional education
35 service agencies can be used to motivate the agencies to collabo-
36 rate with the teacher preparation institutions in providing
37 professional development and will serve as a point of account-
38 ability for the collaboration efforts of the agencies.

39 (d) West Virginia University and Marshall University shall
40 collaborate with the Center for Professional Development in
41 performing the center's duties. This collaboration shall include
42 at least the following:

43 (1) Including the teacher preparation institutions in the
44 proposed professional staff development program goals required

45 by section three, article two-i of this chapter to be included in the
46 master plan for professional development;

47 (2) Providing any available research-based expertise that
48 would be helpful in the design of the proposed professional staff
49 development program goals;

50 (3) Providing any available research-based expertise that
51 would be helpful in the implementation of professional develop-
52 ment programs; and

53 (4) Arranging for other state institutions of higher education
54 having a teacher preparation program to assist the center when
55 that assistance would be helpful.

56 (e) All teacher preparation institutions shall collaborate with
57 the regional education service agency of the service area in
58 which the institution is located at least to:

59 (1) Prevent unnecessary duplication of services;

60 (2) Assist in the implementation of the professional develop-
61 ment programs of the regional education service agency; and

62 (3) Assist the regional education service agency in obtaining
63 any available grants for professional development or to apply for
64 any available grant with the agency collaboratively.

65 (f) Since no teacher preparation institution exists in the
66 service area of Regional Education Service Agency IV, Marshall
67 University shall collaborate with that agency for the purposes set
68 forth in subdivision (e) of this section.

69 (g) In addition to the collaboration required by subsections
70 (e) and (f) of this section of all teacher preparation institutions,
71 West Virginia University and Marshall University shall:

72 (1) Coordinate the collaboration of each of the other teacher
73 preparation institutions in their designated coordination area
74 with the appropriate regional education service agency. This
75 coordination at least includes ensuring that each of the other
76 institutions are collaborating with the appropriate regional
77 education service agency; and

78 (2) Collaborate with each of the other teacher preparation
79 institutions in their designated coordination area. This collabora-
80 tion at least includes providing assistance to the other institutions
81 in providing professional development and in their collaboration
82 with the appropriate regional education service agency.

83 (h) The designated coordination area of West Virginia
84 University includes the service areas of Regional Education
85 Service Agencies V, VI, VII and VIII. The designated coordina-
86 tion area of Marshall University includes the service areas of
87 Regional Education Service Agencies I, II, III and IV.

88 (i) The state board shall ensure that each of the regional
89 education service agencies is collaborating with the teacher
90 preparation institution or institutions in its service area for the
91 purposes set forth in subsection (e) of this section. Since
92 Regional Education Service Agency IV does not have a teacher
93 preparation institution in its service area, the state board shall
94 ensure that it is collaborating with Marshall University for the
95 purposes set forth in subsection (e) of this section.

96 (j) Before a regional education service agency, except for
97 Regional Education Service Agency IV, obtains professional
98 development related services or expertise from any teacher
99 preparation institution outside of that agency's service area, the
100 agency shall inform the state board. Before Regional Education
101 Service Agency IV obtains professional development related
102 services or expertise from any teacher preparation institution
103 other than Marshall University, the agency shall inform the state
104 board.

105 (k) The collaboration and coordination requirements of this
106 section include collaborating and coordinating to provide
107 professional development for at least teachers, principals and
108 paraprofessionals.

§18-2-39. College and career readiness initiative.

1 (a) The Legislature finds that:

2 (1) According to ACT, only twenty-five percent of
3 ACT-tested high school graduates in the nation met college
4 readiness benchmarks in English, reading, mathematics and
5 science and only seventeen percent in West Virginia met the
6 benchmarks in all four subjects;

7 (2) The post-secondary remediation rates of students
8 entering post-secondary institutions directly out of high school
9 indicate that a large percentage of students are not being
10 adequately prepared at the elementary and secondary levels;

11 (3) This high level of post-secondary remediation is causing
12 both students and the state to expend extra resources that would
13 not have to be expended if the students were adequately prepared
14 at the elementary and secondary levels;

15 (4) A strong foundation in English/language arts and math
16 provides a basis for learning in all other subject areas and for
17 on-the-job training; and

18 (5) A comparison of the percentages of students considered
19 proficient in eighth grade reading and math by the state assess-
20 ment and the National Assessment of Educational Progress
21 indicate that the state assessment currently does not accurately
22 reflect national standards.

23 (b) Before the 2014-2015 school year, the state board, the
24 Higher Education Policy Commission and the Council for

25 Community and Technical College Education shall collaborate
26 in formally adopting uniform and specific college- and career-
27 readiness standards for English/language arts and math. The
28 standards shall be clearly linked to state content standards and
29 based on skills and competencies rather than high school course
30 titles. The standards shall allow for a determination of whether
31 a student needs to enroll in a post-secondary remedial course.
32 The state board shall develop a plan for gradually bringing the
33 standards for a high school diploma and college and career
34 readiness into uniformity, and report this plan to the Legislative
35 Oversight Commission on Education Accountability not later
36 than December 31, 2013.

37 (c) The results on the comprehensive statewide student
38 assessment program in grade eleven in English/language arts and
39 mathematics shall be used to determine whether a student has
40 met the college- and career-readiness standards adopted pursuant
41 to subsection (b) of this section. Beginning with the 2015-2016
42 school year, instead of using the comprehensive statewide
43 student assessment program, the state board may develop and
44 implement end-of-course exams in English/language arts and
45 math courses it determines appropriate. These exams are
46 designed for determining whether a student has met the college-
47 and career-readiness standards. In order to allow for the enroll-
48 ment in transitional courses in the twelfth grade if necessary
49 pursuant to subsection (e) of this section, the courses, assess-
50 ments and exams, as applicable, shall be administered before the
51 twelfth grade.

52 (d) Under its authority granted in section one, article three,
53 chapter eighteen-a of this code, the state board shall require all
54 teacher preparation programs in the state to include appropriate
55 training for teachers seeking to teach in at least any of grades
56 eight through twelve with respect to teaching the adopted
57 college- and career-readiness standards. This training shall focus
58 on teaching the standards directly, through embedding the
59 standards in other courses or both, as appropriate.

60 (e) The state board shall develop a twelfth-grade transitional
61 course for both English/language arts and math for those
62 students who are not on track to be college and career ready
63 based on the assessment or exam, as applicable, required
64 pursuant to subsection (c) of this section. The transitional
65 courses shall be aligned with the standards adopted pursuant to
66 subsection (b) of this section. The state board in collaboration
67 with the West Virginia Higher Education Policy Commission
68 and the Council for Community and Technical College Educa-
69 tion shall use the American College Testing Program's Comput-
70 erized Adaptive Placement Assessment and Support System
71 (COMPASS) or other mutually agreed-upon assessment to
72 determine whether a student has met the college- and career-
73 readiness standards after completion of the transitional course.

74 (f) For all West Virginia public high school graduates who
75 graduate during or after the 2016-2017 school year, all state
76 institutions of higher education may use no factor other than the
77 assessment, exam or test, as applicable, required pursuant to
78 subsections (c) and (e) of this section to determine whether a
79 student is to enroll in a remedial course or is to be placed in a
80 college-level introductory course. Nothing in this subsection
81 prohibits an institution from administering a diagnostic test to
82 determine specific areas of weakness so that the specific
83 weaknesses can be remediated rather than requiring a student to
84 take an entire remedial course.

85 (g) The state board shall:

86 (1) Hold high schools and districts accountable for increas-
87 ing the percentages of students who meet the college- and
88 career-readiness standards as indicated by the assessments,
89 exams or tests, as applicable, required pursuant to subsections (c)
90 and (e) of this section. This accountability shall be achieved
91 through the school and school system accreditation provisions
92 set forth in section five, article two-e of this chapter;

93 (2) Align the comprehensive statewide student assessment
 94 for all grade levels in which the test is given with the college-
 95 and career-readiness standards adopted pursuant to subsection
 96 (b) of this section or develop other aligned tests at each grade
 97 level so that progress toward college and career readiness in
 98 English/language arts and math can be measured; and

99 (3) Hold all schools and districts accountable for helping
 100 students in earlier grade levels achieve scores on math and
 101 English/language arts tests that predict success in subsequent
 102 levels of related coursework. This accountability shall be
 103 achieved through the school and school system accreditation
 104 provisions set forth in section five, article two-e of this chapter;

105 (h) Except as otherwise specified, all provisions of this
 106 section become effective with the 2014-2015 school year.

107 (i) On or before December 31, 2013, the state board shall
 108 promulgate a legislative rule in accordance with article three-b,
 109 chapter twenty-nine-a of this code to implement the provisions
 110 of this section.

ARTICLE 2E. HIGH-QUALITY EDUCATIONAL PROGRAMS.

§18-2E-5. Process for improving education; education standards; statewide assessment program; accountability measures; Office of Education Performance Audits; school accreditation and school system approval; intervention to correct low performance.

1 (a) *Legislative findings, purpose and intent.* – The Legisla-
 2 ture makes the following findings with respect to the process for
 3 improving education and its purpose and intent in the enactment
 4 of this section:

5 (1) The process for improving education includes four
 6 primary elements, these being:

7 (A) Standards which set forth the knowledge and skills that
8 students should know and be able to perform as the result of a
9 thorough and efficient education that prepares them for the
10 twenty-first century, including measurable criteria to evaluate
11 student performance and progress;

12 (B) Assessments of student performance and progress
13 toward meeting the standards;

14 (C) A system of accountability for continuous improvement
15 defined by high-quality standards for schools and school systems
16 articulated by a rule promulgated by the state board and outlined
17 in subsection (c) of this section that will build capacity in
18 schools and districts to meet rigorous outcomes that assure
19 student performance and progress toward obtaining the knowl-
20 edge and skills intrinsic to a high-quality education rather than
21 monitoring for compliance with specific laws and regulations;
22 and

23 (D) A method for building the capacity and improving the
24 efficiency of schools and school systems to improve student
25 performance and progress;

26 (2) As the constitutional body charged with the general
27 supervision of schools as provided by general law, the state
28 board has the authority and the responsibility to establish the
29 standards, assess the performance and progress of students
30 against the standards, hold schools and school systems account-
31 able and assist schools and school systems to build capacity and
32 improve efficiency so that the standards are met, including, when
33 necessary, seeking additional resources in consultation with the
34 Legislature and the Governor;

35 (3) As the constitutional body charged with providing for a
36 thorough and efficient system of schools, the Legislature has the
37 authority and the responsibility to establish and be engaged

38 constructively in the determination of the knowledge and skills
39 that students should know and be able to do as the result of a
40 thorough and efficient education. This determination is made by
41 using the process for improving education to determine when
42 school improvement is needed, by evaluating the results and the
43 efficiency of the system of schools, by ensuring accountability
44 and by providing for the necessary capacity and its efficient use;

45 (4) In consideration of these findings, the purpose of this
46 section is to establish a process for improving education that
47 includes the four primary elements as set forth in subdivision (1)
48 of this subsection to provide assurances that the high-quality
49 standards are, at a minimum, being met and that a thorough and
50 efficient system of schools is being provided for all West
51 Virginia public school students on an equal education opportu-
52 nity basis; and

53 (5) The intent of the Legislature in enacting this section and
54 section five-c of this article is to establish a process through
55 which the Legislature, the Governor and the state board can
56 work in the spirit of cooperation and collaboration intended in
57 the process for improving education to consult and examine the
58 performance and progress of students, schools and school
59 systems and, when necessary, to consider alternative measures
60 to ensure that all students continue to receive the thorough and
61 efficient education to which they are entitled. However, nothing
62 in this section requires any specific level of funding by the
63 Legislature.

64 (b) *Electronic county and school strategic improvement*
65 *plans.* – The state board shall promulgate a rule consistent with
66 the provisions of this section and in accordance with article
67 three-b, chapter twenty-nine-a of this code establishing an
68 electronic county strategic improvement plan for each county
69 board and an electronic school strategic improvement plan for
70 each public school in this state. Each respective plan shall be a

71 five-year plan that includes the mission and goals of the school
72 or school system to improve student, school or school system
73 performance and progress, as applicable. The strategic plan shall
74 be revised annually in each area in which the school or system
75 is below the standard on the annual performance measures. The
76 plan shall be revised when required pursuant to this section to
77 include each annual performance measure upon which the school
78 or school system fails to meet the standard for performance and
79 progress, the action to be taken to meet each measure, a separate
80 time line and a date certain for meeting each measure, a cost
81 estimate and, when applicable, the assistance to be provided by
82 the department and other education agencies to improve student,
83 school or school system performance and progress to meet the
84 annual performance measure.

85 The department shall make available to all public schools
86 through its website or the West Virginia Education Information
87 System an electronic school strategic improvement plan
88 boilerplate designed for use by all schools to develop an
89 electronic school strategic improvement plan which incorporates
90 all required aspects and satisfies all improvement plan require-
91 ments of the No Child Left Behind Act.

92 (c) *High-quality education standards and efficiency stan-*
93 *dards.* – In accordance with the provisions of article three-b,
94 chapter twenty-nine-a of this code, the state board shall adopt
95 and periodically review and update high-quality education
96 standards for student, school and school system performance and
97 processes in the following areas:

- 98 (1) Curriculum;
- 99 (2) Workplace readiness skills;
- 100 (3) Finance;
- 101 (4) Transportation;

- 102 (5) Special education;
- 103 (6) Facilities;
- 104 (7) Administrative practices;
- 105 (8) Training of county board members and administrators;
- 106 (9) Personnel qualifications;
- 107 (10) Professional development and evaluation;
- 108 (11) Student performance, progress and attendance;
- 109 (12) Professional personnel, including principals and central
110 office administrators, and service personnel attendance;
- 111 (13) School and school system performance and progress;
- 112 (14) A code of conduct for students and employees;
- 113 (15) Indicators of efficiency; and
- 114 (16) Any other areas determined by the state board.

115 (d) *Comprehensive statewide student assessment program.*
116 – The state board shall establish a comprehensive statewide
117 student assessment program to assess student performance and
118 progress in grades three through twelve. The assessment
119 program is subject to the following:

120 (1) The state board shall promulgate a rule in accordance
121 with the provisions of article three-b, chapter twenty-nine-a of
122 this code establishing the comprehensive statewide student
123 assessment program;

124 (2) Prior to the 2014-2015 school year, the state board shall
125 align the comprehensive statewide student assessment for all

126 grade levels in which the test is given with the college-readiness
127 standards adopted pursuant to section thirty-nine, article two of
128 this chapter or develop other aligned tests to be required at each
129 grade level so that progress toward college readiness in Eng-
130 lish/language arts and math can be measured;

131 (3) The state board may require that student proficiencies be
132 measured through the ACT EXPLORE and the ACT PLAN
133 assessments or other comparable assessments, which are
134 approved by the state board and provided by future vendors;

135 (4) The state board may require that student proficiencies be
136 measured through the West Virginia writing assessment at any
137 grade levels determined by the state board to be appropriate; and

138 (5) The state board may provide through the statewide
139 assessment program other optional testing or assessment
140 instruments applicable to grade levels kindergarten through
141 grade twelve which may be used by each school to promote
142 student achievement. The state board annually shall publish and
143 make available, electronically or otherwise, to school curriculum
144 teams and teacher collaborative processes the optional testing
145 and assessment instruments.

146 (e) *State annual performance measures for school and*
147 *school system accreditation.* –

148 The state board shall promulgate a rule in accordance with
149 the provisions of article three-b, chapter twenty-nine-a of this
150 code that establishes a system to assess and weigh annual
151 performance measures for state accreditation of schools and
152 school systems. The state board also may establish performance
153 incentives for schools and school systems as part of the state
154 accreditation system. On or before December 1, 2013, the state
155 board shall report to the Governor and to the Legislative
156 Oversight Commission on Education Accountability the pro-

157 posed rule for establishing the measures and incentives of
158 accreditation and the estimated cost therefore, if any. Thereafter,
159 the state board shall provide an annual report to the Governor
160 and to the Legislative Oversight Commission on Education
161 Accountability on the impact and effectiveness of the accredita-
162 tion system. The rule for school and school system accreditation
163 proposed by the board may include, but is not limited to, the
164 following measures:

165 (1) Student proficiency in English and language arts, math,
166 science and other subjects determined by the board;

167 (2) Graduation and attendance rate;

168 (3) Students taking and passing AP tests;

169 (4) Students completing a career and technical education
170 class;

171 (5) Closing achievement gaps within subgroups of a school's
172 student population; and

173 (6) Students scoring at or above average attainment on SAT
174 or ACT tests.

175 (f) *Indicators of efficiency.* – In accordance with the provi-
176 sions of article three-b, chapter twenty-nine-a of this code, the
177 state board shall adopt by rule and periodically review and
178 update indicators of efficiency for use by the appropriate
179 divisions within the department to ensure efficient management
180 and use of resources in the public schools in the following areas:

181 (1) Curriculum delivery including, but not limited to, the use
182 of distance learning;

183 (2) Transportation;

184 (3) Facilities;

185 (4) Administrative practices;

186 (5) Personnel;

187 (6) Use of regional educational service agency programs and
188 services, including programs and services that may be estab-
189 lished by their assigned regional educational service agency or
190 other regional services that may be initiated between and among
191 participating county boards; and

192 (7) Any other indicators as determined by the state board.

193 (g) *Assessment and accountability of school and school*
194 *system performance and processes.* – In accordance with the
195 provisions of article three-b, chapter twenty-nine-a of this code,
196 the state board shall establish by rule a system of education
197 performance audits which measures the quality of education and
198 the preparation of students based on the annual measures of
199 student, school and school system performance and progress.
200 The system of education performance audits shall provide
201 information to the state board, the Legislature and the Governor,
202 upon which they may determine whether a thorough and
203 efficient system of schools is being provided. The system of
204 education performance audits shall include:

205 (1) The assessment of student, school and school system
206 performance and progress based on the annual measures
207 established pursuant to subsection (e) of this section;

208 (2) The evaluation of records, reports and other information
209 collected by the Office of Education Performance Audits upon
210 which the quality of education and compliance with statutes,
211 policies and standards may be determined;

212 (3) The review of school and school system electronic
213 strategic improvement plans; and

214 (4) The on-site review of the processes in place in schools
215 and school systems to enable school and school system perfor-
216 mance and progress and compliance with the standards.

217 (h) *Uses of school and school system assessment informa-*
218 *tion.* – The state board shall use information from the system of
219 education performance audits to assist it in ensuring that a
220 thorough and efficient system of schools is being provided and
221 to improve student, school and school system performance and
222 progress. Information from the system of education performance
223 audits further shall be used by the state board for these purposes,
224 including, but not limited to, the following:

225 (1) Determining school accreditation and school system
226 approval status;

227 (2) Holding schools and school systems accountable for the
228 efficient use of existing resources to meet or exceed the stan-
229 dards; and

230 (3) Targeting additional resources when necessary to
231 improve performance and progress.

232 The state board shall make accreditation information
233 available to the Legislature, the Governor, the general public and
234 to any individual who requests the information, subject to the
235 provisions of any act or rule restricting the release of informa-
236 tion.

237 (i) *Early detection and intervention programs.* – Based on
238 the assessment of student, school and school system performance
239 and progress, the state board shall establish early detection and
240 intervention programs using the available resources of the
241 Department of Education, the regional educational service
242 agencies, the Center for Professional Development and the
243 Principals Academy, as appropriate, to assist underachieving
244 schools and school systems to improve performance before

245 conditions become so grave as to warrant more substantive state
246 intervention. Assistance shall include, but is not limited to,
247 providing additional technical assistance and programmatic,
248 professional staff development, providing monetary, staffing and
249 other resources where appropriate.

250 (j) *Office of Education Performance Audits.* –

251 (1) To assist the state board in the operation of a system of
252 education performance audits, the state board shall establish an
253 Office of Education Performance Audits consistent with the
254 provisions of this section. The Office of Education Performance
255 Audits shall be operated under the direction of the state board
256 independently of the functions and supervision of the State
257 Department of Education and state superintendent. The Office of
258 Education Performance Audits shall report directly to and be
259 responsible to the state board in carrying out its duties under the
260 provisions of this section.

261 (2) The office shall be headed by a director who shall be
262 appointed by the state board and who serves at the will and
263 pleasure of the state board. The annual salary of the director
264 shall be set by the state board and may not exceed eighty percent
265 of the salary cap of the State Superintendent of Schools.

266 (3) The state board shall organize and sufficiently staff the
267 office to fulfill the duties assigned to it by law and by the state
268 board. Employees of the State Department of Education who are
269 transferred to the Office of Education Performance Audits shall
270 retain their benefits and seniority status with the Department of
271 Education.

272 (4) Under the direction of the state board, the Office of
273 Education Performance Audits shall receive from the West
274 Virginia education information system staff research and
275 analysis data on the performance and progress of students,
276 schools and school systems, and shall receive assistance, as

277 determined by the state board, from staff at the State Department
278 of Education, the regional education service agencies, the Center
279 for Professional Development, the Principals Academy and the
280 School Building Authority to carry out the duties assigned to the
281 office.

282 (5) In addition to other duties which may be assigned to it by
283 the state board or by statute, the Office of Education Perfor-
284 mance Audits also shall:

285 (A) Assure that all statewide assessments of student perfor-
286 mance used as annual performance measures are secure as
287 required in section one-a of this article;

288 (B) Administer all accountability measures as assigned by
289 the state board, including, but not limited to, the following:

290 (i) Processes for the accreditation of schools and the
291 approval of school systems; and

292 (ii) Recommendations to the state board on appropriate
293 action, including, but not limited to, accreditation and approval
294 action;

295 (C) Determine, in conjunction with the assessment and
296 accountability processes, what capacity may be needed by
297 schools and school systems to meet the standards established by
298 the state board and recommend to the state board plans to
299 establish those needed capacities;

300 (D) Determine, in conjunction with the assessment and
301 accountability processes, whether statewide system deficiencies
302 exist in the capacity of schools and school systems to meet the
303 standards established by the state board, including the identifica-
304 tion of trends and the need for continuing improvements in
305 education, and report those deficiencies and trends to the state
306 board;

307 (E) Determine, in conjunction with the assessment and
308 accountability processes, staff development needs of schools and
309 school systems to meet the standards established by the state
310 board and make recommendations to the state board, the Center
311 for Professional Development, the regional educational service
312 agencies, the Higher Education Policy Commission and the
313 county boards;

314 (F) Identify, in conjunction with the assessment and account-
315 ability processes, school systems and best practices that improve
316 student, school and school system performance and communi-
317 cate those to the state board for promoting the use of best
318 practices. The state board shall provide information on best
319 practices to county school systems; and

320 (G) Develop reporting formats, such as check lists, which
321 shall be used by the appropriate administrative personnel in
322 schools and school systems to document compliance with
323 applicable laws, policies and process standards as considered
324 appropriate and approved by the state board, which may include,
325 but is not limited to, the following:

326 (i) The use of a policy for the evaluation of all school
327 personnel that meets the requirements of sections twelve and
328 twelve-a, article two, chapter eighteen-a of this code;

329 (ii) The participation of students in appropriate physical
330 assessments as determined by the state board, which assessment
331 may not be used as a part of the assessment and accountability
332 system;

333 (iii) The appropriate licensure of school personnel; and

334 (iv) The appropriate provision of multicultural activities.

335 Information contained in the reporting formats is subject to
336 examination during an on-site review to determine compliance

337 with laws, policies and standards. Intentional and grossly
338 negligent reporting of false information are grounds for dis-
339 missal of any employee.

340 (k) *On-site reviews.* –

341 (1) The system of education performance audits shall include
342 on-site reviews of schools and school systems which shall be
343 conducted only at the specific direction of the state board upon
344 its determination that circumstances exist that warrant an on-site
345 review. Any discussion by the state board of schools to be
346 subject to an on-site review or dates for which on-site reviews
347 will be conducted may be held in executive session and is not
348 subject to the provisions of article nine-a, chapter six of this code
349 relating to open governmental proceedings. An on-site review
350 shall be conducted by the Office of Education Performance
351 Audits of a school or school system for the purpose of making
352 recommendations to the school and school system, as appropri-
353 ate, and to the state board on such measures as it considers
354 necessary. The investigation may include, but is not limited to,
355 the following:

356 (A) Verifying data reported by the school or county board;

357 (B) Examining compliance with the laws and policies
358 affecting student, school and school system performance and
359 progress;

360 (C) Evaluating the effectiveness and implementation status
361 of school and school system electronic strategic improvement
362 plans;

363 (D) Investigating official complaints submitted to the state
364 board that allege serious impairments in the quality of education
365 in schools or school systems;

366 (E) Investigating official complaints submitted to the state
367 board that allege that a school or county board is in violation of

368 policies or laws under which schools and county boards operate;
369 and

370 (F) Determining and reporting whether required reviews and
371 inspections have been conducted by the appropriate agencies,
372 including, but not limited to, the State Fire Marshal, the Health
373 Department, the School Building Authority and the responsible
374 divisions within the Department of Education, and whether noted
375 deficiencies have been or are in the process of being corrected.

376 (2) The Director of the Office of Education Performance
377 Audits shall notify the county superintendent of schools five
378 school days prior to commencing an on-site review of the county
379 school system and shall notify both the county superintendent
380 and the principal five school days before commencing an on-site
381 review of an individual school: *Provided*, That the state board
382 may direct the Office of Education Performance Audits to
383 conduct an unannounced on-site review of a school or school
384 system if the state board believes circumstances warrant an
385 unannounced on-site review.

386 (3) The Office of Education Performance Audits shall
387 conduct on-site reviews which are limited in scope to specific
388 areas in which performance and progress are persistently below
389 standard as determined by the state board unless specifically
390 directed by the state board to conduct a review which covers
391 additional areas.

392 (4) The Office of Education Performance Audits shall
393 reimburse a county board for the costs of substitutes required to
394 replace county board employees who serve on a review team.

395 (5) At the conclusion of an on-site review of a school
396 system, the director and team leaders shall hold an exit confer-
397 ence with the superintendent and shall provide an opportunity for
398 principals to be present for at least the portion of the conference

399 pertaining to their respective schools. In the case of an on-site
400 review of a school, the exit conference shall be held with the
401 principal and curriculum team of the school and the superinten-
402 dent shall be provided the opportunity to be present. The purpose
403 of the exit conference is to review the initial findings of the
404 on-site review, clarify and correct any inaccuracies and allow the
405 opportunity for dialogue between the reviewers and the school
406 or school system to promote a better understanding of the
407 findings.

408 (6) The Office of Education Performance Audits shall report
409 the findings of an on-site review to the county superintendent
410 and the principals whose schools were reviewed within thirty
411 days following the conclusion of the on-site review. The Office
412 of Education Performance Audits shall report the findings of the
413 on-site review to the state board within forty-five days after the
414 conclusion of the on-site review. A school or county that
415 believes one or more findings of a review are clearly inaccurate,
416 incomplete or misleading, misrepresent or fail to reflect the true
417 quality of education in the school or county or address issues
418 unrelated to the health, safety and welfare of students and the
419 quality of education, may appeal to the state board for removal
420 of the findings. The state board shall establish a process for it to
421 receive, review and act upon the appeals. The state board shall
422 report to the Legislative Oversight Commission on Education
423 Accountability during its July interim meetings, or as soon
424 thereafter as practical, on each appeal during the preceding
425 school year.

426 (7) The Legislature finds that the accountability and over-
427 sight of some activities and programmatic areas in the public
428 schools are controlled through other mechanisms and agencies
429 and that additional accountability and oversight may be unneces-
430 sary, counterproductive and impair necessary resources for
431 teaching and learning. Therefore, the Office of Education

432 Performance Audits may rely on other agencies and mechanisms
433 in its review of schools and school systems.

434 (l) *School accreditation.* –

435 (1) The state board shall establish levels of accreditation to
436 be assigned to schools. The establishment of levels of accredita-
437 tion and the levels shall be subject to the following:

438 (A) The levels will be designed to demonstrate school
439 performance in all the areas outlined in this section and also
440 those established by the state board;

441 (B) The state board shall promulgate legislative rules in
442 accordance with the provisions of article three-b, chapter twenty-
443 nine-a of this code to establish the performance and standards
444 required for a school to be assigned a particular level of accredi-
445 tation; and

446 (C) The state board will establish the levels of accreditation
447 in such a manner as to minimize the number of systems of
448 school recognition, both state and federal, that are employed to
449 recognize and accredit schools.

450 (2) The state board annually shall review the information
451 from the system of education performance audits submitted for
452 each school and shall issue to every school a level of accredita-
453 tion as designated and determined by the state board.

454 (3) The state board, in its exercise of general supervision of
455 the schools and school systems of West Virginia, may exercise
456 any or all of the following powers and actions:

457 (A) To require a school to revise its electronic strategic plan;

458 (B) To define extraordinary circumstances under which the
459 state board may intervene directly or indirectly in the operation
460 of a school;

461 (C) To appoint monitors to work with the principal and staff
462 of a school where extraordinary circumstances are found to exist,
463 and to appoint monitors to assist the school principal after
464 intervention in the operation of a school is completed;

465 (D) To direct a county board to target resources to assist a
466 school where extraordinary circumstances are found to exist;

467 (E) To intervene directly in the operation of a school and
468 declare the position of principal vacant and assign a principal for
469 the school who will serve at the will and pleasure of the state
470 board. If the principal who was removed elects not to remain an
471 employee of the county board, then the principal assigned by the
472 state board shall be paid by the county board. If the principal
473 who was removed elects to remain an employee of the county
474 board, then the following procedure applies:

475 (i) The principal assigned by the state board shall be paid by
476 the state board until the next school term, at which time the
477 principal assigned by the state board shall be paid by the county
478 board;

479 (ii) The principal who was removed is eligible for all
480 positions in the county, including teaching positions, for which
481 the principal is certified, by either being placed on the transfer
482 list in accordance with section seven, article two, chapter
483 eighteen-a of this code, or by being placed on the preferred recall
484 list in accordance with section seven-a, article four, chapter
485 eighteen-a of this code; and

486 (iii) The principal who was removed shall be paid by the
487 county board and may be assigned to administrative duties,
488 without the county board being required to post that position
489 until the end of the school term; and

490 (F) Such other powers and actions the state board determines
491 necessary to fulfill its duties of general supervision of the
492 schools and school systems of West Virginia.

493 (4) The county board may take no action nor refuse any
494 action if the effect would be to impair further the school in
495 which the state board has intervened.

496 (m) *School system approval.* – The state board annually shall
497 review the information submitted for each school system from
498 the system of education performance audits and issue one of the
499 following approval levels to each county board: Full approval,
500 temporary approval, conditional approval or nonapproval.

501 (1) Full approval shall be given to a county board whose
502 schools have all been given full, temporary or conditional
503 accreditation status and which does not have any deficiencies
504 which would endanger student health or safety or other extraor-
505 dinary circumstances as defined by the state board. A fully
506 approved school system in which other deficiencies are discov-
507 ered shall remain on full accreditation status for the remainder
508 of the approval period and shall have an opportunity to correct
509 those deficiencies, notwithstanding other provisions of this
510 subsection.

511 (2) Temporary approval shall be given to a county board
512 whose education system is below the level required for full
513 approval. Whenever a county board is given temporary approval
514 status, the county board shall revise its electronic county
515 strategic improvement plan in accordance with subsection (b) of
516 this section to increase the performance and progress of the
517 school system to a full approval status level. The revised plan
518 shall be submitted to the state board for approval.

519 (3) Conditional approval shall be given to a county board
520 whose education system is below the level required for full
521 approval, but whose electronic county strategic improvement
522 plan meets the following criteria:

523 (A) The plan has been revised in accordance with subsection
524 (b) of this section;

525 (B) The plan has been approved by the state board; and

526 (C) The county board is meeting the objectives and time line
527 specified in the revised plan.

528 (4) Nonapproval status shall be given to a county board
529 which fails to submit and gain approval for its electronic county
530 strategic improvement plan or revised electronic county strategic
531 improvement plan within a reasonable time period as defined by
532 the state board or which fails to meet the objectives and time line
533 of its revised electronic county strategic improvement plan or
534 fails to achieve full approval by the date specified in the revised
535 plan.

536 (A) The state board shall establish and adopt additional
537 standards to identify school systems in which the program may
538 be nonapproved and the state board may issue nonapproval
539 status whenever extraordinary circumstances exist as defined by
540 the state board.

541 (B) Whenever a county board has more than a casual deficit,
542 as defined in section one, article one of this chapter, the county
543 board shall submit a plan to the state board specifying the county
544 board's strategy for eliminating the casual deficit. The state
545 board either shall approve or reject the plan. If the plan is
546 rejected, the state board shall communicate to the county board
547 the reason or reasons for the rejection of the plan. The county
548 board may resubmit the plan any number of times. However, any
549 county board that fails to submit a plan and gain approval for the
550 plan from the state board before the end of the fiscal year after
551 a deficit greater than a casual deficit occurred or any county
552 board which, in the opinion of the state board, fails to comply
553 with an approved plan may be designated as having nonapproval
554 status.

555 (C) Whenever nonapproval status is given to a school
556 system, the state board shall declare a state of emergency in the

557 school system and shall appoint a team of improvement consul-
558 tants to make recommendations within sixty days of appointment
559 for correcting the emergency. When the state board approves the
560 recommendations, they shall be communicated to the county
561 board. If progress in correcting the emergency, as determined by
562 the state board, is not made within six months from the time the
563 county board receives the recommendations, the state board shall
564 intervene in the operation of the school system to cause improve-
565 ments to be made that will provide assurances that a thorough
566 and efficient system of schools will be provided. This interven-
567 tion may include, but is not limited to, the following:

568 (i) Limiting the authority of the county superintendent and
569 county board as to the expenditure of funds, the employment and
570 dismissal of personnel, the establishment and operation of the
571 school calendar, the establishment of instructional programs and
572 rules and any other areas designated by the state board by rule,
573 which may include delegating decision-making authority
574 regarding these matters to the state superintendent;

575 (ii) Declaring that the office of the county superintendent is
576 vacant;

577 (iii) Delegating to the state superintendent both the authority
578 to conduct hearings on personnel matters and school closure or
579 consolidation matters and, subsequently, to render the resulting
580 decisions and the authority to appoint a designee for the limited
581 purpose of conducting hearings while reserving to the state
582 superintendent the authority to render the resulting decisions;

583 (iv) Functioning in lieu of the county board of education in
584 a transfer, sale, purchase or other transaction regarding real
585 property; and

586 (v) Taking any direct action necessary to correct the emer-
587 gency including, but not limited to, the following:

588 (I) Delegating to the state superintendent the authority to
589 replace administrators and principals in low performing schools
590 and to transfer them into alternate professional positions within
591 the county at his or her discretion; and

592 (II) Delegating to the state superintendent the authority to fill
593 positions of administrators and principals with individuals
594 determined by the state superintendent to be the most qualified
595 for the positions. Any authority related to intervention in the
596 operation of a county board granted under this paragraph is not
597 subject to the provisions of article four, chapter eighteen-a of
598 this code;

599 (n) Notwithstanding any other provision of this section, the
600 state board may intervene immediately in the operation of the
601 county school system with all the powers, duties and responsibil-
602 ities contained in subsection (m) of this section, if the state board
603 finds the following:

604 (1) That the conditions precedent to intervention exist as
605 provided in this section; and that delaying intervention for any
606 period of time would not be in the best interests of the students
607 of the county school system; or

608 (2) That the conditions precedent to intervention exist as
609 provided in this section and that the state board had previously
610 intervened in the operation of the same school system and had
611 concluded that intervention within the preceding five years.

612 (o) *Capacity*. – The process for improving education
613 includes a process for targeting resources strategically to
614 improve the teaching and learning process. Development of
615 electronic school and school system strategic improvement
616 plans, pursuant to subsection (b) of this section, is intended, in
617 part, to provide mechanisms to target resources strategically to
618 the teaching and learning process to improve student, school and

619 school system performance. When deficiencies are detected
620 through the assessment and accountability processes, the
621 revision and approval of school and school system electronic
622 strategic improvement plans shall ensure that schools and school
623 systems are efficiently using existing resources to correct the
624 deficiencies. When the state board determines that schools and
625 school systems do not have the capacity to correct deficiencies,
626 the state board shall work with the county board to develop or
627 secure the resources necessary to increase the capacity of schools
628 and school systems to meet the standards and, when necessary,
629 seek additional resources in consultation with the Legislature
630 and the Governor.

631 The state board shall recommend to the appropriate body
632 including, but not limited to, the Legislature, county boards,
633 schools and communities methods for targeting resources
634 strategically to eliminate deficiencies identified in the assess-
635 ment and accountability processes. When making determinations
636 on recommendations, the state board shall include, but is not
637 limited to, the following methods:

638 (1) Examining reports and electronic strategic improvement
639 plans regarding the performance and progress of students,
640 schools and school systems relative to the standards and identify-
641 ing the areas in which improvement is needed;

642 (2) Determining the areas of weakness and of ineffectiveness
643 that appear to have contributed to the substandard performance
644 and progress of students or the deficiencies of the school or
645 school system and requiring the school or school system to work
646 collaboratively with the West Virginia Department of Education
647 State System of Support to correct the deficiencies;

648 (3) Determining the areas of strength that appear to have
649 contributed to exceptional student, school and school system
650 performance and progress and promoting their emulation
651 throughout the system;

652 (4) Requesting technical assistance from the School Building
653 Authority in assessing or designing comprehensive educational
654 facilities plans;

655 (5) Recommending priority funding from the School
656 Building Authority based on identified needs;

657 (6) Requesting special staff development programs from the
658 Center for Professional Development, the Principals Academy,
659 higher education, regional educational service agencies and
660 county boards based on identified needs;

661 (7) Submitting requests to the Legislature for appropriations
662 to meet the identified needs for improving education;

663 (8) Directing county boards to target their funds strategically
664 toward alleviating deficiencies;

665 (9) Ensuring that the need for facilities in counties with
666 increased enrollment are appropriately reflected and recom-
667 mended for funding;

668 (10) Ensuring that the appropriate person or entity is held
669 accountable for eliminating deficiencies; and

670 (11) Ensuring that the needed capacity is available from the
671 state and local level to assist the school or school system in
672 achieving the standards and alleviating the deficiencies.

ARTICLE 2I. PROFESSIONAL DEVELOPMENT.

§18-2I-1. Legislative purpose.

1 The purpose of this article is to establish clear state-level
2 leadership for professional development for all West Virginia
3 public school educators and administrators. As the state institu-
4 tion charged with the general supervision of the state school

5 system, the state board shall institute a system for the coordina-
6 tion and delivery of high-quality professional development. The
7 system shall clearly define the goals for professional develop-
8 ment and delineate roles and responsibilities among the various
9 state and regional professional development providers.

§18-2I-2. Legislative findings.

1 The Legislature finds:

2 (1) That high-quality professional development is critical in
3 supporting improved practice, assuring teacher quality and
4 raising student achievement;

5 (2) That professional development is vital in the state's
6 overall school improvement efforts;

7 (3) That the state board should assure the efficient delivery
8 of high-quality professional development programs and assure
9 that duplication of efforts be minimized and that all stakeholders
10 are appropriately involved in the planning and implementing of
11 programs to meet requisite needs and that high-quality profes-
12 sional development programs be provided to public school
13 educators of West Virginia in the most efficient and cost
14 effective manner; and

15 (4) It should be the goal that professional development occur
16 outside of scheduled instructional time so student learning is not
17 interrupted by the absence of their classroom teacher.

**§18-2I-3. Annual professional development master plan estab-
lished by state board.**

1 (a) The state board annually shall establish a master plan for
2 professional development in the public schools of the state. As
3 a first priority, the state board shall require adequate and
4 appropriate professional development to ensure high-quality

5 teaching that will support improved student achievement, enable
6 students to meet the content standards established for the
7 required curriculum in the public schools and to be prepared for
8 college and careers.

9 (b) The state board annually shall submit the master plan to
10 the State Department of Education, the Center for Professional
11 Development, the regional educational service agencies, the
12 Higher Education Policy Commission and the Legislative
13 Oversight Commission on Education Accountability.

14 (c) The state board shall annually establish goals for
15 professional development and include the goals in the master
16 plan. In establishing the goals, the state board shall review
17 reports that may indicate a need for professional staff develop-
18 ment including, but not limited to, the report of the Center for
19 Professional Development created in article three-a, chapter
20 eighteen-a of this code, student test scores on the statewide
21 student assessment program, the measures of student and school
22 performance for accreditation purposes, school and school
23 district report cards and the state board's plans for the use of
24 funds in the Strategic Staff Development Fund pursuant to
25 section five of this article.

26 (d) Pursuant to section thirty-nine, article two of this chapter
27 the state board shall include in its Master Plan for Professional
28 Staff Development:

29 (1) Professional development for teachers teaching the
30 transitional courses on how to teach the adopted college- and
31 career-readiness standards for English/language arts and math;
32 and

33 (2) Appropriate professional development for other teachers
34 in at least grades eight through twelve on how to teach the
35 adopted college- and career-readiness standards in

36 English/language arts and math directly, as embedded in other
37 subject areas or both, as appropriate.

§18-2I-4. Coordination, development and evaluation of professional development programs.

1 (a) On or before June 1, 2013, the state board shall promul-
2 gate an emergency rule in accordance with article three-b,
3 chapter twenty-nine of this code to ensure the coordination,
4 development and evaluation of high-quality professional
5 development programs. On or before November 1, 2013, the
6 state board shall promulgate a legislative rule for the same
7 purpose. The rules shall include, but are not limited to, the
8 following:

9 (1) Standards for quality professional development that all
10 professional development providers shall use in designing,
11 implementing and evaluating professional development that shall
12 become part of the statewide professional development plan;

13 (2) Processes for assuring professional development
14 resources are appropriately allocated to identified areas of need;

15 (3) Processes for approval by state board of all professional
16 development plans/offerings;

17 (4) Processes for evaluating the effectiveness, efficiency,
18 and impact of the professional development;

19 (5) Processes for ensuring all stakeholders, including
20 affected classroom teachers, have a voice in the identification of
21 needed professional development and various delivery models;

22 (6) Processes for collaboration among West Virginia
23 Department of Education, Center for Professional Development,
24 RESAs, county boards and classroom teachers; and

25 (7) Processes for ensuring that the expertise and experience
 26 of state institutions of higher education with teacher preparation
 27 programs are included in developing and implementing profes-
 28 sional development programs.

29 (b) The state board approval of the proposed professional
 30 development plans/offerings shall establish a Master Plan for
 31 Professional Development which shall be submitted by the state
 32 board to the affected agencies and to the Legislative Oversight
 33 Commission on Education Accountability. The Master Plan shall
 34 include the state board-approved plans for professional develop-
 35 ment by the State Department of Education, the Center for
 36 Professional Development, the state institutions of higher
 37 education and the regional educational service agencies to meet
 38 the professional development goals of the state board.

39 (c) The state board shall submit a report on or before
 40 December 1 of each year on the effectiveness, efficiency and
 41 impact of the statewide professional development plan to the
 42 Legislative Oversight Commission on Education Accountability.

§18-2I-5. Strategic Staff Development Fund.

1 (a) There is created an account within the state board titled
 2 the Strategic Staff Development Fund. The allocation of
 3 balances which accrue in the General School Fund shall be
 4 transferred to the Strategic Staff Development Fund each year
 5 when the balances become available. Any remaining funds
 6 transferred to the Strategic Staff Development Fund during the
 7 fiscal year shall be carried over for use in the same manner the
 8 next fiscal year and shall be separate and apart from, and in
 9 addition to, the transfer of funds from the General School Fund
 10 for the next fiscal year.

11 (b) The money in the Strategic Staff Development Fund shall
 12 be used by the state board to provide staff development in

13 schools, counties or both that the state board determines need
14 additional resources. The state board is required to report to the
15 Legislative Oversight Commission on Education Accountability
16 before December 1, annually, on the effectiveness of the staff
17 development resulting from expenditures in this fund.

ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.

§18-3-1. Appointment; qualifications; compensation; traveling expenses; office and residence; evaluation.

1 There shall be appointed by the state board a State Superin-
2 tendent of Schools who serves at the will and pleasure of the
3 state board. He or she shall be a person of good moral character,
4 shall be able to perform the duties listed in this article and
5 possess such other educational, administrative, experiential and
6 other qualifications as determined by the State Board of Educa-
7 tion. He or she shall hold at least a master's degree from a
8 regionally accredited institution of higher education or equiva-
9 lent degree as determined by the state board. He or she shall
10 receive an annual salary set by the state board, to be paid
11 monthly. The state superintendent also shall receive necessary
12 traveling expenses incident to the performance of his or her
13 duties to be paid out of the General School Fund upon warrants
14 of the State Auditor. The state superintendent shall have his or
15 her office at the state Capitol. The state board shall report to the
16 Legislative Oversight Commission on Education Accountability
17 upon request concerning its progress during any hiring process
18 for a state superintendent.

19 The state board annually shall evaluate the performance of
20 the state superintendent and publicly announce the results of the
21 evaluation.

§18-3-9b. Reduction in amount budgeted for personal services.

1 The state superintendent shall reduce the budgeted amount
2 for personal services, related employee benefits and contractual

3 expenditures related to employment by five percent in fiscal
4 years 2014 and 2015. The reductions shall be taken department
5 wide, excluding the school aid formula and institutionalized
6 services to juveniles and adults, and other direct-service educa-
7 tion expenditures.

§18-3-12. Special Community Development School Pilot Program.

1 (a) The state superintendent shall establish a Special
2 Community Development School Pilot Program to be imple-
3 mented in a neighborhood of at least five public schools, which
4 shall include at least one elementary and middle school, for the
5 duration of five years. The neighborhood of public schools
6 designated by the state superintendent for the pilot shall have
7 significant enrollments of disadvantaged, minority and under-
8 achieving students. The designated neighborhood of public
9 schools under the direction of the county board and county
10 superintendent shall work in collaboration with higher education,
11 community organizations, Center for Professional Development,
12 local community leaders, affected classroom teachers, affected
13 parents and the state board to develop and implement strategies
14 that could be replicated in other public schools with significant
15 enrollments of disadvantaged, minority and underachieving
16 students to improve academic achievement. For purposes of this
17 section “neighborhood” means an area of no more than seven
18 square miles.

19 (b) Beginning in January, 2014, on or before the first day of
20 the regular session of the Legislature, and each year thereafter,
21 the state superintendent, county superintendent for the county in
22 which the schools are located and lead community-based
23 organizations shall make a status report to the Legislative
24 Oversight Commission on Education Accountability and to the
25 state board. The report may include any recommendations based
26 on the progress of the demonstration project that he or she

27 considers either necessary for improving the operations of the
28 demonstration project or prudent for improving student achieve-
29 ment in other public schools through replication of successful
30 demonstration school programs.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-18. Kindergarten programs.

1 (a) County boards shall provide kindergarten programs for
2 all children who have attained the age of five prior to September
3 1, of the school year in which the pupil enters the kindergarten
4 program and may, pursuant to the provisions of section
5 forty-four, article five, chapter eighteen of this code, establish
6 kindergarten programs designed for children below the age of
7 five. The programs for children who shall have attained the age
8 of five shall be full-day everyday programs.

9 (b) Persons employed as kindergarten teachers, as distin-
10 guished from paraprofessional personnel, shall be required to
11 hold a certificate valid for teaching at the assigned level as
12 prescribed by rules established by the state board. The state
13 board shall establish the minimum requirements for all
14 paraprofessional personnel employed in kindergarten programs
15 established pursuant to the provisions of this section and no such
16 paraprofessional personnel may be employed in any kindergarten
17 program unless he or she meets the minimum requirements.
18 Beginning July 1, 2014, any person previously employed as an
19 aide in a kindergarten program and who is employed in the same
20 capacity on and after that date and any new person employed in
21 that capacity in a kindergarten program on and after that date
22 shall hold the position of either Early Childhood Classroom
23 Assistant Teacher - Temporary Authorization, Early Childhood
24 Classroom Assistant Teacher - Permanent Authorization or Early
25 Childhood Classroom Assistant Teacher - Paraprofessional

26 Certificate. Any person employed as an aide in a kindergarten
27 program that is eligible for full retirement benefits before July 1,
28 2020, may remain employed as an aide in that position and may
29 not be required to acquire licensure pursuant to this section.

30 (c) The state board with the advice of the state superinten-
31 dent shall establish and prescribe guidelines and criteria relating
32 to the establishment, operation and successful completion of
33 kindergarten programs in accordance with the other provisions
34 of this section. Guidelines and criteria so established and
35 prescribed also are intended to serve for the establishment and
36 operation of nonpublic kindergarten programs and shall be used
37 for the evaluation and approval of those programs by the state
38 superintendent, provided application for the evaluation and
39 approval is made in writing by proper authorities in control of
40 the programs. The state superintendent, annually, shall publish
41 a list of nonpublic kindergarten programs, including Montessori
42 kindergartens that have been approved in accordance with the
43 provisions of this section. Montessori kindergartens established
44 and operated in accordance with usual and customary practices
45 for the use of the Montessori method which have teachers who
46 have training or experience, regardless of additional certifica-
47 tion, in the use of the Montessori method of instruction for
48 kindergartens shall be considered to be approved.

49 (d) Pursuant to the guidelines and criteria, and only pursuant
50 to the guidelines and criteria, the county boards may establish
51 programs taking kindergarten to the homes of the children
52 involved, using educational television, paraprofessional person-
53 nel in addition to and to supplement regularly certified teachers,
54 mobile or permanent classrooms and other means developed to
55 best carry kindergarten to the child in its home and enlist the aid
56 and involvement of its parent or parents in presenting the
57 program to the child; or may develop programs of a more formal
58 kindergarten type, in existing school buildings, or both, as the
59 county board may determine, taking into consideration the cost,

60 the terrain, the existing available facilities, the distances each
61 child may be required to travel, the time each child may be
62 required to be away from home, the child's health, the involve-
63 ment of parents and other factors as each county board may find
64 pertinent. The determinations by any county board are final and
65 conclusive.

§18-5-44. Early childhood education programs.

1 (a) For the purposes of this section, "early childhood
2 education" means programs for children who have attained the
3 age of four prior to September 1 of the school year in which the
4 pupil enters the program created in this section.

5 (b) *Findings.* –

6 (1) Among other positive outcomes, early childhood
7 education programs have been determined to:

8 (A) Improve overall readiness when children enter school;

9 (B) Decrease behavioral problems;

10 (C) Improve student attendance;

11 (D) Increase scores on achievement tests;

12 (E) Decrease the percentage of students repeating a grade;
13 and

14 (F) Decrease the number of students placed in special
15 education programs;

16 (2) Quality early childhood education programs improve
17 school performance and low-quality early childhood education
18 programs may have negative effects, especially for at-risk
19 children;

20 (3) West Virginia has the lowest percentage of its adult
21 population twenty-five years of age or older with a bachelor's
22 degree and the education level of parents is a strong indicator of
23 how their children will perform in school;

24 (4) During the 2006-2007 school year, West Virginia ranked
25 thirty-ninth among the fifty states in the percentage of school
26 children eligible for free and reduced lunches and this percentage
27 is a strong indicator of how the children will perform in school;

28 (5) For the school year 2008-2009, 13,135 students were
29 enrolled in prekindergarten, a number equal to approximately
30 sixty-three percent of the number of students enrolled in
31 kindergarten;

32 (6) Excluding projected increases due to increases in
33 enrollment in the early childhood education program, projections
34 indicate that total student enrollment in West Virginia will
35 decline by one percent, or by approximately 2704 students, by
36 the school year 2012-2013;

37 (7) In part, because of the dynamics of the state aid formula,
38 county boards will continue to enroll four-year old students to
39 offset the declining enrollments;

40 (8) West Virginia has a comprehensive kindergarten
41 program for five-year olds, but the program was established in
42 a manner that resulted in unequal implementation among the
43 counties which helped create deficit financial situations for
44 several county boards;

45 (9) Expansion of current efforts to implement a comprehen-
46 sive early childhood education program should avoid the
47 problems encountered in kindergarten implementation;

48 (10) Because of the dynamics of the state aid formula,
49 counties experiencing growth are at a disadvantage in imple-

50 mentoring comprehensive early childhood education programs;
51 and

52 (11) West Virginia citizens will benefit from the establish-
53 ment of quality comprehensive early childhood education
54 programs.

55 (c) Beginning no later than the school year 2012-2013, and
56 continuing thereafter, county boards shall provide early child-
57 hood education programs for all children who have attained the
58 age of four prior to September 1 of the school year in which the
59 pupil enters the early childhood education program. Beginning
60 no later than the school year 2016-2017, and continuing thereaf-
61 ter, early childhood education programs that are full day and five
62 days per week shall be available to all children meeting the age
63 requirement set forth in the subsection.

64 (d) The program shall meet the following criteria:

65 (1) It shall be voluntary, except, upon enrollment, the
66 provisions of section one, article eight of this chapter apply to an
67 enrolled student, subject to subdivision (3) of this subsection;

68 (2) All children meeting the age requirement set forth in this
69 section shall have the opportunity to enroll in a program that is
70 full day and five days per week. The program may be for fewer
71 than five days per week and may be less than full day based on
72 family need if a sufficient number of families request such
73 programs and the county board finds that such programs are in
74 the best interest of the requesting families and students: *Pro-*
75 *vided*, That the ability of families to request programs that are
76 fewer than five days a week or less than a full day does not
77 relieve the county of the obligation to provide all resident
78 children with the opportunity to enroll in a full-day program; and

79 (3) A parent of a child enrolled in an early education
80 program may withdraw a child from that program for good cause

81 by notifying the district. Good cause includes, but is not limited
82 to, enrollment of the child in another program or the immaturity
83 of the child. A child withdrawn under this section is not subject
84 to the attendance provisions of this chapter until that child again
85 enrolls in a public school in this state.

86 (e) Enrollment of students in Head Start, in any other
87 program approved by the state superintendent as provided in
88 subsection (k) of this section may be counted toward satisfying
89 the requirement of subsection (c) of this section.

90 (f) For the purposes of implementation financing, all
91 counties are encouraged to make use of funds from existing
92 sources, including:

93 (1) Federal funds provided under the Elementary and
94 Secondary Education Act pursuant to 20 U. S. C. §6301, *et seq.*;

95 (2) Federal funds provided for Head Start pursuant to 42 U.
96 S. C. §9831, *et seq.*;

97 (3) Federal funds for temporary assistance to needy families
98 pursuant to 42 U. S. C. §601, *et seq.*;

99 (4) Funds provided by the School Building Authority
100 pursuant to article nine-d of this chapter;

101 (5) In the case of counties with declining enrollments, funds
102 from the state aid formula above the amount indicated for the
103 number of students actually enrolled in any school year; and

104 (6) Any other public or private funds.

105 (g) Each county board shall develop a plan for implementing
106 the program required by this section. The plan shall include the
107 following elements:

108 (1) An analysis of the demographics of the county related to
109 early childhood education program implementation;

110 (2) An analysis of facility and personnel needs;

111 (3) Financial requirements for implementation and potential
112 sources of funding to assist implementation;

113 (4) Details of how the county board will cooperate and
114 collaborate with other early childhood education programs
115 including, but not limited to, Head Start, to maximize federal and
116 other sources of revenue;

117 (5) Specific time lines for implementation; and

118 (6) Any other items the state board may require by policy.

119 (h) A county board shall submit its plan to the Secretary of
120 the Department of Health and Human Resources. The secretary
121 shall approve the plan if the following conditions are met:

122 (1) The county board has maximized the use of federal and
123 other available funds for early childhood programs;

124 (2) The county board has provided for the maximum
125 implementation of Head Start programs and other public and
126 private programs approved by the state superintendent pursuant
127 to the terms of subsection (k) of this section; and

128 (3) If the Secretary of the Department of Health and Human
129 Resources finds that the county board has not met one or more
130 of the requirements of this subsection, but that the county board
131 has acted in good faith and the failure to comply was not the
132 primary fault of the county board, then the secretary shall
133 approve the plan. Any denial by the secretary may be appealed
134 to the circuit court of the county in which the county board is
135 located.

136 (i) The county board shall submit its plan for approval to the
137 state board. The state board shall approve the plan if the county
138 board has complied substantially with the requirements of
139 subsection (g) of this section and has obtained the approval
140 required in subsection (h) of this section.

141 (j) Every county board shall submit its plan for reapproval
142 by the Secretary of the Department of Health and Human
143 Resources and by the state board at least every two years after
144 the initial approval of the plan and until full implementation of
145 the early childhood education program in the county. As part of
146 the submission, the county board shall provide a detailed
147 statement of the progress made in implementing its plan. The
148 standards and procedures provided for the original approval of
149 the plan apply to any reapproval.

150 (k) A county board may not increase the total number of
151 students enrolled in the county in an early childhood program
152 until its program is approved by the Secretary of the Department
153 of Health and Human Resources and the state board.

154 (l) The state board annually may grant a county board a
155 waiver for total or partial implementation if the state board finds
156 that all of the following conditions exist:

157 (1) The county board is unable to comply either because:

158 (A) It does not have sufficient facilities available; or

159 (B) It does not and has not had available funds sufficient to
160 implement the program;

161 (2) The county has not experienced a decline in enrollment
162 at least equal to the total number of students to be enrolled; and

163 (3) Other agencies of government have not made sufficient
164 funds or facilities available to assist in implementation.

165 Any county board seeking a waiver shall apply with the
166 supporting data to meet the criteria for which they are eligible on
167 or before March 25 for the following school year. The state
168 superintendent shall grant or deny the requested waiver on or
169 before April 15 of that same year.

170 (m) The provisions of subsections (b), (c) and (d), section
171 eighteen of this article relating to kindergarten apply to early
172 childhood education programs in the same manner in which they
173 apply to kindergarten programs.

174 (n) Annually, the state board shall report to the Legislative
175 Oversight Commission on Education Accountability on the
176 progress of implementation of this section.

177 (o) Except as required by federal law or regulation, no
178 county board may enroll students who will be less than four
179 years of age prior to September 1 for the year they enter school.

180 (p) Neither the state board nor the state department may
181 provide any funds to any county board for the purpose of
182 implementing this section unless the county board has a plan
183 approved pursuant to subsections (h), (i) and (j) of this section.

184 (q) The state board shall promulgate a rule in accordance
185 with the provisions of article three-b, chapter twenty-nine-a of
186 this code for the purposes of implementing the provisions of this
187 section. The state board shall consult with the Secretary of the
188 Department of Health and Human Resources in the preparation
189 of the rule. The rule shall contain the following:

- 190 (1) Standards for curriculum;
- 191 (2) Standards for preparing students;
- 192 (3) Attendance requirements;
- 193 (4) Standards for personnel; and

194 (5) Any other terms necessary to implement the provisions
195 of this section.

196 (r) The rule shall include the following elements relating to
197 curriculum standards:

198 (1) A requirement that the curriculum be designed to address
199 the developmental needs of four-year old children, consistent
200 with prevailing research on how children learn;

201 (2) A requirement that the curriculum be designed to achieve
202 long-range goals for the social, emotional, physical and aca-
203 demic development of young children;

204 (3) A method for including a broad range of content that is
205 relevant, engaging and meaningful to young children;

206 (4) A requirement that the curriculum incorporate a wide
207 variety of learning experiences, materials and equipment, and
208 instructional strategies to respond to differences in prior experi-
209 ence, maturation rates and learning styles that young children
210 bring to the classroom;

211 (5) A requirement that the curriculum be designed to build
212 on what children already know in order to consolidate their
213 learning and foster their acquisition of new concepts and skills;

214 (6) A requirement that the curriculum meet the recognized
215 standards of the relevant subject matter disciplines;

216 (7) A requirement that the curriculum engage children
217 actively in the learning process and provide them with opportu-
218 nities to make meaningful choices;

219 (8) A requirement that the curriculum emphasize the
220 development of thinking, reasoning, decisionmaking and
221 problem-solving skills;

222 (9) A set of clear guidelines for communicating with parents
223 and involving them in decisions about the instructional needs of
224 their children; and

225 (10) A systematic plan for evaluating program success in
226 meeting the needs of young children and for helping them to be
227 ready to succeed in school.

228 (s) The secretary and the state superintendent shall submit a
229 report to the Legislative Oversight Commission on Education
230 Accountability and the Joint Committee on Government and
231 Finance which addresses, at a minimum, the following issues:

232 (1) A summary of the approved county plans for providing
233 the early childhood education programs pursuant to this section;

234 (2) An analysis of the total cost to the state and county
235 boards of implementing the plans;

236 (3) A separate analysis of the impact of the plans on counties
237 with increasing enrollment; and

238 (4) An analysis of the effect of the programs on the maxi-
239 mization of the use of federal funds for early childhood programs.

240 The intent of this subsection is to enable the Legislature to
241 proceed in a fiscally responsible manner, make any necessary
242 program improvements based on reported information prior to
243 implementation of the early childhood education programs.

244 (t) After the school year 2012-2013, on or before July 1 of
245 each year, each county board shall report the following informa-
246 tion to the Secretary of the Department of Health and Human
247 Resources and the state superintendent:

248 (1) Documentation indicating the extent to which county
249 boards are maximizing resources by using the existing capacity

250 of community-based programs, including, but not limited to,
251 Head Start and child care; and

252 (2) For those county boards that are including eligible
253 children attending approved, contracted community-based
254 programs in their net enrollment for the purposes of calculating
255 state aid pursuant to article nine-a of this chapter, documentation
256 that the county board is equitably distributing funding for all
257 children regardless of setting.

§18-5-45. School calendar.

1 (a) As used in this section:

2 (1) “Instructional day” means a day within the instructional
3 term which meets the following criteria:

4 (A) Instruction is offered to students for at least the mini-
5 mum amount of hours provided by state board rule;

6 (B) Instructional time is used for instruction and cocurricular
7 activities; and

8 (C) Other criteria as the state board determines appropriate.

9 (2) “Cocurricular activities” are activities that are closely
10 related to identifiable academic programs or areas of study that
11 serve to complement academic curricula as further defined by
12 the state board.

13 (b) *Findings.* –

14 (1) The primary purpose of the school system is to provide
15 instruction for students.

16 (2) The school calendar, as defined in this section, is
17 designed to define the school term both for employees and for
18 instruction.

19 (3) The school calendar shall provide for one hundred eighty
20 separate instructional days.

21 (c) The county board shall provide a school term for its
22 schools that contains the following:

23 (1) An employment term that excludes Saturdays and
24 Sundays and consists of at least two hundred days, which need
25 not be successive. The beginning and closing dates of the
26 employment term may not exceed forty-eight weeks;

27 (2) Within the employment term, an instructional term for
28 students of no less than one hundred eighty separate instructional
29 days, which includes an inclement weather and emergencies plan
30 designed to guarantee an instructional term for students of no
31 less than one hundred eighty separate instructional days;

32 (3) Within the employment term, noninstructional days shall
33 total twenty and shall be comprised of the following:

34 (A) Seven paid holidays;

35 (B) Election day as specified in section two, article five,
36 chapter eighteen-a of this code;

37 (C) Six days to be designated by the county board to be used
38 by the employees outside the school environment, with at least
39 four outside the school environment days scheduled to occur
40 after the one hundred and thirtieth instructional day of the school
41 calendar; and

42 (D) The remaining days to be designated by the county board
43 for purposes to include, but not be limited to:

44 (i) Curriculum development;

45 (ii) Preparation for opening and closing school;

46 (iii) Professional development;

- 47 (iv) Teacher-pupil-parent conferences;
- 48 (v) Professional meetings;
- 49 (vi) Making up days when instruction was scheduled but not
50 conducted; and
- 51 (vii) At least four two-hour blocks of time for faculty senate
52 meetings with each two-hour block of time scheduled once at
53 least every forty-five instructional days; and
- 54 (4) Scheduled out-of-calendar days that are to be used for
55 instructional days in the event school is canceled for any reason.
- 56 (d) A county board of education shall develop a policy that
57 requires additional minutes of instruction in the school day or
58 additional days of instruction to recover time lost due to late
59 arrivals and early dismissals.
- 60 (e) If it is not possible to complete one hundred eighty
61 separate instructional days with the current school calendar, the
62 county board shall schedule instruction on any available
63 noninstructional day, regardless of the purpose for which the day
64 originally was scheduled, or an out-of-calendar day and the day
65 will be used for instruction of students: *Provided*, That the
66 provisions of this subsection do not apply to:
- 67 (A) Holidays;
- 68 (B) Election day;
- 69 (C) Saturdays and Sundays.
- 70 (f) The instructional term shall commence and terminate on
71 a date selected by the county board.
- 72 (g) The state board may not schedule the primary statewide
73 assessment program more than thirty days prior to the end of the

74 instructional year unless the state board determines that the
75 nature of the test mandates an earlier testing date.

76 (h) The following applies to cocurricular activities:

77 (1) The state board shall determine what activities may be
78 considered cocurricular;

79 (2) The state board shall determine the amount of instruc-
80 tional time that may be consumed by cocurricular activities; and

81 (3) Other requirements or restrictions the state board may
82 provide in the rule required to be promulgated by this section.

83 (i) Extracurricular activities may not be used for instruc-
84 tional time.

85 (j) Noninstructional interruptions to the instructional day
86 shall be minimized to allow the classroom teacher to teach.

87 (k) Prior to implementing the school calendar, the county
88 board shall secure approval of its proposed calendar from the
89 state board or, if so designated by the state board, from the state
90 superintendent.

91 (l) In formulation of a school's calendar, a county school
92 board shall hold at least two public meetings that allow parents,
93 teachers, teacher organizations, businesses and other interested
94 parties within the county to discuss the school calendar. The
95 public notice of the date, time and place of the public hearing
96 must be published in a local newspaper of general circulation in
97 the area as a Class II legal advertisement, in accordance with the
98 provisions of article three, chapter fifty-nine of this code.

99 (m) The county board may contract with all or part of the
100 personnel for a longer term of employment.

101 (n) The minimum instructional term may be decreased by
102 order of the state superintendent in any county declared a federal

103 disaster area and where the event causing the declaration is
104 substantially related to a reduction of instructional days.

105 (o) Notwithstanding any provision of this code to the
106 contrary, the state board may grant a waiver to a county board
107 for its noncompliance with provisions of chapter eighteen,
108 eighteen-a, eighteen-b and eighteen-c of this code to maintain
109 compliance in reaching the mandatory one hundred eighty
110 separate instructional days established in this section.

111 (p) The state board shall promulgate a rule in accordance
112 with the provisions of article three-b, chapter twenty-nine-a of
113 this code for the purpose of implementing the provisions of this
114 section.

115 (q) The amendments to this section during the 2013 regular
116 session of the Legislature shall be effective for school years
117 beginning on or after July 1, 2013, and the provisions of this
118 section immediately prior to those amendments remain in effect
119 until July 1, 2013.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A-5. Public school faculty senates established; election of officers; powers and duties.

1 (a) There is established at every public school in this state a
2 faculty senate which is comprised of all permanent, full-time
3 professional educators employed at the school who shall all be
4 voting members. Professional educators, as used in this section,
5 means “professional educators” as defined in chapter eighteen-a
6 of this code. A quorum of more than one half of the voting
7 members of the faculty shall be present at any meeting of the
8 faculty senate at which official business is conducted. Prior to
9 the beginning of the instructional term each year, but within the
10 employment term, the principal shall convene a meeting of the
11 faculty senate to elect a chair, vice chair and secretary and

12 discuss matters relevant to the beginning of the school year. The
13 vice chair shall preside at meetings when the chair is absent.
14 Meetings of the faculty senate shall be held during the times
15 provided in accordance with subdivision (12), subsection (b) of
16 this section as determined by the faculty senate. Emergency
17 meetings may be held during noninstructional time at the call of
18 the chair or a majority of the voting members by petition
19 submitted to the chair and vice chair. An agenda of matters to be
20 considered at a scheduled meeting of the faculty senate shall be
21 available to the members at least two employment days prior to
22 the meeting. For emergency meetings the agenda shall be
23 available as soon as possible prior to the meeting. The chair of
24 the faculty senate may appoint such committees as may be
25 desirable to study and submit recommendations to the full
26 faculty senate, but the acts of the faculty senate shall be voted
27 upon by the full body.

28 (b) In addition to any other powers and duties conferred by
29 law, or authorized by policies adopted by the state or county
30 board or bylaws which may be adopted by the faculty senate not
31 inconsistent with law, the powers and duties listed in this
32 subsection are specifically reserved for the faculty senate. The
33 intent of these provisions is neither to restrict nor to require the
34 activities of every faculty senate to the enumerated items except
35 as otherwise stated. Each faculty senate shall organize its
36 activities as it considers most effective and efficient based on
37 school size, departmental structure and other relevant factors.

38 (1) Each faculty senate shall control funds allocated to the
39 school from legislative appropriations pursuant to section nine,
40 article nine-a of this chapter. From those funds, each classroom
41 teacher and librarian shall be allotted \$100 for expenditure
42 during the instructional year for academic materials, supplies or
43 equipment which, in the judgment of the teacher or librarian,
44 will assist him or her in providing instruction in his or her
45 assigned academic subjects or shall be returned to the faculty

46 senate: *Provided*, That nothing contained herein prohibits the
47 funds from being used for programs and materials that, in the
48 opinion of the teacher, enhance student behavior, increase
49 academic achievement, improve self esteem and address the
50 problems of students at risk. The remainder of funds shall be
51 expended for academic materials, supplies or equipment in
52 accordance with a budget approved by the faculty senate.
53 Notwithstanding any other provisions of the law to the contrary,
54 funds not expended in one school year are available for expendi-
55 ture in the next school year: *Provided, however*, That the amount
56 of county funds budgeted in a fiscal year may not be reduced
57 throughout the year as a result of the faculty appropriations in
58 the same fiscal year for such materials, supplies and equipment.
59 Accounts shall be maintained of the allocations and expenditures
60 of such funds for the purpose of financial audit. Academic
61 materials, supplies or equipment shall be interpreted broadly, but
62 does not include materials, supplies or equipment which will be
63 used in or connected with interscholastic athletic events.

64 (2) A faculty senate may establish a process for members to
65 interview or otherwise obtain information regarding applicants
66 for classroom teaching vacancies that will enable the faculty
67 senate to submit recommendations regarding employment to the
68 principal. To facilitate the establishment of a process that is
69 timely, effective, consistent among schools and counties, and
70 designed to avoid litigation or grievance, the state board shall
71 promulgate a rule pursuant to article three-b, chapter twenty-
72 nine-a of this code to implement the provisions of this subdivi-
73 sion. The rule may include the following:

74 (A) A process or alternative processes that a faculty senate
75 may adopt;

76 (B) If determined necessary, a requirement and procedure for
77 training for principals and faculty senate members or their
78 designees who may participate in interviews and provisions that
79 may provide for the compensation based on the appropriate daily

80 rate of a classroom teacher who directly participates in the
81 training for periods beyond his or her individual contract;

82 (C) Time lines that will assure the timely completion of the
83 recommendation or the forfeiture of the right to make a recom-
84 mendation upon the failure to complete a recommendation
85 within a reasonable time;

86 (D) The authorization of the faculty senate to delegate the
87 process for making a recommendation to a committee of no less
88 than three members of the faculty senate; and

89 (E) Such other provisions as the state board determines are
90 necessary or beneficial for the process to be established by the
91 faculty senate.

92 (3) A faculty senate may nominate teachers for recognition
93 as outstanding teachers under state and local teacher recognition
94 programs and other personnel at the school, including parents,
95 for recognition under other appropriate recognition programs and
96 may establish such programs for operation at the school.

97 (4) A faculty senate may submit recommendations to the
98 principal regarding the assignment scheduling of secretaries,
99 clerks, aides and paraprofessionals at the school.

100 (5) A faculty senate may submit recommendations to the
101 principal regarding establishment of the master curriculum
102 schedule for the next ensuing school year.

103 (6) A faculty senate may establish a process for the review
104 and comment on sabbatical leave requests submitted by employ-
105 ees at the school pursuant to section eleven, article two of this
106 chapter.

107 (7) Each faculty senate shall elect three faculty representa-
108 tives to the local school improvement council established
109 pursuant to section two of this article.

110 (8) Each faculty senate may nominate a member for election
111 to the county staff development council pursuant to section
112 eight, article three, chapter eighteen-a of this code.

113 (9) Each faculty senate shall have an opportunity to make
114 recommendations on the selection of faculty to serve as mentors
115 for beginning teachers under beginning teacher internship
116 programs at the school.

117 (10) A faculty senate may solicit, accept and expend any
118 grants, gifts, bequests, donations and any other funds made
119 available to the faculty senate: *Provided*, That the faculty senate
120 shall select a member who has the duty of maintaining a record
121 of all funds received and expended by the faculty senate, which
122 record shall be kept in the school office and is subject to normal
123 auditing procedures.

124 (11) Any faculty senate may review the evaluation procedure
125 as conducted in their school to ascertain whether the evaluations
126 were conducted in accordance with the written system required
127 pursuant to section twelve, article two, chapter eighteen-a of this
128 code or pursuant to section two, article three-c, chapter eighteen-
129 a of this code, as applicable, and the general intent of this
130 Legislature regarding meaningful performance evaluations of
131 school personnel. If a majority of members of the faculty senate
132 determine that such evaluations were not so conducted, they
133 shall submit a report in writing to the State Board of Education:
134 *Provided*, That nothing herein creates any new right of access to
135 or review of any individual's evaluations.

136 (12) A local board shall provide to each faculty senate a
137 two-hour block of time for a faculty senate meeting on a day
138 scheduled for the opening of school prior to the beginning of the
139 instructional term and at least four additional two-hour blocks of
140 time during noninstructional days, with each two-hour block of
141 time scheduled once at least every forty-five instructional days.
142 A faculty senate may meet for an unlimited block of time during

143 noninstructional days to discuss and plan strategies to improve
144 student instruction and to conduct other faculty senate business.
145 A faculty senate meeting scheduled on a noninstructional day
146 shall be considered as part of the purpose for which the
147 noninstructional day is scheduled. This time may be used and
148 determined at the local school level and includes, but is not
149 limited to, faculty senate meetings.

150 (13) Each faculty senate shall develop a strategic plan to
151 manage the integration of special needs students into the regular
152 classroom at their respective schools and submit the strategic
153 plan to the superintendent of the county board periodically
154 pursuant to guidelines developed by the State Department of
155 Education. Each faculty senate shall encourage the participation
156 of local school improvement councils, parents and the commu-
157 nity at large in developing the strategic plan for each school.

158 Each strategic plan developed by the faculty senate shall
159 include at least: (A) A mission statement; (B) goals; (C) needs;
160 (D) objectives and activities to implement plans relating to each
161 goal; (E) work in progress to implement the strategic plan; (F)
162 guidelines for placing additional staff into integrated classrooms
163 to meet the needs of exceptional needs students without dimin-
164 ishing the services rendered to the other students in integrated
165 classrooms; (G) guidelines for implementation of collaborative
166 planning and instruction; and (H) training for all regular class-
167 room teachers who serve students with exceptional needs in
168 integrated classrooms.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-1. Employment in general.

1 (a) The employment of professional personnel shall be made
2 by the board only upon nomination and recommendation of the
3 superintendent, subject to the following:

4 (1) The superintendent shall provide the principal at the
5 school at which the professional educator or paraprofessional
6 employee is to be employed an opportunity to interview all
7 qualified applicants and make recommendations to the county
8 superintendent regarding their employment;

9 (2) The principal may not recommend for employment an
10 individual who is related to him or her as father, mother, son,
11 daughter, brother, sister, uncle, aunt, first cousin, nephew, niece,
12 husband, wife, father-in-law, mother-in-law, son-in-law,
13 daughter-in-law, brother-in-law, sister-in-law, stepfather,
14 stepmother, stepson, stepdaughter, stepbrother, stepsister, half
15 brother or half sister;

16 (3) Nothing shall prohibit the timely employment of persons
17 to perform necessary duties;

18 (4) In case the board refuses to employ any or all of the
19 persons nominated, the superintendent shall nominate others and
20 submit the same to the board at such time as the board may
21 direct;

22 (5) All personnel so nominated and recommended for
23 employment and for subsequent assignment shall meet the
24 certification, licensing, training and other eligibility classifica-
25 tions as may be required by provisions of this chapter and by
26 state board rule. In addition to any other information required,
27 the application for any certification or licensing shall include the
28 applicant's Social Security number.

29 (b) Professional personnel employed as deputy, associate or
30 assistant superintendents by the board in offices, departments or
31 divisions at locations other than a school and who are directly
32 answerable to the superintendent shall serve at the will and
33 pleasure of the superintendent and may be removed by the
34 superintendent upon approval of the board. Such professional

35 personnel shall retain seniority rights only in the area or areas in
36 which they hold valid certification or licensure.

**§18A-2-7. Assignment, transfer, promotion, demotion, suspension
and recommendation of dismissal of school personnel
by superintendent; preliminary notice of transfer;
hearing on the transfer; proof required.**

1 (a) The superintendent, subject only to approval of the board,
2 may assign, transfer, promote, demote or suspend school
3 personnel and recommend their dismissal pursuant to provisions
4 of this chapter. However, an employee shall be notified in
5 writing by the superintendent on or before March 1 if he or she
6 is being considered for transfer or to be transferred. Only those
7 employees whose consideration for transfer or intended transfer
8 is based upon known or expected circumstances which will
9 require the transfer of employees shall be considered for transfer
10 or intended for transfer and the notification shall be limited to
11 only those employees. Any teacher or employee who desires to
12 protest the proposed transfer may request in writing a statement
13 of the reasons for the proposed transfer. The statement of reasons
14 shall be delivered to the teacher or employee within ten days of
15 the receipt of the request. Within ten days of the receipt of the
16 statement of the reasons, the teacher or employee may make
17 written demand upon the superintendent for a hearing on the
18 proposed transfer before the county board. The hearing on the
19 proposed transfer shall be held on or before April 15. At the
20 hearing, the reasons for the proposed transfer must be shown.

21 (b) The superintendent at a meeting of the board on or before
22 April 15 shall furnish in writing to the board a list of teachers
23 and other employees to be considered for transfer and subse-
24 quent assignment for the next ensuing school year. An employee
25 who was not provided notice and an opportunity for a hearing
26 pursuant to subsection (a) of this section may not be included on
27 the list. All other teachers and employees not so listed shall be
28 considered as reassigned to the positions or jobs held at the time

29 of this meeting. The list of those recommended for transfer shall
30 be included in the minute record of the meeting and all those so
31 listed shall be notified in writing, which notice shall be delivered
32 in writing, by certified mail, return receipt requested, to the
33 persons' last known addresses within ten days following the
34 board meeting, of their having been so recommended for transfer
35 and subsequent assignment and the reasons therefor.

36 (c) The superintendent's authority to suspend school
37 personnel shall be temporary only pending a hearing upon
38 charges filed by the superintendent with the county board and the
39 period of suspension may not exceed thirty days unless extended
40 by order of the board.

41 (d) The provisions of this section respecting hearing upon
42 notice of transfer is not applicable in emergency situations where
43 the school building becomes damaged or destroyed through an
44 unforeseeable act and which act necessitates a transfer of the
45 school personnel because of the aforementioned condition of the
46 building.

47 (e) Notwithstanding this section or any provision of this
48 code, when actual student enrollment in a grade level or pro-
49 gram, unforeseen before March 1 of the preceding school year,
50 permits the assignment of fewer teachers or service personnel to
51 or within a school under any pupil-teacher ratio, class size or
52 caseload standard established in section eighteen-a, article five,
53 chapter eighteen of this code or any policy of the state board, the
54 superintendent, with board approval, may reassign the surplus
55 personnel to another school or to another grade level or program
56 within the school if needed there to comply with any such
57 pupil-teacher ratio, class size or caseload standard.

58 (1) Before any reassignment may occur pursuant to this
59 subsection, notice shall be provided to the employee and the
60 employee shall be provided an opportunity to appear before the

61 county board to state the reasons for his or her objections, if any,
62 prior to the board voting on the reassignment.

63 (2) Except as otherwise provided in subdivision (1) of this
64 subsection, the reassignment may be made without following the
65 notice and hearing provisions of this section, and at any time
66 during the school year when the conditions of this subsection are
67 met: *Provided*, That the reassignment may not occur after the
68 last day of the second school month.

69 (3) A professional employee reassigned under this subsec-
70 tion shall be the least senior of the surplus professional personnel
71 who holds certification or licensure to perform the duties at the
72 other school or at the grade level or program within the school.

73 (4) A service employee reassigned under this subsection
74 shall be the least senior of the surplus personnel who holds the
75 same classification or multiclassification needed to perform the
76 duties at the other school or at the grade level or program within
77 the same school.

78 (5) No school employee's annual contract term, compensa-
79 tion or benefits shall be changed as a result of a reassignment
80 under this subsection.

ARTICLE 3. TRAINING; CERTIFICATION; LICENSING; PROFESSIONAL DEVELOPMENT.

§18A-3-1d. Study of alternative certification programs.

1 The state board shall conduct a study on alternative certifica-
2 tion programs, including the effectiveness of the current methods
3 of alternative certification, any improvements needed on current
4 methods of alternative certification and potential additional
5 methods of certification that would enhance the ability of the
6 State of West Virginia to place effective teachers in areas of high
7 need. "Areas of high need" means those subject areas, public

8 schools or geographic areas of the state in which the state board
9 determines that critical teacher shortages exist. The board shall
10 report its findings and recommendations to the Legislative
11 Oversight Commission on Education Accountability no later
12 than December 31, 2013.

ARTICLE 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.

§18A-3A-1. Center for Professional Development; intent and mission; Principals Academy curriculum and expenses; authorization to charge fees.

1 (a) Teaching is a profession that directly correlates to the
2 social and economic well being of a society and its citizens.
3 Superior teaching is essential to a well-educated and productive
4 populace. Strong academic leadership provided by principals and
5 administrators skilled in modern management principles is also
6 essential. The intent of this article is to recognize the value of
7 professional involvement by experienced educators, principals
8 and administrators in building and maintaining a superior force
9 of professional educators and to establish avenues for applying
10 this involvement.

11 (b) The general mission of the center is to advance the
12 quality of teaching and management in the schools of West
13 Virginia through: (1) The implementation primarily of statewide
14 training, professional staff development, including professional
15 staff development for at least teachers, principals and
16 paraprofessionals and technical assistance programs and
17 practices as recommended by the state board to assure the
18 highest quality of teaching and management; and (2) the
19 provision of technical and other assistance and support to
20 regional and local education agencies in identifying and provid-
21 ing high-quality professional staff development, including
22 professional staff development for at least teachers, principals

23 and paraprofessionals, and training programs and implementing
24 best practices to meet their locally identified needs. The center
25 also may implement local programs if the state board, in its
26 Master Plan for Professional Staff Development established
27 pursuant to article two-i, chapter eighteen-a of this code,
28 determines that there is a specific local need for the programs.
29 Additionally, the center shall perform other duties assigned to it
30 by law.

31 Nothing in this article requires any specific level of funding
32 by the Legislature.

33 (c) The Center for Professional Development Board is
34 reconstituted, and all terms of members elected or appointed
35 prior to the effective date of this section are expired. The center
36 board shall consist of thirteen persons as follows:

37 (1) The Secretary of Education and the Arts, ex officio, and
38 the state superintendent, ex officio, each of whom is:

39 (A) Entitled to vote; and

40 (B) A cochair of the board.

41 (2) Two members of the state board, elected by the state
42 board;

43 (3) One person employed by West Virginia University and
44 one person employed by Marshall University, both of whom are:

45 (A) Appointed by the president of the employing institution;

46 (B) Faculty in the teacher education section of the employing
47 institution; and

48 (C) Knowledgeable in matters relevant to the issues ad-
49 dressed by the center;

50 (4) One regional education service agency executive
51 director, elected by all of the regional education service agency
52 executive directors;

53 (5) Three experienced educators, of whom one is a working
54 classroom teacher, one is a school principal and one is a county
55 administrator. All such educators are:

56 (A) Appointed by the Governor by and with the advice and
57 consent of the Senate;

58 (B) Experienced educators who have achieved recognition
59 for their superior knowledge, ability and performance in teaching
60 or management, as applicable; and

61 (C) Knowledgeable in matters relevant to the issues ad-
62 dressed by the center; and

63 (6) Three citizens of the state who are:

64 (A) Knowledgeable in matters relevant to the issues ad-
65 dressed by the center, including, but not limited to, professional
66 development and management principles; and

67 (B) Appointed by the Governor by and with the advice and
68 consent of the Senate.

69 (C) Not more than two such members may be residents
70 within the same congressional district.

71 (d) Each appointment and election is for a two-year term.
72 Such members may serve no more than two consecutive
73 two-year terms.

74 (1) The state board shall elect another member to fill the
75 unexpired term of any person who vacates state board member-
76 ship.

77 (2) The regional education service agency executive
78 directors shall elect an executive director to fill the unexpired
79 term of any executive director who ceases to be employed in that
80 capacity.

81 (3) Of the initial members appointed by the Governor, three
82 are appointed for one-year terms and three are appointed for
83 two-year terms. Each successive appointment by the Governor
84 is for a two-year term. The Governor shall appoint a new
85 member to fill the unexpired term of any vacancy in the ap-
86 pointed membership.

87 (4) The President of West Virginia University and Marshall
88 University each appoints an employee to fill the unexpired term
89 of any member who ceases to be employed by that institution.

90 (e) The Center for Professional Development Board shall
91 meet at least quarterly and the appointed members shall be
92 reimbursed for reasonable and necessary expenses actually
93 incurred in the performance of their official duties from funds
94 appropriated or otherwise made available for those purposes
95 upon submission of an itemized statement therefor.

96 (f) The position of executive director is abolished. The
97 Governor shall appoint, by and with the advice and consent of
98 the Senate, a chief executive officer with knowledge and
99 experience in professional development and management
100 principles. Any reference in this code to the Executive Director
101 of the Center for Professional Development means the Chief
102 Executive Officer. From appropriations to the Center for
103 Professional Development, the center board sets the salary of the
104 chief executive officer. The center board, upon the recommenda-
105 tion of the chief executive officer, may employ other staff
106 necessary to carry out the mission and duties of the center. The
107 chief executive officer serves at the will and pleasure of the
108 Governor. Annually, the center board shall evaluate the chief

109 executive officer, and shall report the results to the Governor.

110 The duties of the chief executive officer include:

111 (1) Managing the daily operations of the center;

112 (2) Ensuring the implementation of the center's mission;

113 (3) Ensuring collaboration of the center with other profes-
114 sional development providers;

115 (4) Requesting from the Governor and the Legislature any
116 resources or statutory changes that would help in enhancing the
117 collaboration of all professional development providers in the
118 state, in advancing the quality of professional development
119 through any other means or both;

120 (5) Serving as the Chair of the Principals Standards Advisory
121 Council created in section two-c, article three of this chapter and
122 convening regular meetings of this council to effectuate its
123 purposes; and

124 (6) Other duties as assigned by the Governor or the center
125 board.

126 (g) When practicable, personnel employed by state higher
127 education agencies and state, regional and county public
128 education agencies shall be made available to the center to assist
129 in the operation of projects of limited duration, subject to the
130 provisions of section twenty-four, article two, chapter eighteen
131 of this code.

132 (h) The center shall assist in the delivery of programs and
133 activities pursuant to this article to meet statewide, and if needed
134 as determined by the goals and Master Plan for Professional
135 Staff Development established by the state board pursuant to
136 article two-i, chapter eighteen-a of this code, the local profes-
137 sional development needs of paraprofessionals, teachers,

138 principals and administrators and may contract with existing
139 agencies or agencies created after the effective date of this
140 section or others to provide training programs in the most
141 efficient manner. Existing programs currently based in agencies
142 of the state shall be continued in the agency of their origin unless
143 the center establishes a compelling need to transfer or cancel the
144 existing program. The center shall recommend to the Governor
145 the transfer of funds to the providing agency, if needed, to
146 provide programs approved by the center.

147 (i) The Center for Professional Development shall imple-
148 ment training and professional development programs for the
149 Principals Academy based upon the minimum qualities,
150 proficiencies and skills necessary for principals in accordance
151 with the standards established by the state board pursuant to the
152 terms of section two-c, article three of this chapter.

153 (j) In accordance with section two-c, article three of this
154 chapter, the center is responsible for paying reasonable and
155 necessary expenses for persons attending the Principals Acad-
156 emy: *Provided*, That nothing in this section requires any specific
157 level of funding by the Legislature.

158 (k) Persons attending the professional development offerings
159 of the center and other courses and services offered by the
160 Center for Professional Development, except the Principals
161 Academy shall be assessed fees which shall be less than the full
162 cost of attendance. There is hereby created in the State Treasury
163 a special revenue account known as the Center for Professional
164 Development Fund. All moneys collected by the center shall be
165 deposited in the fund for expenditure by the center board for the
166 purposes specified in this section. Moneys remaining in the fund
167 at the end of the fiscal year are subject to reappropriation by the
168 Legislature.

169 (l) The center board shall make collaboration with the state
170 board in providing professional development services in the
171 following areas a priority:

172 (1) Services to those public schools selected by the state
173 superintendent pursuant to section three-g, article two-e, chapter
174 eighteen of this code; and

175 (2) Services in any specific subject matter area that the state
176 board, the Legislature or both, determine is justified due to a
177 need to increase student achievement in that area.

§18A-3A-2. Professional development project.

1 Subject to the provisions of article two-i, chapter eighteen-a
2 of this code, through this project the Center for Professional
3 Development shall:

4 (1) Identify, coordinate, arrange and otherwise assist in the
5 delivery of professional development programs and activities
6 that help professional educators acquire the knowledge, skills,
7 attitudes, practices and other such pertinent complements
8 considered essential for an individual to demonstrate appropriate
9 performance as a professional person in the public schools of
10 West Virginia. The basis for the performance shall be the laws,
11 policies and regulations adopted for the public schools of West
12 Virginia, and amendments thereto. The center also may permit
13 and encourage school personnel such as classroom aides, higher
14 education teacher education faculty and higher education faculty
15 in programs such as articulated tech prep associate degree and
16 other programs to participate in appropriate professional
17 development programs and activities with public school profes-
18 sional educators;

19 (2) Identify, coordinate, arrange and otherwise assist in the
20 delivery of professional development programs and activities
21 that help principals and administrators acquire knowledge, skills,
22 attitudes and practices in academic leadership and management
23 principles for principals and administrators and such other
24 pertinent complements considered essential for principals and
25 administrators to demonstrate appropriate performance in the

26 public schools of West Virginia. The basis for the performance
27 shall be the laws, policies and regulations adopted for the public
28 schools of West Virginia, and amendments thereto;

29 (3) Serve in a coordinating capacity to assure that the
30 knowledge, skills, attitude and other pertinent complements of
31 appropriate professional performance which evolve over time in
32 the public school environment are appropriately reflected in the
33 programs approved for the education of professional personnel,
34 including, but not limited to, advising the teacher education
35 programs of major statutory and policy changes in the public
36 schools which affect the job performance requirements of
37 professional educators, including principals and administrators;

38 (4) Provide for the routine updating of professional skills of
39 professional educators, including principals and administrators,
40 through in-service and other programs. The routine updating
41 may be provided by the center through statewide or regional
42 institutes which may require a registration fee;

43 (5) Provide for the routine education of all professional
44 educators, including principals and administrators, and those
45 service personnel having direct contact with students on warning
46 signs and resources to assist in suicide prevention under guide-
47 lines established by the state board. The education may be
48 accomplished through self review of suicide prevention materials
49 and resources approved by the state board. The provisions of this
50 paragraph may be known and cited as the Jason Flatt Act of
51 2012;

52 (6) Provide consultation and assistance to county staff
53 development councils established under the provisions of section
54 eight, article three of this chapter in planning, designing,
55 coordinating, arranging for and delivering professional develop-
56 ment programs to meet the needs of the professional educators
57 of their district. From legislative appropriations to the center,

58 exclusive of the amounts required for the expenses of the
59 principals academy, the center shall, unless otherwise directed
60 by the Legislature, provide assistance in the delivery of pro-
61 grams and activities to meet the expressed needs of the school
62 districts for professional development to help teachers, principals
63 and administrators demonstrate appropriate performance based
64 on the laws, policies and regulations adopted for the public
65 schools of West Virginia; and

66 (7) Cooperate and coordinate with the institutions of higher
67 education to provide professional staff development programs
68 that satisfy some or all of the criteria necessary for currently
69 certified professional educators to meet the requirements for an
70 additional endorsement in an area of certification and for
71 certification to teach in the middle school grades.

72 If the center is not able to reach agreement with the repre-
73 sentatives of the institutions providing teacher education
74 programs on which courses will be approved for credit toward
75 additional endorsements, the state board may certify certain
76 professional staff development courses to meet criteria required
77 by the state board. This certification shall be done on a course-
78 by-course basis.

§18A-3A-3. Professional personnel evaluation project.

1 Subject to the provisions of article two-i, chapter eighteen-a
2 of this code, through this project the center shall:

3 (1) Establish programs that provide education and training
4 in evaluation skills to administrative personnel who will evaluate
5 the employment performance of professional personnel pursuant
6 to the provisions of section twelve, article two of this chapter;
7 and

8 (2) Establish programs that provide instruction to classroom
9 teachers who will serve as beginning teacher mentors in accor-

10 dance with the provisions of section two-b, article three of this
11 chapter.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-2a. State minimum salary bonus for classroom teachers with national board certification.

1 (a) The Legislature finds and declares that the rigorous
2 standards and processes for certification by the National Board
3 for Professional Teaching Standards (NBPTS) helps to promote
4 the quality of teaching and learning. Therefore, classroom
5 teachers in the public schools of West Virginia should be
6 encouraged to achieve national board certification through a
7 reimbursement of expenses and an additional salary bonus which
8 reflects their additional certification, to be paid in accordance
9 with the provisions of this section.

10 (b) (1) \$3,500 shall be paid annually to each classroom
11 teacher who holds a valid certificate issued by the National
12 Board of Professional Teaching Standards for the life of the
13 certification, but in no event more than ten years for any one
14 certification.

15 (2) \$3,500 shall be paid annually to each classroom teacher
16 who holds a valid renewal certificate issued by the National
17 Board of Professional Teaching Standards for the life of the
18 renewal certificate, but in no event more than ten years for any
19 one renewal certificate.

20 (c) The payments:

21 (1) Shall be in addition to any amounts prescribed in the
22 applicable state minimum salary schedule;

23 (2) Shall be paid in equal monthly installments; and

24 (3) Shall be considered a part of the state minimum salaries
25 for teachers.

26 (d) For initial certification, one half the certification fee shall
27 be paid for reimbursement once to each teacher who enrolls in
28 the program for the National Board for Professional Teaching
29 Standards certification and one half the certification fee shall be
30 paid for reimbursement once to each teacher who completes the
31 National Board for Professional Teaching Standards certifica-
32 tion. Completion shall be defined as the completion of ten
33 scorable entries, as verified by the National Board for Profes-
34 sional Teaching Standards. Teachers who achieve National
35 Board for Professional Teaching Standards certification may be
36 reimbursed a maximum of \$600 for expenses actually incurred
37 while obtaining the National Board for Professional Teaching
38 Standards certification.

39 (e) For renewal certification, each teacher who completes the
40 National Board for Professional Teaching Standards certification
41 renewal process shall be reimbursed for the renewal certification
42 fee. Completion of the certification renewal process means the
43 successful renewal of the ten-year certification as verified by the
44 National Board for Professional Teaching Standards.

45 (f) The state board shall establish selection criteria for the
46 teachers by the legislative rule required pursuant to subsection
47 (h) of this section.

48 (g) Funding for reimbursement of the initial certification fee
49 and expenses actually incurred while obtaining the National
50 Board for Professional Teaching Standards certifications and
51 funding for reimbursement of the renewal certification fee shall
52 be administered by the State Department of Education from an
53 appropriation established for that purpose by the Legislature. If
54 funds appropriated by the Legislature to accomplish the purposes
55 of this subsection are insufficient, the state department shall

56 prorate the reimbursements for expenses and shall request of the
57 Legislature, at its next regular session, funds sufficient to
58 accomplish the purposes of this subsection, including needed
59 retroactive payments.

60 (h) The state board shall promulgate legislative rules
61 pursuant to article three-b, chapter twenty-nine-a of this code to
62 implement the provisions of this section.

**§18A-4-7a. Employment, promotion and transfer of professional
personnel; seniority.**

1 (a) A county board of education shall make decisions
2 affecting the filling of vacancies in professional positions of
3 employment on the basis of the applicant with the highest
4 qualifications: *Provided*, That the county superintendent shall be
5 hired under separate criteria pursuant to section two, article four,
6 chapter eighteen of this code.

7 (b) In judging qualifications for the filling of vacancies of
8 professional positions of employment, consideration shall be
9 given to each of the following:

10 (1) Appropriate certification, licensure or both;

11 (2) Amount of experience relevant to the position or, in the
12 case of a classroom teaching position, the amount of teaching
13 experience in the required certification area;

14 (3) The amount of course work, degree level or both in the
15 relevant field and degree level generally;

16 (4) Academic achievement;

17 (5) In the case of a classroom teaching position or the
18 position of principal, certification by the National Board for
19 Professional Teaching Standards;

20 (6) Specialized training relevant to the performance of the
21 duties of the job;

22 (7) Past performance evaluations conducted pursuant to
23 section twelve, article two of this chapter and section two, article
24 three-c of this chapter or, in the case of a classroom teacher, past
25 evaluations of the applicant's performance in the teaching
26 profession;

27 (8) Seniority;

28 (9) Other measures or indicators upon which the relative
29 qualifications of the applicant may fairly be judged;

30 (10) In the case of a classroom teaching position, the
31 recommendation of the principal of the school at which the
32 applicant will be performing a majority of his or her duties; and

33 (11) In the case of a classroom teaching position, the
34 recommendation, if any, resulting from the process established
35 pursuant to the provisions of section five, article five-a, chapter
36 eighteen of this code by the faculty senate of the school at which
37 the employee will be performing a majority of his or her duties.

38 (c) In considering the filling of a vacancy pursuant to this
39 section, a county board is entitled to determine the appropriate
40 weight to apply to each of the criterion when assessing an
41 applicant's qualifications: *Provided*, That if one or more
42 permanently employed instructional personnel apply for a
43 classroom teaching position and meet the standards set forth in
44 the job posting, each criterion under subsection (b) of this
45 section shall be given equal weight except that the criterion in
46 subdivisions (10) and (11) shall each be double weighted.

47 (d) For a classroom teaching position, if the recommenda-
48 tions resulting from the operations of subdivisions (10) and (11),
49 subsection (b) of this section are for the same applicant, and the

50 superintendent concurs with that recommendation, then the other
51 provisions of subsections (b) and (c) of this section do not apply
52 and the county board shall appoint that applicant notwithstanding
53 any other provision of this code to the contrary.

54 (e) The state board shall promulgate a rule, including an
55 emergency rule if necessary, in accordance with the provisions
56 of article three-b, chapter twenty-nine-a of this code to imple-
57 ment and interpret the provisions of this section, including
58 provisions that may provide for the compensation based on the
59 appropriate daily rate of a classroom teacher who directly
60 participates in making recommendations pursuant to this section
61 for periods beyond his or her individual contract.

62 (f) Recommendations made pursuant to subdivisions (10)
63 and (11), subsection (b) of this section shall be made based on a
64 determination as to which of the applicants is the highest
65 qualified for the position: *Provided*, That nothing in this
66 subsection shall require principals or faculty senates to assign
67 any amount of weight to any factor in making a recommenda-
68 tion.

69 (g) With the exception of guidance counselors, the seniority
70 of classroom teachers, as defined in section one, article one of
71 this chapter, shall be determined on the basis of the length of
72 time the employee has been employed as a regular full-time
73 certified and/or licensed professional educator by the county
74 board of education and shall be granted in all areas that the
75 employee is certified, licensed or both.

76 (h) Upon completion of one hundred thirty-three days of
77 employment in any one school year, substitute teachers, except
78 retired teachers and other retired professional educators em-
79 ployed as substitutes, shall accrue seniority exclusively for the
80 purpose of applying for employment as a permanent, full-time
81 professional employee. One hundred thirty-three days or more

82 of said employment shall be prorated and shall vest as a fraction
83 of the school year worked by the permanent, full-time teacher.

84 (i) Guidance counselors and all other professional employ-
85 ees, as defined in section one, article one of this chapter, except
86 classroom teachers, shall gain seniority in their nonteaching area
87 of professional employment on the basis of the length of time the
88 employee has been employed by the county board of education
89 in that area: *Provided*, That if an employee is certified as a
90 classroom teacher, the employee accrues classroom teaching
91 seniority for the time that that employee is employed in another
92 professional area. For the purposes of accruing seniority under
93 this paragraph, employment as principal, supervisor or central
94 office administrator, as defined in section one, article one of this
95 chapter, shall be considered one area of employment.

96 (j) Employment for a full employment term shall equal one
97 year of seniority, but no employee may accrue more than one
98 year of seniority during any given fiscal year. Employment for
99 less than the full employment term shall be prorated. A random
100 selection system established by the employees and approved by
101 the board shall be used to determine the priority if two or more
102 employees accumulate identical seniority: *Provided*, That when
103 two or more principals have accumulated identical seniority,
104 decisions on reductions in force shall be based on qualifications.

105 (k) Whenever a county board is required to reduce the
106 number of professional personnel in its employment, the
107 employee with the least amount of seniority shall be properly
108 notified and released from employment pursuant to the provi-
109 sions of section two, article two of this chapter. The provisions
110 of this subsection are subject to the following:

111 (1) All persons employed in a certification area to be
112 reduced who are employed under a temporary permit shall be

113 properly notified and released before a fully certified employee
114 in such a position is subject to release;

115 (2) Notwithstanding any provision of this code to the
116 contrary, all employees subject to release shall be considered
117 applicants for any vacancy in an established, existing or newly
118 created position that, on or before February 15, is known to exist
119 for the ensuing school year, and for which they are qualified,
120 and, upon recommendation of the superintendent, the board shall
121 appoint the successful applicant from among them before
122 posting such vacancies for application by other persons;

123 (3) An employee subject to release shall be employed in any
124 other professional position where the employee is certified and
125 was previously employed or to any lateral area for which the
126 employee is certified, licensed or both, if the employee's
127 seniority is greater than the seniority of any other employee in
128 that area of certification, licensure or both;

129 (4) If an employee subject to release holds certification,
130 licensure or both in more than one lateral area and if the em-
131 ployee's seniority is greater than the seniority of any other
132 employee in one or more of those areas of certification, licensure
133 or both, the employee subject to release shall be employed in the
134 professional position held by the employee with the least
135 seniority in any of those areas of certification, licensure or both;
136 and

137 (5) If, prior to August 1 of the year a reduction in force is
138 approved, the reason for any particular reduction in force no
139 longer exists as determined by the county board in its sole and
140 exclusive judgment, the board shall rescind the reduction in
141 force or transfer and shall notify the released employee in
142 writing of his or her right to be restored to his or her position of
143 employment. Within five days of being so notified, the released

144 employee shall notify the board, in writing, of his or her intent
145 to resume his or her position of employment or the right to be
146 restored shall terminate. Notwithstanding any other provision of
147 this subdivision, if there is another employee on the preferred
148 recall list with proper certification and higher seniority, that
149 person shall be placed in the position restored as a result of the
150 reduction in force being rescinded.

151 (l) For the purpose of this article, all positions which meet
152 the definition of "classroom teacher" as defined in section one,
153 article one of this chapter shall be lateral positions. For all other
154 professional positions, the county board of education shall adopt
155 a policy by October 31, 1993, and may modify the policy
156 thereafter as necessary, which defines which positions shall be
157 lateral positions. The board shall submit a copy of its policy to
158 the state board within thirty days of adoption or any modifica-
159 tion, and the state board shall compile a report and submit the
160 report to the Legislative Oversight Commission on Education
161 Accountability by December 31, 1993, and by that date in any
162 succeeding year in which any county board submits a modifica-
163 tion of its policy relating to lateral positions. In adopting the
164 policy, the board shall give consideration to the rank of each
165 position in terms of title; nature of responsibilities; salary level;
166 certification, licensure or both; and days in the period of
167 employment.

168 (m) After the twentieth day prior to the beginning of the
169 instructional term, no person employed and assigned to a
170 professional position may transfer to another professional
171 position in the county during that instructional term unless the
172 person holding that position does not have valid certification.
173 The provisions of this subsection are subject to the following:

174 (1) The person may apply for any posted, vacant positions
175 with the successful applicant assuming the position at the
176 beginning of the next instructional term;

177 (2) Professional personnel who have been on an approved
178 leave of absence may fill these vacancies upon their return from
179 the approved leave of absence;

180 (3) The county board, upon recommendation of the superin-
181 tendent may fill a position before the next instructional term
182 when it is determined to be in the best interest of the students.
183 The county superintendent shall notify the state board of each
184 transfer of a person employed in a professional position to
185 another professional position after the twentieth day prior to the
186 beginning of the instructional term;

187 (4) The provisions of this subsection do not apply to the
188 filling of a position vacated because of resignation or retirement
189 that became effective on or before the twentieth day prior to the
190 beginning of the instructional term, but not posted until after that
191 date; and

192 (5) The Legislature finds that it is not in the best interest of
193 the students particularly in the elementary grades to have
194 multiple teachers for any one grade level or course during the
195 instructional term. It is the intent of the Legislature that the
196 filling of positions through transfers of personnel from one
197 professional position to another after the twentieth day prior to
198 the beginning of the instructional term should be kept to a
199 minimum.

200 (n) All professional personnel whose seniority with the
201 county board is insufficient to allow their retention by the county
202 board during a reduction in work force shall be placed upon a
203 preferred recall list. As to any professional position opening
204 within the area where they had previously been employed or to
205 any lateral area for which they have certification, licensure or
206 both, the employee shall be recalled on the basis of seniority if
207 no regular, full-time professional personnel, or those returning

208 from leaves of absence with greater seniority, are qualified,
209 apply for and accept the position.

210 (o) Before position openings that are known or expected to
211 extend for twenty consecutive employment days or longer for
212 professional personnel may be filled by the board, the board
213 shall be required to notify all qualified professional personnel on
214 the preferred list and give them an opportunity to apply, but
215 failure to apply shall not cause the employee to forfeit any right
216 to recall. The notice shall be sent by certified mail to the last
217 known address of the employee, and it shall be the duty of each
218 professional personnel to notify the board of continued availabil-
219 ity annually, of any change in address or of any change in
220 certification, licensure or both.

221 (p) Openings in established, existing or newly created
222 positions shall be processed as follows:

223 (1) Boards shall be required to post and date notices of each
224 opening at least once. At their discretion, boards may post an
225 opening for a position other than classroom teacher more than
226 once in order to attract more qualified applicants. At their
227 discretion, boards may post an opening for a classroom teacher
228 one additional time after the first posting in order to attract more
229 qualified applicants only if fewer than three individuals apply
230 during the first posting subject to the following:

231 (A) Each notice shall be posted in conspicuous working
232 places for all professional personnel to observe for at least five
233 working days;

234 (B) At least one notice shall be posted within twenty
235 working days of the position openings and shall include the job
236 description;

237 (C) Any special criteria or skills that are required by the
238 position shall be specifically stated in the job description and
239 directly related to the performance of the job;

240 (D) Postings for vacancies made pursuant to this section
241 shall be written so as to ensure that the largest possible pool of
242 qualified applicants may apply; and

243 (E) Job postings may not require criteria which are not
244 necessary for the successful performance of the job and may not
245 be written with the intent to favor a specific applicant;

246 (2) No vacancy shall be filled until after the five-day
247 minimum posting period of the most recent posted notice of the
248 vacancy;

249 (3) If one or more applicants under all the postings for a
250 vacancy meets the qualifications listed in the job posting, the
251 successful applicant to fill the vacancy shall be selected by the
252 board within thirty working days of the end of the first posting
253 period;

254 (4) A position held by a teacher who is certified, licensed or
255 both, who has been issued a permit for full-time employment and
256 is working toward certification in the permit area shall not be
257 subject to posting if the certificate is awarded within five years;
258 and

259 (5) Nothing provided herein shall prevent the county board
260 of education from eliminating a position due to lack of need.

261 (q) Notwithstanding any other provision of the code to the
262 contrary, where the total number of classroom teaching positions
263 in an elementary school does not increase from one school year
264 to the next, but there exists in that school a need to realign the
265 number of teachers in one or more grade levels, kindergarten
266 through six, teachers at the school may be reassigned to grade
267 levels for which they are certified without that position being
268 posted: *Provided*, That the employee and the county board
269 mutually agree to the reassignment.

270 (r) Reductions in classroom teaching positions in elementary
271 schools shall be processed as follows:

272 (1) When the total number of classroom teaching positions
273 in an elementary school needs to be reduced, the reduction shall
274 be made on the basis of seniority with the least senior classroom
275 teacher being recommended for transfer; and

276 (2) When a specified grade level needs to be reduced and the
277 least senior employee in the school is not in that grade level, the
278 least senior classroom teacher in the grade level that needs to be
279 reduced shall be reassigned to the position made vacant by the
280 transfer of the least senior classroom teacher in the school
281 without that position being posted: *Provided*, That the employee
282 is certified, licensed or both and agrees to the reassignment.

283 (s) Any board failing to comply with the provisions of this
284 article may be compelled to do so by mandamus and shall be
285 liable to any party prevailing against the board for court costs
286 and reasonable attorney fees as determined and established by
287 the court. Further, employees denied promotion or employment
288 in violation of this section shall be awarded the job, pay and any
289 applicable benefits retroactive to the date of the violation and
290 payable entirely from local funds. Further, the board shall be
291 liable to any party prevailing against the board for any court
292 reporter costs including copies of transcripts.

293 (t) The county board shall compile, update annually on July
294 1 and make available by electronic or other means to all employ-
295 ees a list of all professional personnel employed by the county,
296 their areas of certification and their seniority.

297 (u) Notwithstanding any other provision of this code to the
298 contrary, upon recommendation of the principal and approval by
299 the classroom teacher and county board, a classroom teacher
300 assigned to the school may at any time be assigned to a new or

301 existing classroom teacher position at the school without the
302 position being posted.

303 (v) The amendments to this section during the 2013 regular
304 session of the Legislature shall be effective for school years
305 beginning on or after July 1, 2013, and the provisions of this
306 section immediately prior to those amendments remain in effect
307 until July 1, 2013.

**§18A-4-8. Employment term and class titles of service personnel;
definitions.**

1 (a) The purpose of this section is to establish an employment
2 term and class titles for service personnel. The employment term
3 for service personnel may not be less than ten months. A month
4 is defined as twenty employment days. The county board may
5 contract with all or part of these service personnel for a longer
6 term.

7 (b) Service personnel employed on a yearly or twelve-month
8 basis may be employed by calendar months. Whenever there is
9 a change in job assignment during the school year, the minimum
10 pay scale and any county supplement are applicable.

11 (c) Service personnel employed in the same classification for
12 more than the two hundred-day minimum employment term
13 shall be paid for additional employment at a daily rate of not less
14 than the daily rate paid for the two hundred-day minimum
15 employment term.

16 (d) A service person may not be required to report for work
17 more than five days per week without his or her agreement, and
18 no part of any working day may be accumulated by the employer
19 for future work assignments, unless the employee agrees thereto.

20 (e) If a service person whose regular work week is scheduled
21 from Monday through Friday agrees to perform any work

22 assignments on a Saturday or Sunday, the service person shall be
23 paid for at least one-half day of work for each day he or she
24 reports for work. If the service person works more than three and
25 one-half hours on any Saturday or Sunday, he or she shall be
26 paid for at least a full day of work for each day.

27 (f) A custodian, aide, maintenance, office and school lunch
28 service person required to work a daily work schedule that is
29 interrupted shall be paid additional compensation in accordance
30 with this subsection.

31 (1) A “maintenance person” means a person who holds a
32 classification title other than in a custodial, aide, school lunch,
33 office or transportation category as provided in section one,
34 article one of this chapter.

35 (2) A service person’s schedule is considered to be inter-
36 rupted if he or she does not work a continuous period in one day.
37 Aides are not regarded as working an interrupted schedule when
38 engaged exclusively in the duties of transporting students;

39 (3) The additional compensation provided in this subsection:

40 (A) Is equal to at least one eighth of a service person’s total
41 salary as provided by the state minimum pay scale and any
42 county pay supplement; and

43 (B) Is payable entirely from county board funds.

44 (g) When there is a change in classification or when a
45 service person meets the requirements of an advanced classifica-
46 tion, his or her salary shall be made to comply with the require-
47 ments of this article and any county salary schedule in excess of
48 the minimum requirements of this article, based upon the service
49 person’s advanced classification and allowable years of employ-
50 ment.

51 (h) A service person's contract, as provided in section five,
52 article two of this chapter, shall state the appropriate monthly
53 salary the employee is to be paid, based on the class title as
54 provided in this article and on any county salary schedule in
55 excess of the minimum requirements of this article.

56 (i) The column heads of the state minimum pay scale and
57 class titles, set forth in section eight-a of this article, are defined
58 as follows:

59 (1) "Pay grade" means the monthly salary applicable to class
60 titles of service personnel;

61 (2) "Years of employment" means the number of years
62 which an employee classified as a service person has been
63 employed by a county board in any position prior to or subse-
64 quent to the effective date of this section and includes service in
65 the Armed Forces of the United States, if the employee was
66 employed at the time of his or her induction. For the purpose of
67 section eight-a of this article, years of employment is limited to
68 the number of years shown and allowed under the state minimum
69 pay scale as set forth in section eight-a of this article;

70 (3) "Class title" means the name of the position or job held
71 by a service person;

72 (4) "Accountant I" means a person employed to maintain
73 payroll records and reports and perform one or more operations
74 relating to a phase of the total payroll;

75 (5) "Accountant II" means a person employed to maintain
76 accounting records and to be responsible for the accounting
77 process associated with billing, budgets, purchasing and related
78 operations;

79 (6) "Accountant III" means a person employed in the county
80 board office to manage and supervise accounts payable, payroll
81 procedures, or both;

82 (7) "Accounts payable supervisor" means a person employed
83 in the county board office who has primary responsibility for the
84 accounts payable function and who either has completed twelve
85 college hours of accounting courses from an accredited institu-
86 tion of higher education or has at least eight years of experience
87 performing progressively difficult accounting tasks. Responsibil-
88 ities of this class title may include supervision of other person-
89 nel;

90 (8) "Aide I" means a person selected and trained for a
91 teacher-aide classification such as monitor aide, clerical aide,
92 classroom aide or general aide;

93 (9) "Aide II" means a service person referred to in the "Aide
94 I" classification who has completed a training program approved
95 by the state board, or who holds a high school diploma or has
96 received a general educational development certificate. Only a
97 person classified in an Aide II class title may be employed as an
98 aide in any special education program;

99 (10) "Aide III" means a service person referred to in the
100 "Aide I" classification who holds a high school diploma or a
101 general educational development certificate; and

102 (A) Has completed six semester hours of college credit at an
103 institution of higher education; or

104 (B) Is employed as an aide in a special education program
105 and has one year's experience as an aide in special education;

106 (11) "Aide IV" means a service person referred to in the
107 "Aide I" classification who holds a high school diploma or a
108 general educational development certificate; and

109 (A) Has completed eighteen hours of state board-approved
110 college credit at a regionally accredited institution of higher
111 education, or

112 (B) Has completed fifteen hours of state board-approved
113 college credit at a regionally accredited institution of higher
114 education; and has successfully completed an in-service training
115 program determined by the state board to be the equivalent of
116 three hours of college credit;

117 (12) “Audiovisual technician” means a person employed to
118 perform minor maintenance on audiovisual equipment, films and
119 supplies and who fills requests for equipment;

120 (13) “Auditor” means a person employed to examine and
121 verify accounts of individual schools and to assist schools and
122 school personnel in maintaining complete and accurate records
123 of their accounts;

124 (14) “Autism mentor” means a person who works with
125 autistic students and who meets standards and experience to be
126 determined by the state board. A person who has held or holds
127 an aide title and becomes employed as an autism mentor shall
128 hold a multiclassification status that includes both aide and
129 autism mentor titles, in accordance with section eight-b of this
130 article;

131 (15) “Braille or sign language specialist” means a person
132 employed to provide braille and/or sign language assistance to
133 students. A service person who has held or holds an aide title and
134 becomes employed as a braille or sign language specialist shall
135 hold a multiclassification status that includes both aide and
136 braille or sign language specialist title, in accordance with
137 section eight-b of this article;

138 (16) “Bus operator” means a person employed to operate
139 school buses and other school transportation vehicles as pro-
140 vided by the state board;

141 (17) “Buyer” means a person employed to review and write
142 specifications, negotiate purchase bids and recommend purchase

143 agreements for materials and services that meet predetermined
144 specifications at the lowest available costs;

145 (18) "Cabinetmaker" means a person employed to construct
146 cabinets, tables, bookcases and other furniture;

147 (19) "Cafeteria manager" means a person employed to direct
148 the operation of a food services program in a school, including
149 assigning duties to employees, approving requisitions for
150 supplies and repairs, keeping inventories, inspecting areas to
151 maintain high standards of sanitation, preparing financial reports
152 and keeping records pertinent to food services of a school;

153 (20) "Carpenter I" means a person classified as a carpenter's
154 helper;

155 (21) "Carpenter II" means a person classified as a journey-
156 man carpenter;

157 (22) "Chief mechanic" means a person employed to be
158 responsible for directing activities which ensure that student
159 transportation or other county board-owned vehicles are properly
160 and safely maintained;

161 (23) "Clerk I" means a person employed to perform clerical
162 tasks;

163 (24) "Clerk II" means a person employed to perform general
164 clerical tasks, prepare reports and tabulations and operate office
165 machines;

166 (25) "Computer operator" means a qualified person em-
167 ployed to operate computers;

168 (26) "Cook I" means a person employed as a cook's helper;

169 (27) "Cook II" means a person employed to interpret menus
170 and to prepare and serve meals in a food service program of a

171 school. This definition includes a service person who has been
172 employed as a “Cook I” for a period of four years;

173 (28) “Cook III” means a person employed to prepare and
174 serve meals, make reports, prepare requisitions for supplies,
175 order equipment and repairs for a food service program of a
176 school system;

177 (29) “Crew leader” means a person employed to organize the
178 work for a crew of maintenance employees to carry out assigned
179 projects;

180 (30) “Custodian I” means a person employed to keep
181 buildings clean and free of refuse;

182 (31) “Custodian II” means a person employed as a watchman
183 or groundsman;

184 (32) “Custodian III” means a person employed to keep
185 buildings clean and free of refuse, to operate the heating or
186 cooling systems and to make minor repairs;

187 (33) “Custodian IV” means a person employed as head
188 custodians. In addition to providing services as defined in
189 “custodian III,” duties may include supervising other custodian
190 personnel;

191 (34) “Director or coordinator of services” means an em-
192 ployee of a county board who is assigned to direct a department
193 or division.

194 (A) Nothing in this subdivision prohibits a professional
195 person or a professional educator from holding this class title;

196 (B) Professional personnel holding this class title may not be
197 defined or classified as service personnel unless the professional
198 person held a service personnel title under this section prior to
199 holding the class title of “director or coordinator of services.”

200 (C) The director or coordinator of services shall be classified
201 either as a professional person or a service person for state aid
202 formula funding purposes;

203 (D) Funding for the position of director or coordinator of
204 services is based upon the employment status of the director or
205 coordinator either as a professional person or a service person;
206 and

207 (E) A person employed under the class title “director or
208 coordinator of services” may not be exclusively assigned to
209 perform the duties ascribed to any other class title as defined in
210 this subsection: *Provided*, That nothing in this paragraph
211 prohibits a person in this position from being multiclassified;

212 (35) “Draftsman” means a person employed to plan, design
213 and produce detailed architectural/engineering drawings;

214 (36) “Electrician I” means a person employed as an appren-
215 tice electrician helper or one who holds an electrician helper
216 license issued by the State Fire Marshal;

217 (37) “Electrician II” means a person employed as an
218 electrician journeyman or one who holds a journeyman electri-
219 cian license issued by the State Fire Marshal;

220 (38) “Electronic technician I” means a person employed at
221 the apprentice level to repair and maintain electronic equipment;

222 (39) “Electronic technician II” means a person employed at
223 the journeyman level to repair and maintain electronic equip-
224 ment;

225 (40) “Executive secretary” means a person employed as
226 secretary to the county school superintendent or as a secretary
227 who is assigned to a position characterized by significant
228 administrative duties;

229 (41) “Food services supervisor” means a qualified person
230 who is not a professional person or professional educator as
231 defined in section one, article one of this chapter. The food
232 services supervisor is employed to manage and supervise a
233 county school system’s food service program. The duties include
234 preparing in-service training programs for cooks and food
235 service employees, instructing personnel in the areas of quantity
236 cooking with economy and efficiency and keeping aggregate
237 records and reports;

238 (42) “Foreman” means a skilled person employed to
239 supervise personnel who work in the areas of repair and mainte-
240 nance of school property and equipment;

241 (43) “General maintenance” means a person employed as a
242 helper to skilled maintenance employees and to perform minor
243 repairs to equipment and buildings of a county school system;

244 (44) “Glazier” means a person employed to replace glass or
245 other materials in windows and doors and to do minor carpentry
246 tasks;

247 (45) “Graphic artist” means a person employed to prepare
248 graphic illustrations;

249 (46) “Groundsman” means a person employed to perform
250 duties that relate to the appearance, repair and general care of
251 school grounds in a county school system. Additional assign-
252 ments may include the operation of a small heating plant and
253 routine cleaning duties in buildings;

254 (47) “Handyman” means a person employed to perform
255 routine manual tasks in any operation of the county school
256 system;

257 (48) “Heating and air conditioning mechanic I” means a
258 person employed at the apprentice level to install, repair and

259 maintain heating and air conditioning plants and related electri-
260 cal equipment;

261 (49) "Heating and air conditioning mechanic II" means a
262 person employed at the journeyman level to install, repair and
263 maintain heating and air conditioning plants and related electri-
264 cal equipment;

265 (50) "Heavy equipment operator" means a person employed
266 to operate heavy equipment;

267 (51) "Inventory supervisor" means a person employed to
268 supervise or maintain operations in the receipt, storage, inven-
269 tory and issuance of materials and supplies;

270 (52) "Key punch operator" means a qualified person
271 employed to operate key punch machines or verifying machines;

272 (53) "Licensed practical nurse" means a nurse, licensed by
273 the West Virginia Board of Examiners for Licensed Practical
274 Nurses, employed to work in a public school under the supervi-
275 sion of a school nurse;

276 (54) "Locksmith" means a person employed to repair and
277 maintain locks and safes;

278 (55) "Lubrication man" means a person employed to
279 lubricate and service gasoline or diesel-powered equipment of a
280 county school system;

281 (56) "Machinist" means a person employed to perform
282 machinist tasks which include the ability to operate a lathe,
283 planer, shaper, threading machine and wheel press. A person
284 holding this class title also should have the ability to work from
285 blueprints and drawings;

286 (57) "Mail clerk" means a person employed to receive, sort,
287 dispatch, deliver or otherwise handle letters, parcels and other
288 mail;

289 (58) "Maintenance clerk" means a person employed to
290 maintain and control a stocking facility to keep adequate tools
291 and supplies on hand for daily withdrawal for all school mainte-
292 nance crafts;

293 (59) "Mason" means a person employed to perform tasks
294 connected with brick and block laying and carpentry tasks
295 related to these activities;

296 (60) "Mechanic" means a person employed to perform
297 skilled duties independently in the maintenance and repair of
298 automobiles, school buses and other mechanical and mobile
299 equipment to use in a county school system;

300 (61) "Mechanic assistant" means a person employed as a
301 mechanic apprentice and helper;

302 (62) "Multiclassification" means a person employed to
303 perform tasks that involve the combination of two or more class
304 titles in this section. In these instances the minimum salary scale
305 shall be the higher pay grade of the class titles involved;

306 (63) "Office equipment repairman I" means a person
307 employed as an office equipment repairman apprentice or helper;

308 (64) "Office equipment repairman II" means a person
309 responsible for servicing and repairing all office machines and
310 equipment. A person holding this class title is responsible for the
311 purchase of parts necessary for the proper operation of a
312 program of continuous maintenance and repair;

313 (65) "Painter" means a person employed to perform duties
314 painting, finishing and decorating wood, metal and concrete
315 surfaces of buildings, other structures, equipment, machinery
316 and furnishings of a county school system;

317 (66) "Paraprofessional" means a person certified pursuant to
318 section two-a, article three of this chapter to perform duties in a

319 support capacity including, but not limited to, facilitating in the
320 instruction and direct or indirect supervision of students under
321 the direction of a principal, a teacher or another designated
322 professional educator.

323 (A) A person employed on the effective date of this section
324 in the position of an aide may not be subject to a reduction in
325 force or transferred to create a vacancy for the employment of a
326 paraprofessional;

327 (B) A person who has held or holds an aide title and be-
328 comes employed as a paraprofessional shall hold a
329 multiclassification status that includes both aide and
330 paraprofessional titles in accordance with section eight-b of this
331 article; and

332 (C) When a service person who holds an aide title becomes
333 certified as a paraprofessional and is required to perform duties
334 that may not be performed by an aide without paraprofessional
335 certification, he or she shall receive the paraprofessional title pay
336 grade;

337 (67) "Payroll supervisor" means a person employed in the
338 county board office who has primary responsibility for the
339 payroll function and who either has completed twelve college
340 hours of accounting from an accredited institution of higher
341 education or has at least eight years of experience performing
342 progressively difficult accounting tasks. Responsibilities of this
343 class title may include supervision of other personnel;

344 (68) "Plumber I" means a person employed as an apprentice
345 plumber and helper;

346 (69) "Plumber II" means a person employed as a journeyman
347 plumber;

348 (70) "Printing operator" means a person employed to operate
349 duplication equipment, and to cut, collate, staple, bind and
350 shelve materials as required;

351 (71) "Printing supervisor" means a person employed to
352 supervise the operation of a print shop;

353 (72) "Programmer" means a person employed to design and
354 prepare programs for computer operation;

355 (73) "Roofing/sheet metal mechanic" means a person
356 employed to install, repair, fabricate and maintain roofs, gutters,
357 flashing and duct work for heating and ventilation;

358 (74) "Sanitation plant operator" means a person employed
359 to operate and maintain a water or sewage treatment plant to
360 ensure the safety of the plant's effluent for human consumption
361 or environmental protection;

362 (75) "School bus supervisor" means a qualified person:

363 (A) Employed to assist in selecting school bus operators and
364 routing and scheduling school buses, operate a bus when needed,
365 relay instructions to bus operators, plan emergency routing of
366 buses and promote good relationships with parents, students, bus
367 operators and other employees; and

368 (B) Certified to operate a bus or previously certified to
369 operate a bus;

370 (76) "Secretary I" means a person employed to transcribe
371 from notes or mechanical equipment, receive callers, perform
372 clerical tasks, prepare reports and operate office machines;

373 (77) "Secretary II" means a person employed in any elemen-
374 tary, secondary, kindergarten, nursery, special education,
375 vocational or any other school as a secretary. The duties may
376 include performing general clerical tasks; transcribing from
377 notes, stenotype, mechanical equipment or a sound-producing
378 machine; preparing reports; receiving callers and referring them
379 to proper persons; operating office machines; keeping records

380 and handling routine correspondence. Nothing in this subdivision
381 prevents a service person from holding or being elevated to a
382 higher classification;

383 (78) “Secretary III” means a person assigned to the county
384 board office administrators in charge of various instructional,
385 maintenance, transportation, food services, operations and health
386 departments, federal programs or departments with particular
387 responsibilities in purchasing and financial control or any person
388 who has served for eight years in a position which meets the
389 definition of “secretary II” or “secretary III”;

390 (79) “Supervisor of maintenance” means a skilled person
391 who is not a professional person or professional educator as
392 defined in section one, article one of this chapter. The responsi-
393 bilities include directing the upkeep of buildings and shops, and
394 issuing instructions to subordinates relating to cleaning, repairs
395 and maintenance of all structures and mechanical and electrical
396 equipment of a county board;

397 (80) “Supervisor of transportation” means a qualified person
398 employed to direct school transportation activities properly and
399 safely, and to supervise the maintenance and repair of vehicles,
400 buses and other mechanical and mobile equipment used by the
401 county school system. After July 1, 2010, all persons employed
402 for the first time in a position with this classification title or in
403 a multi-classification position that includes this title shall have
404 five years of experience working in the transportation depart-
405 ment of a county board. Experience working in the transportation
406 department shall consist of serving as a bus operator, bus aide,
407 assistant mechanic, mechanic, chief mechanic or in a clerical
408 position within the transportation department;

409 (81) “Switchboard operator-receptionist” means a person
410 employed to refer incoming calls, to assume contact with the
411 public, to direct and to give instructions as necessary, to operate
412 switchboard equipment and to provide clerical assistance;

413 (82) "Truck driver" means a person employed to operate
414 light or heavy duty gasoline and diesel-powered vehicles;

415 (83) "Warehouse clerk" means a person employed to be
416 responsible for receiving, storing, packing and shipping goods;

417 (84) "Watchman" means a person employed to protect
418 school property against damage or theft. Additional assignments
419 may include operation of a small heating plant and routine
420 cleaning duties;

421 (85) "Welder" means a person employed to provide acety-
422 lene or electric welding services for a school system;

423 (86) "WVEIS data entry and administrative clerk" means a
424 person employed to work under the direction of a school
425 principal to assist the school counselor or counselors in the
426 performance of administrative duties, to perform data entry tasks
427 on the West Virginia Education Information System, and to
428 perform other administrative duties assigned by the principal;

429 (87) "Early Childhood Classroom Assistant Teacher -
430 Temporary Authorization" means a person who does not possess
431 minimum requirements for the permanent authorization require-
432 ments, but is enrolled in and pursuing requirements;

433 (88) "Early Childhood Classroom Assistant Teacher -
434 Permanent Authorization" means a person who has completed
435 the minimum requirements for a state-awarded certificate for
436 early childhood classroom assistant teachers that meet or exceed
437 the requirements for a child development associate. Equivalency
438 for the West Virginia Department of Education will be deter-
439 mined as the child development associate or the West Virginia
440 Apprenticeship for Child Development Specialists; and

441 (89) "Early Childhood Classroom Assistant Teacher -
442 Paraprofessional Certificate" means a person who has completed

443 permanent authorization requirements, as well as additional
444 requirements comparable to current paraprofessional certificate.

445 (j) Notwithstanding any provision in this code to the
446 contrary, and in addition to the compensation provided for
447 service personnel in section eight-a of this article, each service
448 person is entitled to all service personnel employee rights,
449 privileges and benefits provided under this or any other chapter
450 of this code without regard to the employee's hours of employ-
451 ment or the methods or sources of compensation.

452 (k) A service person whose years of employment exceeds the
453 number of years shown and provided under the state minimum
454 pay scale set forth in section eight-a of this article may not be
455 paid less than the amount shown for the maximum years of
456 employment shown and provided in the classification in which
457 he or she is employed.

458 (l) Each county board shall review each service person's job
459 classification annually and shall reclassify all service persons as
460 required by the job classifications. The state superintendent may
461 withhold state funds appropriated pursuant to this article for
462 salaries for service personnel who are improperly classified by
463 the county boards. Further, the state superintendent shall order
464 a county board to correct immediately any improper classifica-
465 tion matter and, with the assistance of the Attorney General,
466 shall take any legal action necessary against any county board to
467 enforce the order.

468 (m) Without his or her written consent, a service person may
469 not be:

470 (1) Reclassified by class title; or

471 (2) Relegated to any condition of employment which would
472 result in a reduction of his or her salary, rate of pay, compensa-
473 tion or benefits earned during the current fiscal year; or for

474 which he or she would qualify by continuing in the same job
475 position and classification held during that fiscal year and
476 subsequent years.

477 (n) Any county board failing to comply with the provisions
478 of this article may be compelled to do so by mandamus and is
479 liable to any party prevailing against the board for court costs
480 and the prevailing party's reasonable attorney fee, as determined
481 and established by the court.

482 (o) Notwithstanding any provision of this code to the
483 contrary, a service person who holds a continuing contract in a
484 specific job classification and who is physically unable to
485 perform the job's duties as confirmed by a physician chosen by
486 the employee shall be given priority status over any employee
487 not holding a continuing contract in filling other service person-
488 nel job vacancies if the service person is qualified as provided in
489 section eight-e of this article.

490 (p) Any person employed in an aide position on the effective
491 date of this section may not be transferred or subject to a
492 reduction in force for the purpose of creating a vacancy for the
493 employment of a licensed practical nurse.

494 (q) Without the written consent of the service person, a
495 county board may not establish the beginning work station for a
496 bus operator or transportation aide at any site other than a county
497 board-owned facility with available parking. The workday of the
498 bus operator or transportation aide commences at the bus at the
499 designated beginning work station and ends when the employee
500 is able to leave the bus at the designated beginning work station,
501 unless he or she agrees otherwise in writing. The application or
502 acceptance of a posted position may not be construed as the
503 written consent referred to in this subsection.

504 (r) "Itinerant status" means a service person who does not
505 have a fixed work site and may be involuntarily reassigned to

506 another work site. A service person is considered to hold
507 itinerant status if he or she has bid upon a position posted as
508 itinerant or has agreed to accept this status. A county board may
509 establish positions with itinerant status only within the aide and
510 autism mentor classification categories and only when the job
511 duties involve exceptional students. A service person with
512 itinerant status may be assigned to a different work site upon
513 written notice ten days prior to the reassignment without the
514 consent of the employee and without posting the vacancy. A
515 service person with itinerant status may be involuntarily
516 reassigned no more than twice during the school year. At the
517 conclusion of each school year, the county board shall post and
518 fill, pursuant to section eight-b of this article, all positions that
519 have been filled without posting by a service person with
520 itinerant status. A service person who is assigned to a beginning
521 and ending work site and travels at the expense of the county
522 board to other work sites during the daily schedule, shall not be
523 considered to hold itinerant status.

§18A-4-8a. Service personnel minimum monthly salaries.

1 (a) The minimum monthly pay for each service employee
2 shall be as follows:

3 (1) Beginning July 1, 2011, and continuing thereafter, the
4 minimum monthly pay for each service employee whose
5 employment is for a period of more than three and one-half
6 hours a day shall be at least the amounts indicated in the State
7 Minimum Pay Scale Pay Grade and the minimum monthly pay
8 for each service employee whose employment is for a period of
9 three and one-half hours or less a day shall be at least one half
10 the amount indicated in the State Minimum Pay Scale Pay Grade
11 set forth in this subdivision.

STATE MINIMUM PAY SCALE PAY GRADE									
1									
2	Years								
3	Exp.	Pay Grade							
4		<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
5	0	1,627	1,648	1,689	1,741	1,793	1,855	1,886	1,958
6	1	1,659	1,680	1,721	1,773	1,825	1,887	1,918	1,990
7	2	1,691	1,712	1,753	1,805	1,857	1,919	1,950	2,022
8	3	1,723	1,744	1,785	1,837	1,889	1,951	1,982	2,054
9	4	1,755	1,776	1,817	1,869	1,921	1,983	2,014	2,087
10	5	1,787	1,808	1,849	1,901	1,953	2,015	2,046	2,119
11	6	1,819	1,840	1,882	1,933	1,985	2,047	2,078	2,151
12	7	1,852	1,872	1,914	1,965	2,017	2,079	2,110	2,183
13	8	1,884	1,904	1,946	1,997	2,049	2,111	2,142	2,215
14	9	1,916	1,936	1,978	2,030	2,081	2,143	2,174	2,247
15	10	1,948	1,969	2,010	2,062	2,113	2,176	2,207	2,279
16	11	1,980	2,001	2,042	2,094	2,145	2,208	2,239	2,311
17	12	2,012	2,033	2,074	2,126	2,178	2,240	2,271	2,343
18	13	2,044	2,065	2,106	2,158	2,210	2,272	2,303	2,375
19	14	2,076	2,097	2,138	2,190	2,242	2,304	2,335	2,407
20	15	2,108	2,129	2,170	2,222	2,274	2,336	2,367	2,439
21	16	2,140	2,161	2,202	2,254	2,306	2,368	2,399	2,472
22	17	2,172	2,193	2,235	2,286	2,338	2,400	2,431	2,504
23	18	2,204	2,225	2,267	2,318	2,370	2,432	2,463	2,536
24	19	2,237	2,257	2,299	2,350	2,402	2,464	2,495	2,568
25	20	2,269	2,289	2,331	2,383	2,434	2,496	2,527	2,601
26	21	2,301	2,321	2,363	2,415	2,466	2,528	2,559	2,634
27	22	2,333	2,354	2,395	2,447	2,498	2,561	2,593	2,666
28	23	2,365	2,386	2,427	2,479	2,531	2,594	2,625	2,699
29	24	2,397	2,418	2,459	2,511	2,563	2,627	2,658	2,732
30	25	2,429	2,450	2,491	2,543	2,596	2,659	2,691	2,764

31	26	2,461	2,482	2,523	2,576	2,629	2,692	2,723	2,797
32	27	2,493	2,514	2,555	2,608	2,661	2,724	2,756	2,829
33	28	2,525	2,546	2,588	2,641	2,694	2,757	2,789	2,863
34	29	2,557	2,579	2,621	2,673	2,726	2,790	2,821	2,896
35	30	2,591	2,611	2,654	2,706	2,759	2,822	2,854	2,928
36	31	2,623	2,644	2,687	2,739	2,792	2,855	2,887	2,961
37	32	2,656	2,676	2,719	2,772	2,824	2,888	2,919	2,994
38	33	2,689	2,709	2,752	2,805	2,857	2,920	2,953	3,026
39	34	2,721	2,743	2,785	2,838	2,890	2,954	2,986	3,059
40	35	2,754	2,775	2,817	2,870	2,923	2,987	3,018	3,092
41	36	2,787	2,808	2,850	2,903	2,956	3,019	3,051	3,124
42	37	2,819	2,841	2,883	2,936	2,989	3,052	3,083	3,157
43	38	2,852	2,873	2,915	2,968	3,021	3,084	3,116	3,190
44	39	2,885	2,906	2,948	3,001	3,054	3,117	3,149	3,222
45	40	2,917	2,939	2,980	3,033	3,087	3,150	3,181	3,256

46 (2) Each service employee shall receive the amount pre-
 47 scribed in the Minimum Pay Scale in accordance with the
 48 provisions of this subsection according to their class title and pay
 49 grade as set forth in this subdivision:

50	CLASS TITLE	PAY GRADE
51	Accountant I.	D
52	Accountant II.	E
53	Accountant III.	F
54	Accounts Payable Supervisor.	G
55	Aide I.	A
56	Aide II.	B

57	Aide III.....	C
58	Aide IV.....	D
59	Audiovisual Technician.....	C
60	Auditor.....	G
61	Autism Mentor.....	F
62	Braille or Sign Language Specialist.....	E
63	Bus Operator.....	D
64	Buyer.....	F
65	Cabinetmaker.....	G
66	Cafeteria Manager.....	D
67	Carpenter I.....	E
68	Carpenter II.....	F
69	Chief Mechanic.....	G
70	Clerk I.....	B
71	Clerk II.....	C
72	Computer Operator.....	E
73	Cook I.....	A
74	Cook II.....	B
75	Cook III.....	C
76	Crew Leader.....	F

77	Custodian I.	A
78	Custodian II.	B
79	Custodian III.	C
80	Custodian IV.	D
81	Director or Coordinator of Services.	H
82	Draftsman.	D
83	Early Childhood Classroom Assistant Teacher -	
84	Temporary Authorization.	E
85	Early Childhood Classroom Assistant Teacher -	
86	Permanent Authorization.	E
87	Early Childhood Classroom Assistant Teacher -	
88	Paraprofessional Certificate.	E
89	Electrician I.	F
90	Electrician II.	G
91	Electronic Technician I.	F
92	Electronic Technician II.	G
93	Executive Secretary.	G
94	Food Services Supervisor.	G
95	Foreman.	G
96	General Maintenance.	C
97	Glazier.	D

98	Graphic Artist.....	D
99	Groundsman.....	B
100	Handyman.	B
101	Heating and Air Conditioning Mechanic I.....	E
102	Heating and Air Conditioning Mechanic II.....	G
103	Heavy Equipment Operator.	E
104	Inventory Supervisor.	D
105	Key Punch Operator.....	B
106	Licensed Practical Nurse.	F
107	Locksmith.....	G
108	Lubrication Man.....	C
109	Machinist.	F
110	Mail Clerk.	D
111	Maintenance Clerk.....	C
112	Mason.....	G
113	Mechanic.	F
114	Mechanic Assistant.	E
115	Office Equipment Repairman I.	F
116	Office Equipment Repairman II.....	G
117	Painter.	E

118	Paraprofessional.....	F
119	Payroll Supervisor.....	G
120	Plumber I.....	E
121	Plumber II.....	G
122	Printing Operator.....	B
123	Printing Supervisor.....	D
124	Programmer.....	H
125	Roofing/Sheet Metal Mechanic.....	F
126	Sanitation Plant Operator.....	G
127	School Bus Supervisor.....	E
128	Secretary I.....	D
129	Secretary II.....	E
130	Secretary III.....	F
131	Supervisor of Maintenance.....	H
132	Supervisor of Transportation.....	H
133	Switchboard Operator-Receptionist.....	D
134	Truck Driver.....	D
135	Warehouse Clerk.....	C
136	Watchman.....	B
137	Welder.....	F

138 WVEIS Data Entry and Administrative Clerk..... B

139 (b) An additional \$12 per month shall be added to the
140 minimum monthly pay of each service employee who holds a
141 high school diploma or its equivalent.

142 (c) An additional \$11 per month also shall be added to the
143 minimum monthly pay of each service employee for each of the
144 following:

145 (1) A service employee who holds twelve college hours or
146 comparable credit obtained in a trade or vocational school as
147 approved by the state board;

148 (2) A service employee who holds twenty-four college hours
149 or comparable credit obtained in a trade or vocational school as
150 approved by the state board;

151 (3) A service employee who holds thirty-six college hours or
152 comparable credit obtained in a trade or vocational school as
153 approved by the state board;

154 (4) A service employee who holds forty-eight college hours
155 or comparable credit obtained in a trade or vocational school as
156 approved by the state board;

157 (5) A service employee who holds sixty college hours or
158 comparable credit obtained in a trade or vocational school as
159 approved by the state board;

160 (6) A service employee who holds seventy-two college hours
161 or comparable credit obtained in a trade or vocational school as
162 approved by the state board;

163 (7) A service employee who holds eighty-four college hours
164 or comparable credit obtained in a trade or vocational school as
165 approved by the state board;

166 (8) A service employee who holds ninety-six college hours
167 or comparable credit obtained in a trade or vocational school as
168 approved by the state board;

169 (9) A service employee who holds one hundred eight college
170 hours or comparable credit obtained in a trade or vocational
171 school as approved by the state board;

172 (10) A service employee who holds one hundred twenty
173 college hours or comparable credit obtained in a trade or
174 vocational school as approved by the state board;

175 (d) An additional \$40 per month also shall be added to the
176 minimum monthly pay of each service employee for each of the
177 following:

178 (1) A service employee who holds an associate's degree;

179 (2) A service employee who holds a bachelor's degree;

180 (3) A service employee who holds a master's degree;

181 (4) A service employee who holds a doctorate degree.

182 (e) An additional \$11 per month shall be added to the
183 minimum monthly pay of each service employee for each of the
184 following:

185 (1) A service employee who holds a bachelor's degree plus
186 fifteen college hours;

187 (2) A service employee who holds a master's degree plus
188 fifteen college hours;

189 (3) A service employee who holds a master's degree plus
190 thirty college hours;

191 (4) A service employee who holds a master's degree plus
192 forty-five college hours; and

193 (5) A service employee who holds a master's degree plus
194 sixty college hours.

195 (f) To meet the objective of salary equity among the
196 counties, each service employee shall be paid an equity supple-
197 ment, as set forth in section five of this article, of \$152 per
198 month, subject to the provisions of that section. These payments:
199 (i) Shall be in addition to any amounts prescribed in the applica-
200 ble State Minimum Pay Scale Pay Grade, any specific additional
201 amounts prescribed in this section and article and any county
202 supplement in effect in a county pursuant to section five-b of this
203 article; (ii) shall be paid in equal monthly installments; and (iii)
204 shall be considered a part of the state minimum salaries for
205 service personnel.

206 (g) When any part of a school service employee's daily shift
207 of work is performed between the hours of six o'clock p. m. and
208 five o'clock a. m. the following day, the employee shall be paid
209 no less than an additional \$10 per month and one half of the pay
210 shall be paid with local funds.

211 (h) Any service employee required to work on any legal
212 school holiday shall be paid at a rate one and one-half times the
213 employee's usual hourly rate.

214 (i) Any full-time service personnel required to work in
215 excess of their normal working day during any week which
216 contains a school holiday for which they are paid shall be paid
217 for the additional hours or fraction of the additional hours at a
218 rate of one and one-half times their usual hourly rate and paid
219 entirely from county board funds.

220 (j) No service employee may have his or her daily work
221 schedule changed during the school year without the employee's
222 written consent and the employee's required daily work hours
223 may not be changed to prevent the payment of time and one-half
224 wages or the employment of another employee.

225 (k) The minimum hourly rate of pay for extra duty assign-
226 ments as defined in section eight-b of this article shall be no less
227 than one seventh of the employee's daily total salary for each
228 hour the employee is involved in performing the assignment and
229 paid entirely from local funds: *Provided*, That an alternative
230 minimum hourly rate of pay for performing extra duty assign-
231 ments within a particular category of employment may be used
232 if the alternate hourly rate of pay is approved both by the county
233 board and by the affirmative vote of a two-thirds majority of the
234 regular full-time employees within that classification category of
235 employment within that county: *Provided, however*, That the
236 vote shall be by secret ballot if requested by a service person
237 within that classification category within that county. The salary
238 for any fraction of an hour the employee is involved in perform-
239 ing the assignment shall be prorated accordingly. When perform-
240 ing extra duty assignments, employees who are regularly
241 employed on a one-half day salary basis shall receive the same
242 hourly extra duty assignment pay computed as though the
243 employee were employed on a full-day salary basis.

244 (l) The minimum pay for any service personnel employees
245 engaged in the removal of asbestos material or related duties
246 required for asbestos removal shall be their regular total daily
247 rate of pay and no less than an additional \$3 per hour or no less
248 than \$5 per hour for service personnel supervising asbestos
249 removal responsibilities for each hour these employees are
250 involved in asbestos-related duties. Related duties required for
251 asbestos removal include, but are not limited to, travel, prepara-
252 tion of the work site, removal of asbestos decontamination of the
253 work site, placing and removal of equipment and removal of
254 structures from the site. If any member of an asbestos crew is
255 engaged in asbestos related duties outside of the employee's
256 regular employment county, the daily rate of pay shall be no less
257 than the minimum amount as established in the employee's
258 regular employment county for asbestos removal and an
259 additional \$30 per each day the employee is engaged in asbestos

260 removal and related duties. The additional pay for asbestos
261 removal and related duties shall be payable entirely from county
262 funds. Before service personnel employees may be used in the
263 removal of asbestos material or related duties, they shall have
264 completed a federal Environmental Protection Act approved
265 training program and be licensed. The employer shall provide all
266 necessary protective equipment and maintain all records required
267 by the Environmental Protection Act.

268 (m) For the purpose of qualifying for additional pay as
269 provided in section eight, article five of this chapter, an aide
270 shall be considered to be exercising the authority of a supervi-
271 sory aide and control over pupils if the aide is required to
272 supervise, control, direct, monitor, escort or render service to a
273 child or children when not under the direct supervision of a
274 certified professional person within the classroom, library,
275 hallway, lunchroom, gymnasium, school building, school
276 grounds or wherever supervision is required. For purposes of this
277 section, "under the direct supervision of a certified professional
278 person" means that certified professional person is present, with
279 and accompanying the aide.

§18A-4-14. Duty-free lunch and daily planning period for certain employees.

1 (a) Notwithstanding the provisions of section seven, article
2 two of this chapter, every teacher who is employed for a period
3 of time more than one half the class periods of the regular school
4 day and every service person whose employment is for a period
5 of more than three and one-half hours per day and whose pay is
6 at least the amount indicated in the state minimum pay scale as
7 set forth in section eight-a of this article shall be provided a daily
8 lunch recess of not less than thirty consecutive minutes, and the
9 employee shall not be assigned any responsibilities during this
10 recess. The recess shall be included in the number of hours
11 worked, and no county shall increase the number of hours to be

12 worked by an employee as a result of the employee being
13 granted a recess under the provisions of this section.

14 (b) Every teacher who is regularly employed for a period of
15 time more than one half the class periods of the regular school
16 day shall be provided at least one planning period within each
17 school instructional day to be used to complete necessary
18 preparations for the instruction of pupils. No teacher may be
19 assigned any responsibilities during this period, and no county
20 shall increase the number of hours to be worked by a teacher as
21 a result of such teacher being granted a planning period subse-
22 quent to the adoption of this section (March 13, 1982).

23 The duration of the planning period shall be in accordance
24 with the following:

25 (1) For grades where the majority of the student instruction
26 is delivered by only one teacher, the planning period shall be no
27 less than forty minutes; and

28 (2) For grades where students take separate courses during
29 at least four separate periods of instruction, most usually
30 delivered by different teachers for each subject, the planning
31 period shall be the length of the usual class period taught by the
32 teacher, but no less than forty minutes. Principals, and assistant
33 principals, where applicable, shall cooperate in carrying out the
34 provisions of this subsection, including, but not limited to,
35 assuming control of the class period or supervision of students
36 during the time the teacher is engaged in the planning period.
37 Substitute teachers may also be utilized to assist with classroom
38 responsibilities under this subsection: *Provided*, That any
39 substitute teacher who is employed to teach a minimum of two
40 consecutive days in the same position shall be granted a planning
41 period pursuant to this section.

42 (c) Nothing in this section prevents any teacher from
43 exchanging his or her lunch recess or a planning period or any

44 service person from exchanging his or her lunch recess for any
 45 compensation or benefit mutually agreed upon by the employee
 46 and the county superintendent or his or her agent: *Provided*, That
 47 a teacher and the superintendent or his or her agent may not
 48 agree to terms which are different from those available to any
 49 other teacher granted rights under this section within the
 50 individual school or to terms which in any way discriminate
 51 among those teachers within the individual school, and a service
 52 person granted rights under this section and the superintendent
 53 or his or her agent may not agree to terms which are different
 54 from those available to any other service personnel within the
 55 same classification category granted rights under this section
 56 within the individual school or to terms which in any way
 57 discriminate among those service personnel within the same
 58 classification category within the individual school.

59 (d) The state board shall conduct a study on planning
 60 periods. The study shall include, but not be limited to, the
 61 appropriate length for planning periods at the various grade
 62 levels and for the different types of class schedules. The board
 63 shall report its findings and recommendations to the Legislative
 64 Oversight Commission on Education Accountability no later
 65 than December 31, 2013.

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-2. Holidays; closing of schools; time lost because of such; special Saturday classes.

1 (a) Schools shall be closed on Saturdays and on the follow-
 2 ing days which are designated as legal school holidays: Inde-
 3 pendence Day, Labor Day, Veterans Day, Thanksgiving Day,
 4 Christmas Day, New Year’s Day, Martin Luther King’s birthday,
 5 Memorial Day and West Virginia Day. Schools also shall be
 6 closed on any day on which a primary election, general election
 7 or special election is held throughout the state or school district

8 and on any day appointed and set apart by the president or the
9 Governor as a holiday of special observance by the people of the
10 state.

11 (b) When any of the above designated holidays, except a
12 special election, falls on Saturday, the schools shall be closed on
13 the preceding Friday. When any designated holiday falls on
14 Sunday, the schools shall be closed on the following Monday.

15 (c) Special classes may be conducted on Saturdays for pupils
16 and by teachers and service personnel. Saturday classes shall be
17 conducted on a voluntary basis and teachers and service person-
18 nel shall be remunerated in ratio to the regularly contracted pay.

19 (d) Any school or schools may be closed by proper authori-
20 ties on account of the prevalence of contagious disease, condi-
21 tions of weather or any other calamitous cause over which the
22 board has no control.

23 (1) Under any or all of the above provisions, the time lost by
24 the school closings may not be counted as days of employment
25 and may not be counted as meeting a part of the requirements of
26 the minimum term of one hundred eighty days of instruction. A
27 school employee's pay per pay period may not change as a result
28 of a school closing not being counted as a day of employment,
29 and the employee shall be paid the same amount during any pay
30 period in which a school closing occurs that the employee would
31 have been paid during the pay period if a school closing had not
32 occurred.

33 (2) On the day or days when a school or schools are closed,
34 county boards may provide appropriate alternate work schedules
35 for professional and service personnel affected by the closing of
36 any school or schools under any or all of the provisions of this
37 subsection. Professional and service personnel shall receive pay
38 the same as if school were in session.

39 (3) Insofar as funds are available or can be made available
40 during the school year, the board may extend the employment
41 term for the purpose of making up time that might affect the
42 instructional term.

43 (e) In addition to any other provisions of this chapter, the
44 board further is authorized to provide in its annual budget for
45 meetings, workshops, vacation time or other holidays through
46 extended employment of personnel at the same rate of pay.

CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.

ARTICLE 1. FINANCIAL ASSISTANCE GENERALLY.

§18C-1-2. Definitions.

1 Definitions for terms used in this chapter have the meanings
2 ascribed to them in section two, article one, chapter eighteen-b
3 of this code unless the context clearly indicates a different
4 meaning:

5 (a) "Board" or "governing board" in the singular or plural
6 means the vice chancellor for administration employed pursuant
7 to section two, article four, chapter eighteen-b of this code when
8 a power or duty assigned to a governing board is delegated by it
9 to the senior administrator. In other instances as used in this
10 chapter, "board" or "governing board" in the singular or plural
11 means the Higher Education Policy Commission or the Council
12 for Community and Technical College Education, as appropriate.

13 (b) "Senior administrator" means the vice chancellor for
14 administration employed pursuant to section two, article four,
15 chapter eighteen-b of this code.

ARTICLE 4. UNDERWOOD-SMITH TEACHER SCHOLAR- SHIP PROGRAM.

§18C-4-1. Scholarship and loan assistance fund created; purposes; funding.

1 (a) It is the purpose of this article and article four-a of this
2 chapter to improve the quality of education in the public schools
3 of West Virginia by encouraging and enabling individuals who
4 have demonstrated outstanding academic abilities to pursue
5 teaching careers at the preschool, elementary, middle or second-
6 ary levels in the public schools of this state. In addition, of those
7 individuals who have demonstrated outstanding academic
8 abilities to pursue teaching careers, for scholarships initially
9 awarded for the fall semester, 2014, and thereafter, particular
10 efforts shall be made in the scholarship selection criteria and
11 procedures to reflect the state's present and projected subject and
12 geographic areas of critical need.

13 (b) In consultation with the State Board of Education and the
14 State Superintendent of Schools the commission shall propose
15 legislative rules in accordance with the provisions of article
16 three-a, chapter twenty-nine-a of this code. The rules shall
17 provide for the administration of the Underwood-Smith Teacher
18 Scholarship and Loan Assistance programs by the vice chancel-
19 lor for administration in furtherance of the purposes of this
20 article and article four-a of this chapter, including, but not
21 limited to, the following:

22 (1) Establishing scholarship selection criteria and proce-
23 dures;

24 (2) Establishing criteria and procedures for identifying
25 subject areas, public schools or geographic areas in critical need
26 of teachers;

27 (3) Awarding loan assistance, including establishing
28 conditions under which partial awards may be granted for less
29 than a full year of teaching in an area of critical need;

- 30 (4) Determining eligibility for loan assistance renewal;
- 31 (5) Establishing procedures ensuring that loan assistance
32 funds are paid directly to the proper lending entity; and
- 33 (6) Establishing criteria for determining participant compli-
34 ance or noncompliance with terms of the agreement and estab-
35 lishing procedures to address noncompliance including, but not
36 limited to, repayment, deferral and excusal; and
- 37 (7) Developing model agreements.
- 38 (c) There is created in the State Treasury a special revolving
39 fund to be known as the Underwood-Smith Teacher Scholarship
40 and Loan Assistance Fund to be administered by the vice
41 chancellor for administration solely for granting scholarships
42 and loan assistance to teachers and prospective teachers in
43 accordance with this article and article four-a of this chapter.
44 Any moneys which may be appropriated by the Legislature, or
45 received by the vice chancellor for administration from other
46 sources, for the purposes of this article and article four-a of this
47 chapter, shall be deposited in the fund. Any moneys remaining
48 in the fund at the close of a fiscal year shall be carried forward
49 for use in the next fiscal year. Any moneys repaid to the vice
50 chancellor for administration by reason of default of a scholar-
51 ship or loan assistance agreement under this article or article
52 four-a of this chapter also shall be deposited in the fund. Fund
53 balances shall be invested with the state's consolidated invest-
54 ment fund, and any and all interest earnings on these investments
55 shall be used solely for the purposes for which moneys invested
56 were appropriated or otherwise received.
- 57 (d) The vice chancellor for administration may accept and
58 expend any gift, grant, contribution, bequest, endowment or
59 other money for the purposes of this article and article four-a of
60 this chapter and shall make a reasonable effort to encourage

61 external support for the scholarship and loan assistance pro-
62 grams.

63 (e) For the purpose of encouraging support for the scholar-
64 ship and loan assistance programs from private sources, the vice
65 chancellor for administration may set aside no more than half of
66 the funds appropriated by the Legislature for Underwood-Smith
67 Teacher Scholarships and Loan Assistance Awards to be used to
68 match two state dollars to each private dollar from a nonstate
69 source contributed on behalf of a specific institution of higher
70 education in this state.

**§18C-4-2. Selection criteria and procedures for awarding scholar-
ships.**

1 (a) The Governor shall designate the Higher Education
2 Student Financial Aid Advisory Board created by section five,
3 article one of this chapter to select the recipients of Under-
4 wood-Smith teacher scholarships who meet the eligibility
5 criteria set forth in subsection (b) of this section.

6 (b) Eligibility for an Underwood-Smith Teacher Scholarship
7 award shall be limited to students who meet the following
8 criteria:

9 (1) Have graduated or are graduating from a West Virginia
10 high school and rank in the top ten percent of their graduating
11 class or the top ten percent statewide of those West Virginia
12 students taking the ACT test;

13 (2) Have a cumulative grade point average of at least 3.25 on
14 a possible scale of four after successfully completing two years
15 of course work at an approved institution of higher education in
16 West Virginia;

17 (3) Are public school aides or paraprofessionals as defined
18 in section eight, article four, chapter eighteen-a of this code and

19 who have a cumulative grade point average of at least 3.25 on a
20 possible scale of four after successfully completing two years of
21 course work at an approved institution of higher education in
22 West Virginia; or

23 (4) Are graduate students at the master's degree level who
24 have graduated or are graduating in the top ten percent of their
25 college graduating class.

26 (c) In accordance with the rules of the commission, the vice
27 chancellor for administration shall develop criteria and proce-
28 dures for the selection of scholarship recipients. The selection
29 criteria shall reflect the purposes of this article and shall specify
30 the areas in which particular efforts will be made in the selection
31 of scholars as set forth in section one of this article. Selection
32 procedures and criteria also may include, but are not limited to,
33 the grade point average of the applicant, involvement in extra-
34 curricular activities, financial need, current academic standing
35 and an expression of interest in teaching as demonstrated by an
36 essay written by the applicant.

37 These criteria and procedures further may require the
38 applicant to furnish letters of recommendation from teachers and
39 others.

40 It is the intent of the Legislature that academic abilities be
41 the primary criteria for selecting scholarship recipients. How-
42 ever, the qualified applicants with the highest academic abilities
43 who intend to pursue teaching careers in areas of critical need
44 and shortage pursuant to section one of this article shall be given
45 priority.

46 (d) In developing the selection criteria and procedures to be
47 used by the Higher Education Student Financial Aid Advisory
48 Board, the vice chancellor for administration shall solicit the
49 views of public and private education agencies and institutions
50 and other interested parties. Input from interested parties shall be

51 solicited by means of written and published selection criteria and
52 procedures in final form for implementation and may be
53 solicited by means of public hearings on the present and
54 projected teacher needs of the state or any other methods the vice
55 chancellor for administration may determine to be appropriate to
56 gather the information.

57 (e) The vice chancellor for administration shall make
58 application forms for Underwood-Smith Teacher Scholarships
59 available to public and private high schools in the state and in
60 other locations convenient to applicants, parents and others, and
61 shall make an effort to attract students from low-income
62 backgrounds, ethnic or racial minority students, students with
63 disabilities, and women or minority students who show interest
64 in pursuing teaching careers in mathematics and science and who
65 are underrepresented in those fields.

§18C-4-3. Scholarship agreement.

1 (a) Each recipient of an Underwood-Smith teacher scholar-
2 ship shall enter into an agreement with the vice chancellor for
3 administration under which the recipient shall meet the follow-
4 ing conditions:

5 (1) Provide the commission with evidence of compliance
6 with subsection (a), section four of this article;

7 (2) Within a ten-year period after completing the teacher
8 education for which the scholarship was awarded:

9 (A) Teach full time under contract with a county board of
10 education in a public education program in the state for a period
11 of not fewer than two years for each year for which a scholarship
12 was received; or

13 (B) Teach full time under contract for not less than one year
14 for each year for which a scholarship was received with a county

15 board of education in this state in a teacher shortage area
16 pursuant to section one of this article, in an exceptional children
17 program in this state, in a school having less than average
18 academic results or in a school in an economically disadvantaged
19 area of this state; or

20 (C) Within the ten-year period, while seeking and unable to
21 secure a full-time teaching position under contract with a county
22 board of education which satisfies the conditions of paragraph
23 (A) of this subdivision:

24 (i) Teach full-time in a private school, parochial or other
25 school approved for the instruction of students of compulsory
26 school age pursuant to section one, article eight, chapter eighteen
27 of this code; or

28 (ii) Teach in an institution of higher education in this state as
29 defined in section two, article one, chapter eighteen-b of this
30 code or in a post-secondary vocational education program in this
31 state for a period of not fewer than two years for each year for
32 which a scholarship was received; or

33 (iii) Perform alternative service or employment in this state
34 pursuant to rules promulgated by the commission, in federal,
35 state, county or local supported programs with an educational
36 component, including mental or physical health care, or with
37 bona fide tax exempt charitable organizations dedicated to the
38 above, for a period of not fewer than two years for each year for
39 which a scholarship was received.

40 Any teaching time accrued as a substitute teacher for a
41 county board of education under paragraph (A) or (B) of this
42 subdivision shall be credited pro rata in accordance with rules
43 promulgated by the commission; or

44 (3) Repay all or part of an Underwood-Smith teacher
45 scholarship received under this article plus interest and, if

46 applicable, reasonable collection fees in accordance with
47 subsection (c), section four of this article, except as provided in
48 subsection (d) of section four of this article.

49 (b) Scholarship agreements shall disclose fully the terms and
50 conditions under which assistance under this article is provided
51 and under which repayment may be required. The agreements
52 shall include the following:

53 (1) A description of the conditions and procedures to be
54 established under section four of this article; and

55 (2) A description of the appeals procedure required to be
56 established under section four of this article.

57 (c) Individuals who were awarded an Underwood-Smith
58 teacher scholarship prior to the effective date of this section may
59 apply the provisions of paragraph (A), (B) or (C), subdivision
60 (2), subsection (a) of this section to teaching or other service
61 performed by them after July 1, 1997.

§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.

1 (a) The recipient of an Underwood-Smith Teacher Scholar-
2 ship is eligible for scholarship renewal only during those periods
3 when the recipient meets the following conditions:

4 (1) Is enrolled as a full-time student in an accredited
5 institution of higher education in this state;

6 (2) Is pursuing a course of study leading to teacher certifica-
7 tion at the preschool, elementary, middle or secondary level in
8 this state;

9 (3) Is maintaining satisfactory progress as determined by the
10 institution of higher education the recipient is attending; and

11 (4) Is complying with such other standards as the commis-
12 sion may establish by rule.

13 (b) Recipients found to be in noncompliance with the
14 agreement entered into under section three of this article shall be
15 required to repay the amount of the scholarship awards received,
16 plus interest, and, where applicable, reasonable collection fees,
17 on a schedule and at a rate of interest prescribed in the program
18 guidelines. Guidelines also shall provide for proration of the
19 amount to be repaid by a recipient who teaches for part of the
20 period required under subsection (a), section three of this article
21 and for appeal procedures under which a recipient may appeal
22 any determination of noncompliance.

23 (c) A recipient is not in violation of the agreement entered
24 into under section three of this article during any period in which
25 the recipient is meeting any of the following conditions:

26 (1) Pursuing a full-time course of study at an accredited
27 institution of higher education;

28 (2) Serving, not in excess of four years, as a member of the
29 armed services of the United States;

30 (3) Seeking and unable to find full-time employment in
31 accordance with paragraph (A), subdivision (2), subsection (a),
32 section three of this article and is fulfilling any of the alterna-
33 tives specified in paragraph (B) or (C) of that subdivision;

34 (4) Satisfying the provisions of additional repayment
35 exemptions that may be prescribed by the commission by rule;
36 or

37 (5) Failing to comply with the terms of the agreement due to
38 death or permanent or temporary disability as established by
39 sworn affidavit of a qualified physician.

40 (d) The rules adopted by the commission may provide
41 guidelines under which the vice chancellor for administration
42 may extend the period for fulfilling the obligation to fifteen
43 years, if extenuating circumstances exist.

ARTICLE 4A. UNDERWOOD-SMITH TEACHER LOAN ASSISTANCE PROGRAM.**§18C-4A-1. Selection criteria and procedures for loan assistance.**

1 (a) The Governor shall designate the Higher Education
2 Student Financial Aid Advisory Board created by section five,
3 article one of this chapter to select recipients to receive Under-
4 wood-Smith Teacher Loan Assistance Awards.

5 (b) The advisory board shall make decisions regarding loan
6 assistance pursuant to section one, article four of this chapter and
7 the following criteria:

8 (A) Eligibility for an award is limited to a teacher who has
9 earned a teaching degree and is certified to teach a subject area
10 of critical need in the public schools of West Virginia. A
11 certified teacher in a subject area of critical need who is enrolled
12 in an advanced in-field degree course or who has earned an
13 advanced in-field degree may apply for an award to be paid
14 toward current education loans;

15 (B) To be eligible for a loan award, a teacher shall agree to
16 teach, or shall currently be teaching, a subject area of critical
17 need in a state school or geographic area of the state identified
18 as an area of critical need pursuant to section one, article four of
19 this chapter.

20 (c) In accordance with the rule promulgated pursuant to
21 section one, article four of this chapter, the vice chancellor for
22 administration shall develop criteria and procedures for the
23 administration of the loan program.

24 (d) The vice chancellor for administration shall make
25 available program application forms to public and private
26 schools in the state via the commission and the State Department
27 of Education's websites and in other locations convenient to
28 potential applicants.

§18C-4A-2. Loan assistance agreement.

1 (a) Before receiving an award, each eligible teacher shall
2 enter into an agreement with the vice chancellor for administra-
3 tion and shall meet the following criteria:

4 (1) Provide the commission with evidence of compliance
5 with subsection (b), section four, article four of this chapter;

6 (2) Teach in a subject area or geographic area of critical need
7 full time under contract with a county board for a period of two
8 school years for each year for which loan assistance is received
9 pursuant to this article. The vice chancellor for administration
10 may grant a partial award to an eligible recipient whose contract
11 term is for less than a full school year pursuant to criteria
12 established by commission rule.

13 (3) Acknowledge that an award is to be paid to the recipi-
14 ent's educational loan institution, not directly to the recipient,
15 only after the commission determines that the recipient has
16 complied with all terms of the agreement; and

17 (4) Repay all or part of an award received pursuant to this
18 article if the award is not paid to the educational loan institution
19 or if the recipient does not comply with the other terms of the
20 agreement.

21 (b) Each loan agreement shall disclose fully the terms and
22 conditions under which an award may be granted pursuant to this
23 article and under which repayment may be required. The
24 agreement also is subject to and shall include the terms and
25 conditions established by section five, article four of this
26 chapter.

§18C-4A-3. Amount and duration of loan assistance; limits.

1 (a) Each award recipient is eligible to receive loan assistance
2 of up to \$2,000 annually subject to limits set forth in subsection
3 (b) of this section:

4 (1) If the recipient has taught math or science for a full
5 school year under contract with a county board in a school or
6 geographic area of critical need; and

7 (2) If the recipient otherwise has complied with the terms of
8 the agreement and with applicable provisions of this article and
9 article four of this chapter, and any rules promulgated pursuant
10 thereto.

11 (b) The recipient is eligible for renewal of loan assistance
12 only during the periods when the recipient is under contract with
13 a county board to teach in a subject area of critical need in a
14 school or geographic area of critical need, and complies with
15 other criteria and conditions established by rule, except that a
16 teacher who is teaching under a contract in a position that no
17 longer meets the definition of critical need under rules estab-
18 lished in accordance with section one, article four of this chapter
19 is eligible for renewal of loan assistance until the teacher leaves
20 his or her current position.

21 (c) No recipient may receive loan assistance pursuant to this
22 article which accumulates in excess of \$15,000.

CHAPTER 56

**(Com. Sub. for H. B. 3157 - By Delegates M. Poling,
Stowers, Lawrence, Williams, Perry, Pethtel, Tomblin,
Young, Pasdon, Evans and Westfall)**

[Passed April 13, 2013; in effect July 1, 2013.]

[Approved by the Governor on May 3, 2013.]

AN ACT to repeal §18-2-15, §18-2-15a, §18-2-18, §18-2-23,
§18-2-30, §18-2-31, §18-2-36, §18-2-37 and §18-2-38 of the Code

of West Virginia, 1931, as amended; to repeal §18-2E-3c and §18-2E-3d of said code; to repeal §18-5-40 of said code; to repeal §18-9-2b, §18-9-5, §18-9-7 and §18-9-8 of said code; to repeal §18-9A-3a, §18-9A-3b, §18-9A-13, §18-9A-13a, §18-9A-13b, §18-9A-25 and §18-9A-26 of said code; to repeal §18-9B-11 and §18-9B-16 of said code; to repeal §18A-3-2b of said code; to amend and reenact §18-2-5g of said code; to amend and reenact §18-5-45 of said code; to amend said code by adding thereto a new section, designated §18-8-6a; to amend and reenact §18-9A-10 of said code; and to amend and reenact §18-17-8 of said code, all relating to restoring the authority, flexibility and capacity of schools and school systems to improve student learning; eliminating requirement for biennial report on public schools and institutions; eliminating expired provisions for RESA study; eliminating expired provisions for study on staff fluctuations at certain schools; eliminating outdated provisions on comprehensive education program plans; eliminating requirement for statewide curriculum technology resource center; eliminating outdated provisions for automatic cost of living adjustment plan; eliminating outdated provisions for student learning abilities grant program; eliminating expired provisions on flood and property insurance study; eliminating expired provisions on study of school teams and committees; eliminating prescriptive summer reading and math grant program provisions; eliminating provisions pilot program for operation on schools on semester basis; eliminating outdated provisions for transferring school funds from magisterial and independent school districts; eliminating outdated provisions related to the board of the school fund; eliminating outdated provisions related to supplemental aid for districts with institutional home for orphans and homeless children; eliminating expired provisions for transition to new provisions on school finance; eliminating expired provisions for school finance in certain fiscal year; eliminating expired provisions for one-year transitional allocation appropriation for certain rural districts; eliminating expired provisions related to levies subsequent to

passage of statewide uniform excess levy; eliminating inoperable provisions for legislative reserve fund; eliminating requirement for appropriation for teacher of the year salary; eliminating allowance for workers' compensation for unpaid work-based learning; eliminating outdated provisions related to board of school finance; eliminating provisions pertaining to proceeds of the permanent improvement fund; eliminating provisions related to beginning teacher internship; replacing requirement for annual summary and submission of certain county board policies with requirement for state board to review and evaluate certain reports and report to legislative oversight commission; modifying effective date for certain school calendar amendments; providing reimbursement in certain circumstances for county board costs of probation officers for truant juveniles; reducing percent of increase in local share added to allowance to improve instructional programs; requiring certain funds available for use for personnel to be used for only certain personnel subject to certain condition; increasing percent of increase in local share added for instructional technology purposes; changing purpose to county and school strategic improvement plans; changing method of allocation to counties; expanding provisions pertaining to suspension or dismissal of West Virginia Schools for the Deaf and the Blind teachers to include auxiliary and service personnel; and allowing the state board to employ a hearing examiner to preside at the taking of evidence.

Be it enacted by the Legislature of West Virginia:

That §18-2-15, §18-2-15a, §18-2-18, §18-2-23, §18-2-30, §18-2-31, §18-2-36, §18-2-37 and §18-2-38 of the Code of West Virginia, 1931, as amended, be repealed; that §18-2E-3c and §18-2E-3d of said code be repealed; that §18-5-40 of said code be repealed; that §18-9-2b, §18-9-5, §18-9-7 and §18-9-8 of said code be repealed; that §18-9A-3a, §18-9A-3b, §18-9A-13, §18-9A-13a, §18-9A-13b, §18-9A-25 and §18-9A-26 of said code be repealed; that §18-9B-11 and §18-9B-16 of said code be repealed; that §18A-3-2b of

said code be repealed; that §18-2-5g of said code be amended and reenacted; that §18-5-45 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-8-6a; that §18-9A-10 of said code be amended and reenacted; and that §18-17-8 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5g. Review and determination of principal and teacher reports; identify reports with recommendations to Legislative Oversight Commission on Education Accountability.

1 (a) The state board annually shall review and evaluate the
2 list of reports required to be written by principals and teachers in
3 order to determine which reports are repetitive, unnecessary,
4 counterproductive or outdated so that the administrative burden
5 on principals and teachers may be lessened.

6 (b) The state board shall submit a report to the Legislative
7 Oversight Commission on Education Accountability no later
8 than December 31 of each year identifying those unnecessary
9 reports, together with any comments and recommendations on
10 how to reduce or consolidate principal and teacher reports.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-45. School calendar.

1 (a) As used in this section:

2 (1) "Instructional day" means a day within the instructional
3 term which meets the following criteria:

4 (A) Instruction is offered to students for at least the mini-
5 mum amount of hours provided by state board rule;

6 (B) Instructional time is used for instruction and cocurricular
7 activities; and

8 (C) Other criteria as the state board determines appropriate.

9 (2) "Cocurricular activities" are activities that are closely
10 related to identifiable academic programs or areas of study that
11 serve to complement academic curricula as further defined by
12 the state board.

13 (b) *Findings.* –

14 (1) The primary purpose of the school system is to provide
15 instruction for students.

16 (2) The school calendar, as defined in this section, is
17 designed to define the school term both for employees and for
18 instruction.

19 (3) The school calendar shall provide for one hundred eighty
20 separate instructional days.

21 (c) The county board shall provide a school term for its
22 schools that contains the following:

23 (1) An employment term that excludes Saturdays and
24 Sundays and consists of at least two hundred days, which need
25 not be successive. The beginning and closing dates of the
26 employment term may not exceed forty-eight weeks;

27 (2) Within the employment term, an instructional term for
28 students of no less than one hundred eighty separate instructional
29 days, which includes an inclement weather and emergencies plan
30 designed to guarantee an instructional term for students of no
31 less than one hundred eighty separate instructional days;

32 (3) Within the employment term, noninstructional days shall
33 total twenty and shall be comprised of the following:

- 34 (A) Seven paid holidays;
- 35 (B) Election day as specified in section two, article five,
36 chapter eighteen-a of this code;
- 37 (C) Six days to be designated by the county board to be used
38 by the employees outside the school environment, with at least
39 four outside the school environment days scheduled to occur
40 after the one hundred and thirtieth instructional day of the school
41 calendar; and
- 42 (D) The remaining days to be designated by the county board
43 for purposes to include, but not be limited to:
- 44 (i) Curriculum development;
- 45 (ii) Preparation for opening and closing school;
- 46 (iii) Professional development;
- 47 (iv) Teacher-pupil-parent conferences;
- 48 (v) Professional meetings;
- 49 (vi) Making up days when instruction was scheduled but not
50 conducted; and
- 51 (vii) At least four two-hour blocks of time for faculty senate
52 meetings with each two-hour block of time scheduled once at
53 least every forty-five instructional days; and
- 54 (4) Scheduled out-of-calendar days that are to be used for
55 instructional days in the event school is canceled for any reason.
- 56 (d) A county board of education shall develop a policy that
57 requires additional minutes of instruction in the school day or
58 additional days of instruction to recover time lost due to late
59 arrivals and early dismissals.

60 (e) If it is not possible to complete one hundred eighty
61 separate instructional days with the current school calendar, the
62 county board shall schedule instruction on any available
63 noninstructional day, regardless of the purpose for which the day
64 originally was scheduled, or an out-of-calendar day and the day
65 will be used for instruction of students: *Provided*, That the
66 provisions of this subsection do not apply to:

67 (A) Holidays;

68 (B) Election day;

69 (C) Saturdays and Sundays.

70 (f) The instructional term shall commence and terminate on
71 a date selected by the county board.

72 (g) The state board may not schedule the primary statewide
73 assessment program more than thirty days prior to the end of the
74 instructional year unless the state board determines that the
75 nature of the test mandates an earlier testing date.

76 (h) The following applies to cocurricular activities:

77 (1) The state board shall determine what activities may be
78 considered cocurricular;

79 (2) The state board shall determine the amount of instruc-
80 tional time that may be consumed by cocurricular activities; and

81 (3) Other requirements or restrictions the state board may
82 provide in the rule required to be promulgated by this section.

83 (i) Extracurricular activities may not be used for instruc-
84 tional time.

85 (j) Noninstructional interruptions to the instructional day
86 shall be minimized to allow the classroom teacher to teach.

87 (k) Prior to implementing the school calendar, the county
88 board shall secure approval of its proposed calendar from the
89 state board or, if so designated by the state board, from the state
90 superintendent.

91 (l) In formulation of a school's calendar, a county school
92 board shall hold at least two public meetings that allow parents,
93 teachers, teacher organizations, businesses and other interested
94 parties within the county to discuss the school calendar. The
95 public notice of the date, time and place of the public hearing
96 must be published in a local newspaper of general circulation in
97 the area as a Class II legal advertisement, in accordance with the
98 provisions of article three, chapter fifty-nine of this code.

99 (m) The county board may contract with all or part of the
100 personnel for a longer term of employment.

101 (n) The minimum instructional term may be decreased by
102 order of the state superintendent in any county declared a federal
103 disaster area and where the event causing the declaration is
104 substantially related to a reduction of instructional days.

105 (o) Notwithstanding any provision of this code to the
106 contrary, the state board may grant a waiver to a county board
107 for its noncompliance with provisions of chapter eighteen,
108 eighteen-a, eighteen-b and eighteen-c of this code to maintain
109 compliance in reaching the mandatory one hundred eighty
110 separate instructional days established in this section.

111 (p) The state board shall promulgate a rule in accordance
112 with the provisions of article three-b, chapter twenty-nine-a of
113 this code for the purpose of implementing the provisions of this
114 section.

115 (q) The amendments to this section during the 2013 regular
116 session of the Legislature shall be effective for school years
117 beginning on or after July 1, 2014, and the provisions of this

118 section existing immediately prior to the 2013 regular session of
119 the Legislature remain in effect for school years beginning prior
120 to July 1, 2014.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-6a. Incentive for county board participation in circuit court juvenile probation truancy programs.

1 A county board that enters into a truancy program agreement
2 with the circuit court of the county that (1) provides for the
3 referral of truant juveniles for supervision by the court's
4 probation office pursuant to section eleven, article five, chapter
5 forty-nine of this code and (2) requires the county board to pay
6 for the costs of the probation officer or officers assigned to
7 supervise truant juveniles, shall be reimbursed for one-half of the
8 costs of the probation officer or officers, subject to appropriation
9 of the Legislature for this purpose to the West Virginia Depart-
10 ment of Education. For any year in which the funds appropriated
11 are insufficient to cover the reimbursement costs, the county's
12 costs shall be reimbursed pro rata.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-10. Foundation allowance to improve instructional programs.

1 (a) The total allowance to improve instructional programs
2 shall be the sum of the following:

3 (1) For instructional improvement, in accordance with
4 county and school electronic strategic improvement plans
5 required by section five, article two-e of this chapter, an amount
6 equal to fifteen percent of the increase in the local share amount
7 for the next school year above any required allocation pursuant
8 to section six-b of this article shall be added to the amount of the
9 appropriation for this purpose for the immediately preceding

10 school year: *Provided*, That effective July 1, 2014, an amount
11 equal to ten percent of the increase in the local share amount for
12 the next school year above any required allocation pursuant to
13 section six-b of this article shall be added to the amount of the
14 appropriation for this purpose for the immediately preceding
15 school year. The sum of these amounts shall be distributed to the
16 counties as follows:

17 (A) One hundred fifty thousand dollars shall be allocated to
18 each county; and

19 (B) Distribution to the counties of the remainder of these
20 funds shall be made proportional to the average of each county's
21 average daily attendance for the preceding year and the county's
22 second month net enrollment.

23 Moneys allocated by provision of this subdivision shall be
24 used to improve instructional programs according to the county
25 and school strategic improvement plans required by section five,
26 article two-e of this chapter and approved by the state board:
27 *Provided*, That notwithstanding any other provision of this code
28 to the contrary, moneys allocated by provision of this section
29 also may be used in the implementation and maintenance of the
30 uniform integrated regional computer information system.

31 Up to twenty-five percent of this allocation may be used to
32 employ professional educators and service personnel in counties
33 after all applicable provisions of sections four and five of this
34 article have been fully utilized.

35 Prior to the use of any funds from this subdivision for
36 personnel costs, the county board must receive authorization
37 from the state superintendent. The state superintendent shall
38 require the county board to demonstrate: (1) The need for the
39 allocation; (2) efficiency and fiscal responsibility in staffing; (3)
40 sharing of services with adjoining counties and the regional

41 educational service agency for that county in the use of the total
42 local district board budget; and (4) employment of technology
43 integration specialists to meet the needs for implementation of
44 the West Virginia 21st Century Strategic Technology Learning
45 Plan. County boards shall make application for the use of funds
46 for personnel for the next fiscal year by May 1 of each year. On
47 or before June 1, the state superintendent shall review all
48 applications and notify applying county boards of the approval
49 or disapproval of the use of funds for personnel during the fiscal
50 year appropriate. The state superintendent shall require the
51 county board to demonstrate the need for an allocation for
52 personnel based upon the county's inability to meet the require-
53 ments of state law or state board policy.

54 The provisions relating to the use of any funds from this
55 subdivision for personnel costs are subject to the following: (1)
56 The funds available for personnel under this subsection may not
57 be used to increase the total number of professional
58 noninstructional personnel in the central office beyond four; and
59 (2) For the school year beginning July 1, 2013, and thereafter,
60 any funds available to a county for use for personnel above the
61 amount available for the 2012-2013 school year, only may be
62 used for technology systems specialists until the state superinten-
63 dent determines that the county has sufficient technology
64 systems specialists to serve the needs of the county.

65 The plan shall be made available for distribution to the
66 public at the office of each affected county board; plus

67 (2) For the purposes of improving instructional technology,
68 an amount equal to fifteen percent of the increase in the local
69 share amount for the next school year above any required
70 allocation pursuant to section six-b of this article shall be added
71 to the amount of the appropriation for this purpose for the
72 immediately preceding school year: *Provided*, That effective
73 July 1, 2014, an amount equal to twenty percent of the increase

74 in the local share amount for the next school year above any
75 required allocation pursuant to section six-b of this article shall
76 be added to the amount of the appropriation for this purpose for
77 the immediately preceding school year. The sum of these
78 amounts shall be allocated to the counties as provided in section
79 seven, article two-e of this chapter to meet the objectives of the
80 West Virginia 21st Century Strategic Technology Learning Plan:
81 *Provided*, That effective July 1, 2014, the sum of these amounts
82 shall be distributed to the counties as follows:

83 (A) Thirty thousand dollars shall be allocated to each county;
84 and

85 (B) Distribution to the counties of the remainder of these
86 funds shall be made proportional to the average of each county's
87 average daily attendance for the preceding year and the county's
88 second month net enrollment.

89 Effective July 1, 2014, moneys allocated by provision of this
90 subdivision shall be used to improve instructional technology
91 programs according to the county and school strategic improve-
92 ment plans; plus

93 (3) One percent of the state average per pupil state aid
94 multiplied by the number of students enrolled in dual credit,
95 advanced placement and international baccalaureate courses, as
96 defined by the state board, distributed to the counties proportion-
97 ate to enrollment in these courses in each county; plus

98 (4) An amount not less than the amount required to meet
99 debt service requirements on any revenue bonds issued prior to
100 January 1, 1994, and the debt service requirements on any
101 revenue bonds issued for the purpose of refunding revenue bonds
102 issued prior to January 1, 1994, shall be paid into the School
103 Building Capital Improvements Fund created by section six,
104 article nine-d of this chapter and shall be used solely for the

105 purposes of that article. The School Building Capital Improve-
106 ments Fund shall not be utilized to meet the debt services
107 requirement on any revenue bonds or revenue refunding bonds
108 for which moneys contained within the School Building Debt
109 Service Fund have been pledged for repayment pursuant to that
110 section.

111 (b) When the school improvement bonds secured by funds
112 from the School Building Capital Improvements Fund mature,
113 the state Board of Education shall annually deposit an amount
114 equal to \$24,000,000 from the funds allocated in this section into
115 the School Construction Fund created pursuant to the provisions
116 of section six, article nine-d of this chapter to continue funding
117 school facility construction and improvements.

118 (c) Any project funded by the School Building Authority
119 shall be in accordance with a comprehensive educational facility
120 plan which must be approved by the state board and the School
121 Building Authority.

ARTICLE 17. WEST VIRGINIA SCHOOLS FOR THE DEAF AND THE BLIND.

§18-17-8. Continuing contract status established; dismissal and suspension procedures.

1 Before entering upon their duties, all teachers shall execute
2 a contract with the state board, which contract shall state the
3 salary to be paid and shall be in the form prescribed by the state
4 superintendent. Every such contract shall be signed by the
5 teacher and by the president and secretary of the state board.

6 A teacher's contract, under this section, shall be for a term
7 of not less than one nor more than three years; and if, after three
8 years of such employment, the teacher who holds a professional
9 certificate, based on at least a bachelor's degree, has met the

10 qualifications for the same, and the state board enter into a new
11 contract of employment, it shall be a continuing contract.

12 Notwithstanding any other provisions of law, the state board
13 may suspend or dismiss any teacher, auxiliary personnel or
14 service personnel, subject to the provisions of this article, for
15 immorality, incompetency, cruelty, insubordination, intemper-
16 ance or willful neglect of duty. The charges shall be stated in
17 writing and the teacher, auxiliary personnel or service personnel
18 affected shall be given an opportunity to be heard by the state
19 board, sitting as a hearing board, or by an assigned hearing
20 examiner employed by the state board to preside at the taking of
21 evidence upon not less than ten days' written notice. A hearing
22 examiner shall prepare his or her own proposed finding and
23 recommendation, make copies of the findings available to the
24 parties and then submit the entire record to the state board for
25 final decision. The state board shall set a time and place for
26 hearing of arguments by the parties on the record at a regular
27 meeting of the state board or at a special meeting called for that
28 purpose and shall deliberate and issue a decision at the conclu-
29 sion of arguments. Written notice of the final decision shall be
30 served within five days of the state board's consideration of the
31 matter.

CHAPTER 57

**(H. B. 2861 - By Delegates Pasdon, M. Poling,
Barill, Marshall, Frich and Fleischauer)**

[Passed April 13, 2013; in effect July 1, 2013.]

[Approved by the Governor on May 3, 2013.]

AN ACT to amend and reenact §18-2-6 of the Code of West Virginia,
1931, as amended, relating to dual enrollment of at-risk student in

public school and alternative program that meets certain conditions; making legislative findings; requiring approval of alternative programs by the state board of education; authorizing county superintendent to approve dual enrollment; providing conditions under which dual enrollment may be approved; eliminating required annual report on cooperation with challenge academy; and making technical changes.

Be it enacted by the Legislature of West Virginia:

That §18-2-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-6. Classification and standardization of schools; standards for degrees and diplomas; certificates of proficiency; establishment of alternative education programs.

1 (a) The state board shall promulgate rules for the accredita-
2 tion, classification and standardization of all schools in the state,
3 except institutions of higher education, and shall determine the
4 minimum standards for granting diplomas and certificates of
5 proficiency by those schools.

6 (1) The certificates of proficiency shall include specific
7 information regarding the graduate's skills, competence and
8 readiness for employment or honors and advanced education and
9 shall be granted, along with the diploma, to every eligible high
10 school graduate.

11 (2) The certificate of proficiency shall include the program
12 of study major completed by the student only for those students
13 who have completed the required major courses, or higher level
14 courses, advanced placement courses, college courses or other
15 more rigorous substitutes related to the major, and the recom-
16 mended electives.

17 (b) An institution of less than collegiate or university status
18 may not grant any diploma or certificate of proficiency on any
19 basis of work or merit below the minimum standards prescribed
20 by the state board.

21 (c) A charter or other instrument containing the right to issue
22 diplomas or certificates of proficiency may not be granted by the
23 State of West Virginia to any institution or other associations or
24 organizations of less than collegiate or university status within
25 the state until the condition of granting or issuing the diplomas
26 or other certificates of proficiency has first been approved in
27 writing by the state board.

28 (d) The state board shall promulgate a rule for the approval
29 of alternative education programs for disruptive students who are
30 at risk of not succeeding in the traditional school structure.

31 (1) This rule may provide for the waiver of other policies of
32 the state board, the establishment and delivery of a nontradi-
33 tional curriculum, the establishment of licensure requirements
34 for alternative education program teachers, and the establishment
35 of performance measures for school accreditation.

36 (2) This rule shall provide uniform definitions of disruptive
37 student behavior and uniform standards for the placement of
38 students in alternative settings or providing other interventions
39 including referrals to local juvenile courts to correct student
40 behavior so that they can return to a regular classroom without
41 engaging in further disruptive behavior.

42 (e) The state board shall establish up to five pilot projects at
43 the elementary or middle school levels, or both, that employ
44 alternative schools or other placements for disruptive students to
45 learn appropriate behaviors so they can return to the regular
46 classroom without further disrupting the learning environment.
47 The state board shall report to the Legislative Oversight Com-

48 mission on Education Accountability by December 1, 2010, on
49 its progress in establishing the pilot projects and by December 1
50 in each year after that for the duration of the pilot projects on the
51 effect of the projects on maintaining student discipline.

52 (f) If a student attends an approved alternative education
53 program or the Mountaineer Challenge Academy, which is
54 designated as a special alternative education program pursuant
55 to section twenty-four, article one-b, chapter fifteen of this code,
56 and the student graduates or passes the General Equivalency
57 Development (GED) Tests within five years of beginning ninth
58 grade, that student shall be considered graduated for the pur-
59 poses of calculating the high school graduation rate used for
60 school accreditation and school system approval, subject to the
61 following:

62 (1) The student shall be considered graduated only to the
63 extent that this is not in conflict with any provision of federal
64 law relating to graduation rates;

65 (2) If the state board determines that this is in conflict with
66 a provision of federal law relating to graduation rates, the state
67 board shall request a waiver from the United States Department
68 of Education; and

69 (3) If the waiver is granted, notwithstanding the provisions
70 of subdivision (1) of this subsection, the student graduating or
71 passing the General Educational Development (GED) Tests
72 within five years shall be considered graduated.

73 (g) The state board shall promulgate a rule to support the
74 operation of the National Guard Youth Challenge Program
75 operated by the Adjutant General and known as the "Mountaineer
76 Challenge Academy" which is designated as a special
77 alternative education program pursuant to section twenty-four,
78 article one-b, chapter fifteen of this code, for students who are at

79 risk of not succeeding in the traditional school structure. The rule
80 shall set forth policies and procedures applicable only to the
81 Mountaineer Challenge Academy that provide for, but are not
82 limited to, the following:

83 (1) Implementation of provisions set forth in section
84 twenty-four, article one-b, chapter fifteen of this code;

85 (2) Precedence of the policies and procedures designated by
86 the National Guard Bureau for the operation of the Mountaineer
87 Challenge Academy special alternative education program;

88 (3) Consideration of a student participating in the Mountain-
89 eer Challenge Academy special alternative education program at
90 full enrollment status in the referring county for the purposes of
91 funding and calculating attendance and graduation rates, subject
92 to the following:

93 (A) The student shall be considered at full enrollment status
94 only for the purposes of calculating attendance and graduation
95 rates to the extent that this is not in conflict with any provision
96 of federal law relating to attendance or graduation rates;

97 (B) If the state board determines that this is in conflict with
98 a provision of federal law relating to attendance or graduation
99 rates, the state board shall request a waiver from the United
100 States Department of Education;

101 (C) If the waiver is granted, notwithstanding the provisions
102 of paragraph (A) of this subdivision, the student shall be
103 considered at full enrollment status in the referring county for
104 the purposes of calculating attendance and graduation rates; and

105 (D) Consideration of the student at full enrollment status in
106 the referring county is for the purposes of funding and calculat-
107 ing attendance and graduation rates only. For any other purpose,
108 a student participating in the academy is considered withdrawn
109 from the public school system;

110 (4) Articulation of the knowledge, skills and competencies
111 gained through alternative education so that students who return
112 to regular education may proceed toward attainment or may
113 attain the standards for graduation without duplication; and

114 (5) Consideration of eligibility to take the General Educa-
115 tional Development (GED) Tests by qualifying within the
116 extraordinary circumstances provisions established by state
117 board rule for a student participating in the Mountaineer
118 Challenge Academy special alternative education program who
119 does not meet any other criteria for eligibility.

120 (h) Nothing in this section or the rules promulgated under
121 this section compels the Mountaineer Challenge Academy to be
122 operated as a special alternative education program or to be
123 subject to any other laws governing the public schools except by
124 its consent.

125 (i) The Legislature makes the following findings regarding
126 students at-risk:

127 (1) Defeated and discouraged learners:

128 (A) Any child who is unlikely to graduate on schedule with
129 both the skills and self esteem necessary to exercise meaningful
130 options in the areas of work, leisure, culture, civic affairs and
131 personal relationships may be defined as being an at-risk student;

132 (B) Problems associated with students at-risk often begin for
133 them in the early grades as they gradually fall further behind in
134 the essential skills of reading, writing and math;

135 (C) These problems may be accompanied by such behavior
136 patterns as poor attendance, inattentiveness, negative attitudes
137 and acting out in class. These patterns are both symptoms of and
138 added catalysts for students to become increasingly defeated and
139 discouraged learners;

140 (D) By the middle grades, students with growing skill
141 deficits, usually know they are behind other students and have
142 good reason to feel discouraged. A growing lack of self confi-
143 dence and self worth, limited optimism for the future, avoidance
144 of school and adults and a dimming view of the relationship
145 between effort and achievement are among the characteristics of
146 defeated and discouraged learners;

147 (E) Public schools are expected to address the needs of all
148 students, minimizing the likelihood that they will become at-risk
149 and giving additional attention to those who do; however, the
150 circumstances involved with a child becoming at-risk often are
151 complex and may include influences both within and outside of
152 the school environment; and

153 (F) In fragile homes, a child who is at-risk and is becoming
154 a discouraged and defeated learner often lacks adequate support
155 and may develop peer relationships that further exacerbate the
156 difficulty of reengaging him or her in learning, school and
157 responsible social behavior.

158 (2) The Legislature further finds that the public schools
159 should not be deterred from seeking and assisting with enroll-
160 ment of students in an alternative program that helps remedy the
161 discouragement, lessens skill deficits and facilitates a successful
162 return to public school.

163 (A) For this purpose, subject to approval of the county
164 superintendent, a student enrolled in the public schools of the
165 county may continue to be enrolled while also enrolled in an
166 alternative program subject to the following conditions:

167 (1) The alternative program is approved by the state board;

168 (2) The student meets the general description of an at-risk
169 student and exhibits behaviors and characteristics associated
170 with a discouraged and defeated learner;

171 (3) The alternative program complies with all requests of the
172 county superintendent for information on the educational
173 program and progress of the student;

174 (4) The alternative program includes a family involvement
175 component in its program. This component shall include, but is
176 not limited to, providing for student and parent participation in
177 activities that help address the challenging issues that have
178 hindered the student's engagement and progress in learning;

179 (5) The alternative program includes an on site boarding
180 option for students;

181 (6) The alternative program provides an individualized
182 education program for students that is designed to prepare them
183 for a successful transition back into the public schools; and

184 (7) The parents or legal guardian of the student make
185 application for enrollment of the student in the alternative
186 program, agree to the terms and conditions for enrollment, and
187 enroll the student in the program.

CHAPTER 58

**(Com. Sub. for S. B. 336 - Senators Stollings,
Wells, Plymale, Barnes, Beach, Unger,
Palumbo, Kessler (Mr. President) and Jenkins)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-25a, relating to establishing protocols and protections to limit and treat injury to youth athletes and students; making legislative findings with

respect to concussions and athletic endeavors; defining certain terms; requiring certain rules; and setting forth certain minimum provisions of rules.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-2-25a, to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25a. Management of concussions and head injuries in athletics at West Virginia Secondary School Activities Commission member high school or middle school.

1 (a) The Legislature makes the following findings:

2 (1) Concussions are one of the most commonly reported
3 injuries in children and adolescents who participate in sports and
4 recreational activities. The Centers for Disease Control and
5 Prevention estimates that as many as 3.9 million sports-related
6 and recreation-related concussions occur in the United States
7 each year;

8 (2) A concussion is caused by a blow or motion to the head
9 or body that causes the brain to move rapidly inside the skull.
10 The risk of catastrophic injuries or death is significant when a
11 concussion or head injury is not properly evaluated and man-
12 aged;

13 (3) Concussions are a type of brain injury that can range
14 from mild to severe and can disrupt the way the brain normally
15 functions;

16 (4) Concussions can occur in any organized or unorganized
17 sport or recreational activity and can result from a fall or from
18 players colliding with each other or with obstacles;

19 (5) Concussions occur with or without loss of consciousness,
20 but the vast majority occur without loss of consciousness;

21 (6) The interscholastic athlete who continues to play or
22 practice with a concussion or symptoms of head injury is
23 especially vulnerable to greater injury and even death; and

24 (7) Even with generally recognized return-to-play-and-
25 practice standards for concussion and head injury, some affected
26 interscholastic athletes are prematurely returned to play or
27 practice resulting in increased risk of physical injury or death to
28 the athletes in the State of West Virginia.

29 (b) For the purposes of this section, “interscholastic athlete”
30 means any athlete who is participating in interscholastic athletics
31 at a high school or middle school that is a member of the West
32 Virginia Secondary School Activities Commission. “Licensed
33 health care professional” means a health care provider whose
34 licensed scope of practice includes the ability to diagnose and
35 treat an injury or disease.

36 (c) The West Virginia Secondary School Activities Commis-
37 sion shall promulgate rules pursuant to section twenty-five of
38 this article that address concussions and head injuries in
39 interscholastic athletes: *Provided*, That prior to state board
40 approval and notwithstanding the exemption provided in section
41 three, article one, chapter twenty-nine-a of this code, the state
42 board shall submit the rule to the Legislative Oversight Commis-
43 sion on Education Accountability pursuant to section nine,
44 article three-b of said chapter.

45 (d) The rules required by this section shall include, but are
46 not limited to, the following:

47 (1) Guidelines and other pertinent information to inform and
48 educate appropriate school administrators, coaches,
49 interscholastic athletes and their parents or guardians of the

50 nature and risk of concussion and head injury including the risks
51 of continuing to play or practice after a concussion or head
52 injury;

53 (2) A concussion and head injury information sheet that shall
54 be signed and returned by the interscholastic athlete and the
55 athlete's parent or guardian on an annual basis before the
56 interscholastic athlete begins practice or competition;

57 (3) A requirement that each head coach of an interscholastic
58 sport at a high school or middle school who is a member of the
59 West Virginia Secondary School Activities Commission
60 complete a commission-approved concussion and head injury
61 recognition and return-to-play protocol course annually;

62 (4) A requirement that an interscholastic athlete who is
63 suspected by a licensed health care professional or by his or her
64 head coach or athletic trainer of having sustained a concussion
65 or head injury in a practice or game shall be removed from
66 competition at that time;

67 (5) A requirement that an interscholastic athlete who has
68 been removed from play or practice may not return to play or
69 practice until the athlete is evaluated by a licensed health care
70 professional trained in the evaluation and management of
71 concussions and receives written clearance to return to play and
72 practice from the licensed health care professional;

73 (6) A list of the respective categories of licensed health care
74 professionals who, if properly trained in the evaluation and
75 management of concussions, are authorized to provide written
76 clearance for the interscholastic athlete to return to play; and

77 (7) A requirement that all member schools must submit a
78 report to the West Virginia Secondary School Activities Com-
79 mission within thirty days of an interscholastic athlete suffering
80 or being suspected of suffering a concussion or head injury in a

81 practice or game. The report must state whether an evaluation by
82 a licensed health care professional verified that a concussion or
83 head injury was actually suffered, whether the athlete received
84 written clearance to return to play or practice and, if written
85 clearance was given, the number of days between the incident
86 and the actual return to play or practice. If written clearance to
87 return to play is given after thirty days of the incident, a report
88 update shall be submitted. The West Virginia Secondary School
89 Activities Commission shall compile and submit the reports to
90 the appropriate state and national organization or agencies to
91 analyze and make determinations on whether the rule required
92 by this section needs to be amended or if equipment worn by
93 interscholastic athlete needs to be changed accordingly.



CHAPTER 59

**(Com. Sub. for H. B. 2940 - By Delegates M. Poling,
Stowers, Pasdon, Moye and Perry)**

[Passed April 9, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 18, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-26a, relating to regional meetings among certain officials of county boards of education; establishing purposes and limitation; requiring notice; setting forth the responsibilities of county and state education officials; soliciting input from organizations having an interest in education; requiring certain reports; and providing a process for approval of training.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-2-26a, to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.**§18-2-26a. Regional meetings on shared services and functions; notice, solicitation of input and approval; reports.**

1 (a) During the months of July and August, 2013, and
2 thereafter biennially within two months following the organiza-
3 tional meetings of county boards required by section one-c,
4 article five of this chapter, all county superintendents of schools
5 and members of county boards belonging to the same regional
6 educational service agency shall meet together to identify
7 administrative, coordinating and other county level services and
8 functions that may be shared between or among the county
9 boards, especially when resignations, retirements, staffing
10 realignments or similar events may occur. The meeting shall be
11 a special meeting of each participating county board, to be called
12 pursuant to section four, article five of this chapter solely for the
13 purposes set forth in this section.

14 (b) As soon as each meeting is scheduled, the West Virginia
15 School Board Association shall notify the State Superintendent
16 in writing of the time, place and date of the meeting. The
17 association shall conduct the meetings and for that purpose may
18 consult with the regional educational service agencies. The
19 format of the meetings shall be approved by the state board in
20 advance.

21 (c) Prior to seeking the approval of the state board for the
22 format of the meetings, the association shall solicit input from
23 statewide organizations that have an interest in public education,
24 including organizations representing the interests of parents,
25 business and industry, public school administrators, teachers and
26 service personnel.

27 (d) By October 1, following the meetings required by this
28 section, the West Virginia School Board Association shall

29 provide a report of the meetings to the state board and the
30 Legislative Oversight Commission on Education Accountability.
31 The report shall include, but is not limited to, the following
32 items:

33 (1) Identification of the administrative, coordinating and
34 other county level services and functions that may be shared
35 between or among the county boards;

36 (2) An analysis of the advantages and disadvantages of
37 sharing services in each instance; and

38 (3) A process for implementing recommended changes.

39 (e) Subject to state board approval, the county board member
40 training standards review committee established by section one-
41 a, article five of this chapter may determine that the attendance
42 of a county board member at the meeting required by subsection
43 (a) of this section shall be approved as training related to
44 boardsmanship and governance effectiveness.

45 (f) Nothing in this section requires the elimination or
46 consolidation of county school districts.

CHAPTER 60

**(H. B. 3160 - By Delegates Walker, Stowers,
Barill, Cooper, Campbell, Lawrence, Young,
Tomblin, Hamrick, Espinosa and Westfall)**

[Amended and again passed, as a result of the objections of the Governor,
April 17, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to amend and reenact §18-5-11 of the Code of West Virginia,
1931, as amended; to further amend said code by adding thereto a

new section, designated §18-5-11a; and to further amend said code by adding thereto a new section, designated §18-5A-2a, all relating to joint establishment, maintenance and operation of school by two or more adjoining counties; requiring formal agreement for apportionment of acquisition costs; providing for operating costs; providing net enrollment adjustment for certain costs; providing for joint governing partnership board pilot initiative; making findings with respect to pilot initiative and purpose; establishing limitation and condition; providing features of partnership board; authorizing adoption of separate policies and requests of waivers; providing for modifications to local school improvement council membership for jointly established school; providing for modifications to local school improvement council membership for jointly attended school under certain conditions; and aligning authority of improvement council for proposing alternatives and requesting waivers.

Be it enacted by the Legislature of West Virginia:

That §18-5-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be further amended by adding thereto a new section, designated §18-5-11a; and that said code be further amended by adding thereto a new section, designated §18-5A-2a, all to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-11. Joint establishment of schools.

- 1 (a) The boards of two or more adjoining counties may jointly
- 2 establish and maintain schools. The title to the school shall be
- 3 vested in the board of the county in which the school is located.
- 4 The agreement by which the school is established shall be
- 5 reduced to writing and entered of record in the minutes of each
- 6 board.

7 (b) The boards of the several districts shall determine the site
8 of the proposed school and the amount to be expended for its
9 establishment and equipment.

10 (1) The participating counties shall enter a formal agreement
11 regarding the manner in which the cost for the acquisition of the
12 property and equipment shall be apportioned.

13 (2) The board in the district in which the building is located
14 shall be vested with the control and management of the school,
15 except as may otherwise be provided in the agreement between
16 the counties.

17 (c) The annual operating costs shall be the responsibility of
18 the county in which the joint school is located and subject to the
19 allowance transfer set forth in section fourteen, article nine-a of
20 this chapter unless otherwise provided in the agreement between
21 the counties.

22 (d) For a county board that sends students to a jointly
23 established school in another county and that provides transpor-
24 tation for those students or that otherwise contributes to the
25 support services or instructional program of the school, the net
26 enrollment of the county for the purposes of calculating its basic
27 foundation program as provided in article nine-a of this chapter,
28 only, shall be increased by fifteen one hundredths multiplied by
29 the number of full-time equivalent students from the county who
30 are enrolled in the jointly established school.

§18-5-11a. Joint governing partnership board pilot initiative.

1 (a) The Legislature finds that many examples exist across
2 the state of students who reside in one county, but who attend the
3 public schools in an adjoining county.

4 (1) These arrangements have been accommodated by the
5 boards of the adjoining counties and applicable statutes to serve

6 best the interests of the students by enabling them to attend a
7 school closer to their homes.

8 (2) Typically, these arrangements have evolved because
9 school closures or construction of new schools in the student's
10 county of residence have made a cross-county transfer to an
11 existing school in an adjoining county a more convenient,
12 practical and educationally sound option.

13 (b) The Legislature further finds that as population changes
14 continue to occur, the boards of adjoining counties may best
15 serve the interests of their students and families by establishing
16 a new school in partnership to be attended by students residing
17 in each of the counties. Particularly in the case of elementary
18 grade level schools established in partnership between adjoining
19 counties, the Legislature finds that each of the county boards, as
20 well as the parents of students from each of the counties attend-
21 ing the school, have an interest in the operation of the school and
22 the preparation of the students for success as they transition to
23 the higher grade levels in the other schools of their respective
24 home counties. Therefore, in the absence of a well defined
25 governance structure that accommodates these interests, the
26 purpose of this section is to provide for a joint governing
27 partnership board pilot initiative.

28 (c) The pilot initiative is limited to the joint establishment by
29 two adjoining counties of a school including elementary grade
30 levels for which a memorandum of understanding on the
31 governance and operation of the school has been signed. The
32 pilot initiative is subject to amendment of the agreement as may
33 be necessary to incorporate at least the following features of a
34 joint governing partnership board:

35 (1) The joint governing partnership board is comprised of the
36 county superintendent of each county, the president of the county
37 board of each county or his or her designee, and a designee of
38 the state superintendent;

39 (2) The board shall elect a chair from among its membership
40 for a two-year term and may meet monthly or at the call of the
41 chair.

42 (A) Meetings of the board are subject to the open govern-
43 mental proceedings laws applicable to county boards.

44 (B) The boards of the respective counties are responsible for
45 the expenses of its members and shall apportion other opera-
46 tional expenses of the board upon mutual agreement.

47 (C) Once the jointly established school is opened, the
48 meetings of the board shall be held at the school;

49 (3) All provisions of law applicable to the establishment,
50 operation and management of an inter-county school including,
51 but not limited to, section eleven, article five and section
52 fourteen, article nine-a of this chapter and article eight-i, article
53 four, chapter eighteen-a of this code apply, except that the joint
54 governing partnership board may exercise governing authority
55 for operation and management of the school in the following
56 areas:

57 (A) *Personnel.*

58 (i) Within the applicable laws for employment, evaluation,
59 mentoring, professional development, suspension and dismissal,
60 the powers and duties of the county superintendent are vested in
61 the joint governing partnership board with respect to the
62 employees employed by the county in which the school is
63 located or assigned to the school from the partner county.

64 (ii) The employees are the employees of the employing
65 county board and the partnership board may make recommenda-
66 tions concerning these employment matters to the employing
67 board it considers necessary and appropriate;

68 (B) *Curriculum.*

69 (i) The joint governing partnership board is responsible for
70 the formulation and execution of the school's strategic improve-
71 ment plan and technology plan to meet the goals for student and
72 school performance and progress.

73 (ii) In its formulation of these plans, the partnership board
74 shall consider the curriculum and plans of the respective county
75 boards to ensure preparation of the students at the school for
76 their successful transition into the higher grade level schools of
77 the respective counties;

78 (C) *Finances.* The joint governing partnership board shall
79 control and may approve the expenditure of all funds allocated
80 to the school for the school budget from either county and may
81 solicit and receive donations, apply for and receive grants and
82 conduct fund raisers to supplement the budget; and

83 (D) *Facilities.* Consistent with the policies in effect concern-
84 ing liability insurance coverage, maintenance and appropriate
85 uses of school facilities for the schools of the county in which
86 the school is located, the joint governing partnership board
87 governs the use of the school facility and ensures equitable
88 opportunities for access and use by organizations and groups
89 from both counties.

90 (d) The joint governing partnership board may adopt policies
91 for the school that are separate from the policies of the respec-
92 tive counties and, working in concert with its local school
93 improvement council, may propose alternatives to the operation
94 of the school which require the request of a waiver of policy,
95 interpretation or statute from either or both county boards, the
96 state board or the Legislature as appropriate.

97 (e) The superintendents and presidents of county boards of
98 adjoining counties that have in effect on the effective date of this

99 section a memorandum of understanding on the governance and
100 operation of a jointly established school shall report to the
101 Legislative Oversight Commission on Education Accountability
102 on or before November 1, 2013, on the status of implementation
103 of this section.

104 (1) Once established, the joint governing partnership board
105 established under this pilot initiative shall remain in effect for
106 five consecutive school years unless authority for the pilot
107 initiative is repealed.

108 (2) The Legislative Oversight Commission on Education
109 Accountability may request the superintendents and the presi-
110 dents of the county boards to provide periodic updates on this
111 pilot initiative. Also, at the conclusion of the five-year pilot
112 initiative, they shall report their recommendations on the
113 viability of the joint governing partnership board approach and
114 any recommended changes to the Legislative Oversight Com-
115 mission on Education Accountability.

116 (A) When the five-year period is concluded, by affirmative
117 vote of both boards, the joint governing partnership board shall
118 remain in effect; or

119 (B) The agreement between the boards for the governance
120 and operation of the school shall revert to the terms in effect on
121 the effective date of this section, subject to amendment by
122 agreement of the boards.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A-2a. Local school improvement council modification for certain jointly established and across county schools.

1 (a) For the purposes of this section, “parent” or “parents”
2 means the person or persons who have legal responsibility for a
3 student, including parents, guardians or custodians.

4 (b) *Jointly established schools* —

5 (1) In the case of a school that is jointly established by two
6 or more adjoining counties as provided in section eleven, article
7 five of this chapter, the school's local school improvement
8 council shall be modified to include a composition of parents
9 and at-large members in its membership as follows, notwith-
10 standing subdivisions (4) and (5), subsection (a), section two of
11 this article:

12 (A) Five parents of students enrolled at the school elected by
13 the parent members of the school's parent teacher organization.
14 If there is no parent teacher organization, the parent members
15 shall be elected by the parents of students enrolled at the school
16 in such manner as may be determined by the principal. No more
17 than three parents may be residents of the same county; and

18 (B) Four at-large members appointed by the principal:

19 (i) Two shall reside in the school's attendance area, but may
20 not be from the same county; and

21 (ii) Two shall represent business or industry and may not be
22 from the same county.

23 (C) None of the at-large members is eligible for membership
24 under any of the other elected classes of members.

25 (2) The local school improvement council shall meet at least
26 once each year with the advisory council as established in the
27 memorandum of understanding or with the joint governing
28 partnership board for the jointly established school as applicable.

29 (3) Prior to commencing an authorized action under section
30 three of this article for the purpose of proposing alternatives to
31 the operation of the school and for the purpose of requesting a
32 waiver of policy, interpretation or statute if needed to implement

33 the alternative, the local school improvement council shall seek
34 advice from the jointly established school's advisory council or
35 joint governing partnership board.

36 (c) In the case of a school that is not a jointly established
37 school as provided in section eleven, article five of this chapter,
38 but whose net enrollment includes at least one hundred fifty
39 students whose parents are residents of an adjoining county,
40 upon a petition signed by a majority of the parents of the
41 students who are enrolled at the school, but who reside in an
42 adjoining county, the local school improvement council of the
43 school shall be modified as provided in subdivisions (1) and (2),
44 subsection (b) of this section.

45 (d) For local school improvement councils under this section
46 who are proposing alternatives to the operation of the school
47 which require the request of a waiver of policy, interpretation or
48 statute under the authority and procedures as set forth in section
49 three of this article, the terms "appropriate board" and "affected
50 board" as used in section three, mean the board or the multiple
51 boards from whom a waiver is necessary for the proposal to be
52 implemented.

CHAPTER 61

**(H. B. 2729 - By Delegates Perry, Perdue, Boggs, Miley,
M. Poling, Poore, Fleischauer, Marshall,
Armstead, Ellington and Pasdon)**

[Passed April 9, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 22, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22c, relating to

allowing schools to voluntarily maintain and use epinephrine auto-injectors; providing for the administration of an auto-injector by a school nurse or other trained and authorized nonmedical school personnel for emergency care or treatment of anaphylactic reactions; allowing the issuance of standing orders and protocols by physicians to schools to obtain epinephrine auto-injectors; setting forth notice requirements; allowing students who self-inject to use the school supply of epinephrine auto-injectors; setting forth immunity from liability for school nurses and trained and authorized nonmedical school personnel; allowing county school boards to participate in free or discounted manufacturer sponsored pharmaceutical programs to obtain epinephrine auto-injectors; providing for data collection and reporting requirements; and setting forth rule-making authority to effectuate the provisions of the section.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-5-22c, to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-22c. Providing for the maintenance and use of epinephrine auto-injectors; administration of injections; notice; indemnity from liability; rules.

- 1 (a) A public, private, parochial or denominational school
- 2 located within this state may possess and maintain at the school
- 3 a supply of epinephrine auto-injectors for use in emergency
- 4 medical care or treatment for an anaphylactic reaction. A prior
- 5 diagnosis for a student or school personnel requiring the use of
- 6 epinephrine auto-injectors is not necessary to permit the school
- 7 to stock epinephrine auto-injectors. Epinephrine auto-injectors
- 8 shall be maintained by the school in a secure location which is

9 only accessible by medical personnel and authorized nonmedical
10 personnel and not by students.

11 (b) An allopathic physician licensed to practice pursuant to
12 the provisions of article three, chapter thirty of this code or an
13 osteopathic physician licensed to practice pursuant to the
14 provisions of article fourteen, chapter thirty of this code may
15 prescribe within the course of his or her professional practice
16 standing orders and protocols for use when necessary by a school
17 which wishes to maintain epinephrine auto-injector pursuant to
18 the provisions of this section.

19 (c) A school nurse, as set forth in section twenty-two of this
20 article, is authorized to administer an epinephrine auto-injector
21 to a student or school personnel during regular school hours or
22 at a school function when the school nurse medically believes
23 the individual is experiencing an anaphylactic reaction. A school
24 nurse may use the school supply of epinephrine auto-injectors
25 for a student or school personnel authorized to self-administer
26 that meet the requirements of a prescription on file with the
27 school.

28 (d) Nonmedical school personnel who have been trained in
29 the administration of an epinephrine auto-injector and who have
30 been designated and authorized by the school to administer the
31 epinephrine auto-injector are authorized to administer an
32 epinephrine auto-injector to a student or school personnel during
33 regular school hours or at a school function when the authorized
34 and designated nonmedical school personnel reasonably be-
35 lieves, based upon their training, that the individual is experienc-
36 ing an anaphylactic reaction. Nonmedical school personnel may
37 use the school supply of epinephrine auto-injectors for a student
38 or school personnel authorized to self-administer that meet the
39 requirements of a prescription on file with the school.

40 (e) Prior notice to the parents of a student of the administra-
41 tion of the epinephrine auto-injector is not required. Immediately
42 following the administration of the epinephrine auto-injector, the
43 school shall provide notice to the parent of a student who
44 received an auto-injection.

45 (f) A school nurse or trained and authorized nonmedical
46 school personnel who administer an epinephrine auto-injection
47 to a student or to school personnel as provided in this section is
48 immune from liability for any civil action arising out of an act or
49 omission resulting from the administration of the epinephrine
50 auto-injection unless the act or omission was the result of the
51 school nurse or trained and authorized nonmedical school
52 personnel's gross negligence or willful misconduct.

53 (g) For the purposes of this section, all county boards of
54 education may participate in free or discounted drug programs
55 from pharmaceutical manufacturers to provide epinephrine
56 auto-injectors to schools in their counties who choose to stock
57 auto-injectors.

58 (h) All county boards of education are required to collect and
59 compile aggregate data on incidents of anaphylactic reactions
60 resulting in the administration of school maintained epinephrine
61 auto-injectors in their county during a school year and forward
62 the data to State Superintendent of Schools. The State Superin-
63 tendent of Schools shall prepare an annual report to be presented
64 to the Joint Committee on Government and Finance as set forth
65 in article three, chapter four of this code, by December 31 of
66 each year.

67 (i) The State Board of Education, as defined in article two of
68 this chapter, shall consult with the State Health Officer, as
69 defined in section four, article three, chapter thirty of this code,
70 and promulgate rules necessary to effectuate the provisions of

71 this section in accordance with the provisions of article three-b,
72 chapter twenty-nine-a of this code. The rules shall provide, at a
73 minimum, for:

74 (1) The criteria for selection and minimum requirements of
75 nonmedical school personnel who may administer epinephrine
76 auto-injectors following the necessary training;

77 (2) The training requirements necessary for nonmedical
78 school personnel to be authorized to administer an epinephrine
79 auto-injection;

80 (3) Training on anaphylaxis and allergy awareness for food
81 service workers in the school system, if easily available locally;

82 (4) Storage requirements for maintaining the epinephrine
83 auto-injectors within the schools;

84 (5) Comprehensive notice requirements to the parents of a
85 student who was administered a school maintained epinephrine
86 auto-injection including who administered the injection, the
87 rationale for administering the injection, the approximate time of
88 the injection and any other necessary elements to make the
89 students' parents fully aware of the circumstances surrounding
90 the administration of the injection;

91 (6) Any and all necessary documentation to be kept and
92 maintained regarding receipt, inventory, storage and usage of all
93 epinephrine auto-injectors;

94 (7) Detailed reporting requirements for county boards of
95 education on incidents of use of school maintained epinephrine
96 auto-injectors during a school year; and

97 (8) Any other requirements necessary to fully implement this
98 section.

CHAPTER 62

(Com. Sub. for S. B. 80 - By Senator Edgell)

[Passed March 9, 2013; in effect July 1, 2013.]

[Approved by the Governor on April 17, 2013.]

AN ACT to amend and reenact §18-5-32 of the Code of West Virginia, 1931, as amended, relating to including substitute teaching in the job duties of certain professional educators employed by county boards of education in certain administrative and supervisory positions.

Be it enacted by the Legislature of West Virginia:

That §18-5-32 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-32. Assistant superintendents; directors and supervisors of instruction and other educational activities.

1 (a) The county board, upon the recommendation of the
2 county superintendent, may employ an assistant whose term of
3 employment may be not less than one nor more than four years:
4 *Provided*, That his or her term may not extend beyond that of the
5 incumbent county superintendent.

6 (b) The board may not employ more than one assistant for
7 each two hundred teachers or major fraction thereof.

8 (c) The county board, upon the recommendation of the
9 county superintendent, is authorized to employ general and

10 special supervisors or directors of instruction and of other
11 educational activities as may be considered necessary.

12 (d) The employment of the assistant superintendent shall be
13 on a twelve-month basis. The period of employment for all
14 others named herein shall be at the discretion of the county
15 board.

16 (e) Rules for qualifications of assistant superintendents, and
17 directors and supervisors of instruction and of other educational
18 activities shall be fixed by the state board: *Provided*, That the
19 qualifications required for any assistant superintendent may not
20 be higher than those required for the county superintendent:
21 *Provided, however*, That the rules do not affect the status of any
22 incumbent nor his or her right to succeed himself or herself in
23 his or her assigned position.

24 (f) The county board is authorized to reimburse the employ-
25 ees for their necessary traveling expenses upon presentation of
26 a monthly, itemized, sworn statement approved by the county
27 superintendent.

28 (g) Any person employed under the foregoing provision of
29 this section, provided he or she holds a valid teacher's certifi-
30 cate, shall be given continuing contract status as a teacher and
31 shall hold that status unless dismissed for statutory reasons.

32 (h) The job duties of a professional educator employed under
33 the provisions of this section, including a professional educator
34 employed as a "supervisor" or "central office administrator" as
35 defined in section one, article one, chapter eighteen-a of this
36 code, shall include substitute teaching on at least three instruc-
37 tional days each school year: *Provided*, That the substitute
38 teaching requirement of this subsection does not apply to the
39 superintendent and those who have never held a teaching
40 certificate or an administrative certificate.

- 41 (i) All acts or parts of acts inconsistent with this section are
42 hereby repealed.

CHAPTER 63

**(H. B. 3159 - By Delegates M. Poling, Stowers, Young,
Perry, Williams, Barill, Pethtel, Lawrence,
Pasdon, Ambler and Cooper)**

[Passed April 10, 2013; in effect from passage.]
[Approved by the Governor on April 22, 2013.]

AN ACT to amend and reenact §18-5B-10 of the Code of West Virginia, 1931, as amended, relating to excepting Monroe County Schools from compulsory attendance age law for purpose of increasing age to eighteen; and excepting Nicholas County Schools from requirement to commence compulsory attendance actions after certain maximum absences for purpose of limited absence excusal for Saturday program completion.

Be it enacted by the Legislature of West Virginia:

That §18-5B-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.

§18-5B-10. Exceptions to statutes granted to innovation zones; limitations.

- 1 (a) The Legislature hereby grants an exception to the statute
2 or statutes indicated for the following schools pursuant to and for
3 the purposes enumerated in their innovation zone plans approved
4 by the state board at its meeting on the date specified. The grant

5 of an exception to a statute means that the school or schools
6 granted the exception may implement the actions as specifically
7 described in their approved innovation zone plan notwithstand-
8 ing the provisions of this code from which they are specifically
9 excepted. These exceptions are limited to the purposes as
10 specifically described in the plan approved on the date indicated
11 and are expressly repealed for any plan modification or plan
12 implementation which changes those purposes. However,
13 nothing in this section prohibits a school or schools with an
14 approved innovation zone plan from requesting plan modifica-
15 tions, subject to approval of the state board, and if the modifica-
16 tions change the purposes for which an exception to a statute was
17 granted, the state board shall request an exception to achieve the
18 new purposes in the manner provided in section five of this
19 article for requesting exceptions to a statute. If the approved
20 innovation zone plan of a school or schools is withdrawn by the
21 state board, or the innovation zone designation of a school or
22 schools is revoked by the state board, the exception granted to
23 that school or those schools is expressly repealed.

24 (b) The following exceptions are granted:

25 (1) Piedmont Elementary School, Kanawha County, is
26 excepted from subsection (3), section fourteen, article four,
27 chapter eighteen-a of this code for the purpose of allowing
28 specialist teachers to take their planning period before and after
29 school totaling one hour, three days per week, and from section
30 eighteen-a, article five of this chapter for the purpose of permit-
31 ting a number of students in music and physical education
32 classes in excess of the class size limits to provide the time and
33 structure for teams to meet in professional learning communities,
34 which purposes are as more specifically described in the school's
35 innovation zone plan approved by the state board on January 13,
36 2010;

37 (2) Putnam County High Schools Consortium comprised of
38 Buffalo High School, Hurricane High School, Poca High School,
39 Winfield High School and Putnam Career and Technical Center,
40 Putnam County, is excepted from section forty-five, article five
41 of this chapter only to the extent necessary for the purpose of
42 establishing a structured transition program for freshman only
43 one day prior to the beginning of the regular instructional term,
44 and for the purpose of permitting the creation of not more than
45 three hours each month during the school term of structured,
46 regularly scheduled time for all teachers to work in professional
47 learning communities, which purposes are as more specifically
48 described in the schools' innovation zone plan approved by the
49 state board on January 13, 2010;

50 (3) Nellis Elementary School, Boone County, is excepted
51 from subsection (a), section two, article five-a of this chapter, for
52 the purpose of expanding the membership of its local school
53 improvement council, which purpose is as more specifically
54 described in the school's innovation zone plan approved by the
55 state board on January 13, 2010;

56 (4) Cabell County Secondary School Consortium comprised
57 of Cabell County Career Technical Center, Cabell Midland High
58 School and Huntington High School, Cabell County, is excepted
59 from sections one and one-a, article eight of this chapter for the
60 purpose of raising the compulsory school attendance age to
61 eighteen years old, and from section two-b, article three, chapter
62 eighteen-a of this code for the purpose of providing a customized
63 high quality beginning teacher induction program developed at
64 the county level, which purposes are as more specifically
65 described in the schools' innovation zone plan approved by the
66 state board on January 13, 2010;

67 (5) Clay County Schools is excepted from section fifteen,
68 article five of this chapter for the purpose of allowing persons

69 over the age of twenty-one years to enroll without charge of fees
70 in the Clay County Schools “iREAD” program and upon,
71 successful completion, be awarded a Clay County High School
72 Diploma, which purposes are more specifically described in the
73 Clay County School’s innovation zone plan approved by the
74 state board on January 12, 2011. The grant of this exception does
75 not abrogate the authority of the state board to determine the
76 minimum standards for granting diplomas pursuant to section
77 six, article two of this chapter and does not permit persons over
78 the age of twenty-one who reenter the public schools to be
79 included in net enrollment for the purposes of funding pursuant
80 to article nine-a of this chapter, except as otherwise provided by
81 law;

82 (6) Monroe County Schools is excepted from subdivision
83 (3), subsection (a), section one-a, article eight of this chapter for
84 the purpose of allowing the school district to increase the
85 compulsory school attendance age from seventeen years of age
86 to eighteen years of age as part of its county-wide dropout
87 prevention initiative as more specifically described in the
88 Monroe County School’s Local Solutions Dropout Prevention
89 and Recovery Innovation Zone plan approved by the state board
90 on November 14, 2012; and

91 (7) Nicholas County Schools is excepted from sections four,
92 eight and eleven, article eight of this chapter only to the extent
93 necessary to permit up to two unexcused absences per semester
94 on regular instructional days to be erased from a student’s
95 attendance record and not used toward the initiation of the
96 attendance enforcement actions as set-forth in those sections, if
97 the student successfully completes the county’s Saturday
98 instruction program operated as part of the county’s county-wide
99 Attendance Recovery dropout prevention initiative as more
100 specifically described in the Nicholas County School’s Local
101 Solutions Dropout Prevention and Recovery Innovation Zone
102 plan approved by the state board on October 3, 2012.

CHAPTER 64

**(H. B. 2800 - By Delegates Pethtel, Jones, Craig,
Canterbury, Kump, Lynch and Stowers)
[By Request of the Consolidated
Public Retirement Board]**

[Passed April 2, 2013; in effect ninety days from passage.]
[Approved by the Governor on April 19, 2013.]

AN ACT to amend and reenact §18-7A-3, §18-7A-14, §18-7A-17, §18-7A-23, §18-7A-25 and §18-7A-26 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto a new section, designated §18-7A-14c, all relating to the Teachers' Retirement System; specifying the time period in which a participating public employer allocates and reports gross salary to the retirement board; including nonteachers within the definition of present member; adding a definition for the terms retire and retirement; modifying the definition of teacher member; adding a new section relating to correction of errors; requiring nonteachers to file a statement with the retirement board detailing the length of service being claimed for retirement credit; clarifying that members granted prior service credit for qualified military service shall have been honorably discharged from active duty; clarifying provisions for purchasing out of state service credit for members who transferred from the Teachers' Defined Contribution Retirement System; providing that a nonteaching member shall not be considered absent from service while serving as an officer with a statewide professional teaching association; requiring that members make written request to the retirement board to receive credit for service previously credited by the Public Employees Retirement System; providing that all interest paid or transferred on service credit from the Public Employees Retirement System be deposited in the reserve fund; providing that an inactive member may elect to receive an annuity at age sixty; providing that the sole

primary beneficiary of a member is eligible for an annuity if the contributor was fifty years old with twenty-five years service; providing that a refund beneficiary shall receive the contributor's accumulated contributions up to the plan year of contributor's death; providing that a refund beneficiary shall be paid the Teachers' Defined Contribution Retirement System member contributions transferred plus the vested portion of employer contributions and any earnings; providing that an actively contributing member who is at least sixty years of age is eligible for an annuity; providing that any member who has thirty years of total service in the state as a nonteaching member is eligible for an annuity; specifying that anyone who becomes a new member on or after July 1, 2013, shall have five or more years of contributory service to qualify for retirement; providing that a nonteaching member who is fifty-five years of age and has served thirty years in the state is eligible for an annuity; clarifying that a nonteaching member is eligible for disability benefits; clarifying the computation of a member's annuity; providing for the commencement date of disability annuity benefits; and making technical corrections throughout this article.

Be it enacted by the Legislature of West Virginia:

That §18-7A-3, §18-7A-14, §18-7A-17, §18-7A-23, §18-7A-25 and §18-7A-26 of the Code of West Virginia, 1931, as amended, be amended and reenacted, and that said code be amended by adding thereto a new section, designated §18-7A-14c, all to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-3. Definitions.

1 As used in this article, unless the context clearly requires a
2 different meaning:

3 (1) "Accumulated contributions" means all deposits and all
4 deductions from the gross salary of a contributor plus regular
5 interest.

6 (2) "Accumulated net benefit" means the aggregate amount
7 of all benefits paid to or on behalf of a retired member.

8 (3) "Actuarially equivalent" or "of equal actuarial value"
9 means a benefit of equal value computed upon the basis of the
10 mortality table and interest rates as set and adopted by the
11 retirement board in accordance with the provisions of this
12 article: *Provided*, That when used in the context of compliance
13 with the federal maximum benefit requirements of Section 415
14 of the Internal Revenue Code, "actuarially equivalent" shall be
15 computed using the mortality tables and interest rates required
16 to comply with those requirements.

17 (4) "Annuities" means the annual retirement payments for
18 life granted beneficiaries in accordance with this article.

19 (5) "Average final salary" means the average of the five
20 highest fiscal year salaries earned as a member within the last
21 fifteen fiscal years of total service credit, including military
22 service as provided in this article, or if total service is less than
23 fifteen years, the average annual salary for the period on which
24 contributions were made: *Provided*, That salaries for determin-
25 ing benefits during any determination period may not exceed the
26 maximum compensation allowed as adjusted for cost of living in
27 accordance with section seven, article ten-d, chapter five of this
28 code and Section 401(a)(17) of the Internal Revenue Code.

29 (6) "Beneficiary" means the recipient of annuity payments
30 made under the retirement system.

31 (7) "Contributor" means a member of the retirement system
32 who has an account in the teachers accumulation fund.

33 (8) "Deposit" means a voluntary payment to his or her
34 account by a member.

35 (9) "Employer" means the agency of and within the state
36 which has employed or employs a member.

37 (10) “Employer error” means an omission, misrepresentation
38 or violation of relevant provisions of the West Virginia Code or
39 of the West Virginia Code of State Regulations or the relevant
40 provisions of both the West Virginia Code and of the West
41 Virginia Code of State Regulations by the participating public
42 employer that has resulted in an underpayment or overpayment
43 of contributions required. A deliberate act contrary to the
44 provisions of this section by a participating public employer does
45 not constitute employer error.

46 (11) “Employment term” means employment for at least ten
47 months, a month being defined as twenty employment days.

48 (12) “Gross salary” means the fixed annual or periodic cash
49 wages paid by a participating public employer to a member for
50 performing duties for the participating public employer for
51 which the member was hired. Gross salary shall be allocated and
52 reported in the fiscal year in which the work was done. Gross
53 salary also includes retroactive payments made to a member to
54 correct a clerical error, or made pursuant to a court order or final
55 order of an administrative agency charged with enforcing federal
56 or state law pertaining to the member’s rights to employment or
57 wages, with all retroactive salary payments to be allocated to and
58 considered paid in the periods in which the work was or would
59 have been done. Gross salary does not include lump sum
60 payments for bonuses, early retirement incentives, severance pay
61 or any other fringe benefit of any kind including, but not limited
62 to, transportation allowances, automobiles or automobile
63 allowances, or lump sum payments for unused, accrued leave of
64 any type or character.

65 (13) “Internal Revenue Code” means the Internal Revenue
66 Code of 1986, as it has been amended.

67 (14) “Member” means any person who has accumulated
68 contributions standing to his or her credit in the state Teachers

69 Retirement System. A member shall remain a member until the
70 benefits to which he or she is entitled under this article are paid
71 or forfeited, or until cessation of membership pursuant to section
72 thirteen of this article.

73 (15) "Members of the administrative staff of the public
74 schools" means deans of instruction, deans of men, deans of
75 women, and financial and administrative secretaries.

76 (16) "Members of the extension staff of the public schools"
77 means every agricultural agent, boys' and girls' club agent and
78 every member of the agricultural extension staff whose work is
79 not primarily stenographic, clerical or secretarial.

80 (17) "New entrant" means a teacher who is not a present
81 teacher.

82 (18) "Nonteaching member" means any person, except a
83 teacher member, who is regularly employed for full-time service
84 by: (A) Any county board of education; (B) the State Board of
85 Education; (C) the Higher Education Policy Commission; (D)
86 the West Virginia Council for Community and Technical
87 College Education; or (E) a governing board, as defined in
88 section two, article one, chapter eighteen-b of this code: *Pro-*
89 *vided*, That any person whose employment with the Higher
90 Education Policy Commission, the West Virginia Council for
91 Community and Technical College Education or a governing
92 board commences on or after July 1, 1991, is not considered a
93 nonteaching member.

94 (19) "Plan year" means the twelve-month period commenc-
95 ing on July 1 and ending the following June 30 of any designated
96 year.

97 (20) "Present member" means a present teacher or
98 nonteacher who is a member of the retirement system.

99 (21) “Present teacher” means any person who was a teacher
100 within the thirty-five years beginning July 1, 1934, and whose
101 membership in the retirement system is currently active.

102 (22) “Prior service” means all service as a teacher completed
103 prior to July 1, 1941, and all service of a present member who
104 was employed as a teacher, and did not contribute to a retirement
105 account because he or she was legally ineligible for membership
106 during the service.

107 (23) “Public schools” means all publicly supported schools,
108 including colleges and universities in this state.

109 (24) “Refund beneficiary” means the estate of a deceased
110 contributor or a person he or she has nominated as beneficiary of
111 his or her contributions by written designation duly executed and
112 filed with the retirement board.

113 (25) “Regular interest” means interest at four percent
114 compounded annually, or a higher earnable rate if set forth in the
115 formula established in legislative rules, series seven of the
116 Consolidated Public Retirement Board, 162 CSR 7.

117 (26) “Regularly employed for full-time service” means
118 employment in a regular position or job throughout the employ-
119 ment term regardless of the number of hours worked or the
120 method of pay.

121 (27) “Required beginning date” means April 1 of the
122 calendar year following the later of: (A) The calendar year in
123 which the member attains age seventy and one-half years; or (B)
124 the calendar year in which the member retires or ceases covered
125 employment under the system after having attained the age of
126 seventy and one-half years.

127 (28) “Retirant” means any member who commences an
128 annuity payable by the retirement system.

129 (29) “Retirement board” means the Consolidated Public
130 Retirement Board created pursuant to article ten-d, chapter five
131 of this code.

132 (30) “Retirement system” means the state Teachers Retirement
133 System established by this article.

134 (31) “Teacher member” means the following persons, if
135 regularly employed for full-time service: (A) Any person
136 employed for instructional service in the public schools of West
137 Virginia; (B) principals; (C) public school librarians; (D)
138 superintendents of schools and assistant county superintendents
139 of schools; (E) any county school attendance director holding a
140 West Virginia teacher’s certificate; (F) members of the research,
141 extension, administrative or library staffs of the public schools;
142 (G) the State Superintendent of Schools, heads and assistant
143 heads of the divisions under his or her supervision, or any other
144 employee under the state superintendent performing services of
145 an educational nature; (H) employees of the State Board of
146 Education who are performing services of an educational nature;
147 (I) any person employed in a nonteaching capacity by the State
148 Board of Education, any county board of education, the State
149 Department of Education or the State Teachers Retirement
150 Board, if that person was formerly employed as a teacher in the
151 public schools; (J) all classroom teachers, principals and
152 educational administrators in schools under the supervision of
153 the Division of Corrections, the Division of Health or the
154 Division of Human Services; (K) an employee of the State Board
155 of School Finance, if that person was formerly employed as a
156 teacher in the public schools; and (L) any person designated as
157 a 21st Century Learner Fellow pursuant to section eleven, article
158 three, chapter eighteen-a of this code who elects to remain a
159 member of the State Teachers Retirement System provided in
160 this article.

161 (32) “Total service” means all service as a teacher or
162 nonteacher while a member of the retirement system since last

163 becoming a member and, in addition thereto, credit for prior
164 service, if any.

165 Age in excess of seventy years shall be considered to be
166 seventy years.

**§18-7A-14. Contributions by members; contributions by employ-
ers; correction of errors; forfeitures.**

1 (a) At the end of each month every member of the retirement
2 system shall contribute six percent of that member's monthly
3 gross salary to the retirement board: *Provided*, That any member
4 employed by a state institution of higher education shall contrib-
5 ute on the member's full earnable compensation, unless other-
6 wise provided in section fourteen-a of this article. The sums are
7 due the state Teachers Retirement System at the end of each
8 calendar month in arrears and shall be paid not later than fifteen
9 days following the end of the calendar month. Each remittance
10 shall be accompanied by a detailed summary of the sums
11 withheld from the compensation of each member for that month
12 on forms, either paper or electronic, provided by the State
13 Teachers Retirement System for that purpose.

14 (b) Annually, the contributions of each member shall be
15 credited to the member's account in the State Teachers Retire-
16 ment System Fund. The contributions shall be deducted from the
17 salaries of the members as prescribed in this section and every
18 member shall be considered to have given consent to the
19 deductions. No deductions, however, shall be made from the
20 earnable compensation of any member who retired because of
21 age or service and then resumed service unless as provided in
22 section thirteen-a of this article.

23 (c) The aggregate of employer contributions, due and
24 payable under this article, shall equal annually the total deduc-
25 tions from the gross salary of members required by this section.
26 Beginning July 1, 1994, the rate shall be seven and one-half

27 percent; beginning on July 1, 1995, the rate shall be nine percent;
28 beginning on July 1, 1996, the rate shall be ten and one-half
29 percent; beginning on July 1, 1997, the rate shall be twelve
30 percent; beginning on July 1, 1998, the rate shall be thirteen and
31 one-half percent; and beginning on July 1, 1999, and thereafter,
32 the rate shall be fifteen percent: *Provided*, That the rate shall be
33 seven and one-half percent for any individual who becomes a
34 member of the State Teachers Retirement System for the first
35 time on or after July 1, 2005, or any individual who becomes a
36 member of the State Teachers Retirement System as a result of
37 the voluntary transfer contemplated in article seven-d of this
38 chapter.

39 (d) Payment by an employer to a member of the sum
40 specified in the employment contract minus the amount of the
41 employee's deductions shall be considered to be a full discharge
42 of the employer's contractual obligation as to earnable compen-
43 sation.

44 (e) Each contributor shall file with the retirement board or
45 with the employer to be forwarded to the retirement board an
46 enrollment form showing the contributor's date of birth and
47 other data needed by the retirement board.

48 (f) Notwithstanding any other provisions of this article,
49 forfeitures under the retirement system shall not be applied to
50 increase the benefits any member would otherwise receive under
51 the retirement system.

§18-7A-14c. Correction of errors; underpayments; overpayments.

1 (a) General rule: If any change or employer error in the
2 records of any employer or the retirement system results in any
3 member, retirant or beneficiary receiving from the plan more or
4 less than he or she would have been entitled to receive had the
5 records been correct, the retirement board shall correct the error.

6 If correction of the error occurs after the effective retirement
7 date of a retirant, and as far as is practicable, the retirement
8 board shall adjust the payment of the benefit in a manner that the
9 actuarial equivalent of the benefit to which the retirant was
10 correctly entitled shall be paid.

11 (b) Underpayments: Any error resulting in an underpayment
12 to the retirement system of required contributions may be
13 corrected by the member or retirant remitting the required
14 member contribution and the employer remitting the required
15 employer contribution. Interest shall accumulate in accordance
16 with the Legislative Rule 162 CSR 7 concerning retirement
17 board refund, reinstatement, retroactive service, loan and
18 employer error interest factors and any accumulating interest
19 owed on the member and employer contributions resulting from
20 an employer error shall be the responsibility of the employer.
21 The employer may remit total payment and the member reim-
22 burse the employer through payroll deduction over a period
23 equivalent to the time period during which the employer error
24 occurred. If the correction of an error involving an underpay-
25 ment of required contributions to the retirement system will
26 result in increased payments to a retirant, including increases to
27 payments already made, any adjustments shall be made only
28 after the retirement board receives full payment of all required
29 member and employer contributions, including interest.

30 (c) Overpayments: (1) When mistaken or excess employer
31 contributions, including any overpayments, have been made to
32 the retirement system by an employer, due to error or other
33 reason, the retirement board shall credit the employer with an
34 amount equal to the erroneous contributions, to be offset against
35 the employer's future liability for employer contributions to the
36 retirement system. Earnings or interest shall not be credited to
37 the employer.

38 (2) When mistaken or excess member contributions,
39 including any overpayments, have been made to the retirement

40 system, due to error or other reason, the retirement board shall
41 have sole authority for determining the means of return, offset or
42 credit to or for the benefit of the member of the amounts, and
43 may use any means authorized or permitted under the provisions
44 of Section 401(a), et seq. of the Internal Revenue Code and
45 guidance issued thereunder applicable to governmental plans.
46 Alternatively, in its full and complete discretion, the retirement
47 board may require the employer to pay the member the amounts
48 as wages, with the retirement board crediting the employer with
49 a corresponding amount to offset against its future contributions
50 to the retirement system: *Provided*, That the wages paid to the
51 member shall not be considered compensation for any purposes
52 under this article. Earnings or interest shall not be returned,
53 offset, or credited under any of the means used by the retirement
54 board for returning mistaken or excess member contributions,
55 including any overpayments, to a member.

**§18-7A-17. Statement and computation of teachers' service;
qualified military service.**

1 (a) Under rules adopted by the retirement board, each
2 teacher and nonteaching member shall file a detailed statement
3 of his or her length of service as a teacher or nonteacher for
4 which he or she claims credit. The Retirement Board shall
5 determine what part of a year is the equivalent of a year of
6 service. In computing the service, however, it shall credit no
7 period of more than a month's duration during which a member
8 was absent without pay, nor shall it credit for more than one year
9 of service performed in any calendar year.

10 (b) For the purpose of this article, the retirement board shall
11 grant prior service credit to members of the retirement system
12 who were honorably discharged from active duty service in any
13 of the Armed Forces of the United States in any period of
14 national emergency within which a federal Selective Service Act
15 was in effect. For purposes of this section, "Armed Forces"

16 includes Women's Army Corps, women's appointed volunteers
17 for emergency service, Army Nurse Corps, SPARS, Women's
18 Reserve and other similar units officially parts of the military
19 service of the United States. The military service is considered
20 equivalent to public school teaching, and the salary equivalent
21 for each year of that service is the actual salary of the member as
22 a teacher for his or her first year of teaching after discharge from
23 military service. Prior service credit for military service shall not
24 exceed ten years for any one member, nor shall it exceed twenty-
25 five percent of total service at the time of retirement. Notwith-
26 standing the preceding provisions of this subsection, contribu-
27 tions, benefits and service credit with respect to qualified
28 military service shall be provided in accordance with Section
29 414(u) of the Internal Revenue Code. For purposes of this
30 section, "qualified military service" has the same meaning as in
31 Section 414(u) of the Internal Revenue Code. The Retirement
32 Board is authorized to determine all questions and make all
33 decisions relating to this section and, pursuant to the authority
34 granted to the retirement board in section one, article ten-d,
35 chapter five of this code, may promulgate rules relating to
36 contributions, benefits and service credit to comply with Section
37 414(u) of the Internal Revenue Code. No military service credit
38 may be used in more than one retirement system administered by
39 the Consolidated Public Retirement Board.

40 (c) For service as a teacher in the employment of the federal
41 government, or a state or territory of the United States, or a
42 governmental subdivision of that state or territory, the retirement
43 board shall grant credit to the member: *Provided*, That the
44 member shall pay to the system twelve percent of that member's
45 gross salary earned during the first full year of current employ-
46 ment whether a member of the Teachers' Retirement System or
47 the Teachers' Defined Contribution Retirement System, times
48 the number of years for which credit is granted, plus interest at
49 a rate to be determined by the retirement board. The interest
50 shall be deposited in the reserve fund and service credit granted

51 at the time of retirement shall not exceed the lesser of ten years
52 or fifty percent of the member's total service as a teacher in
53 West Virginia. Any purchase of out-of-state service, as provided
54 in this article, shall not be used to establish eligibility for a
55 retirement allowance and the retirement board shall grant credit
56 for the purchased service as additional service only: *Provided,*
57 *however,* That a purchase of out-of-state service is prohibited if
58 the service is used to obtain a retirement benefit from another
59 retirement system: *Provided further,* That salaries paid to
60 members for service prior to entrance into the retirement system
61 shall not be used to compute the average final salary of the
62 member under the retirement system.

63 (d) No members shall be considered absent from service
64 while serving as a member or employee of the Legislature of the
65 State of West Virginia during any duly constituted session of
66 that body or while serving as an elected member of a county
67 commission during any duly constituted session of that body.

68 (e) No member shall be considered absent from service as a
69 teacher or nonteacher while serving as an officer with a state-
70 wide professional teaching association, or who has served in that
71 capacity, and no retirant, who served in that capacity while a
72 member, shall be considered to have been absent from service as
73 a teacher by reason of that service: *Provided,* That the period of
74 service credit granted for that service shall not exceed ten years:
75 *Provided, however,* That a member who is serving or has served
76 as an officer of a statewide professional teaching association
77 shall make deposits to the Teachers Retirement System, for the
78 time of any absence, in an amount double the amount which he
79 or she would have contributed in his or her regular assignment
80 for a like period of time.

81 (f) The Teachers Retirement System shall grant service
82 credit to any former or present member of the West Virginia
83 Public Employees Retirement System who has been a contribut-

84 ing member of the Teachers' Retirement System for more than
85 three years, for service previously credited by the Public
86 Employees Retirement System upon his or her written request
87 and: (1) Shall require the transfer of the member's Public
88 Employees Retirement System accumulated contributions to the
89 Teachers Retirement System; or (2) shall require a repayment of
90 the amount withdrawn from the Public Employees Retirement
91 System, plus interest at a rate to be determined by the retirement
92 board, compounded annually from the date of withdrawal to the
93 date of payment, any time prior to the member's effective
94 retirement date: *Provided*, That there shall be added by the
95 member to the amounts transferred or repaid under this subsection
96 an amount which shall be sufficient to equal the contributions
97 he or she would have made had the member been under the
98 Teachers Retirement System during the period of his or her
99 membership in the Public Employees Retirement System. All
100 interest paid or transferred shall be deposited in the reserve fund.

101 (g) For service as a teacher in an elementary or secondary
102 parochial school, located within this state and fully accredited by
103 the West Virginia Department of Education, the retirement board
104 shall grant credit to the member: *Provided*, That the member
105 shall pay to the system twelve percent of that member's gross
106 salary earned during the first full year of current employment
107 whether a member of the Teachers' Retirement System or the
108 Teachers' Defined Contribution Retirement System, times the
109 number of years for which credit is granted, plus interest at a rate
110 to be determined by the retirement board. The interest shall be
111 deposited in the reserve fund and service granted at the time of
112 retirement shall not exceed the lesser of ten years or fifty percent
113 of the member's total service as a teacher in the West Virginia
114 public school system. Any transfer of parochial school service,
115 as provided in this section, may not be used to establish eligibility
116 for a retirement allowance and retirement board shall grant
117 credit for the transfer as additional service only: *Provided*,

118 *however*, That a transfer of parochial school service is prohibited
119 if the service is used to obtain a retirement benefit from another
120 retirement system.

121 (h) Active members who previously worked in CETA
122 (Comprehensive Employment and Training Act) may receive
123 service credit for time served in that capacity: *Provided*, That in
124 order to receive service credit under the provisions of this
125 subsection the following conditions must be met: (1) The
126 member must have moved from temporary employment with the
127 participating employer to permanent full-time employment with
128 the participating employer within one hundred twenty days
129 following the termination of the member's CETA employment;
130 (2) the retirement board must receive evidence that establishes to
131 a reasonable degree of certainty as determined by the retirement
132 board that the member previously worked in CETA; and (3) the
133 member shall pay to the retirement board an amount equal to the
134 employer and employee contribution plus interest at the amount
135 set by the retirement board for the amount of service credit
136 sought pursuant to this subsection: *Provided, however*, That the
137 maximum service credit that may be obtained under the provi-
138 sions of this subsection is two years: *Provided further*, That a
139 member must apply and pay for the service credit allowed under
140 this subsection and provide all necessary documentation by
141 March 31, 2003: *And provided further*, That the retirement board
142 shall exercise due diligence to notify affected employees of the
143 provisions of this subsection.

144 (i) If a member is not eligible for prior service credit or
145 pension as provided in this article, then his or her prior service
146 shall not be considered a part of his or her total service.

147 (j) A member who withdrew from membership may regain
148 his or her former membership rights as specified in section
149 thirteen of this article only in case he or she has served two years
150 since his or her last withdrawal.

151 (k) Subject to the provisions of subsections (a) through (l),
152 inclusive, of this section, the retirement board shall verify as
153 soon as practicable the statements of service submitted. The
154 retirement board shall issue prior service certificates to all
155 persons eligible for the certificates under the provisions of this
156 article. The certificates shall state the length of the prior service
157 credit, but in no case shall the prior service credit exceed forty
158 years.

159 (l) Notwithstanding any provision of this article to the
160 contrary, when a member is or has been elected to serve as a
161 member of the Legislature, and the proper discharge of his or her
162 duties of public office require that member to be absent from his
163 or her teaching or administrative duties, the time served in
164 discharge of his or her duties of the legislative office are credited
165 as time served for purposes of computing service credit: *Pro-*
166 *vided*, That the retirement board may not require any additional
167 contributions from that member in order for the retirement board
168 to credit him or her with the contributing service credit earned
169 while discharging official legislative duties: *Provided, however*,
170 That nothing in this section may be construed to relieve the
171 employer from making the employer contribution at the mem-
172 ber's regular salary rate or rate of pay from that employer on the
173 contributing service credit earned while the member is discharg-
174 ing his or her official legislative duties. These employer pay-
175 ments shall commence as of June 1, 2000: *Provided further*, That
176 any member to which the provisions of this subsection apply
177 may elect to pay to the retirement board an amount equal to what
178 his or her contribution would have been for those periods of time
179 he or she was serving in the Legislature. The periods of time
180 upon which the member paid his or her contribution shall then
181 be included for purposes of determining his or her final average
182 salary as well as for determining years of service: *And provided*
183 *further*, That a member using the provisions of this subsection is
184 not required to pay interest on any contributions he or she may
185 decide to make.

186 (m) The Teachers Retirement System shall grant service
187 credit to any former member of the State Police Death, Disability
188 and Retirement System who has been a contributing member for
189 more than three years, for service previously credited by the
190 State Police Death, Disability and Retirement System; and: (1)
191 Shall require the transfer of the member's contributions to the
192 Teachers Retirement System; or (2) shall require a repayment of
193 the amount withdrawn any time prior to the member's retire-
194 ment: *Provided*, That the member shall add to the amounts
195 transferred or repaid under this paragraph an amount which is
196 sufficient to equal the contributions he or she would have made
197 had the member been under the Teachers Retirement System
198 during the period of his or her membership in the State Police
199 Death, Disability and Retirement System plus interest at a rate
200 to be determined by the board compounded annually from the
201 date of withdrawal to the date of payment. The interest paid shall
202 be deposited in the reserve fund.

§18-7A-23. Withdrawal and death benefits.

1 (a) Benefits upon withdrawal from service prior to retire-
2 ment under the provisions of this article shall be as follows:

3 (1) A contributor who withdraws from service for any cause
4 other than death, disability or retirement shall, upon application,
5 be paid his or her accumulated contributions up to the end of the
6 fiscal year preceding the year in which application is made, after
7 offset of any outstanding loan balance, plus accrued loan
8 interest, pursuant to section thirty-four of this article, but in no
9 event shall interest be paid beyond the end of five years follow-
10 ing the year in which the last contribution was made: *Provided*,
11 That the contributor, at the time of application, is then no longer
12 under contract, verbal or otherwise, to serve as a teacher; or

13 (2) If the inactive member has completed twenty years of
14 total service, he or she may elect to receive at age sixty an

15 annuity which shall be computed as provided in this article:
16 *Provided*, That if the inactive member has completed at least
17 five, but fewer than twenty, years of total service in this state, he
18 or she may elect to receive at age sixty-two an annuity which
19 shall be computed as provided in this article. The inactive
20 member must notify the retirement board in writing concerning
21 the election. If the inactive member has completed fewer than
22 five years of service in this state, he or she shall be subject to the
23 provisions as outlined in subdivision (1) of this subsection.

24 (b) Benefits upon the death of a contributor prior to retire-
25 ment under the provisions of this article shall be paid as follows:

26 (1) If the contributor was at least fifty years old and if his or
27 her total service as a teacher or nonteaching member was at least
28 twenty-five years at the time of his or her death, then the
29 surviving spouse of the deceased, provided the spouse is
30 designated as the sole primary refund beneficiary, is eligible for
31 an annuity computed as though the deceased were actually a
32 retirant at the time of death and had selected a survivorship
33 option which pays the spouse the same monthly amount which
34 would have been received by the deceased; or

35 (2) If the facts do not permit payment under subdivision (1)
36 of this subsection, then the following sum shall be paid to the
37 refund beneficiary of the contributor: (A) The contributor's
38 accumulated contributions up to the plan year of his or her death
39 plus an amount equal to his or her member contributions.
40 *Provided*, That the latter sum shall emanate from the Employer's
41 Accumulation Fund; and (B) the refund beneficiary of any
42 individual who became a member of the retirement system as a
43 result of the voluntary transfer contemplated in article seven-d
44 of this chapter shall also be paid the member contributions plus
45 the vested portion of employer contributions made on his or her
46 behalf to the Teachers' Defined Contribution Retirement

47 System, plus any earnings thereon, as of June 30, 2008, as stated
48 by the retirement board.

§18-7A-25. Eligibility for retirement allowance.

1 (a) Any actively contributing member who has attained the
2 age of sixty years or any member who has had thirty-five years
3 of total service as a teacher or nonteaching member in West
4 Virginia, regardless of age, is eligible for an annuity. No new
5 entrant nor present member is eligible for an annuity, however,
6 if either has less than five years of service to his or her credit:
7 *Provided*, That on and after July 1, 2013, any person who
8 becomes a new member of this retirement system shall, in
9 qualifying for retirement under this section, have five or more
10 years of contributory service, all of which shall be actual,
11 contributory ones.

12 (b) Any member who has attained the age of fifty-five years
13 and who has served thirty years as a teacher or nonteaching
14 member in West Virginia is eligible for an annuity.

15 (c) Any member who has served at least thirty but less than
16 thirty-five years as a teacher or nonteaching member in West
17 Virginia and is less than fifty-five years of age is eligible for an
18 annuity, but the annuity shall be the reduced actuarial equivalent
19 of the annuity the member would have received if the member
20 were age fifty-five at the time such annuity was applied for.

21 (d) The request for any annuity shall be made by the member
22 in writing to the retirement board, but in case of retirement for
23 disability, the written request may be made by either the member
24 or the employer.

25 (e) A member is eligible for annuity for disability if he or
26 she satisfies the conditions in either subdivision (1) or (2) of this
27 subsection and meets the conditions of subdivision (3) of this
28 subsection as follows:

29 (1) His or her service as a teacher or nonteaching member in
30 West Virginia must total at least ten years and service as a
31 teacher or nonteaching member must have been terminated
32 because of disability, which disability must have caused absence
33 from service for at least six months before his or her application
34 for disability annuity is approved.

35 (2) His or her service as a teacher or nonteaching member in
36 West Virginia must total at least five years and service as a
37 teacher or nonteaching member must have been terminated
38 because of disability, which disability must have caused absence
39 from service for at least six months before his or her application
40 for disability annuity is approved and the disability is a direct
41 and total result of an act of student violence directed toward the
42 member.

43 (3) An examination by a physician or physicians selected by
44 the retirement board must show that the member is at the time
45 mentally or physically incapacitated for service as a teacher or
46 nonteaching member, that for that service the disability is total
47 and likely to be permanent and that he or she should be retired
48 in consequence of the disability.

49 (f) Continuance of the disability of the retirant shall be
50 established by medical examination, as prescribed in subdivision
51 (3), subsection (e) of this section, annually for five years after
52 retirement, and thereafter at such times required by the retire-
53 ment board. Effective July 1, 1998, a member who has retired
54 because of a disability may select an option of payment under
55 the provisions of section twenty-eight of this article: *Provided,*
56 That any option selected under the provisions of section twenty-
57 eight of this article shall be in all respects the actuarial equiva-
58 lent of the straight life annuity benefit the disability retirant
59 receives or would receive if the options under said section were
60 not available and that no beneficiary or beneficiaries of the
61 disability retirant may receive a greater benefit, nor receive any

62 benefit for a greater length of time, than the beneficiary or
63 beneficiaries would have received had the disability retirant not
64 made any election of the options available under said section. In
65 determining the actuarial equivalence, the retirement board shall
66 take into account the life expectancies of the member and the
67 beneficiary: *Provided, however,* That the life expectancies may
68 at the discretion of the retirement board be established by an
69 underwriting medical director of a competent insurance company
70 offering annuities. Payment of the disability annuity provided in
71 this article shall cease immediately if the retirement board finds
72 that the disability of the retirant no longer exists, or if retirant
73 refuses to submit to medical examination as required by this
74 section.

§18-7A-26. Computation of annuities.

1 (a) Retirants whose annuities were approved by the retire-
2 ment board effective before July 1, 1980, shall be paid the
3 annuities which were approved by the retirement board.

4 (b) Annuities approved by the retirement board effective
5 after June 30, 1980, shall be computed as provided in this
6 section.

7 (c) Upon establishment of eligibility for a retirement
8 allowance, a member shall be granted an annuity which shall be
9 two percent of the member's average salary multiplied by his or
10 her total service credit, subject to reduction if necessary to
11 comply with the maximum benefit provisions of Section 415 of
12 the Internal Revenue Code and section twenty-eight-a of this
13 article.

14 In this subsection "average salary" means the average of the
15 highest annual salaries received by the member during any five
16 plan years contained within his or her last fifteen years of total
17 service credit: *Provided,* That the highest annual salary used in

18 this calculation for certain members employed by the West
19 Virginia Higher Education Policy Commission under its control
20 shall be \$4,800, as provided by section fourteen-a of this article.

21 (d) The disability annuities of disabled retirants shall be
22 based upon a disability table prepared by a competent actuary
23 approved by the retirement board. Disability annuity benefits
24 will begin the first day of the month following the latter of: (1)
25 Six months of absence caused by said disability; (2) date of
26 written report by physician selected by retirement board stating
27 member is mentally or physically incapacitated for service and
28 that disability is total and likely to be permanent; and (3)
29 termination of employment.

30 (e) Upon the death of a retirant who qualified for an annuity
31 as the surviving spouse of an active member or because of
32 permanent disability, the estate of the deceased or beneficiary
33 designated for such purpose shall be paid the difference, if any,
34 between the member's contributions with regular interest
35 thereon, and the sum of the annuity payments. Upon the death of
36 a spouse who was named as the member's survivor, a retirant
37 may elect an annuity option approved by the retirement board in
38 an amount adjusted on a fair basis to be of equal actuarial value
39 as the annuity prospectively in effect relative to the surviving
40 member at the time the new option is elected.

41 (f) All annuities shall be paid in twelve monthly payments.
42 In computing the monthly payments, fractions of a cent shall be
43 considered a cent. The monthly payments shall cease with the
44 payment for the month within which the beneficiary dies, and
45 shall begin with the payment for the month succeeding the
46 month within which the retirant became eligible under this
47 article for the annuity granted; in no case, however, a retirant
48 receive more than four monthly payments which are retroactive
49 after the retirement board receives his or her application for
50 annuity. The monthly payments shall be made on the twenty-

51 fifth day of each month, except the month of December, when
52 the payment shall be made on December 18. If the date of
53 payment falls on a holiday, Saturday or Sunday, then the
54 payment shall be made on the preceding workday.

55 (g) In case the retirement board receives data affecting the
56 approved annuity of a retirant, the annuity shall be changed in
57 accordance with the data, the change being effective with the
58 payment for the month within which the retirement board
59 received the new data.

60 (h) Any person who has attained the age of sixty-five and
61 who has served at least twenty-five years as a teacher or
62 nonteacher prior to July 1, 1941, is eligible for prior service
63 credit and for prior service pensions as prescribed in this section.



CHAPTER 65

(Com. Sub. for S. B. 430 - By Senators Jenkins and McCabe)

[Passed April 8, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 18, 2013.]

AN ACT to amend and reenact §18-7B-2 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18-7B-21, all relating to the Teachers' Defined Contribution Retirement System; adding a definition of employment term; and providing for correction of errors by participating public employers and the Consolidated Public Retirement Board.

Be it enacted by the Legislature of West Virginia:

That §18-7B-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18-7B-21, all to read as follows:

ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.

§18-7B-2. Definitions.

1 As used in this article, unless the context clearly requires a
2 different meaning:

3 (1) "Annual addition" means, for purposes of the limitations
4 under Section 415(c) of the Internal Revenue Code, the sum
5 credited to a member's account for any limitation year of: (A)
6 Employer contributions; (B) employee contributions; and (C)
7 forfeitures. Repayment of cashouts or contributions as described
8 in Section 415(k)(3) of the Internal Revenue Code, rollover
9 contributions and picked-up employee contributions to a defined
10 benefit plan shall not be treated as annual additions, consistent
11 with the requirements of Treasury Regulation §1.415(c)-1;

12 (2) "Annuity account" or "annuity" means an account
13 established for each member to record the deposit of member
14 contributions and employer contributions and interest, dividends
15 or other accumulations credited on behalf of the member;

16 (3) "Compensation" means the full compensation actually
17 received by members for service whether or not a part of the
18 compensation is received from other funds, federal or otherwise,
19 than those provided by the state or its subdivisions: *Provided,*
20 That annual compensation for determining contributions during
21 any determination period may not exceed the maximum compen-
22 sation allowed as adjusted for cost of living in accordance with
23 section seven, article ten-d, chapter five of this code and Section

24 401(a)(17) of the Internal Revenue Code: *Provided, however,*
25 That solely for purposes of applying the limitations of Section
26 415 of the Internal Revenue Code to any annual addition,
27 “compensation” has the meaning given it in subsection (d),
28 section thirteen of this article;

29 (4) “Consolidated board” or “board” means the Consolidated
30 Public Retirement Board created and established pursuant to
31 article ten-d, chapter five of this code;

32 (5) “Defined contribution system” or “system” means the
33 Teachers’ Defined Contribution Retirement System created and
34 established by this article;

35 (6) “Employer” means the agency of and within the State of
36 West Virginia which has employed or employs a member;

37 (7) “Employer contribution” means an amount deposited into
38 the member’s individual annuity account on a periodic basis
39 coinciding with the employee’s regular pay period by an
40 employer from its own funds;

41 (8) “Employment term” means employment for at least ten
42 months in any plan year with a month being defined as twenty
43 employment days;

44 (9) “Existing employer” means any employer who employed
45 or employs a member of the system;

46 (10) “Existing retirement system” means the State Teachers
47 Retirement System established in article seven-a of this chapter;

48 (11) “Internal Revenue Code” means the Internal Revenue
49 Code of 1986, as it has been amended;

50 (12) “Member” or “employee” means the following persons,
51 if regularly employed for full-time service: (A) Any person

52 employed for instructional service in the public schools of West
53 Virginia; (B) principals; (C) public school librarians; (D)
54 superintendents of schools and assistant county superintendents
55 of schools; (E) any county school attendance director holding a
56 West Virginia teacher's certificate; (F) members of the research,
57 extension, administrative or library staffs of the public schools;
58 (G) the State Superintendent of Schools, heads and assistant
59 heads of the divisions under his or her supervision or any other
60 employee under the state superintendent performing services of
61 an educational nature; (H) employees of the State Board of
62 Education who are performing services of an educational nature;
63 (I) any person employed in a nonteaching capacity by the State
64 Board of Education, any county board of education or the State
65 Department of Education, if that person was formerly employed
66 as a teacher in the public schools; (J) all classroom teachers,
67 principals and educational administrators in schools under the
68 supervision of the Division of Corrections and the Department
69 of Health and Human Resources; (K) any person who is regu-
70 larly employed for full-time service by any county board of
71 education or the State Board of Education; (L) the administrative
72 staff of the public schools including deans of instruction, deans
73 of men and deans of women, and financial and administrative
74 secretaries; and (M) any person designated as a 21st Century
75 Learner Fellow pursuant to section eleven, article three, chapter
76 eighteen-a of this code who elects to remain a member of the
77 Teachers' Defined Contribution Retirement System established
78 by this article;

79 (13) "Member contribution" means an amount reduced from
80 the employee's regular pay periods, and deposited into the
81 member's individual annuity account within the Teachers'
82 Defined Contribution Retirement System;

83 (14) "Permanent, total disability" means a mental or physical
84 incapacity requiring absence from employment service for at
85 least six months: *Provided*, That the incapacity is shown by an

86 examination by a physician or physicians selected by the board:
87 *Provided, however,* That for employees hired on or after July 1,
88 2005, “permanent, total disability” means an inability to engage
89 in substantial gainful activity by reason of any medically
90 determinable physical or mental impairment that can be expected
91 to result in death, or has lasted or can be expected to last for a
92 continuous period of not less than twelve months and the
93 incapacity is so severe that the member is likely to be perma-
94 nently unable to perform the duties of the position the member
95 occupied immediately prior to his or her disabling injury or
96 illness;

97 (15) “Plan year” means the twelve-month period commenc-
98 ing on July 1 of any designated year and ending on the following
99 June 30;

100 (16) “Public schools” means all publicly supported schools,
101 including normal schools, colleges and universities in this state;

102 (17) “Regularly employed for full-time service” means
103 employment in a regular position or job throughout the employ-
104 ment term regardless of the number of hours worked or the
105 method of pay;

106 (18) “Required beginning date” means April 1 of the
107 calendar year following the later of: (A) The calendar year in
108 which the member attains age seventy and one-half years; or (B)
109 the calendar year in which the member retires or otherwise
110 ceases employment with a participating employer after having
111 attained the age of seventy and one-half years;

112 (19) “Retirement” means a member’s withdrawal from the
113 active employment of a participating employer and completion
114 of all conditions precedent to retirement;

115 (20) “Year of employment service” means employment for
116 at least ten months, with a month being defined as twenty

117 employment days: *Provided*, That no more than one year of
118 service may be accumulated in any twelve-month period.

§18-7B-21. Correction of errors; underpayments; overpayments.

1 (a) *General rule.* – If any change or employer error in the
2 records of any existing employer or the retirement system results
3 in a member, retirant or beneficiary receiving from the system
4 more or less than he or she would have been entitled to receive
5 had the records been correct, the board shall correct the error. If
6 correction of the error occurs after retirement, the board shall
7 adjust the payment of the benefit in an amount computed by the
8 board to which the retirant was correctly entitled.

9 (b) *Underpayments.* – Any error resulting in an underpay-
10 ment to the retirement system of required contributions may be
11 corrected by the member or retirant remitting the required
12 employee contribution and the existing employer remitting the
13 required employer contribution. Interest accumulates in accor-
14 dance with the board's Rule, Refund, Reinstatement, Retroactive
15 Service, Loan and Employer Error Interest Factors, 162 CSR 7,
16 and any accumulating interest owed on the employee and
17 employer contributions resulting from an employer error is the
18 responsibility of the participating public employer. The existing
19 employer may remit total payment and the employee may
20 reimburse the existing employer through payroll deduction over
21 a period equivalent to the time period during which the employer
22 error occurred. If the correction of an error involving an under-
23 payment of required contributions to the retirement system will
24 result in increased payments to a retirant, including increases to
25 payments already made, any adjustments may be made only after
26 the board receives full payment of all required employee and
27 employer contributions, including interest.

28 (c) *Overpayments.* – (1) When mistaken or excess employer
29 contributions, including any overpayments, have been made to

30 the retirement system by an existing employer, due to error or
31 other reason, the board shall credit the existing employer with an
32 amount computed by the board, to be offset against the existing
33 employer's future liability for employer contributions to the
34 system.

35 (2) When mistaken or excess employee contributions,
36 including any overpayments, have been made to the retirement
37 system, due to error or other reason, the board has sole authority
38 for determining the means of return, offset or credit to or for the
39 benefit of the employee of the amounts, and may use any means
40 authorized or permitted under the provisions of Section 401(a),
41 et seq., of the Internal Revenue Code and guidance issued
42 thereunder applicable to governmental plans. Alternatively, in its
43 full and complete discretion, the board may require the existing
44 employer to pay the employee the amounts as wages, with the
45 board crediting the existing employer with an amount to offset
46 against its future contributions to the plan: *Provided*, That the
47 wages paid to the employee are not considered compensation for
48 any purposes under this article.

CHAPTER 66

(Com. Sub. for H. B. 2764 - By Delegates Lawrence,
M. Poling and Stowers)

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT to amend and reenact §18-8-4 of the code of West Virginia, 1931, as amended, relating to compulsory school attendance; and extending the authority and duties of attendance directors to assistant attendance directors.

Be it enacted by the Legislature of West Virginia:

That §18-8-4 of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.

1 (a) The county attendance director and the assistants shall
2 diligently promote regular school attendance. The director and
3 assistants shall:

4 (1) Ascertain reasons for inexcusable absences from school
5 of students of compulsory school age and students who remain
6 enrolled beyond the compulsory school age as defined under
7 section one-a of this article; and

8 (2) Take such steps as are, in their discretion, best calculated
9 to encourage the attendance of students and to impart upon the
10 parents and guardians the importance of attendance and the
11 seriousness of failing to do so.

12 (b) In the case of five total unexcused absences of a student
13 during a school year, the attendance director or assistant shall:

14 Serve written notice to the parent, guardian or custodian of
15 the student that the attendance of the student at school is required
16 and that within ten days of receipt of the notice the parent,
17 guardian or custodian, accompanied by the student, shall report
18 in person to the school the student attends for a conference with
19 the principal or other designated representative of the school in
20 order to discuss and correct the circumstances causing the
21 inexcusable absences of the student; and if the parent, guardian
22 or custodian does not comply with the provisions of this article,
23 then the attendance director or assistant shall make complaint
24 against the parent, guardian or custodian before a magistrate of

25 the county. If it appears from the complaint that there is probable
26 cause to believe that an offense has been committed and that the
27 accused has committed it, a summons or a warrant for the arrest
28 of the accused shall issue to any officer authorized by law to
29 serve the summons or to arrest persons charged with offenses
30 against the state. More than one parent, guardian or custodian
31 may be charged in a complaint. Initial service of a summons or
32 warrant issued pursuant to the provisions of this section shall be
33 attempted within ten calendar days of receipt of the summons or
34 warrant and subsequent attempts at service shall continue until
35 the summons or warrant is executed or until the end of the
36 school term during which the complaint is made, whichever is
37 later.

38 (c) The magistrate court clerk, or the clerk of the circuit
39 court performing the duties of the magistrate court as authorized
40 in section eight, article one, chapter fifty of this code, shall
41 assign the case to a magistrate within ten days of execution of
42 the summons or warrant. The hearing shall be held within twenty
43 days of the assignment to the magistrate, subject to lawful
44 continuance. The magistrate shall provide to the accused at least
45 ten days' advance notice of the date, time and place of the
46 hearing.

47 (d) When any doubt exists as to the age of a student absent
48 from school, the attendance director and assistants have
49 authority to require a properly attested birth certificate or an
50 affidavit from the parent, guardian or custodian of the student,
51 stating age of the student. In the performance of his or her duties,
52 the county attendance director and assistants have authority to
53 take without warrant any student absent from school in violation
54 of the provisions of this article and to place the student in the
55 school in which he or she is or should be enrolled.

56 (e) The county attendance director and assistants shall
57 devote such time as is required by section three of this article to
58 the duties of attendance director in accordance with this section

59 during the instructional term and at such other times as the duties
60 of an attendance director are required. All attendance directors
61 and assistants hired for more than two hundred days may be
62 assigned other duties determined by the superintendent during
63 the period in excess of two hundred days. The county attendance
64 director is responsible under direction of the county superinten-
65 dent for efficiently administering school attendance in the
66 county.

67 (f) In addition to those duties directly relating to the admin-
68 istration of attendance, the county attendance director and
69 assistant directors also shall perform the following duties:

70 (1) Assist in directing the taking of the school census to see
71 that it is taken at the time and in the manner provided by law;

72 (2) Confer with principals and teachers on the comparison of
73 school census and enrollment for the detection of possible
74 nonenrollees;

75 (3) Cooperate with existing state and federal agencies
76 charged with enforcing child labor laws;

77 (4) Prepare a report for submission by the county superinten-
78 dent to the State Superintendent of Schools on school attendance,
79 at such times and in such detail as may be required. The state
80 board shall promulgate a legislative rule pursuant to article
81 three-b, chapter twenty-nine-a of this code that sets forth student
82 absences that are excluded for accountability purposes. The
83 absences that are excluded by the rule include, but are not be
84 limited to, excused student absences, students not in attendance
85 due to disciplinary measures and absent students for whom the
86 attendance director has pursued judicial remedies to compel
87 attendance to the extent of his or her authority. The attendance
88 director shall file with the county superintendent and county
89 board at the close of each month a report showing activities of

- 90 the school attendance office and the status of attendance in the
91 county at the time;
- 92 (5) Promote attendance in the county by compiling data for
93 schools and by furnishing suggestions and recommendations for
94 publication through school bulletins and the press, or in such
95 manner as the county superintendent may direct;
- 96 (6) Participate in school teachers' conferences with parents
97 and students;
- 98 (7) Assist in such other ways as the county superintendent
99 may direct for improving school attendance;
- 100 (8) Make home visits of students who have excessive
101 unexcused absences, as provided above, or if requested by the
102 chief administrator, principal or assistant principal; and
- 103 (9) Serve as the liaison for homeless children and youth.

CHAPTER 67

**(Com. Sub. for H. B. 2727 - By Mr. Speaker, (Mr. Thompson)
and Delegate Armstead)
[By Request of the Executive]**

[Passed April 13, 2013; in effect July 1, 2013.]
[Approved by the Governor on May 1, 2013.]

AN ACT to amend and reenact §18-9A-7 and §18-9A-8a of the Code of West Virginia, 1931, as amended, all relating to the school aid formula; adjusting the foundation school program allowance for transportation costs by limiting the ten percent additional percentage allowance for alternative fuel vehicles to school buses using

compressed natural gas; providing for phased-in elimination of the additional percentage for bio-diesel as an alternative fuel; and adjusting the foundation allowance by reducing the maximum allocation for regional education service agencies (RESA).

Be it enacted by the Legislature of West Virginia:

That §18-9A-7 and §18-9A-8a of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-7. Foundation allowance for transportation cost.

1 (a) The allowance in the foundation school program for each
2 county for transportation shall be the sum of the following
3 computations:

4 (1) A percentage of the transportation costs incurred by the
5 county for maintenance, operation and related costs exclusive of
6 all salaries, including the costs incurred for contracted transpor-
7 tation services and public utility transportation, as follows:

8 (A) For each high-density county, eighty-seven and one-half
9 percent;

10 (B) For each medium-density county, ninety percent;

11 (C) For each low-density county, ninety-two and one-half
12 percent;

13 (D) For each sparse-density county, ninety-five percent;

14 (E) For any county for the transportation cost for mainte-
15 nance, operation and related costs, exclusive of all salaries, for
16 transporting students to and from classes at a multicounty
17 vocational center, the percentage provided in paragraphs (A)

18 through (D) of this subdivision as applicable for the county plus
19 an additional ten percent; and

20 (F) For any county for that portion of its school bus system
21 that uses as an alternative fuel compressed natural gas, the
22 percentage provided in paragraphs (A) through (D) of this
23 subdivision as applicable for the county plus an additional ten
24 percent: *Provided*, That for any county receiving an additional
25 ten percent for that portion of their bus system using bio-diesel
26 as an alternative fuel during the school year 2012-2013, bio-
27 diesel shall continue to qualify as an alternative fuel under this
28 paragraph to the extent that the additional percentage applicable
29 to that portion of the bus system using bio-diesel shall be
30 decreased by two and one-half percent per year for four consecu-
31 tive school years beginning in school year 2014-2015: *Provided*,
32 *however*, That any county using an alternative fuel and qualify-
33 ing for the additional allowance under this subdivision shall
34 submit a plan regarding the intended future use of alternatively
35 fueled school buses;

36 (2) The total cost, within each county, of insurance premi-
37 ums on buses, buildings and equipment used in transportation;

38 (3) An amount equal to eight and one-third percent of the
39 current replacement value of the bus fleet within each county as
40 determined by the state board. The amount shall only be used for
41 the replacement of buses. Buses purchased after July 1, 1999,
42 that are driven one hundred eighty thousand miles, regardless of
43 year model, will be subject to the replacement value of eight and
44 one-third percent as determined by the state board. In addition,
45 in any school year in which its net enrollment increases when
46 compared to the net enrollment the year immediately preceding,
47 a school district may apply to the State Superintendent for
48 funding for an additional bus or buses. The State Superintendent
49 shall make a decision regarding each application based upon an
50 analysis of the individual school district's net enrollment history

51 and transportation needs: *Provided*, That the superintendent shall
52 not consider any application which fails to document that the
53 county has applied for federal funding for additional buses. If the
54 State Superintendent finds that a need exists, a request for
55 funding shall be included in the budget request submitted by the
56 state board for the upcoming fiscal year; and

57 (4) Aid in lieu of transportation equal to the state average
58 amount per pupil for each pupil receiving the aid within each
59 county.

60 (b) The total state share for this purpose shall be the sum of
61 the county shares: *Provided*, That no county shall receive an
62 allowance which is greater than one-third above the computed
63 state average allowance per transportation mile multiplied by the
64 total transportation mileage in the county exclusive of the
65 allowance for the purchase of additional buses.

66 (c) One half of one percent of the transportation allowance
67 distributed to each county shall be for the purpose of trips related
68 to academic classroom curriculum and not related to any
69 extracurricular activity. Any remaining funds credited to a
70 county for the purpose of trips related to academic classroom
71 curriculum during the fiscal year shall be carried over for use in
72 the same manner the next fiscal year and shall be separate and
73 apart from, and in addition to, the appropriation for the next
74 fiscal year. The state board may request a county to document
75 the use of funds for trips related to academic classroom curricu-
76 lum if the board determines that it is necessary.

§18-9A-8a. Foundation allowance for regional education service agencies.

1 For the fiscal year beginning on July 1, 2006, and for each
2 fiscal year thereafter, the foundation allowance for regional
3 education service agencies shall be equal to sixty-three

4 one-hundredths percent of the allocation for professional
5 educators as determined in section four of this article, but not
6 more than \$3,690,750. The allowance shall be distributed to the
7 regional education service agencies in accordance with rules
8 adopted by the state board. The allowance for regional education
9 service agencies shall be excluded from the computation of total
10 basic state aid as provided in section twelve of this article.

CHAPTER 68

**(Com. Sub. for S. B. 535 - By Senators Palumbo,
Wells, McCabe and Fitzsimmons)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to repeal §3-2-24 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-1-3 of said code; and to amend and reenact §3-2-2, §3-2-4a, §3-2-18, §3-2-19, §3-2-21, §3-2-23, §3-2-25 and §3-2-29 of said code, all relating to the maintenance of voter registration lists and related records generally; repealing provisions governing superseded voter list purging procedures; updating specific constitutional provisions relating to voting; modifying when a person under the age of eighteen may vote in a primary election; updating the processes and responsibilities for statewide voter registration and establishing county and state roles in the voter registration process; modifying the processes of maintaining voter registration records; specifying county roles in maintaining voter registration files for municipal elections; modifying processes for the maintenance of records in the statewide voter registration database; permitting registration records to be shared across state lines pursuant to certain pro-

grams; modifying processes for cancellation of deceased or ineligible voters' registrations; providing county and state roles in the systematic purging program for removal of ineligible voters from active voter registration records; and providing for the custody of paper and electronic voter registration records.

Be it enacted by the Legislature of West Virginia:

That §3-2-24 of the Code of West Virginia, 1931, as amended, be repealed; that §3-1-3 of said code be amended and reenacted; and that §3-2-2, §3-2-4a, §3-2-18, §3-2-19, §3-2-21, §3-2-23, §3-2-25 and §3-2-29 of said code be amended and reenacted, all to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-3. Persons entitled to vote.

1 Citizens of the state shall be entitled to vote at all elections
2 held within the precincts of the counties and municipalities in
3 which they respectively reside. But no person who has not been
4 registered as a voter as required by law, or who is a minor, or
5 who has been declared mentally incompetent by a court of
6 competent jurisdiction, or who is under conviction of treason,
7 felony or bribery in an election, or who is not a bona fide
8 resident of the state, county or municipality in which he or she
9 offers to vote, shall be permitted to vote at such election while
10 such disability continues, unless otherwise specifically provided
11 by federal or state code. Subject to the qualifications otherwise
12 prescribed in this section, however, a minor shall be permitted to
13 vote only in a primary election if he or she will have reached the
14 age of eighteen years on the date of the general election next to
15 be held after such primary election.

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-2. Eligibility to register to vote.

1 (a) Any person who possesses the constitutional qualifica-
2 tions for voting may register to vote. To be qualified, a person

3 must be a citizen of the United States and a legal resident of
4 West Virginia and of the county where he or she is applying to
5 register, shall be at least eighteen years of age, except that a
6 person who is at least seventeen years of age and who will be
7 eighteen years of age by the time of the next ensuing general
8 election may also be permitted to register, and shall not be
9 otherwise legally disqualified: *Provided*, That a registered voter
10 who has not reached eighteen years of age may vote both
11 partisan and nonpartisan ballots in a federal, state, county,
12 municipal or special primary election if he or she will be
13 eighteen years of age by the time of the corresponding general
14 election.

15 (b) Any person who has been convicted of a felony, treason
16 or bribery in an election, under either state or federal law, is
17 disqualified and is not eligible to register or to continue to be
18 registered to vote while serving his or her sentence, including
19 any period of incarceration, probation or parole related thereto.
20 Any person who has been declared mentally incompetent by a
21 court of competent jurisdiction is disqualified and shall not be
22 eligible to register or to continue to be registered to vote for as
23 long as that disability continues.

§3-2-4a. Statewide voter registration database.

1 (a) The Secretary of State shall implement and maintain a
2 single, official, statewide, centralized, interactive computerized
3 voter registration database of every legally registered voter in the
4 state, as follows:

5 (1) The statewide voter registration database shall serve as
6 the single system for storing and managing the official list of
7 registered voters throughout the state.

8 (2) The statewide voter registration database shall contain
9 the name, registration information and voter history of every
10 legally registered voter in the state.

11 (3) In the statewide voter registration database, the Secretary
12 of State shall assign a unique identifier to each legally registered
13 voter in the state.

14 (4) The statewide voter registration database shall be
15 coordinated with other agency databases within the state and
16 elsewhere, as appropriate.

17 (5) The Secretary of State, any clerk of the county commis-
18 sion or any authorized designee of the Secretary of State or clerk
19 of the county commission may obtain immediate electronic
20 access to the information contained in the statewide voter
21 registration database.

22 (6) The clerk of the county commission shall electronically
23 enter voter registration information into the statewide voter
24 registration database on an expedited basis at the time the
25 information is provided to the clerk.

26 (7) The Secretary of State shall provide necessary support to
27 enable every clerk of the county commission in the state to enter
28 information as described in subdivision (6) of this subsection.

29 (8) The statewide voter registration database shall serve as
30 the official voter registration list for conducting all elections in
31 the state.

32 (b) The Secretary of State or any clerk of a county commis-
33 sion shall perform maintenance with respect to the statewide
34 voter registration database on a regular basis as follows:

35 (1) If an individual is to be removed from the statewide voter
36 registration database, he or she shall be removed in accordance
37 with the provisions of 42 U. S. C. §1973gg, *et seq.*, the National
38 Voter Registration Act of 1993.

39 (2) The Secretary of State shall coordinate the statewide
40 voter registration database with state agency records and shall

41 establish procedures for the removal of names of individuals
42 who are not qualified to vote because of felony status or death.
43 No state agency may withhold information regarding a voter's
44 status as deceased or as a felon unless ordered by a court of law.

45 (c) The list maintenance performed under subsection (b) of
46 this section shall be conducted in a manner that ensures that:

47 (1) The name of each registered voter appears in the
48 statewide voter registration database;

49 (2) Only voters who are not registered, who have requested
50 in writing that their voter registration be canceled or who are not
51 eligible to vote are removed from the statewide voter registration
52 database;

53 (3) Duplicate names are eliminated from the statewide voter
54 registration database; and

55 (4) Deceased individuals' names are eliminated from the
56 statewide voter registration database.

57 (d) The Secretary of State and the clerks of all county
58 commissions shall provide adequate technological security
59 measures to prevent the unauthorized access to the statewide
60 voter registration database established under this section.

61 (e) The Secretary of State shall ensure that voter registration
62 records in the state are accurate and updated regularly, including
63 the following:

64 (1) A system of file maintenance that makes a reasonable
65 effort to remove registrants who are ineligible to vote from the
66 official list of eligible voters. Under the system, consistent with
67 42 U. S. C. § 1973gg, *et seq.*, registrants who have not responded
68 to a notice sent pursuant to section twenty six, article two of this
69 chapter, who have not otherwise updated their voter registration

70 address and who have not voted in two consecutive general
71 elections for federal office shall be removed from the official list
72 of eligible voters, except that no registrant may be removed
73 solely by reason of a failure to vote;

74 (2) By participation in programs across state lines to share
75 data specifically for voter registration to ensure that voters who
76 have moved across state lines or become deceased in another
77 state are removed in accordance with state law and 42 U. S.
78 C.§1973gg, *et seq.*; and

79 (3) Through safeguards to ensure that eligible voters are not
80 removed in error from the official list of eligible voters.

81 (f) Applications for voter registration may only be accepted
82 when the following information is provided:

83 (1) Except as provided in subdivision (2) of this subsection
84 and notwithstanding any other provision of law to the contrary,
85 an application for voter registration may not be accepted or
86 processed unless the application includes:

87 (A) In the case of an applicant who has been issued a current
88 and valid driver's license, the applicant's driver's license
89 number;

90 (B) In the case of an applicant who has been issued an
91 identification card by the Division of Motor Vehicles, the
92 applicant's identification number; or

93 (C) In the case of any other applicant, the last four digits of
94 the applicant's Social Security number; and

95 (2) If an applicant for voter registration has not been issued
96 a current and valid driver's license, Division of Motor Vehicles
97 identification card or a Social Security number, the Secretary of
98 State shall assign the applicant a number which will serve to

99 identify the applicant for voter registration purposes. The
100 number assigned under this subdivision shall be the unique
101 identifying number assigned under the statewide voter registra-
102 tion database.

103 (g) The Secretary of State and the Commissioner of the
104 Division of Motor Vehicles shall enter into an agreement to
105 match and transfer applicable information in the statewide voter
106 registration database with information in the database of the
107 Division of Motor Vehicles to the extent required to enable each
108 official to verify the accuracy of the information provided on
109 applications for voter registration.

110 (h) The Commissioner of the Division of Motor Vehicles
111 shall enter into an agreement with the Commissioner of Social
112 Security under 42 U. S. C. §401, *et seq.*, the Social Security Act.
113 All fees associated with this agreement shall be paid for from
114 moneys in the fund created under section twelve of this article.

**§3-2-18. Registration records; active, inactive, canceled, pending
and rejected registration files; procedure; voting
records.**

1 (a) For the purposes of this article:

2 (1) "Original voter registration record" means all records
3 submitted or entered in writing or electronically, where permit-
4 ted by law, for voter registration purposes, including:

5 (A) Any original application or notice submitted by any
6 person for registration or reinstatement, change of address,
7 change of name, change of party affiliation, correction of
8 records, cancellation, confirmation of voter information or other
9 request or notice for voter registration purposes; and

10 (B) Any original entry made on any voter's registration
11 record at the polling place, or made or received by the clerk of

12 the county commission relating to any voter's registration, such
13 as records of voting, presentation of identification and proof of
14 age, challenge of registration, notice of death or obituary notice,
15 notice of disqualifying conviction or ruling of mental incompe-
16 tence or other original document which may affect the status of
17 any person's voter registration.

18 (2) "Active voter registration records" means the registration
19 records, whether on paper or in electronic format, containing the
20 names, addresses, birth dates and other required information for
21 all persons within a county who are registered to vote and whose
22 registration has not been designated as inactive or canceled
23 pursuant to the provisions of this article.

24 (3) "Inactive voter registration records" means the registra-
25 tion records, whether on paper or in electronic format, containing
26 the names, addresses, birth dates and other required information
27 for all persons designated inactive pursuant to the provisions of
28 section twenty-seven of this article following the return of the
29 prescribed notices as undeliverable at the address provided by
30 the United States Postal Service or entered on the voter registra-
31 tion, or for failure of the contacted voter to return a completed
32 confirmation notice within thirty days of the mailing.

33 (4) "Canceled voter registration records" means the records
34 containing all required information for all persons who have
35 been removed from the active and inactive voter registration
36 records and who are no longer registered to vote within the
37 county.

38 (5) "Pending application records" means the temporary
39 records containing all information submitted on a voter registra-
40 tion application, pending the expiration of the verification
41 period.

42 (6) "Rejected application records" means the records
43 containing all information submitted on a voter registration

44 application which was rejected for reasons as described in this
45 article.

46 (7) "Confirmation pending records" means the records
47 containing all required information for persons who have been
48 identified to be included in the next succeeding mailing of
49 address confirmation notices as set forth by the National Voter
50 Registration Act of 1993(42 U. S. C.§1973gg, *et seq.*).

51 (b) For the purposes of this chapter or of any other provi-
52 sions of this code relating to elections conducted under the
53 provisions of this chapter, whenever a requirement is based on
54 the number of registered voters, including, but not limited to, the
55 number of ballots to be printed, the limitations on the size of a
56 precinct, or the number of petition signatures required for
57 election purposes, only those registrations included on the active
58 voter registration files shall be counted and voter registrations
59 included on the inactive voter registration files, as defined in this
60 subdivision, shall not be counted.

61 (c) Active voter registration records, confirmation pending
62 records and inactive voter registration records may be main-
63 tained in the same physical location, providing the records are
64 coded, marked or arranged in such a way as to make the status
65 of the registration immediately obvious. Canceled voter registra-
66 tion records, pending application records and rejected applica-
67 tion records may be maintained in separate physical locations.
68 However, all such records shall be maintained in the statewide
69 voter registration database, subject to this article.

70 (d) The effective date of any action affecting any voter's
71 registration status shall be entered on the voter record, including
72 the effective date of registration, change of name, address or
73 party affiliation or correction of the record, effective date of
74 transfer to inactive status, return to active status or cancellation.
75 When any registration is designated inactive or is canceled, the

76 reason for the designation or cancellation and any reference
77 notation necessary to locate the original documentation related
78 to the change shall be entered on the voter record.

79 (e) Within one hundred twenty days after each primary,
80 general, municipal or special election, the clerk of the county
81 commission shall enter the voting records into the statewide
82 voter registration database.

**§3-2-19. Maintenance of active and inactive registration records
for municipal elections.**

1 (a) For municipal elections, the registration records of active
2 and inactive voters shall be maintained as follows:

3 (1) Clerks of the county commissions shall prepare
4 pollbooks or voter lists to be used in municipal elections when
5 the county precinct boundaries and the municipal precinct
6 boundaries are the same and all registrants of the precinct are
7 entitled to vote in state, county and municipal elections within
8 the precinct or when the registration records of municipal voters
9 within a county precinct are separated and maintained in a
10 separate municipal section or book for that county precinct and
11 can be used either alone or in combination with other pollbooks
12 or voter lists to make up a complete set of registration records
13 for the municipal election precinct.

14 (2) Upon request of the municipality, and if the clerk of the
15 county commission does not object, separate municipal precinct
16 books shall be maintained in cases where municipal or ward
17 boundaries divide county precincts and it is impractical to use
18 county pollbooks or voter lists or separate municipal sections of
19 those pollbooks or voter lists. If the clerk of the county commis-
20 sion objects to the request of a municipality for separate municipi-
21 pal precinct books, the State Election Commission must deter-
22 mine whether the separate municipal precinct books should be
23 maintained.

24 (3) No registration record may be removed from a municipal
25 registration record unless the registration is lawfully transferred
26 or canceled pursuant to the provisions of this article in both the
27 county and the municipal registration records.

28 (b) Within thirty days following the entry of any annexation
29 order or change in street names or numbers, the governing body
30 of an incorporated municipality shall file with the clerk of the
31 county commission a certified current official municipal
32 boundary map and a list of streets and ranges of street numbers
33 within the municipality to assist the clerk in determining whether
34 a voter's address is within the boundaries of the municipality.

**§3-2-21. Maintenance of records in the statewide voter registration
database in lieu of precinct record books.**

1 (a) The clerk of the county commission of each county shall
2 maintain a voter registration data system record book into which
3 all required records of appointments of authorized personnel,
4 tests, repairs, program alterations or upgrades and any other
5 action by the clerk of the county commission or by any other
6 person under supervision of the clerk affecting the programming
7 or records contained in the system, other than routine data entry,
8 alteration, use, transfer or transmission of records shall be
9 entered.

10 (b) The clerk of the county commission shall appoint all
11 personnel authorized to add, change or transfer voter registration
12 information within the statewide voter registration database, and
13 a record of each appointment and the date of authorization shall
14 be entered as provided in subsection (a) of this section. The
15 assignment and confidential record of assigned system identifi-
16 cation or authorized user code for each person appointed shall be
17 as prescribed by the Secretary of State.

18 (c) Voter registration records entered into and maintained in
19 the statewide voter registration database shall include the

20 information required for application for voter registration, for
21 maintenance of registration and voting records, for conduct of
22 elections and for statistical purposes, as prescribed by the
23 Secretary of State.

24 (d) No person shall make any entry or alteration of any voter
25 record which is not specifically authorized by law. Each entry or
26 action affecting the status of a voter registration shall be based
27 on information in an original voter registration record, as defined
28 in section eighteen of this article.

29 (e) The clerk of the county commission shall maintain,
30 within the statewide voter registration database, active and
31 inactive voter registration records, confirmation pending records,
32 canceled voter registration records, pending application records
33 and rejected application records, all as defined in section
34 eighteen of this article.

35 (f) Upon receipt of a completed voter registration applica-
36 tion, the clerk shall enter into the statewide voter registration
37 database the information provided on the application, mark the
38 records as pending and initiate the verification or notice of
39 disposition procedure as provided in section sixteen of this
40 article. Upon completion of the verification or notice of disposi-
41 tion, the status of the voter record shall be properly noted in the
42 statewide voter registration database.

43 (g) Upon receipt of an application or written confirmation
44 from the voter of a change of address within the county, change
45 of name, change of party affiliation or other correction to an
46 active voter registration record, the change shall be entered in the
47 record and the required notice of disposition mailed.

48 (h) Upon receipt of an application or written confirmation
49 from an inactive voter of a change of address within the county,
50 change of name, change of party affiliation or other correction

51 to a registration record, any necessary change shall be entered in
52 the record, the required notice of disposition mailed and the
53 record updated to active status, and the date of the transaction
54 shall be recorded. Receipt of an application or written confirma-
55 tion from an inactive voter that confirms the voter's current
56 address shall be treated in the same manner.

57 (i) Upon receipt of a notice of death, a notice of conviction
58 or a notice of a determination of mental incompetence, as
59 provided in section twenty-three of this article, the date and
60 reason for cancellation shall be entered on the voter's record and
61 the record status shall be changed to canceled.

62 (j) Upon receipt from the voter of a request for cancellation
63 or notice of change of address to an address outside the county
64 pursuant to the provisions of section twenty-two of this article,
65 or as a result of a determination of ineligibility through a general
66 program of removing ineligible voters as authorized by the
67 provisions of this article, the date and reason for cancellation
68 shall be entered on the voter's record and the record status shall
69 be changed to canceled.

§3-2-23. Cancellation of registration of deceased or ineligible voters.

1 The clerk of the county commission shall cancel the registra-
2 tion of a voter:

3 (1) Upon the voter's death as verified by:

4 (A) A death certificate from the Registrar of Vital Statistics
5 or a notice from the Secretary of State that a comparison of the
6 records of the registrar with the county voter registration records
7 show the person to be deceased;

8 (B) The publication of an obituary or other writing clearly
9 identifying the deceased person by name, residence and age
10 corresponding to the voter record; or

11 (C) An affidavit signed by the parent, legal guardian, child,
12 sibling or spouse of the voter giving the name and birth date of
13 the voter, and date and place of death;

14 (2) Upon receipt of an official notice from a state or federal
15 court that the person has been convicted of a felony, of treason
16 or bribery in an election;

17 (3) Upon receipt of a notice from the appropriate court of
18 competent jurisdiction of a determination of a voter's mental
19 incompetence;

20 (4) Upon receipt from the voter of a written request to cancel
21 the voter's registration, upon confirmation by the voter of a
22 change of address to an address outside the county, upon notice
23 from a voter registrar of another jurisdiction outside the county
24 or state of the receipt of an application for voter registration in
25 that jurisdiction, or upon notice from the Secretary of State that
26 a voter registration application was accepted in another county
27 of the state subsequent to the last registration date in the first
28 county, as determined from a comparison of voter records; or

29 (5) Upon failure to respond and produce evidence of
30 continued eligibility to register following the challenge of the
31 voter's registration pursuant to the provisions of section twenty-
32 eight of this article.

§3-2-25. Systematic purging program for removal of ineligible voters from active voter registration files; comparison of data records; confirmation notices; public inspection list.

1 (a) The systematic purging program provided in this section
2 shall begin no earlier than October 1 of each odd-numbered year
3 and shall be completed no later than February 1 of the following
4 year. The clerk of the county commission shall transmit or mail
5 to the Secretary of State a certification that the systematic

6 purging program has been completed and all voters identified as
7 no longer eligible to vote have been canceled in the statewide
8 voter registration database in accordance with the law no later
9 than February 15 in the year in which the purging program is
10 completed.

11 (b) The Secretary of State shall provide for the comparison
12 of data records of all counties. The Secretary of State shall,
13 based on the comparison, prepare a list for each county which
14 shall include the voter registration record for each voter shown
15 on that county's list who appears to have registered or to have
16 updated a voter registration in another county at a subsequent
17 date. The resulting lists shall be returned to the appropriate
18 county and the clerk of the county commission shall proceed
19 with the confirmation procedure for those voters as prescribed in
20 section twenty-six of this article.

21 (c) The Secretary of State may provide for the comparison
22 of data records of counties with the data records of the Division
23 of Motor Vehicles, the registrar of vital statistics and with the
24 data records of any other state agency which maintains records
25 of residents of the state, if the procedure is practical and the
26 agency agrees to participate. Any resulting information regard-
27 ing potentially ineligible voters shall be returned to the appropri-
28 ate county and the clerk of the county commission shall proceed
29 with the confirmation procedure as prescribed in section twenty-
30 six of this article.

31 (d) The records of all voters not identified pursuant to the
32 procedures set forth in subsections (b) and (c) of this section
33 shall be combined for comparison with United States Postal
34 Service change of address information, as described in section
35 8(c)(A) of the National Voter Registration Act of 1993 (42 U. S.
36 C. §1973gg, *et seq.*). The Secretary of State shall contract with an
37 authorized vendor of the United States Postal Service to perform
38 the comparison. The cost of the change of address comparison

39 procedure shall be paid for from the combined voter registration
40 and licensing fund established in section twelve of this article
41 and the cost of the confirmation notices, labels and postage shall
42 be paid for by the counties.

43 (e) The Secretary of State shall return to each county the
44 identified matches of the county voter registration records and
45 the postal service change of address records.

46 (1) When the change of address information indicates the
47 voter has moved to a new address within the county, the clerk of
48 the county commission shall enter the new address on the voter
49 record and assign the proper precinct.

50 (2) The clerk of the county commission shall then mail to
51 each voter who appears to have moved from the residence
52 address shown on the registration records a confirmation notice
53 pursuant to section twenty-six of this article and of section
54 8(d)(2) of the National Voter Registration Act of 1993 (42 U. S.
55 C.§1973gg, *et seq.*). The notice shall be mailed, no later than
56 December 31, to the new address provided by the postal service
57 records or to the old address if a new address is not available.

58 (f) The clerk of the county commission shall indicate in the
59 statewide voter registration database the name and address of
60 each voter to whom a confirmation notice was mailed and the
61 date on which the notice was mailed.

62 (g) Upon receipt of any response or returned mailing sent
63 pursuant to the provisions of subsection (e) of this section, the
64 clerk shall immediately enter the date and type of response
65 received in the statewide voter registration database and shall
66 then proceed in accordance with the provisions of section
67 twenty-six of this article.

68 (h) For purposes of complying with the record keeping and
69 public inspection requirements of the National Voter Registra-

70 tion Act of 1993 (42 U. S. C. §1973gg, *et seq.*), and with the
71 provisions of section twenty-seven of this article, the public
72 inspection lists shall be maintained either in printed form kept in
73 a binder prepared for such purpose and available for public
74 inspection during regular business hours at the office of the clerk
75 of the county commission or in read-only data format available
76 for public inspection on computer terminals set aside and
77 available for regular use by the general public. Information
78 concerning whether or not each person has responded to the
79 notice shall be entered into the statewide voter registration
80 database upon receipt and shall be available for public inspection
81 as of the date the information is received.

82 (i) Any voter to whom a confirmation notice was mailed
83 pursuant to the provisions of subsection (e) of this section who
84 fails to respond to the notice or to update his or her voter
85 registration address by February 1 immediately following the
86 completion of the program, shall be designated inactive in the
87 statewide voter registration database. Any voter designated
88 inactive shall be required to affirm his or her current residence
89 address, on a form prescribed by the Secretary of State, upon
90 appearing at the polls to vote.

91 (j) In addition to the preceding purging procedures, all
92 counties using the change of address information of the United
93 States Postal Service shall also, once each four years during the
94 period established for systematic purging in the year following
95 a presidential election year, conduct the same procedure by
96 mailing a confirmation notice to those persons not identified as
97 potentially ineligible through the change of address comparison
98 procedure but who have not updated their voter registration
99 records and have not voted in any election during the preceding
100 four calendar years. The purpose of this additional systematic
101 confirmation procedure shall be to identify those voters who may
102 have moved without filing a forwarding address, moved with a
103 forwarding address under another name, died in a another county

104 or state so that the certificate of death was not returned to the
105 clerk of the county commission, or who otherwise have become
106 ineligible.

§3-2-29. Custody of original registration records.

1 (a) All original registration records in paper format shall
2 remain in the custody of the county commission, by its clerk, or,
3 electronically, in the statewide voter registration database and
4 shall not be removed except for use in an election or by the order
5 of a court of record or in compliance with a subpoena duces
6 tecum issued by the Secretary of State pursuant to the provisions
7 of section six, article one-a of this chapter.

8 (b) All original voter registration records shall be retained
9 for a minimum of five years following the last recorded activity
10 relating to the record, except that any application which dupli-
11 cates and does not alter an existing registration shall be retained
12 for a minimum of two years following its receipt. The Secretary
13 of State shall promulgate rules pursuant to the provisions of
14 chapter twenty-nine-a of this code for the specific retention
15 times and procedures required for original voter registration
16 records.

17 (c) Prior to the destruction of original voter registration
18 applications or registration cards of voters whose registration has
19 been canceled at least five years previously, the clerk of the
20 county commission shall notify the Secretary of State of the
21 intention to destroy those records. If the Secretary of State
22 determines, within ninety days of the receipt of the notice, that
23 those records are of sufficient historical value that microfilm or
24 other permanent data storage is desirable, the Secretary of State
25 may require that the records be delivered to a specified location
26 for processing at state expense.

27 (d) Active, inactive, pending, rejected and canceled registra-
28 tion records shall be maintained as a permanent record, as
29 follows:

30 (1) Individual canceled registration records shall be main-
31 tained in the statewide voter registration database for a period of
32 at least five years following cancellation. Upon the expiration of
33 five years, those individual records may be removed from the
34 statewide voter registration database and disposed of in accor-
35 dance with the appropriate document retention policy.

36 (2) Rejected registration records shall be maintained in the
37 same manner as provided for canceled registration records.

CHAPTER 69

(Com. Sub. for S. B. 145 - By Senator Unger)

[Passed April 9, 2013; in effect ninety days from passage.]
[Approved by the Governor on April 19, 2013.]

AN ACT to amend and reenact §3-1-50 of the Code of West Virginia, 1931, as amended, relating to the administrative procedure in response to election-related complaints; clarifying language to allow the procedure to be utilized for certain federal election violations; and providing an exception to the procedure for certain allegations that may result in a finding of a criminal violation.

Be it enacted by the Legislature of West Virginia:

That §3-1-50 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-50. Establishment of state-based administrative complaint procedures.

1 (a) The Secretary of State shall establish and maintain a
2 state-based administrative complaint procedure for complaints

3 received concerning election violations which shall meet the
4 following requirements:

5 (1) The procedures shall be uniform and nondiscriminatory.

6 (2) Under the procedures, any person who believes that there
7 is a violation of any provision of this chapter or Title III of the
8 Help America Vote Act, Pub. L. 107-252, including a violation
9 which has occurred, is occurring or is about to occur, may file a
10 complaint.

11 (3) Any complaint filed under the procedures shall be in
12 writing, notarized and signed and sworn by the person filing the
13 complaint.

14 (4) The Secretary of State may consolidate complaints filed
15 under this section.

16 (5) At the request of the complainant there shall be a hearing
17 on the record.

18 (6) Violations of any provision of this chapter or Title III of
19 the Help America Vote Act, Pub. L. 107-252 shall be punishable
20 in accordance with the provisions of article nine of this chapter.

21 (7) If, under the procedures, the Secretary of State deter-
22 mines that there is no violation, the Secretary of State shall
23 dismiss the complaint and publish the results of the procedures.

24 (8) The Secretary of State shall make a final determination
25 with respect to a complaint prior to the expiration of the
26 ninety-day period which begins on the date the complaint is filed
27 unless the complainant consents to a longer period for making a
28 determination.

29 (9) If the Secretary of State fails to meet the deadline
30 applicable under subdivision (8) of this section, the complaint
31 shall be resolved within sixty days under alternative dispute
32 resolution procedures established for purposes of this section.
33 The record and other materials from any proceedings conducted
34 under the complaint procedures established under this section

35 shall be made available for use under the alternative dispute
36 resolution procedures.

37 (b) The administrative complaint procedure required by
38 subsection (a) of this section is not applicable if, within thirty
39 days of the filing of the complaint: (1) The Secretary of State
40 initiates an investigation; (2) the Secretary of State determines
41 that the allegations contained in the complaint may result in a
42 finding of a criminal violation; and (3) the Secretary of State
43 determines that the administrative complaint procedure required
44 by this section would endanger or impede the associated criminal
45 investigation: *Provided*, That within three business days
46 thereafter the Secretary of State shall notify the complainant in
47 writing that the allegations contained in the complaint may result
48 in a finding of a criminal violation and, therefore, the administra-
49 tive procedure contained in this section is inapplicable.

CHAPTER 70

**(Com. Sub. for H. B. 2805 - By Delegates Manchin, Miley,
Ellem, Lane, Fleischauer, Manypenny, Guthrie, Caputo,
Reynolds, White and Skinner)**

[Passed April 13, 2013; in effect from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT to repeal §3-12-17 of the Code of West Virginia, 1931, as amended; to amend and reenact §3-1A-5 of said code; and to amend and reenact §3-12-1, §3-12-2, §3-12-3, §3-12-4, §3-12-6, §3-12-7, §3-12-9, §3-12-10, §3-12-11, §3-12-13, §3-12-14 and §3-12-16 of said code, all relating to making the West Virginia Supreme Court of Appeals Public Campaign Financing Pilot Program a permanent program; removing provisions permitting receipt of supplemental or rescue public campaign financing funds;

providing certain findings; limiting collections by, and contributions to, a participating candidate in certain circumstances; requiring all contributions to candidates participating in the program be collected by the candidate's financial agent; providing for the transfer of additional moneys to the program's fund; allowing the program's funds to be invested, with retained earnings; increasing the amounts of financing certified candidates may receive in contested elections; removing certain reporting requirements; removing the doubling of civil penalties in certain circumstances; and repealing the July 1, 2013, sunset provisions for the program and its fund.

Be it enacted by the Legislature of West Virginia:

That §3-12-17 of the Code of West Virginia, 1931, as amended, be repealed; that §3-1A-5 of said code be amended and reenacted; and that §3-12-1, §3-12-2, §3-12-3, §3-12-4, §3-12-6, §3-12-7, §3-12-9, §3-12-10, §3-12-11, §3-12-13, §3-12-14 and §3-12-16 of said code be amended and reenacted, all to read as follows:

ARTICLE 1A. STATE ELECTION COMMISSION AND SECRETARY OF STATE.

§3-1A-5. Powers and duties of commission; legislative rules.

1 (a) The commission has the power and duty to approve or
2 disapprove applications for approval of any voting machine as
3 provided in section seven, article four of this chapter.

4 (b) The commission also shall serve as a body advisory to
5 the Secretary of State, and, as such, shall have the following
6 powers and duties:

7 (1) To recommend policies and practices pertaining to the
8 registration of voters and the conduct of elections generally;

9 (2) To review the work of the office of Secretary of State
10 pertaining to the duties of that office with respect to elections,

11 and for this purpose to have access at reasonable times to
12 pertinent records, books, papers and documents;

13 (3) To consider and study the election practices of other
14 jurisdictions, with a view to determining the techniques used in
15 eliminating fraud in elections and in simplifying election
16 procedures;

17 (4) To advise or make recommendations to the Governor
18 relative to election practices and policy in the state;

19 (5) To advise the Secretary of State on carrying out the
20 duties to which he or she is assigned pursuant to the West
21 Virginia Supreme Court of Appeals Public Campaign Financing
22 Program, established in article twelve of this chapter;

23 (6) To carry out the duties assigned to the commission by the
24 West Virginia Supreme Court of Appeals Public Campaign
25 Financing Program, established in article twelve of this chapter;
26 and

27 (7) To keep minutes of the transactions of each meeting of
28 the commission, which shall be public records and filed with the
29 Secretary of State.

30 (c) It is the commission's further duty to prepare and
31 distribute in its name, within available appropriations and upon
32 the recommendation of the Secretary of State, nonpartisan
33 educational material to inform voters of the importance of
34 voting, to encourage voters to vote, to inform voters of election
35 laws and procedures, and to inform voters of the effect of any
36 public question, Constitutional amendment or bond issue that is
37 to be voted upon by all the voters of the state and that has been
38 authorized to be placed upon the ballot by the Legislature, and
39 manuals to assist county commissions, ballot commissioners,
40 circuit and county clerks and other election officials in the
41 proper performance of their duties in the conduct of elections.

42 (d) The commission shall propose for promulgation
 43 emergency and legislative rules, in accordance with article three,
 44 chapter twenty-nine-a of this code, as may be necessary to
 45 standardize and make effective the administration of article eight
 46 of this chapter, and may propose for promulgation other rules, in
 47 accordance with article three, chapter twenty-nine-a of this code,
 48 relating to the conduct and administration of elections as the
 49 commission determines to be advisable.

50 (e) Meetings of the commission conducted for the purpose
 51 of confirming the eligibility of individual candidates to receive
 52 public campaign financing under the West Virginia Supreme
 53 Court of Appeals Public Campaign Financing Fund are expressly
 54 exempted from the public notice and public meeting
 55 requirements of article nine-a, chapter six of this code.

**ARTICLE 12. WEST VIRGINIA SUPREME COURT OF
 APPEALS PUBLIC CAMPAIGN
 FINANCING PROGRAM.**

§3-12-1. Short title.

1 This article is known as the “West Virginia Supreme Court
 2 of Appeals Public Campaign Financing Program”.

§3-12-2. Legislative findings and declarations.

1 The Legislature finds and declares the following:

2 (1) Current campaign finance laws permit candidates to
 3 spend unlimited amounts of money raised from private sources;

4 (2) Current campaign finance laws permit certain
 5 independent parties to raise and spend unlimited amounts of
 6 money to influence the outcome of elections;

7 (3) Over the last decade, fundraising and campaign
 8 expenditures in elections for a seat on the Supreme Court of
 9 Appeals have dramatically increased in West Virginia;

10 (4) In 2000, candidates running for a seat on the Supreme
11 Court of Appeals raised a total of \$1.4 million;

12 (5) In 2004, candidates running for a seat on the Supreme
13 Court of Appeals raised a total of \$2.8 million;

14 (6) In 2008, candidates running for a seat on the Supreme
15 Court of Appeals raised a total of \$3.3 million;

16 (7) In 2012, candidates running for a seat on the Supreme
17 Court of Appeals raised a total of \$3.7 million.

18 (8) As spending by candidates and independent parties
19 increases, so does the perception that contributors and interested
20 third parties hold too much influence over the judicial process;

21 (9) The detrimental effects of spending large amounts by
22 candidates and independent parties are especially problematic in
23 judicial elections because impartiality is uniquely important to
24 the integrity and credibility of courts;

25 (10) As demonstrated by the 2012 West Virginia Supreme
26 Court of Appeals Public Campaign Financing Pilot Program, an
27 alternative public campaign financing option for candidates
28 running for a seat on the Supreme Court of Appeals will ensure
29 the fairness of democratic elections in this state, protect the
30 Constitutional rights of voters and candidates from the
31 detrimental effects of increasingly large amounts of money being
32 raised and spent to influence the outcome of elections, protect
33 the impartiality and integrity of the judiciary, and strengthen
34 public confidence in the judiciary; and

35 (11) Funding the “West Virginia Supreme Court of Appeals
36 Public Campaign Financing Program” from a wide range of
37 revenue sources furthers important state interests in protecting
38 the integrity of judicial elections and serves to protect the public
39 interest.

§3-12-3. Definitions.

1 As used in this article, the following terms and phrases have
2 the following meanings:

3 (1) "Candidate's committee" means a political committee
4 established with the approval of or in cooperation with a
5 candidate or a prospective candidate to explore the possibilities
6 of seeking a particular office or to support or aid his or her
7 nomination or election to an office in an election cycle. If a
8 candidate directs or influences the activities of more than one
9 active committee in a current campaign, those committees shall
10 be considered one committee for the purpose of contribution
11 limits.

12 (2) "Certified candidate" means an individual seeking
13 election to the West Virginia Supreme Court of Appeals who has
14 been certified in accordance with section ten of this article as
15 having met all of the requirements for receiving public campaign
16 financing from the fund.

17 (3) "Contribution" means a gift subscription, assessment,
18 payment for services, dues, advance, donation, pledge, contract,
19 agreement, forbearance or promise of money or other tangible
20 thing of value, whether conditional or legally enforceable, or a
21 transfer of money or other tangible thing of value to a person,
22 made for the purpose of influencing the nomination, election or
23 defeat of a candidate. An offer or tender of a contribution is not
24 a contribution if expressly and unconditionally rejected or
25 returned. A contribution does not include volunteer personal
26 services provided without compensation: *Provided*, That a
27 nonmonetary contribution is to be considered at fair market
28 value for reporting requirements and contribution limitations.

29 (4) "Exploratory contribution" means a contribution of no
30 more than \$1,000 made by an individual adult, including a

31 participating candidate and members of his or her immediate
32 family, during the exploratory period but prior to filing the
33 declaration of intent. Exploratory contributions may not exceed
34 \$20,000 in the aggregate.

35 (5) “Exploratory period” means the period during which a
36 participating candidate may raise and spend exploratory
37 contributions to examine his or her chances of election and to
38 qualify for public campaign financing under this article. The
39 exploratory period begins on January 1 the year before the
40 primary in which the candidate may run for Justice of the
41 Supreme Court of Appeals and ends on the last Saturday in
42 January of the election year.

43 (6) “Financial agent” means any individual acting for and by
44 himself or herself, or any two or more individuals acting together
45 or cooperating in a financial way to aid or take part in the
46 nomination or election of any candidate for public office, or to
47 aid or promote the success or defeat of any political party at any
48 election.

49 (7) “Fund” means the Supreme Court of Appeals Public
50 Campaign Financing Fund created by section five of this article.

51 (8) “General election campaign period” means the period
52 beginning the day after the primary election and ending on the
53 day of the general election.

54 (9) “Immediate family” or “immediate family members”
55 means the spouse, parents, step-parents, siblings and children of
56 the participating candidate.

57 (10) “Nonparticipating candidate” means a candidate who is:

58 (A) Seeking election to the Supreme Court of Appeals;

59 (B) Is neither certified nor attempting to be certified to
60 receive public campaign financing from the fund; and

61 (C) Has an opponent who is a participating or certified
62 candidate.

63 (11) "Participating candidate" means a candidate who is
64 seeking election to the Supreme Court of Appeals and is
65 attempting to be certified in accordance with section ten of this
66 article to receive public campaign financing from the fund.

67 (12) "Person" means an individual, partnership, committee,
68 association and any other organization or group of individuals.

69 (13) "Primary election campaign period" means the period
70 beginning on the first day of the primary election filing period,
71 as determined under section seven, article five of this chapter,
72 and ending on the day of the subsequent primary election.

73 (14) "Qualifying contribution" means a contribution
74 received from a West Virginia registered voter of not less than
75 \$1 nor more than \$100 in the form of cash, check or money
76 order, made payable to a participating candidate or the
77 candidate's committee, or in the form of an electronic payment
78 or debit or credit card payment, received during the qualifying
79 period.

80 (15) "Qualifying period" means the period during which
81 participating candidates may raise and spend qualifying
82 contributions in order to qualify to receive public campaign
83 financing.

84 (A) For candidates seeking nomination on the primary
85 election ballot, the qualifying period begins on September 1
86 preceding the election year and ends on the last Saturday in
87 January of the election year.

88 (B) For candidates, other than those nominated during the
89 primary election, seeking to be placed on the general election
90 ballot, the qualifying period begins on June 1 of the election year
91 and ends on October 1 of the election year.

§3-12-4. Alternative public campaign financing option.

1 This article establishes an alternative public campaign
2 financing option available to candidates for election to the office
3 of Justice of the West Virginia Supreme Court of Appeals.
4 Candidates electing the alternative public campaign financing
5 option shall comply with all other applicable election and
6 campaign laws and rules.

§3-12-6. Sources of revenue for the fund.

1 Revenue from the following sources shall be deposited in the
2 fund:

3 (1) All exploratory and qualifying contributions in excess of
4 the established maximums;

5 (2) Money returned by participating or certified candidates
6 who fail to comply with this article;

7 (3) Unspent or unobligated moneys allotted to certified
8 candidates and remaining unspent or unobligated on the date of
9 the general election for which the money was distributed;

10 (4) If a certified candidate loses, all remaining unspent or
11 unobligated moneys after the primary election;

12 (5) Civil penalties levied by the State Election Commission
13 against candidates for violations of this article;

14 (6) Civil penalties levied by the Secretary of State pursuant
15 to section seven, article eight of this chapter;

16 (7) Voluntary donations made directly to the fund;

17 (8) Any interest income or other return earned on the
18 money's investment;

19 (9) On or before July 1, 2010, and for two successive years
 20 thereafter, the State Auditor shall authorize the transfer of the
 21 amount of \$1 million from the Purchasing Card Administration
 22 Fund established in section ten-d, article three, chapter twelve of
 23 this code to the fund created by this article;

24 (10) On or before July 1, 2015, the state Auditor shall
 25 authorize the transfer of the amount of \$400,000 from the
 26 Purchasing Card Administration Fund established in section
 27 ten-d, article three, chapter twelve of this code to the fund
 28 created by this article; and,

29 (11) Money appropriated to the fund.

§3-12-7. Declaration of intent.

1 A candidate desiring to receive campaign financing from the
 2 fund shall first file a declaration of intent before the end of the
 3 qualifying period and prior to collecting any qualifying
 4 contributions. The declaration shall be on a form prescribed by
 5 the State Election Commission and shall contain a statement that
 6 the candidate is qualified to be placed on the ballot, and, if
 7 elected, to hold the office sought and has complied with and will
 8 continue to comply with all requirements of this article,
 9 including contribution and expenditure restrictions. A candidate
 10 may not collect exploratory contributions after filing the
 11 declaration of intent. Contributions made prior to the filing of
 12 the declaration of intent are not qualifying contributions. Any
 13 contributions received by a candidate during any precandidacy
 14 period which preceded the exploratory period which remain
 15 unexpended at the time of the declaration of intent shall be
 16 considered exploratory funds and subject to the limits and
 17 provisions of section eight of this article.

§3-12-9. Qualifying contributions.

1 (a) A participating candidate or his or her candidate's
 2 committee may not accept more than one qualifying contribution

3 from a single individual. A qualifying contribution may not be
4 less than \$1 nor more than \$100. To be considered as a proper
5 qualifying contribution, the qualifying contribution must be
6 made by a registered West Virginia voter. A participating
7 candidate shall collect qualifying contributions which in the
8 aggregate are not less than \$35,000 nor more than \$50,000.
9 Qualifying contributions in excess of \$50,000 shall be sent to the
10 State Election Commission for deposit in the fund.

11 (b) Each qualifying contribution shall be acknowledged by
12 a written receipt that includes:

13 (1) The printed name of the participating candidate on whose
14 behalf the contribution is made and the signature of the person
15 who collected the contribution for the candidate or his or her
16 candidate's committee;

17 (2) For qualifying contributions of \$25 or more, the
18 contributor's signature, printed name, street address, zip code,
19 telephone number, occupation and name of employer; and for
20 qualifying contributions of less than \$25, the contributor's
21 signature, printed name, street address and zip code;

22 (3) A statement above the contributor's signature that:

23 (A) The contributor understands the purpose of the
24 contribution is to assist the participating candidate in obtaining
25 public campaign financing;

26 (B) The contribution was made without coercion;

27 (C) The contributor has not been reimbursed, received or
28 promised anything of value for making the contribution; and

29 (4) One copy of the receipt shall be given to the contributor,
30 one copy shall be retained by the candidate and one copy shall
31 be sent by the candidate to the Secretary of State. A contribution

32 which is not acknowledged by a written receipt in the form
33 required by this subsection is not a qualifying contribution.

34 (c) During the qualifying period, a participating candidate or
35 his or her candidate's committee must obtain at least five
36 hundred qualifying contributions from registered West Virginia
37 voters. A minimum of ten percent of the total number of
38 qualifying contributions received by the candidate must be from
39 each of the state's congressional districts.

40 (d) A participating candidate and each member of the
41 candidate's immediate family who is a registered voter in this
42 state may each make one qualifying contribution. A participating
43 candidate may not use any other personal funds to satisfy the
44 qualifying contributions requirements.

45 (e) A participating candidate may not reimburse, give or
46 promise anything of value in exchange for a qualifying
47 contribution.

48 (f) At the beginning of each month, a participating or
49 certified candidate or his or her financial agent or committee
50 shall report all qualifying contributions, expenditures and
51 obligations along with all receipts for contributions received
52 during the prior month to the Secretary of State. Such reports
53 shall be filed electronically: *Provided*, That a committee may
54 apply for an exemption in case of hardship pursuant to
55 subsection (c) of section five-b, article eight of this chapter. If
56 the candidate decides not to run for office, all unspent or
57 unobligated qualifying contributions shall be sent to the State
58 Election Commission for deposit in the fund. If the candidate
59 decides to run for office as a nonparticipating candidate, the
60 unspent or unobligated qualifying contributions shall be used in
61 accordance with articles eight and twelve of this chapter.

62 (g) All qualifying contributions collected and all
63 expenditures by a participating candidate or his or her committee

64 shall be reported to the Secretary of State no later than two
65 business days after the close of the qualifying period.

66 (h) (1) Individuals are limited to not more than one \$100
67 contribution during the qualifying period.

68 (2) An individual may not contribute more than \$1,000 in the
69 aggregate in exploratory and qualifying contributions.

70 (3) All contributions to candidates participating in the West
71 Virginia Supreme Court of Appeals Public Campaign Financing
72 Program shall be collected by the candidates's designated
73 financial agent.

§3-12-10. Certification of candidates.

1 (a) To be certified, a participating candidate shall apply to
2 the State Election Commission for public campaign financing
3 from the fund and file a sworn statement that he or she has
4 complied and will comply with all requirements of this article
5 throughout the applicable campaign.

6 (b) Upon receipt of a notice from the Secretary of State that
7 a participating candidate has received the required number and
8 amount of qualifying contributions, the State Election
9 Commission shall determine whether the candidate or
10 candidate's committee:

11 (1) Has signed and filed a declaration of intent as required by
12 section seven of this article;

13 (2) Has obtained the required number and amount of
14 qualifying contributions as required by section nine of this
15 article;

16 (3) Has complied with the contribution restrictions of this
17 article;

18 (4) Is eligible, as provided in section nine, article five of this
19 chapter, to appear on the primary or general election ballot; and

20 (5) Has met all other requirements of this article.

21 (c) The State Election Commission shall process
22 applications in the order they are received and shall verify a
23 participating candidate's compliance with the requirements of
24 subsection (b) of this section by using the verification and
25 sampling techniques approved by the State Election
26 Commission.

27 (d) The State Election Commission shall determine whether
28 to certify a participating candidate as eligible to receive public
29 campaign financing no later than three business days after the
30 candidate or the candidate's committee makes his or her final
31 report of qualifying contributions or, if a challenge is filed under
32 subsection (g) of this section, no later than six business days
33 after the candidate or the candidate's committee makes his or her
34 final report of qualifying contributions. A certified candidate
35 shall comply with this article through the general election
36 campaign period.

37 (e) No later than two business days after the State Election
38 Commission certifies that a participating candidate is eligible to
39 receive public campaign financing under this section, the State
40 Election Commission, acting in concert with the State Auditor's
41 office and the State Treasurer's office, shall cause a check to be
42 issued to the candidate's campaign depository account an
43 amount equal to the public campaign financing benefit for which
44 the candidate qualifies under section eleven of this article, minus
45 the candidate's qualifying contributions, and shall notify all
46 other candidates for the same office of its determination.

47 (f) If the candidate desires to receive public financing
48 benefits by electronic transfer, the candidate shall include in his

49 or her application sufficient information and authorization for
50 the State Treasurer to transfer payments to his or her campaign
51 depository account.

52 (g) Any person may challenge the validity of any
53 contribution listed by a participating candidate by filing a written
54 challenge with the State Election Commission setting forth any
55 reason why the contribution should not be accepted as a
56 qualifying contribution. If a contribution is challenged under this
57 subsection, the State Election Commission shall decide the
58 validity of the challenge no later than the end of the next
59 business day after the day that the challenge is filed, unless the
60 State Election Commission determines that the candidate whose
61 contribution is challenged has both a sufficient qualifying
62 number and amount of qualifying contributions to be certified as
63 a candidate under this section without considering the challenge.
64 Within five business days of a challenge, the candidate or
65 candidate's committee who listed any contribution that is the
66 subject of a challenge may file a report with the State Election
67 Commission of an additional contribution collected pursuant to
68 section nine of this article for consideration as a qualifying
69 contribution.

70 (h) A candidate's certification and receipt of public
71 campaign financing may be revoked by the State Election
72 Commission, if the candidate violates this article. A certified
73 candidate who violates this article shall repay all moneys
74 received from the fund to the State Election Commission.

75 (i) The determination of any issue before the State Election
76 Commission is the final administrative determination. Any
77 meetings conducted by the State Elections Commission to certify
78 a candidate's eligibility to receive funds under this article shall
79 not be subject the public notice and open meeting requirements
80 of article nine-a, chapter six of this code, but the commission
81 shall concurrently provide public notice of any decision and

82 determination it makes which impacts the candidate's eligibility
83 to receive funds pursuant to this article. Any person adversely
84 affected by a decision of the State Election Commission under
85 this article may appeal that decision to the circuit court of
86 Kanawha County.

87 (j) A candidate may withdraw from being a certified
88 candidate and become a nonparticipating candidate at any time
89 with the approval of the State Election Commission. Any
90 candidate seeking to withdraw shall file a written request with
91 the State Election Commission, which shall consider requests on
92 a case-by-case basis. No certified candidate may withdraw until
93 he or she has repaid all moneys received from the fund:
94 *Provided*, That the State Election Commission may, in
95 exceptional circumstances, waive the repayment requirement.
96 The State Election Commission may assess a penalty not to
97 exceed \$10,000 against any candidate who withdraws without
98 approval.

§3-12-11. Schedule and amount of Supreme Court of Appeals Public Campaign Financing Fund payments.

1 (a) The State Election Commission, acting in concert with
2 the State Auditor's office and the State Treasurer's office, shall
3 have a check issued within two business days after the date on
4 which the candidate is certified, to make payments from the fund
5 for the 2012 primary election campaign period available to a
6 certified candidate.

7 (1) In a contested primary election, a certified candidate
8 shall receive \$300,000 in campaign financing from the fund,
9 minus the certified candidate's qualifying contributions.

10 (2) In an uncontested primary election, a certified candidate
11 shall receive \$50,000 from the public campaign financing fund,
12 minus the certified candidate's qualifying contributions.

13 (b) Within two business days after the primary election
14 results are certified by the Secretary of State, the State Election
15 Commission, acting in concert with the State Auditor's office
16 and the State Treasurer's office, shall cause a check to be issued
17 to make payments from the fund for the general election
18 campaign period available to a certified candidate.

19 (1) In a contested general election, a certified candidate
20 shall receive from the fund an amount not to exceed \$525,000.

21 (2) In an uncontested general election, a certified candidate
22 shall receive \$35,000 from the public campaign financing fund.

23 (c) The State Election Commission shall authorize the
24 distribution of campaign financing moneys to certified
25 candidates in equal amounts. The commission shall propose a
26 legislative rule on distribution of funds.

27 (d) The State Election Commission may not authorize or
28 direct the distribution of moneys to certified candidates in excess
29 of the total amount of money deposited in the fund pursuant to
30 section six of this article. If the commission determines that the
31 money in the fund is insufficient to totally fund all certified
32 candidates, the commission shall authorize the distribution of the
33 remaining money proportionally, according to each candidate's
34 eligibility for funding. Each candidate may raise additional
35 money in the same manner as a nonparticipating candidate for
36 the same office up to the unfunded amount of the candidate's
37 eligible funding.

§3-12-13. Reporting requirements.

1 (a) Participating candidates and certified candidates shall
2 comply with this section in addition to any other reporting
3 required by this chapter.

4 (b) During the exploratory and qualifying periods, a
5 participating candidate or his or her financial agent shall submit,

6 on the first of each month, a report of all exploratory and
7 qualifying contributions along with their receipts and an
8 accounting of all expenditures and obligations received during
9 the immediately preceding month. The reports shall be on forms
10 or in a format prescribed by the Secretary of State. Such reports
11 shall be filed electronically: *Provided*, That a committee may
12 apply for an exemption, in case of hardship, pursuant to
13 subsection (c) of section five-b, article eight of this chapter.

14 (c) No later than two business days after the close of the
15 qualifying period, a participating candidate or his or her financial
16 agent shall report to the Secretary of State on appropriate forms
17 a summary of:

18 (1) All exploratory contributions received and funds
19 expended or obligated during the exploratory period together
20 with copies of any receipts not previously submitted for
21 exploratory contributions; and

22 (2) All qualifying contributions received and funds expended
23 or obligated during the qualifying period together with copies of
24 any receipts not previously submitted for qualifying
25 contributions.

26 (d) A certified candidate or his or her financial agent shall
27 file periodic financial statements in accordance with section five,
28 article eight of this chapter, detailing all funds received,
29 expended or obligated during the specified periods. The reports
30 shall be on forms approved by the Secretary of State.

§3-12-14. Duties of the State Election Commission; Secretary of State.

1 (a) In addition to its other duties, the State Election
2 Commission shall carry out the duties of this article and
3 complete the following as applicable:

4 (1) Prescribe forms for reports, statements, notices and other
5 documents required by this article;

6 (2) Make an annual report to the Legislature accounting for
7 moneys in the fund, describing the State Election Commission's
8 activities and listing any recommendations for changes of law,
9 administration or funding amounts;

10 (3) Propose emergency and legislative rules for legislative
11 approval, in accordance with article three, chapter twenty-nine-a
12 of this code, as may be necessary for the proper administration
13 of this article;

14 (4) Enforce this article to ensure that moneys from the fund
15 are placed in candidate campaign accounts and spent as specified
16 in this article;

17 (5) Monitor reports filed pursuant to this article and the
18 financial records of candidates to ensure that qualified
19 candidates receive funds promptly and to ensure that moneys
20 required by this article to be paid to the fund are deposited in the
21 fund;

22 (6) Cause an audit of the fund to be conducted by
23 independent certified public accountants ninety days after a
24 general election. The State Election Commission shall cooperate
25 with the audit, provide all necessary documentation and financial
26 records to the auditor and maintain a record of all information
27 supplied by the audit;

28 (7) In consultation with the State Treasurer and the State
29 Auditor, develop a rapid, reliable method of conveying funds to
30 certified candidates. In all cases, the commission shall distribute
31 funds to certified candidates in a manner that is expeditious,
32 ensures accountability and safeguards the integrity of the fund;

33 (8) Regularly monitor the receipts, disbursements,
34 obligations and balance in the fund to determine whether the
35 fund will have sufficient moneys to meet its obligations and
36 sufficient moneys available for disbursement during the primary
37 and general election campaign period; and

38 (9) Transfer a portion of moneys maintained in the fund to
39 the West Virginia Investment Management Board for their
40 supervised investment, after consultation with the State
41 Treasurer, the State Auditor and the West Virginia Investment
42 Management Board.

43 (b) In addition to his or her other duties, the Secretary of
44 State shall carry out the duties of this article and complete the
45 following as applicable:

46 (1) Prescribe forms for reports, statements, notices and other
47 documents required by this article;

48 (2) Prepare and publish information about this article and
49 provide it to potential candidates and citizens of this state;

50 (3) Prepare and publish instructions setting forth methods of
51 bookkeeping and preservation of records to facilitate compliance
52 with this article and to explain the duties of candidates and
53 others participating in elections under this article;

54 (4) Propose emergency and legislative rules for legislative
55 approval in accordance with article three, chapter twenty-nine-a
56 of this code as may be necessary for the proper administration of
57 this article;

58 (5) Enforce this article to ensure that moneys from the fund
59 are placed in candidate campaign accounts and spent as specified
60 in this article;

61 (6) Monitor reports filed pursuant to this article and the
62 financial records of candidates to ensure that qualified

63 candidates receive funds promptly and to ensure that moneys
64 required by this article to be paid to the fund are deposited in the
65 fund;

66 (7) Ensure public access to the campaign finance reports
67 required pursuant to this article, and whenever possible, use
68 electronic means for the reporting, storing and display of the
69 information; and

70 (8) Prepare a voters' guide for the general public listing the
71 names of each candidate seeking election to the Supreme Court
72 of Appeals. Both certified and nonparticipating candidates shall
73 be invited by the State Election Commission to submit a
74 statement, not to exceed five hundred words in length, for
75 inclusion in the guide. The guide shall identify the candidates
76 that are certified candidates and the candidates that are
77 nonparticipating candidates. Copies of the guide shall be posted
78 on the website of the Secretary of State, as soon as may be
79 practical.

80 (c) To fulfill their responsibilities under this article, the State
81 Election Commission and the Secretary of State may subpoena
82 witnesses, compel their attendance and testimony, administer
83 oaths and affirmations, take evidence and require, by subpoena,
84 the production of any books, papers, records or other items
85 material to the performance of their duties or the exercise of
86 their powers.

87 (d) The State Election Commission may also propose and
88 adopt procedural rules to carry out the purposes and provisions
89 of this article and to govern procedures of the State Election
90 Commission as it relates to the requirements of this article.

§3-12-16. Civil penalties.

1 (a) If a participating or certified candidate or his or her
2 committee or financial agent unintentionally accepts

3 contributions from a private source in violation of this article or
4 spends or obligates to spend more than the amount of public
5 financing money he or she is eligible to receive from the fund
6 pursuant to section eleven of this article, the State Election
7 Commission may order the candidate to pay to the State Election
8 Commission an amount equal to the amount of the contribution,
9 expenditure or obligation.

10 (b) If a participating or certified candidate or his or her
11 committee or financial agent intentionally accepts contributions
12 from a private source in violation of this article or spends or
13 obligates more than the amount of public campaign financing he
14 or she is eligible to receive from the fund, the State Election
15 Commission shall order the candidate to pay to the State
16 Election Commission an amount equal to ten times the amount
17 of the contribution, expenditure or obligation. The candidate
18 shall pay the civil penalty authorized under this subsection
19 within seven days of receipt of written notice from the State
20 Election Commission of the imposition of the penalty.

21 (c) If a participating or certified candidate fails to pay any
22 moneys required to be paid to the State Election Commission or
23 returned to the fund under this article, the State Election
24 Commission may order the candidate to pay an amount equal to
25 three times the amount that should have been paid to the State
26 Election Commission or returned to the fund.

27 (d) In addition to any other penalties imposed by law, the
28 State Election Commission may impose a civil penalty for a
29 violation by or on behalf of any candidate of any reporting
30 requirement imposed by this article in the amount of \$100 a day.

31 (e) All penalties collected by the State Election Commission
32 pursuant to this section shall be deposited into the fund. The
33 candidate and the candidate's campaign account are jointly and
34 severally responsible for the payment of any penalty imposed
35 pursuant to this section.

CHAPTER 71

(Com. Sub. for H. B. 3139 - By Delegates Sponaugle,
R. Phillips, Manypenny and Longstreth)
(By request of the Secretary of State)

[Passed April 13, 2013; in effect from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to amend and reenact §3-1A-8 of the Code of West Virginia, 1931, as amended, relating to qualified investigators employed by the Secretary of State; authorizing the Secretary of State to allow qualified investigators to carry firearms while performing their official duties; establishing minimum training and certification requirements; and requiring qualified personnel to secure a license to carry a concealed weapon in accordance with the provisions of the code.

Be it enacted by the Legislature of West Virginia:

That §3-1A-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1A. STATE ELECTION COMMISSION AND SECRETARY OF STATE.

§3-1A-8. Investigators for the Secretary of State.

- 1 (a) An employee of the Secretary of State, who has attended
- 2 a course of instruction at the State Police Academy or its
- 3 equivalent, has all the lawful powers delegated to members of
- 4 the state police to enforce the provisions of this chapter and the
- 5 criminal laws of the state in any county or municipality of this
- 6 state. The Secretary of State may allow an investigator who has
- 7 met the standards set forth in section four, article seven, chapter
- 8 sixty-one of this code to carry a firearm and concealed weapon

9 while performing their official duties: *Provided*, That as a
10 precondition of being authorized to carry a firearm or concealed
11 weapon in the course of their official duties, any such designated
12 personnel must obtain and maintain firearms training and
13 certification which is equivalent to that which is required of
14 members of the state police. The designated persons must also
15 possess a license to carry a concealed deadly weapon in the
16 manner prescribed in article seven, chapter sixty-one of this
17 code, or otherwise be exempted from the code's provisions.

18 (b) Before entering upon the discharge of his or her duties,
19 an employee shall execute a bond with security in the sum of
20 \$3,500, payable to the State of West Virginia, conditioned for
21 the faithful performance of his or her duties. The bond shall be
22 approved as to form by the Attorney General and filed with the
23 Secretary of State and preserved in his or her office. The State
24 Police and a county sheriff or deputy sheriff or a municipal
25 police officer, upon request by the Secretary of State or his or
26 her appointee, is authorized to assist the Secretary of State or his
27 or her appointee in enforcing the provisions of this chapter and
28 the criminal laws of the state.

CHAPTER 72

(Com. Sub. for S. B. 477 - By Senator Palumbo)

[Passed April 12, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 2, 2013.]

AN ACT to repeal §3-2-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-2-5, §3-2-6, §3-2-7 and §3-2-11 of said code, all relating to electronic registration of voters; repealing outdated code regarding manual voter registration

systems; authorizing Secretary of State to promulgate procedures to permit persons to register to vote through a secure electronic voter registration system; providing an exception to address requirements on registration for participants in the address confidentiality program; permitting transmission of electronically stored signatures for registration in certain instances; allowing acceptance of registration with or without an email address; requiring electronic registration be received by close of business on the day of the registration deadline; permitting people to register to vote through approved electronic voter registration systems at certain locations; authorizing the Division of Motor Vehicles to release certain information to the Secretary of State upon notice and consent of the registered voter; and making certain clarifications of current code.

Be it enacted by the Legislature of West Virginia:

That §3-2-24 of the Code of West Virginia, 1931, as amended, be repealed; and that §3-2-5, §3-2-6, §3-2-7 and §3-2-11 of said code be amended and reenacted, all to read as follows:

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-5. Forms for application for registration; information required and requested; types of application forms; notices.

- 1 (a) (1) All state forms for application for voter registration
- 2 shall be prescribed by the Secretary of State and shall conform
- 3 with the requirements of 42 U. S. C. §1973gg, *et seq.*, the
- 4 National Voter Registration Act of 1993 and the requirements of
- 5 the provisions of this article. Separate application forms may be
- 6 prescribed for voter registration conducted by the clerk of the
- 7 county commission, registration by mail, registration in
- 8 conjunction with an application for motor vehicle driver's
- 9 license and registration at designated agencies. These forms may
- 10 consist of one or more parts, may be combined with other forms

11 for use in registration by designated agencies or in conjunction
12 with driver licensing and may be revised and reissued as
13 required by the Secretary of State to provide for the efficient
14 administration of voter registration.

15 (2) Notwithstanding any provisions of subdivision (1) of this
16 subsection to the contrary, the federal postcard application for
17 voter registration issued pursuant to 42 U. S. C. §1973, *et seq.*,
18 the Uniformed and Overseas Citizens Absentee Voting Act of
19 1986 and the mail voter registration application form prescribed
20 by the Federal Election Commission pursuant to 42 U. S.
21 C. §1973gg, *et seq.*, the National Voter Registration Act of 1993,
22 are accepted as valid forms of application for registration
23 pursuant to the provisions of this article.

24 (3) The Secretary of State is authorized to promulgate
25 procedures to permit persons to register to vote through a secure
26 electronic voter registration system.

27 (b) Each application form for registration shall include:

28 (1) A statement specifying the eligibility requirements for
29 registration and an attestation that the applicant meets each
30 eligibility requirement;

31 (2) Any specific notice or notices required for a specific type
32 or use of application by 42 U. S. C. §1973gg, *et seq.*, the National
33 Voter Registration Act of 1993;

34 (3) A notice that a voter may be permitted to vote the
35 partisan primary election ballot of a political party only if the
36 voter has designated that political party on the application for
37 registration unless the political party has determined otherwise;

38 (4) The applicant's driver's license number or an
39 identification number issued by the Division of Motor Vehicles.
40 If the applicant does not have a driver's license or an

41 identification card issued by the Division of Motor Vehicles,
42 then the last four digits of the applicant's Social Security
43 number; and

44 (5) Any other instructions or information essential to
45 complete the application process.

46 (c) Each application form shall require that the following be
47 provided by the applicant, under oath, and an application which
48 does not contain each of the following is incomplete:

49 (1) The applicant's legal name, including the first name,
50 middle or premarital name, if any, and last name;

51 (2) The month, day and year of the applicant's birth;

52 (3) The applicant's residence address including the number
53 and street or route and city and county of residence except:

54 (A) In the case of a person eligible to register under the
55 provisions of 42 U. S. C. § 1973ff, *et seq.*, the Uniformed and
56 Overseas Citizens Absentee Voting Act, the address at which he
57 or she last resided before leaving the United States or entering
58 the uniformed services, or if a dependent child of such a person,
59 the address at which his or her parent last resided;

60 (B) In the case of a homeless person having no fixed
61 residence address who nevertheless resides and remains
62 regularly within the county, the address of a shelter, assistance
63 center or family member with whom he or she has regular
64 contact or other specific location approved by the clerk of the
65 county commission for the purposes of establishing a voting
66 residence; or

67 (C) In the case of a participant in the Address Confidentiality
68 Program administered by the Secretary of State in accordance
69 with section one hundred three, article twenty-eight (a), chapter
70 forty-eight of this code, the designated address assigned to the
71 participant by the Secretary of State; and

72 (4) The applicant's signature, under penalty of perjury as
73 provided in section thirty-six of this article, to the attestation of
74 eligibility to register to vote and to the truth of the information
75 given. The clerk may accept the electronically transmitted
76 signature kept on file with another approved state database for an
77 applicant who applies to register to vote using an approved
78 electronic voter registration system in accordance with
79 procedures promulgated by the Secretary of State.

80 (d) The applicant shall be requested to provide the following
81 information but no application may be rejected for lack of this
82 information:

83 (1) An indication whether the application is for a new
84 registration, change of address, change of name or change of
85 party affiliation;

86 (2) The applicant's choice of political party affiliation, if
87 any, or an indication of no affiliation. An applicant who does not
88 enter a choice of political party affiliation is listed as having no
89 party affiliation on the voting record;

90 (3) The applicant's residence mailing address if different
91 than the residence street address;

92 (4) The last four digits of the applicant's Social Security
93 number;

94 (5) The applicant's telephone number;

95 (6) The applicant's e-mail address;

96 (7) The address where the applicant was last registered to
97 vote, if any, for the purpose of canceling or transferring the
98 previous registration; and

99 (8) The applicant's gender.

100 (e) The Secretary of State shall prescribe the printing
101 specifications of each type of voter registration application and
102 the voter registration application portion of any form which is
103 part of a combined agency form.

104 (f) Application forms prescribed in this section may refer to
105 various public officials by title or official position but in no case
106 may the actual name of an officeholder be printed on the voter
107 registration application or on any portion of a combined
108 application form.

109 (g) No later than July 1 of each odd-numbered year, the
110 Secretary of State shall submit the specifications of the voter
111 registration application by mail for statewide bidding for a
112 contract period beginning September 1 of each odd-numbered
113 year and continuing for two calendar years. The successful
114 bidder shall produce and supply the required mail voter
115 registration forms at the contract price to all purchasers of the
116 form for the period of the contract.

§3-2-6. Time of registration application before an election.

1 (a) Voter registration before an election closes on the
2 twenty-first day before the election or on the first day thereafter
3 which is not a Saturday, Sunday or legal holiday.

4 (b) An application for voter registration, transfer of
5 registration, change of name or change of political party
6 affiliation submitted by an eligible voter by the close of voter
7 registration is effective for any subsequent primary, general or
8 special election if the following conditions are met:

9 (1) The application contains the information required by
10 subsection (c), section five of this article. Incomplete
11 applications for registration containing information which are
12 submitted within the required time may be corrected within four
13 business days after the close of registration if the applicant
14 provides the required information; and

15 (2) The application is received by the appropriate clerk of
16 the county commission no later than the hour of the close of
17 registration or is otherwise submitted by the following deadlines:

18 (A) If mailed, the application shall be addressed to the
19 appropriate clerk of the county commission and is postmarked
20 by the postal service no later than the date of the close of
21 registration. If the postmark is missing or illegible, the
22 application is presumed to have been mailed no later than the
23 close of registration if it is received by the appropriate clerk of
24 the county commission no later than the third day following the
25 close of registration;

26 (B) If accepted by a designated agency or motor vehicle
27 licensing office, the application is received by that agency or
28 office no later than the close of registration;

29 (C) If accepted through a registration outreach program, the
30 application is received by the clerk, deputy clerk or registrar no
31 later than the close of registration;

32 (D) If accepted through an approved electronic voter
33 registration system, the application is received by the clerk of the
34 county commission or other entity designated by the Secretary
35 of State no later than the close of business on the final day of
36 registration; and

37 (3) The verification notice by the provisions of section
38 sixteen of this article mailed to the voter at the residence
39 indicated on the application is not returned as undeliverable.

**§3-2-7. Hours and days of registration in the office of the clerk of
the county commission; in-person application for voter
registration; identification required.**

1 (a) The clerk of the county commission shall provide voter
2 registration services at all times when the office of the clerk is
3 open for regular business.

4 (b) An eligible voter who desires to apply for voter
5 registration in person at the office of the clerk of the county
6 commission shall complete a voter registration application on the
7 prescribed form and shall sign the oath required on that
8 application in the presence of the clerk of the county commission
9 or his or her deputy: *Provided*, That an individual may apply for
10 voter registration using an approved electronic voter registration
11 system if available at the office of the clerk. Such system may
12 electronically transfer the voter's signature stored in the database
13 of another state agency in accordance with procedures
14 promulgated by the Secretary of State. The applicant shall
15 present valid identification and proof of age. The clerk may
16 waive the proof of age requirement if the applicant is clearly
17 over the age of eighteen.

18 (c) The clerk shall attempt to establish whether the residence
19 address given is within the boundaries of an incorporated
20 municipality and, if so, make the proper entry required for
21 municipal residents to be properly identified for municipal voter
22 registration purposes.

23 (d) Upon receipt of the completed registration application,
24 the clerk shall either:

25 (1) Provide a notice of procedure for verification and notice
26 of disposition of the application and immediately begin the
27 verification process prescribed by the provisions of section
28 sixteen of this article; or

29 (2) Upon presentation of a current driver's license or
30 state-issued identification card containing the residence address
31 as it appears on the voter registration application, issue the
32 receipt of registration.

§3-2-11. Registration in conjunction with driver licensing.

1 (a) The Division of Motor Vehicles or other division or
2 department that may be established by law to perform motor

3 vehicle driver licensing services shall provide each qualified
4 registrant, as an integral and simultaneous part of every process
5 of application for the issuance, renewal or change of address of
6 a motor vehicle driver's license or official identification card
7 pursuant to the provisions of article two, chapter seventeen-b of
8 this code, a voter registration application as prescribed in section
9 five of this article when the division's regional offices are open
10 for regular business. An individual may apply for voter
11 registration using an approved electronic voter registration
12 system if available at a Division of Motor Vehicles regional
13 office.

14 (b) Notwithstanding any other provision of this code to the
15 contrary, the Division of Motor Vehicles is required to release
16 the first name, middle name, last name, premarital name, if
17 applicable, complete residence address, complete date of birth of
18 an applicant and the applicant's electronic signature, entered in
19 the division's records for driver license or nonoperator
20 identification purposes upon notice and written consent of the
21 applicant. The notice and consent is a required component of an
22 electronic voter registration application made available to the
23 general public by the Secretary of State. The release of an
24 applicant's signature by the Division of Motor Vehicles to the
25 Office of the Secretary of State applies to any voter registration
26 application approved through an electronic voter registration
27 system approved by the Secretary of State regardless of the
28 location of the online user and provided the user grants written
29 consent.

30 (c) A person who fails to sign the voter registration
31 application or who fails to return the voter registration
32 application to a driver licensing facility or to an appropriate
33 voter registration office is considered to have declined to
34 register. Information regarding a person's failure to sign the
35 voter registration application is confidential and may not be used
36 for any purpose other than to determine voter registration.

37 (d) A qualified voter who submits the application for
38 registration pursuant to the provisions of subsection (a) of this
39 section in person at a driver licensing facility at the time of
40 applying for, obtaining, renewing or transferring his or her
41 driver's license or official identification card and who presents
42 identification and proof of age at that time is not required to
43 make his or her first vote in person or to again present
44 identification in order to make that registration valid.

45 (e) A qualified voter who submits by mail or by delivery by
46 a third party an application for registration on the form used in
47 conjunction with driver licensing is required to make his or her
48 first vote in person and present identification as required for
49 other mail registration in accordance with the provisions of
50 subsection (g), section ten of this article. If the applicant has
51 been previously registered in the jurisdiction and the application
52 is for a change of address, change of name, change of political
53 party affiliation or other correction, the presentation of
54 identification and first vote in person is not required.

55 (f) An application for voter registration submitted pursuant
56 to the provisions of this section updates a previous voter
57 registration by the applicant and authorizes the cancellation of
58 registration in any other county or state in which the applicant
59 was previously registered.

60 (g) A change of address from one residence to another
61 within the same county which is submitted for driver licensing
62 or nonoperator's identification purposes in accordance with
63 applicable law serves as a notice of change of address for voter
64 registration purposes if requested by the applicant after notice
65 and written consent of the applicant.

66 (h) Completed applications for voter registration or change
67 of address for voting purposes received by an office providing
68 driver licensing services shall be forwarded to the Secretary of
69 State within five days of receipt unless other means are available

70 for a more expedited transmission. The Secretary of State shall
71 remove and file any forms which have not been signed by the
72 applicant and shall forward completed, signed applications to the
73 clerk of the appropriate county commission within five days of
74 receipt.

75 (i) Voter registration application forms containing voter
76 information which are returned to a driver licensing office
77 unsigned shall be collected by the Division of Motor Vehicles,
78 submitted to the Secretary of State and maintained by the
79 Secretary of State's office according to the retention policy
80 adopted by the Secretary of State.

CHAPTER 73

(Com. Sub. for S. B. 482 - By Senator Palumbo)

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to amend and reenact §3-2-30 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §59-1-2b, all relating to the preparation and sale of voter registration lists; exempting certain voter data from being provided; clarifying that records are to be kept in electronic form; permitting certain voter lists be obtained for noncommercial purposes from the clerk of the county commission or the Secretary of State; providing certain exemptions allowing the Secretary of State to provide voter information to others; setting forth the fees to be charged for the sale of voter registration lists; setting forth the types of lists and services that are available; requiring the net proceeds from the voter registration list sales be deposited in the State Election Fund; and clarifying that the Secretary of State may

share voter information with those authorized to receive the information.

Be it enacted by the Legislature of West Virginia:

That §3-2-30 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto a new section, designated §59-1-2b, all to read as follows:

CHAPTER 3. ELECTIONS.

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-30. Public inspection of voter registration records in the office of the clerk of the county commission; providing voter lists for noncommercial use; prohibition against resale of voter lists for commercial use or profit.

1 (a) Any person may examine the active, inactive, rejected
2 and canceled voter registration records during office hours of the
3 clerk of the county commission in accordance with chapter
4 twenty-nine-b of this code.

5 Active, inactive, rejected and canceled voter files are to be
6 maintained in electronic data format. Any person may examine
7 voter record information in printed form or in a read-only data
8 format on a computer terminal set aside for public use, if
9 available. The data files available for examination and copying
10 shall include all registration and voting information maintained
11 in the file, but may not include the registrant's telephone
12 number, email address, Social Security number or driver's
13 license number or nonoperator's identification number issued by
14 the Division of Motor Vehicles.

15 (b) The clerk of the county commission shall, upon request,
16 provide printed copies of the lists of voters for each precinct. No
17 list prepared under this section may include the registrant's

18 telephone number, email address, Social Security number or
19 driver's license number or nonoperator's identification number
20 issued by the Division of Motor Vehicles. The clerk shall
21 establish a written policy, posted within public view, listing the
22 options for selection and sorting criteria and available data
23 elements. The data elements shall include, at least:

24 (1) The name, residence address, political party affiliation
25 and status of the registrant;

26 (2) The available formats of the lists; and

27 (3) The times at which lists will be prepared. A copy of the
28 county policy shall be filed with the Secretary of State no later
29 than January 1 of each even-numbered year.

30 (c) Lists of registered voters may be obtained for
31 noncommercial purposes in data format on disk or as a printed
32 list provided by the clerk of the county commission at a cost of
33 one cent per name. No data file prepared under this subsection
34 may include the registrant's telephone number, email address,
35 Social Security number or driver's license number or
36 nonoperator's identification number issued by the Division of
37 Motor Vehicles.

38 (d) The fees received by the clerk of the county commission
39 shall be kept in a separate fund under the supervision of the clerk
40 and may be used for the purpose of defraying the cost of the
41 preparation of the voter lists. After deducting the costs of
42 preparing voter lists, the clerk shall deposit the net proceeds
43 from the sale of the voter lists in the State Election Fund as set
44 forth in subsection (b), section forty-eight, article one of this
45 chapter.

46 (e) The Secretary of State shall make voter lists available for
47 sale subject to the limitations as provided in subsection (a) of
48 this section. The fees for the voter lists shall be as prescribed in

49 section two-b, article one, chapter fifty-nine of this code. The
 50 revenue associated with purchase of a partial list or associated
 51 with a complete statewide list shall be deposited in the State
 52 Election Fund as set forth in subsection (b), section forty-eight,
 53 article one of this chapter.

54 (f) No voter registration lists or data files containing voter
 55 names, addresses or other information derived from voter data
 56 files obtained pursuant to the provisions of this article may be
 57 used for commercial or charitable solicitations or advertising,
 58 sold or reproduced for resale.

59 (g) This section may not be interpreted to prevent the
 60 Secretary of State from sharing data files containing voter
 61 information with authorized service providers or sharing data
 62 across state lines with any state or local election official for the
 63 purpose of voter registration and election administration in
 64 accordance with this chapter or applicable federal law.

**CHAPTER 59. FEES, ALLOWANCES
 AND COSTS; NEWSPAPERS;
 LEGAL ADVERTISEMENTS.**

ARTICLE 1. FEES AND ALLOWANCES.

**§59-1-2b. Purchase of voter registration lists and election data;
 fees.**

1 (a) Except as may be otherwise provided in this code, the
 2 Secretary of State shall charge the following fees for data
 3 originating in the statewide voter registration system to be paid
 4 by the person for whom the service is rendered at the time it is
 5 performed:

- 6 (1) Election Cycle Subscription Service. \$6,000
- 7 (2) Statewide Voter Registration List \$500

8 (3) Master Voter History List Export \$500

9 (4) Statewide Early Voters List \$200

10 (5) Statewide Absentee Requests List \$200

11 (6) Statewide Absentee Received List \$200

12 (7) Partial Voter Registration List Current hourly rate

13 (8) Voter History List Current hourly rate

14 (9) Complex Research Query Current hourly rate

15 (b) For the purposes of this section, "Election Cycle
16 Subscription Service" includes:

17 (1) Statewide Registered Voter List updated monthly
18 throughout the year and updated daily starting thirty days prior
19 to election day through election day;

20 (2) Master Voter History List Export following certification
21 of the primary, general and odd-year elections;

22 (3) Statewide All Mail-in Absentee Request List and
23 Statewide Public Received Mail-in Absentee List for the
24 primary, general and odd-year elections, updated daily starting
25 thirty days prior to election day through ten days following
26 election day; and

27 (4) Statewide Early Voters List for the primary, general and
28 odd-year elections, updated daily starting on the first day of early
29 voting through election day.

30 (c) At the time that a request is made under subdivision (7),
31 (8) or (9) of subsection (a) of this section, the current hourly rate,
32 as determined by the Secretary of State, shall be communicated
33 to the prospective purchaser along with an estimate of the

34 number of hours needed to fulfill the request before any list is
35 compiled.

36 (d) Net proceeds from the sale of data originating in the
37 statewide voter registration system, along with any interest on
38 such funds, shall be deposited into the State Election Fund as set
39 forth in subsection (b), section forty-eight, article one, chapter
40 three of this code.

CHAPTER 74

**(Com. Sub. for H. B. 3135 - By Delegates Marcum,
R. Phillips, Sponaugle, Manypenny, Longstreth and Skinner)**

[Passed April 12, 2013; in effect ninety days from passage.]
[Approved by the Governor on April 30, 2013.]

AN ACT to amend and reenact §3-4A-2, §3-4A-8, §3-4A-23 and §3-4A-27 of the Code of West Virginia, 1931, as amended, all relating generally to electronic voting systems; updating and clarifying the definitions related to electronic voting systems; defining terms; adjusting requirements related to approval of electronic voting systems; increasing the time within which the State Election Commission must appoint certain computer experts; correcting internal code references; updating and clarifying language related to proceedings at the central counting center; and making other technical clarifications.

Be it enacted by the Legislature of West Virginia:

That §3-4A-2, §3-4A-8, §3-4A-23, and §3-4A-27 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-2. Definitions.

1 As used in this article, unless otherwise specified:

2 (1) “Automatic tabulating equipment” means all apparatus
3 necessary to electronically count votes recorded on ballots,
4 tabulate the results and produce necessary reports;

5 (2) “Ballot” means a logical or physical device that presents
6 races, candidates and contests, and facilitates the capture of the
7 voter’s choices or intent;

8 (3) “Central counting center” means a facility equipped with
9 suitable and necessary automatic tabulating equipment, selected
10 by the county commission, for the electronic counting of votes
11 recorded on ballots;

12 (4) “Electronic poll book” means an electronic device
13 containing voter registration information for the purpose of
14 facilitating voting at the precinct;

15 (5) “Electronic voting system” is one or more integrated
16 devices that utilize an electronic component for the following
17 functions: Ballot presentation, vote capture, vote recording and
18 tabulation;

19 (6) “Standard validation test deck” means a group of ballots
20 wherein all voting possibilities which can occur in an election
21 are represented;

22 (7) “Vote-recording device” means equipment that captures
23 and records voter intent by marking a screen to record selections
24 or by using electronically sensible ink to mark selections; and

25 (8) “Voter verified paper audit trail” means a physical
26 printout on which the voter’s ballot choices, as registered by a

27 direct recording device, are recorded. This shall be visible to the
28 voter and shall be securely locked to avoid tampering.

§3-4A-8. Approval of electronic voting system by State Election Commission; expenses; compensation of persons examining system.

1 (a) Any person or corporation owning or interested in any
2 electronic voting system may apply to the State Election
3 Commission so that the system may be examined and a report be
4 made on its accuracy, efficiency, capacity and safety. Upon the
5 written application of any vendor tendered to the Secretary of
6 State or to any clerks in his or her office in charge of receiving
7 filings for any purpose, the Secretary of State shall fix a date,
8 time and place, not more than thirty days after the receipt of the
9 application, for a meeting of the State Election Commission for
10 mutual consideration of the application. The Secretary of State
11 shall mail notice of the hearing by certified mail to each member
12 of the commission.

13 (b) The State Election Commission shall appoint two
14 qualified computer experts who are not members of the same
15 political party to examine the system and make full reports on
16 the system to the commission within ninety days from the date
17 the State Election Commission approves the consideration of the
18 application. They shall state in the report whether the examined
19 system complies with the requirements of this article and the
20 federal agency responsible for certifying voting systems and can
21 be safely used by voters at elections under the conditions
22 prescribed in this article. If the report is in the affirmative on that
23 question, the commission may approve the system and adopt a
24 system of its make and design for use at elections as provided in
25 this article: *Provided*, That under no circumstances may a system
26 be approved that is not capable of accurately tabulating returns
27 based upon all possible combinations of voting patterns. The
28 vendor of the approved system shall provide the State Election

29 Commission with a report, due on January 1, of each
30 even-numbered year, that outlines any problem that has been
31 experienced with the equipment by any jurisdiction in the state
32 or in any jurisdiction outside the state that uses the same or a
33 similar version of the equipment that has been certified for use
34 in this state.

35 (c) No electronic voting system may be used at any election
36 unless it has been approved under this section or its former
37 provisions and by the appropriate agency of the federal
38 government whose purpose is to review and issue a certificate of
39 approval. Each of the two qualified computer experts appointed
40 by the commission are entitled to reasonable compensation and
41 expenses in making the examination and report, to be paid in
42 advance of the examination required by subsection (b) of this
43 section by the person or corporation applying for the
44 examination. This sum shall be the sole compensation to be
45 received by any expert for any work performed pursuant to this
46 section. The State Election Commission shall determine the
47 compensation at the time of approving the application for
48 certification.

§3-4A-23. Persons prohibited about voting booths; penalties.

1 Excepting election officials acting under authority of
2 sections nineteen, twenty and twenty-two of this article in the
3 conduct of the election, and qualified persons assisting voters
4 pursuant to section twenty-two of this article, no person other
5 than the voter may be in, about or within five feet of the voting
6 booth during the time the voter is voting at any election. While
7 the voter is voting, no person may communicate with the voter
8 in any manner and the voter may not communicate with any
9 other person or persons. No person may enter a voting booth
10 with any recording or electronic device in order to record or
11 interfere with the voting process. Any conduct or action of an
12 election official about or around the voting booth while the voter

13 is in the process of voting, except as expressly provided in this
14 article, is a violation of this section. Any person violating the
15 provisions of this section is guilty of a misdemeanor and, upon
16 conviction thereof, shall be fined not more than \$1,000 or
17 confined in jail not more than twelve months, or both fined and
18 confined.

§3-4A-27. Proceedings at the central counting center.

1 (a) All proceedings at the central counting center are to be
2 under the supervision of the clerk of the county commission and
3 are to be conducted under circumstances which allow
4 observation from a designated area by all persons entitled to be
5 present. The proceedings shall take place in a room of sufficient
6 size and satisfactory arrangement to permit observation. Those
7 persons entitled to be present include all candidates whose
8 names appear on the ballots being counted or if a candidate is
9 absent, a representative of the candidate who presents a written
10 authorization signed by the candidate for the purpose and two
11 representatives of each political party on the ballot who are
12 chosen by the county executive committee chairperson. A
13 reasonable number of the general public is also freely admitted
14 to the room. In the event all members of the general public
15 desiring admission to the room cannot be admitted at one time,
16 the county commission shall provide for a periodic and
17 convenient rotation of admission to the room for observation, to
18 the end that each member of the general public desiring
19 admission, during the proceedings at the central counting center,
20 is to be granted admission for reasonable periods of time for
21 observation: *Provided*, That no person except those authorized
22 for the purpose may touch any ballot or other official records and
23 papers utilized in the election during observation.

24 (b) All persons who are engaged in processing and counting
25 the ballots are to work in teams consisting of two persons of
26 opposite political parties, and are to be deputized in writing and

27 take an oath that they will faithfully perform their assigned
28 duties. These deputies are to be issued an official badge or
29 identification card which is assigned an identity control number
30 and the deputies are to prominently wear on his or her outer
31 garments the issued badge or identification card. Upon
32 completion of the deputies' duties, the badges or identification
33 cards are to be returned to the county clerk.

34 (c) Ballots are to be handled and tabulated and the write-in
35 votes tallied according to procedures established by the
36 Secretary of State, subject to the following requirements:

37 (1) In systems using ballots marked with electronically
38 sensible ink, ballots are to be removed from the ballot boxes and
39 stacked for the tabulator which separates ballots containing
40 marks for a write-in position. Immediately after tabulation, the
41 valid write-in votes are to be tallied. No write-in vote may be
42 counted for an office unless the voter has entered the name of an
43 official write-in candidate for that office on the line provided;
44 either by writing, affixing a sticker or placing an ink-stamped
45 impression thereon;

46 (2) In systems using ballots in which votes are recorded
47 upon screens with a stylus or by means of touch, the ballots are
48 to be tabulated according to the processes of the system. Systems
49 using ballots in which votes are recorded upon screens with a
50 stylus or by means of touch are to tally write-in ballots
51 simultaneously with the other ballots;

52 (3) When more than one person is to be elected to an office
53 and the voter desires to cast write-in votes for more than one
54 official write-in candidate for that office, the voter shall mark the
55 location appropriate for the voting system, in the write-in
56 location for that office. When there are multiple write-in votes
57 for the same office and the combination of choices for
58 candidates on the ballot and write-in choices for the same office

59 exceed the number of candidates to be elected, the ballot is to be
60 duplicated or hand counted, with all votes for that office
61 rejected;

62 (4) Write-in votes for nomination for any office and write-in
63 votes for any person other than an official write-in candidate are
64 to be disregarded;

65 (5) When a voter casts a straight ticket vote and also marks
66 the location for a write-in vote for an office, the straight ticket
67 vote for that office is to be rejected, whether or not a vote can be
68 counted for a write-in candidate; and

69 (6) Official write-in candidates are those who have filed a
70 write-in candidate's certificate of announcement and have been
71 certified according to the provisions of section four-a, article six
72 of this chapter.

73 (d) If any ballot is damaged or defective so that it cannot
74 properly be counted by the automatic tabulating equipment, a
75 true duplicate copy is to be made of the damaged ballot in the
76 presence of representatives of each political party on the ballot
77 and substituted for the damaged ballot. All duplicate ballots are
78 to be clearly labeled "duplicate" and are to bear a serial number
79 which is recorded on the damaged or defective ballot and on the
80 replacement ballot.

81 (e) The returns printed by the automatic tabulating
82 equipment at the central counting center, to which have been
83 added write-in and other valid votes, are, when certified by the
84 clerk of the county commission, to constitute the unofficial
85 preliminary returns of the county. Upon completion of the count,
86 the returns are to be open to the public by posting a summary of
87 the returns as have been tabulated at the central counting center.
88 Upon completion of the canvass, the returns are to be posted as
89 tabulated precinct by precinct.

90 (f) If for any reason it becomes impracticable to count all or
91 a part of the ballots with tabulating equipment, the county
92 commission may direct that they be counted manually, following
93 as far as practicable the provisions governing the counting of
94 paper ballots.

95 (g) As soon as possible after the completion of the count, the
96 clerk of the county commission shall have the vote recording
97 devices properly boxed or securely covered and removed to a
98 proper and secure place of storage.

CHAPTER 75

(Com. Sub. for S. B. 604 - Senators Kessler (Mr. President) and Fitzsimmons)

[Passed April 12, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 30, 2013.]

AN ACT to amend and reenact §3-8-1a of the Code of West Virginia, 1931, as amended, relating to the regulation and control of elections, generally; defining terms; and expanding the definition of “electioneering communication”.

Be it enacted by the Legislature of West Virginia:

That §3-8-1a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 8. REGULATION AND CONTROL OF ELECTIONS.

§3-8-1a. Definitions.

1 As used in this article, the following terms have the
2 following definitions:

3 (1) “Ballot issue” means a constitutional amendment, special
4 levy, bond issue, local option referendum, municipal charter or
5 revision, an increase or decrease of corporate limits or any other
6 question that is placed before the voters for a binding decision.

7 (2) “Billboard Advertisement” means a commercially
8 available outdoor advertisement, sign or similar display regularly
9 available for lease or rental to advertise a person, place or
10 product.

11 (3) “Broadcast, cable or satellite communication” means a
12 communication that is publicly distributed by a television
13 station, radio station, cable television system or satellite system.

14 (4) “Candidate” means an individual who:

15 (A) Has filed a certificate of announcement under section
16 seven, article five of this chapter or a municipal charter;

17 (B) Has filed a declaration of candidacy under section
18 twenty-three, article five of this chapter;

19 (C) Has been named to fill a vacancy on a ballot; or

20 (D) Has declared a write-in candidacy or otherwise publicly
21 declared his or her intention to seek nomination or election for
22 any state, district, county or municipal office or party office to
23 be filled at any primary, general or special election.

24 (5) “Candidate’s committee” means a political committee
25 established with the approval of or in cooperation with a
26 candidate or a prospective candidate to explore the possibilities
27 of seeking a particular office or to support or aid his or her
28 nomination or election to an office in an election cycle. If a
29 candidate directs or influences the activities of more than one
30 active committee in a current campaign, those committees shall
31 be considered one committee for the purpose of contribution
32 limits.

33 (6) “Clearly identified” means that the name, nickname,
34 photograph, drawing or other depiction of the candidate appears
35 or the identity of the candidate is otherwise apparent through an
36 unambiguous reference, such as “the Governor”, “your Senator”
37 or “the incumbent” or through an unambiguous reference to his
38 or her status as a candidate, such as “the Democratic candidate
39 for Governor” or “the Republican candidate for Supreme Court
40 of Appeals”.

41 (7) “Contribution” means a gift, subscription, loan,
42 assessment, payment for services, dues, advance, donation,
43 pledge, contract, agreement, forbearance or promise of money or
44 other tangible thing of value, whether conditional or legally
45 enforceable, or a transfer of money or other tangible thing of
46 value to a person, made for the purpose of influencing the
47 nomination, election or defeat of a candidate. An offer or tender
48 of a contribution is not a contribution if expressly and
49 unconditionally rejected or returned. A contribution does not
50 include volunteer personal services provided without
51 compensation: *Provided*, That a nonmonetary contribution is to
52 be considered at fair market value for reporting requirements and
53 contribution limitations.

54 (8) “Corporate political action committee” means a political
55 action committee that is a separate segregated fund of a
56 corporation that may only accept contributions from its restricted
57 group as outlined by the rules of the State Election Commission.

58 (9) “Direct costs of purchasing, producing or disseminating
59 electioneering communications” means:

60 (A) Costs charged by a vendor, including, but not limited to,
61 studio rental time, compensation of staff and employees, costs of
62 video or audio recording media and talent, material and printing
63 costs and postage; or

64 (B) The cost of air time on broadcast, cable or satellite radio
65 and television stations, the costs of disseminating printed
66 materials, studio time, use of facilities and the charges for a
67 broker to purchase air time.

68 (10) “Disclosure date” means either of the following:

69 (A) The first date during any calendar year on which any
70 electioneering communication is disseminated after the person
71 paying for the communication has spent a total of \$5,000 or
72 more for the direct costs of purchasing, producing or
73 disseminating electioneering communications; or

74 (B) Any other date during that calendar year after any
75 previous disclosure date on which the person has made
76 additional expenditures totaling \$5,000 or more for the direct
77 costs of purchasing, producing or disseminating electioneering
78 communications.

79 (11) “Election” means any primary, general or special
80 election conducted under the provisions of this code or under the
81 charter of any municipality at which the voters nominate or elect
82 candidates for public office. For purposes of this article, each
83 primary, general, special or local election constitutes a separate
84 election. This definition is not intended to modify or abrogate the
85 definition of the term “nomination” as used in this article.

86 (12) (A) “Electioneering communication” means any paid
87 communication made by broadcast, cable or satellite signal,
88 mass mailing, telephone bank, billboard advertisement or
89 published in any newspaper, magazine or other periodical that:

90 (i) Refers to a clearly identified candidate for Governor,
91 Secretary of State, Attorney General, Treasurer, Auditor,
92 Commissioner of Agriculture, Supreme Court of Appeals or the
93 Legislature;

94 (ii) Is publicly disseminated within:

95 (I) Thirty days before a primary election at which the
96 nomination for office sought by the candidate is to be
97 determined; or

98 (II) Sixty days before a general or special election at which
99 the office sought by the candidate is to be filled; and

100 (iii) Is targeted to the relevant electorate: *Provided*, That for
101 purposes of the general election of 2008 the amendments to this
102 article are effective October 1, 2008.

103 (B) "Electioneering communication" does not include:

104 (i) A news story, commentary or editorial disseminated
105 through the facilities of any broadcast, cable or satellite
106 television or radio station, newspaper, magazine or other
107 periodical publication not owned or controlled by a political
108 party, political committee or candidate: *Provided*, That a news
109 story disseminated through a medium owned or controlled by a
110 political party, political committee or candidate is nevertheless
111 exempt if the news is:

112 (I) A bona fide news account communicated in a publication
113 of general circulation or through a licensed broadcasting facility;
114 and

115 (II) Is part of a general pattern of campaign-related news that
116 gives reasonably equal coverage to all opposing candidates in the
117 circulation, viewing or listening area;

118 (ii) Activity by a candidate committee, party executive
119 committee or caucus committee, or a political action committee
120 that is required to be reported to the State Election Commission
121 or the Secretary of State as an expenditure pursuant to section
122 five of this article or the rules of the State Election Commission
123 or the Secretary of State promulgated pursuant to such provision:

124 *Provided*, That independent expenditures by a party executive
125 committee or caucus committee or a political action committee
126 required to be reported pursuant to subsection (b), section two of
127 this article are not exempt from the reporting requirements of
128 this section;

129 (iii) A candidate debate or forum conducted pursuant to rules
130 adopted by the State Election Commission or the Secretary of
131 State or a communication promoting that debate or forum made
132 by or on behalf of its sponsor;

133 (iv) A communication paid for by any organization operating
134 under Section 501(c)(3) of the Internal Revenue Code of 1986;

135 (v) A communication made while the Legislature is in
136 session which, incidental to promoting or opposing a specific
137 piece of legislation pending before the Legislature, urges the
138 audience to communicate with a member or members of the
139 Legislature concerning that piece of legislation;

140 (vi) A statement or depiction by a membership organization,
141 in existence prior to the date on which the individual named or
142 depicted became a candidate, made in a newsletter or other
143 communication distributed only to bona fide members of that
144 organization;

145 (vii) A communication made solely for the purpose of
146 attracting public attention to a product or service offered for sale
147 by a candidate or by a business owned or operated by a candidate
148 which does not mention an election, the office sought by the
149 candidate or his or her status as a candidate; or

150 (viii) A communication, such as a voter's guide, which refers
151 to all of the candidates for one or more offices, which contains
152 no appearance of endorsement for or opposition to the
153 nomination or election of any candidate and which is intended as
154 nonpartisan public education focused on issues and voting
155 history.

156 (13) “Expressly advocating” means any communication that:

157 (A) Uses phrases such as “vote for the Governor”, “re-elect
158 your Senator”, “support the Democratic nominee for Supreme
159 Court”, “cast your ballot for the Republican challenger for House
160 of Delegates”, “Smith for House”, “Bob Smith in ‘04”, “vote
161 Pro-Life” or “vote Pro-Choice” accompanied by a listing of
162 clearly identified candidates described as Pro-Life or
163 Pro-Choice, “vote against Old Hickory”, “defeat” accompanied
164 by a picture of one or more candidates, “reject the incumbent”;

165 (B) Communications of campaign slogans or individual
166 words, that can have no other reasonable meaning than to urge
167 the election or defeat of one or more clearly identified
168 candidates, such as posters, bumper stickers, advertisements,
169 etc., which say “Smith’s the One”, “Jones ‘06”, “Baker”, etc; or

170 (C) Is susceptible of no reasonable interpretation other than
171 as an appeal to vote for or against a specific candidate.

172 (14) “Financial agent” means any individual acting for and
173 by himself or herself, or any two or more individuals acting
174 together or cooperating in a financial way to aid or take part in
175 the nomination or election of any candidate for public office, or
176 to aid or promote the success or defeat of any political party at
177 any election.

178 (15) “Fund-raising event” means an event such as a dinner,
179 reception, testimonial, cocktail party, auction or similar affair
180 through which contributions are solicited or received by such
181 means as the purchase of a ticket, payment of an attendance fee
182 or by the purchase of goods or services.

183 (16) “Independent expenditure” means an expenditure by a
184 person:

185 (A) Expressly advocating the election or defeat of a clearly
186 identified candidate; and

187 (B) That is not made in concert or cooperation with or at the
188 request or suggestion of such candidate, his or her agents, the
189 candidate's authorized political committee or a political party
190 committee or its agents.

191 Supporting or opposing the election of a clearly identified
192 candidate includes supporting or opposing the candidates of a
193 political party. An expenditure which does not meet the criteria
194 for an independent expenditure is considered a contribution.

195 (17) "Mass mailing" means a mailing by United States mail,
196 facsimile or electronic mail of more than five hundred pieces of
197 mail matter of an identical or substantially similar nature within
198 any thirty-day period. For purposes of this subdivision,
199 "substantially similar" includes communications that contain
200 substantially the same template or language, but vary in
201 nonmaterial respects such as communications customized by the
202 recipient's name, occupation or geographic location.

203 (18) "Membership organization" means a group that grants
204 bona fide rights and privileges, such as the right to vote, to elect
205 officers or directors and the ability to hold office, to its members
206 and which uses a majority of its membership dues for purposes
207 other than political purposes. "Membership organization" does
208 not include organizations that grant membership upon receiving
209 a contribution.

210 (19) "Name" means the full first name, middle name or
211 initial, if any, and full legal last name of an individual and the
212 full name of any association, corporation, committee or other
213 organization of individuals, making the identity of any person
214 who makes a contribution apparent by unambiguous reference.

215 (20) "Person" means an individual, corporation, partnership,
216 committee, association and any other organization or group of
217 individuals.

218 (21) "Political action committee" means a committee
219 organized by one or more persons for the purpose of supporting
220 or opposing the nomination or election of one or more
221 candidates. The following are types of political action
222 committees:

223 (A) A corporate political action committee, as that term is
224 defined by subdivision (8) of this section;

225 (B) A membership organization, as that term is defined by
226 subdivision(18) of this section;

227 (C) An unaffiliated political action committee, as that term
228 is defined by subdivision (29) of this section.

229 (22) "Political committee" means any candidate committee,
230 political action committee or political party committee.

231 (23) "Political party" means a political party as that term is
232 defined by section eight, article one of this chapter or any
233 committee established, financed, maintained or controlled by the
234 party, including any subsidiary, branch or local unit thereof and
235 including national or regional affiliates of the party.

236 (24) "Political party committee" means a committee
237 established by a political party or political party caucus for the
238 purposes of engaging in the influencing of the election,
239 nomination or defeat of a candidate in any election.

240 (25) "Political purposes" means supporting or opposing the
241 nomination, election or defeat of one or more candidates or the
242 passage or defeat of a ballot issue, supporting the retirement of
243 the debt of a candidate or political committee or the
244 administration or activities of an established political party or an
245 organization which has declared itself a political party and
246 determining the advisability of becoming a candidate under the
247 precandidacy financing provisions of this chapter.

248 (26) “Targeted to the relevant electorate” means a
249 communication which refers to a clearly identified candidate for
250 statewide office or the Legislature and which can be received by
251 one hundred forty thousand or more individuals in the state in
252 the case of a candidacy for statewide office, eight thousand two
253 hundred twenty or more individuals in the district in the case of
254 a candidacy for the State Senate and two thousand four hundred
255 ten or more individuals in the district in the case of a candidacy
256 for the House of Delegates.

257 (27) “Telephone bank” means telephone calls that are
258 targeted to the relevant electorate, other than telephone calls
259 made by volunteer workers, regardless of whether paid
260 professionals designed the telephone bank system, developed
261 calling instructions or trained volunteers.

262 (28) “Two-year election cycle” means the twenty-four month
263 period that begins the day after a general election and ends on
264 the day of the subsequent general election.

265 (29) “Unaffiliated political action committee” means a
266 political action committee that is not affiliated with a corporation
267 or a membership organization.

CHAPTER 76

**(Com. Sub. for S. B. 527 - By Senators Palumbo,
Cann and McCabe)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to repeal §3-10-4a of the Code of West Virginia, 1931, as amended; to amend and reenact §3-10-1, §3-10-2, §3-10-3, §3-10-

3a, §3-10-4, §3-10-5, §3-10-6, §3-10-7 and §3-10-8 of said code; and to amend said code by adding thereto a new section, designated §3-10-9, all relating to filling vacancies of certain elected offices; defining terms; setting procedures for appointing persons to fill certain vacancies; requiring certain appointments within a certain period of time; listing time periods and certain offices where elections must be held to fill certain vacancies; setting special requirements for filling vacancies in certain offices; setting procedures for certain special elections; setting requirements for special filing periods, where necessary; requiring certain notice be given regarding elections to fill vacancies; providing for payment of costs if a new election is necessary; allowing nomination of certain persons without party affiliation; allowing emergency orders by the Secretary of State in certain circumstances; removing and repealing certain language relating to previous elections; clarifying method used to fill vacancies in the Office of Governor; permitting meeting of the Judicial Vacancy Advisory Commission upon certain formal announcements of retirement or resignation; adjusting method to fill vacancies in certain statewide, legislative and judicial offices such that the timing for all are consistent; adjusting method to fill vacancies in United States Congress; requiring most elections to fill vacancies be held in conjunction with regularly scheduled elections; clarifying method used to fill vacancies in certain county offices; permitting vacancies in certain county offices to be filled by temporary replacements for no more than thirty days; and updating language regarding filling vacancies in certain elected offices.

Be it enacted by the Legislature of West Virginia:

That §3-10-4a of the Code of West Virginia, 1931, as amended, be repealed; and that §3-10-1, §3-10-2, §3-10-3, §3-10-3a, §3-10-4, §3-10-5, §3-10-6, §3-10-7 and §3-10-8 of said code be amended and

reenacted; and that said code be amended by adding thereto a new section, designated §3-10-9, all to read as follows:

ARTICLE 10. FILLING VACANCIES.

§3-10-1. Elections to fill vacancies.

1 (a) When a vacancy occurs in an elected office of the state
2 or county, it shall be filled according to the processes set forth in
3 this article. As used in this article, unless otherwise indicated by
4 the context:

5 (1) “General cutoff date” means the eighty-fourth day before
6 the general election that immediately precedes the general
7 election where the office would be on the ballot for election if
8 there were not a vacancy; and

9 (2) “Primary cutoff date” means the eighty-fourth day before
10 the primary election that immediately precedes the general cutoff
11 date.

12 (b) When this article requires an appointment to fill a
13 vacancy in an elected office, the appointment shall be made
14 within thirty days of the vacancy, unless this code specifically
15 states a different time period for the specific office. The term
16 that the appointee holds the office shall depend on when the
17 vacancy occurs, as follows:

18 (1) If the vacancy occurs after the primary cutoff date, then
19 that appointee shall hold the office until the end of the term of
20 office: *Provided*, That if the vacancy for any county office or
21 United States Senate occurs during the window after the primary
22 cutoff date, but before the general cutoff date, the process
23 contained in sections four, six, seven and eight of this article,
24 depending on the specific office vacated, shall be followed; or

25 (2) If the vacancy occurs on or before the primary cutoff
26 date, then the office shall be filled at the following regular

27 primary and subsequent general election pursuant to this article
28 and the appointee shall hold the office until a qualified
29 replacement is elected and certified at that general election. The
30 elected replacement shall hold the office until the end of the
31 original term of office.

32 (c) If an election is required to fill the vacancy by subsection
33 (b) of this section and the other provisions of this article, the
34 election shall proceed depending on when the vacancy occurs
35 and in which office it occurs. Elections to fill vacancies shall be
36 held at the same places, and superintended, conducted and
37 returned, and the result ascertained, certified and declared, in the
38 same manner, and by the same officers, as in general elections,
39 unless otherwise stated in this article.

40 (1) For a vacancy in the Office of Governor, the times for the
41 special elections contained in section two of this article shall
42 control. The proclamation entered pursuant to section two of this
43 article by the person acting as Governor shall include the dates
44 for the special candidate filing period, if necessary, and shall
45 follow the requirements set forth in this section. All aspects of
46 this section, where not in conflict with section two of this article,
47 shall also be followed. If a regularly scheduled primary or
48 general election fits within the times for the special elections
49 contained in section two of this article, the special elections shall
50 be conducted in conjunction with the regularly scheduled
51 election or elections. If a special election is required by section
52 two of this article and it cannot be held in conjunction with the
53 regular election dates, then the compensation of election officers
54 shall be reimbursed pursuant to section nine of this article.

55 (2) For a vacancy in the offices of United States House of
56 Representatives or United States Senate, the times for the special
57 election, if necessary, contained in section four of this article
58 shall control. All aspects of this section, where not in conflict
59 with section four of this article, shall also be followed.

60 (A) With regard to United States House of Representatives,
61 the proclamation entered pursuant to section four of this article
62 by the Governor shall include the dates for the special candidate
63 filing period, if necessary, and shall follow the requirements set
64 forth in this section. If a regularly scheduled primary or general
65 election fits within the times for the special elections contained
66 in section four of this article, the special elections shall be
67 conducted in conjunction with the regularly scheduled election
68 or elections. If a special election is required by section two of
69 this article and it cannot be held in conjunction with the regular
70 election dates, then the compensation of election officers shall
71 be reimbursed pursuant to section nine of this article.

72 (B) With regard to United States Senate, if a special general
73 election following the regular general election is required by
74 section four of this article, and it cannot be held in conjunction
75 with the regular election dates, then the compensation of election
76 officers shall be reimbursed pursuant to section nine of this
77 article.

78 (3) For all other offices, the Governor, or other person
79 granted authority by this article, shall issue a proclamation
80 stating that the office will appear on the next regular primary
81 election and subsequent general election, in order to fill the
82 vacancy: *Provided*, That if the vacancy for any county office
83 occurs during the window after the primary cutoff date, but
84 before the general cutoff date, the process contained in sections
85 six, seven and eight of this article shall be followed. If the
86 candidate filing period for the next regular primary election has
87 closed or has less than one week remaining, the proclamation
88 shall provide for a special primary candidate filing period. If
89 there are less than eighty-four days between the vacancy and the
90 next regular primary election, then the proclamation shall state
91 that the office will appear on the subsequent regular primary
92 election and corresponding general election following the next
93 regular primary election.

94 (d) (1) If a special candidate filing period is necessary, it
95 shall begin no sooner than the day after the proclamation and
96 shall close no earlier than close of business on the fourteenth day
97 following the proclamation. A notarized declaration of
98 candidacy and filing fee provided by section seven, article five
99 of this chapter shall be filed either in person, by United States
100 mail, electronic means or any other means authorized by the
101 Secretary of State and received by the appropriate office before
102 the close of the filing period. For petition in lieu of payment of
103 filing fees, a candidate seeking nomination for the vacancy may
104 utilize the process set forth in section eight-a, article five of this
105 chapter: *Provided*, That the minimum number of signatures
106 required is equivalent to one qualified signature per one whole
107 dollar of the filing fee for that office.

108 (2) If a primary election is required by the provisions of this
109 article:

110 (A) For all statewide, multicounty and legislative elections,
111 drawing for the primary election ballot position will take place
112 at the Secretary of State's office twenty-four hours after the end
113 of the filing period. For each major political party on the ballot,
114 a single drawing by lot shall determine the candidate ballot
115 position for ballots statewide. This drawing shall be witnessed
116 by four clerks of the county commission chosen by the West
117 Virginia Association of County Clerks, with no more than two
118 clerks representing a single political party.

119 (B) For county elections, drawing for the primary election
120 ballot position will take place at the county clerk's office twenty-
121 four hours after the end of the filing period. For each major
122 political party on the ballot, a single drawing by lot shall
123 determine the candidate ballot position for ballots statewide.
124 This drawing shall be witnessed by the chairperson of the county
125 democratic and republican executive committees or their
126 designee, and the president of the county commission or his or
127 her designee.

128 (3) Ballot position for a general election required by this
129 article shall be determined pursuant to subdivision (3),
130 subsection (c), section two, article six of this chapter. If a general
131 election required by this article occurs in conjunction with a
132 regularly scheduled primary election, the general election shall
133 be listed along with the nonpartisan portion of each ballot in the
134 order of offices provided for regular ballots in this chapter.

135 (e) When an election is required to fill a vacancy, the date of
136 the election and offices to be elected, as well as any other
137 information required in the proclamation, shall be published
138 prior to such election as a Class I-O legal advertisement in
139 compliance with the provisions of article three, chapter fifty-nine
140 of this code, and the publication area for such publication shall
141 be each county of the state that is eligible to vote in the election
142 for those offices.

143 (f) If an election is required by this article, citizens having no
144 party organization or affiliation may nominate candidates as
145 provided by sections twenty-three and twenty-four, article five
146 of this chapter: *Provided*, That when an election is required by
147 the provisions of this article to be held at some time other than
148 with a regularly scheduled election, all certificates nominating
149 candidates shall be filed with the appropriate official no later
150 than ninety days before the election.

151 (g) The persons elected, having first duly qualified, shall
152 enter upon the duties of their respective offices. The elected
153 replacement shall hold the office until the end of the original
154 term of office.

§3-10-2. Vacancy in Office of Governor.

1 (a) In case of the death, conviction on impeachment, failure
2 to qualify, resignation or other disability of the Governor, the
3 President of the Senate shall act as Governor until the vacancy
4 is filled or the disability removed; and if the President of the

5 Senate, for any of the above-named causes, shall be or become
6 incapable of performing the duties of Governor, the same shall
7 devolve upon the Speaker of the House of Delegates; and in all
8 other cases where there is no one to act as Governor, one shall be
9 chosen by the joint vote of the Legislature. Whenever a vacancy
10 shall occur in the Office of Governor before the first three years
11 of the term shall have expired, a new election for Governor shall
12 take place to fill the vacancy.

13 (b) The new election shall consist of a special primary
14 election and a special general election, and shall occur at such
15 time as will permit the person elected as Governor in the new
16 election to assume office within one year of the date the vacancy
17 occurred: *Provided*, That the special general election provided
18 in this section may not apply to section eight, article one of this
19 chapter. Within thirty days from the date the vacancy occurs, the
20 person acting as Governor pursuant to the State Constitution
21 shall issue a proclamation fixing the time for a statewide election
22 to fill the vacancy in the Office of Governor. The special
23 primary election to fill a vacancy in the Office of Governor shall
24 take place no less than ninety days after the proclamation and no
25 later than one hundred forty days from the date that the vacancy
26 in the office occurs. The proclamation issued by the person
27 acting as Governor pursuant to the State Constitution shall also
28 provide for a special general election to take place no sooner
29 than ninety days after the special primary election and no later
30 than two hundred eighty days from the date that the vacancy in
31 the office occurs.

32 (c) The election shall follow the requirements of section one
33 of this article that are not in conflict with this section.

§3-10-3. Vacancies in offices of state officials, United States Senators and judges.

1 Any vacancy occurring in the offices of Secretary of State,
2 Auditor, Treasurer, Attorney General, Commissioner of

3 Agriculture, Justice of the Supreme Court of Appeals or in any
4 office created or made elective to be filled by the voters of the
5 entire state, judge of a circuit court or judge of a family court is
6 filled by the Governor of the state by appointment and
7 subsequent election to fill the remainder of the term, if required
8 by section one of this article.

§3-10-3a. Judicial Vacancy Advisory Commission.

1 (a) The Judicial Vacancy Advisory Commission shall assist
2 the Governor in filling judicial vacancies. The commission shall
3 meet and submit a list of no more than five nor less than two best
4 qualified persons to the Governor within ninety days of the
5 occurrence of a vacancy, or the formal announcement of the
6 justice or judge by letter to the Governor of an upcoming
7 resignation or retirement that will result in the occurrence of a
8 vacancy, in the office of justice of the Supreme Court of
9 Appeals, judge of a circuit court or judge of a family court. The
10 Governor shall make the appointment to fill the vacancy, as
11 required by this article, within thirty days following the receipt
12 of the list of qualified candidates or within thirty days following
13 the vacancy, whichever occurs later.

14 (b) The commission shall consist of eight appointed
15 members. Four public members shall be appointed by the
16 Governor for six-year terms, except for the initial appointments
17 which shall be staggered in accordance with subsection (c) of
18 this section. Four attorney members shall be appointed by the
19 Governor for six-year terms, except as provided in subsection (c)
20 of this section, from a list of nominees provided by the Board of
21 Governors of the West Virginia State Bar. The Board of
22 Governors of the West Virginia State Bar shall nominate no
23 more than twenty nor less than ten best qualified attorneys for
24 appointment to the commission whenever there is a vacancy in
25 the membership of the commission reserved for attorney
26 members. The commission shall choose one of its appointed

27 members to serve as chair for a three-year term. No more than
28 four appointed members of the commission shall belong to the
29 same political party. No more than three appointed members of
30 the commission shall be residents of the same congressional
31 district. All members of the commission shall be citizens of this
32 state. Public members of the commission may not be licensed to
33 practice law in West Virginia or any other jurisdiction.

34 (c) Of the initial appointments made to the commission, two
35 public members and two attorney members shall be appointed
36 for a term ending two years after the effective date of this
37 section, one public member and one attorney member shall be
38 appointed for a term ending four years after the effective date of
39 this section, and one public member and one attorney member
40 shall be appointed for a term ending six years after the effective
41 date of this section.

42 (d) The Governor, or his or her designee, the President of the
43 West Virginia State Bar and the Dean of the West Virginia
44 University College of Law shall serve as *ex officio* members of
45 the commission.

46 (e) Members of the commission shall serve without
47 compensation, except that commission members are entitled to
48 reimbursement of travel and other necessary expenses actually
49 incurred while engaged in official commission activities in
50 accordance with the guidelines of the Travel Management Office
51 of the Department of Administration, or its successor entity. The
52 Governor's Office shall cooperate with the commission to ensure
53 that all resources necessary to carrying out the official duties of
54 the commission are provided, including staff assistance,
55 equipment and materials.

56 (f) The commission shall adopt written policies that
57 formalize and standardize all operating procedures and ethical
58 practices of its members including, but not limited to, procedures
59 for training commission members, publishing notice of judicial

60 vacancies, recruiting qualified individuals for consideration by
61 the commission, receiving applications from qualified
62 individuals, notifying the public of judicial vacancies, notifying
63 state or local groups and organizations of judicial vacancies and
64 soliciting public comment on judicial vacancies. The written
65 policies of the commission are not subject to the provisions of
66 chapter twenty-nine-a of this code, but shall be filed with the
67 Secretary of State.

68 (g) A majority of the commission plus one shall constitute
69 a quorum to do business.

70 (h) All organizational meetings of the commission shall be
71 open to the public and subject to the requirements of article
72 nine-a, chapter six of this code. An “organizational meeting”
73 means an initial meeting to discuss the commission’s procedures
74 and requirements for a judicial vacancy. The commission shall
75 hold at least one organizational meeting upon the occurrence of
76 a judicial vacancy. All other meetings of the commission are
77 exempt from article nine-a, chapter six of this code.

78 (i) The commission shall make available to the public copies
79 of any applications and any letters of recommendation written on
80 behalf of any applicants. All other documents or materials
81 created or received by the commission shall be confidential and
82 exempt from the provisions of chapter twenty-nine-b of this
83 code, except for the list of best-qualified persons or
84 accompanying memoranda submitted to the Governor in
85 accordance with the provisions of subsection (j) of this section,
86 which shall be available for public inspection, and the written
87 policies required to be filed with the Secretary of State in
88 accordance with subsection (f) of this section.

89 (j) The commission shall submit its list of best-qualified
90 persons to the Governor in alphabetical order. A memorandum
91 may accompany the list of best-qualified persons and state facts

92 concerning each of the persons listed. The commission shall
93 make copies of any list of best-qualified persons and
94 accompanying memoranda it submits to the Governor available
95 for public inspection.

§3-10-4. Vacancies in representation in United States Congress.

1 (a) (1) If there is a vacancy in the representation from this
2 state in the House of Representatives in the Congress of the
3 United States, the Governor shall, within five days after the fact
4 comes to his or her knowledge, issue a proclamation setting
5 dates for a special general election that is not less than eighty-
6 four nor more than one hundred twenty days from the date of the
7 vacancy and requiring nomination of candidates as provided in
8 subdivision (2) of this subsection: *Provided*, That no such
9 proclamation may be made nor may a special election be held if
10 the vacancy occurs after the eighty-fourth day prior to the
11 regularly scheduled general election for a new full term of the
12 office. The election shall follow the requirements of section one
13 of this article that are not in conflict with this section.

14 (2) The party executive committees for the congressional
15 district for which there is a vacancy shall each, within thirty days
16 of the Governor's proclamation, nominate a candidate to stand
17 at the general election required by subdivision (1) of this
18 subsection.

19 (b) If there is a vacancy in the representation from this state
20 in the Senate of the United States Congress, the vacancy shall be
21 filled by the Governor of the state by appointment and:

22 (1) If the vacancy occurs on or before the primary cutoff
23 date, then an election shall be held pursuant to section one of this
24 article; or

25 (2) If the vacancy occurs after the primary cutoff date, but on
26 or before the general cutoff date, then the Governor shall issue

27 a proclamation providing for: (A) A special filing period; (B) a
28 special primary election to be held in conjunction with the
29 upcoming general election; and (C) a special general election to
30 be held not less than eighty-four nor more than one hundred
31 twenty days following the date of the special primary election.
32 Each election shall follow the requirements of section one of this
33 article that are not in conflict with this section.

§3-10-5. Vacancies in State Legislature.

1 (a) Any vacancy in the office of State Senator or member of
2 the House of Delegates shall be filled by appointment by the
3 Governor, from a list of three legally qualified persons submitted
4 by the party executive committee of the party with which the
5 person holding the office immediately preceding the vacancy
6 was affiliated. The list of qualified persons to fill the vacancy
7 shall be submitted to the Governor within fifteen days after the
8 vacancy occurs and the Governor shall duly make his or her
9 appointment to fill the vacancy from the list of legally qualified
10 persons within five days after the list is received. If the list is not
11 submitted to the Governor within the fifteen-day period, the
12 Governor shall appoint within five days thereafter a legally
13 qualified person of the same political party as the person
14 vacating the office.

15 (b) In the case of a member of the House of Delegates, the
16 list shall be submitted by the party executive committee of the
17 delegate district in which the vacating member resided at the
18 time of his or her election or appointment. The appointment to
19 fill a vacancy in the House of Delegates is for the unexpired
20 term.

21 (c) In the case of a State Senator, the list shall be submitted
22 by the party executive committee of the state senatorial district
23 in which the vacating senator resided at the time of his or her
24 election or appointment. The appointment to fill a vacancy in the

25 State Senate is for the unexpired term, unless section one of this
26 article requires a subsequent election to fill the remainder of the
27 term, which shall follow the procedure set forth in section one of
28 this article.

§3-10-6. Vacancy in office of circuit court clerk.

1 (a) When a vacancy occurs in the office of clerk of the
2 circuit court, the circuit court by a majority vote of the judges
3 shall fill the same within thirty days of the vacancy by
4 appointment of a person of the same political party as the
5 officeholder vacating the office for the period required by
6 section one of this article.

7 (b) Notwithstanding any code provision to the contrary, the
8 chief judge may appoint a temporary successor to the office of
9 clerk of the circuit court until the requirements of this section
10 have been met. The temporary successor may serve no more than
11 thirty days from the date of the vacancy.

12 (c) If an election is necessary, the circuit court, or the chief
13 judge thereof in vacation, is responsible for the proper
14 proclamation, by order and notice required by section one of this
15 article.

16 (d) Section one of this article shall be followed with respect
17 to any election needed to fill a vacancy, except that if the
18 vacancy occurs after the primary cutoff date but not later than
19 the general cutoff date, candidates to fill the vacancy shall be
20 nominated by the county executive committee in the manner
21 provided in section nineteen, article five of this chapter, as in the
22 case of filling vacancies in nominations, and the names of the
23 persons, so nominated and certified to the clerk of the county
24 commission of the county, shall be placed upon the ballot to be
25 voted at the next general election.

§3-10-7. Vacancies in offices of county commissioner and clerk of county commission.

1 (a) Any vacancy in the office of county commissioner or
2 clerk of county commission shall be filled by the county
3 commission of the county, unless the number of vacancies in a
4 county commission deprive that body of a quorum, in which case
5 the Governor of the state shall fill any vacancy in the county
6 commission necessary to create a quorum thereof. Persons
7 appointed shall be of the same political party as the officeholder
8 vacating the office for the period stated by section one of this
9 article. If a quorum of the county commission cannot agree upon
10 a person to fill a vacancy in the office of county commissioner
11 within thirty days of the date the vacancy first occurred, the
12 county executive committee of the vacating county
13 commissioner's political party shall select and name a person to
14 fill the vacancy from the membership of the vacating county
15 commissioner's political party. The clerk shall be appointed
16 within thirty days of the vacancy.

17 (b) Notwithstanding any code provision to the contrary, a
18 county commission may appoint a temporary successor to the
19 office of clerk of the county commission until the requirements
20 of this section have been met. The temporary successor may
21 serve no more than thirty days from the date of the vacancy.

22 (c) If an election is necessary under section one of this
23 article, the county commission, or the president thereof in
24 vacation, shall be responsible for the proper proclamation, by
25 order, and notice required by section one of this article.

26 (d) Section one of this article shall be followed with respect
27 to any election needed to fill a vacancy, except that if the
28 vacancy occurs after the primary cutoff date but not later than
29 the general cutoff date, candidates to fill the vacancy shall be
30 nominated by the county executive committee in the manner
31 provided in section nineteen, article five of this chapter, as in the

32 case of filling vacancies in nominations, and the names of the
33 persons, so nominated and certified to the clerk of the county
34 commission of the county, shall be placed upon the ballot to be
35 voted at the next general election.

36 (e) If the election for an unexpired term is held at the same
37 time as the election for a full term for county commissioner, the
38 full term shall be counted first and the unexpired term shall be
39 counted second. If the candidate with the highest number of
40 votes for the unexpired term resides in the same magisterial
41 district as the candidate with the highest number of votes for the
42 full term, the candidate for the full term shall be seated. The
43 candidate with the next highest number of votes for the
44 unexpired term residing in a different magisterial district shall be
45 seated for the unexpired term.

**§3-10-8. Vacancies in offices of prosecuting attorney, sheriff,
assessor and surveyor.**

1 (a) Any vacancy occurring in the office of prosecuting
2 attorney, sheriff, assessor or county surveyor shall be filled by
3 the county commission within thirty days of the vacancy by
4 appointment of a person of the same political party as the
5 officeholder vacating the office. The appointed person shall hold
6 the office for the period stated by section one of this article.

7 (b) Notwithstanding any code provision to the contrary, a
8 county commission may appoint a temporary successor to the
9 office of prosecuting attorney, sheriff, assessor or county
10 surveyor until the requirements of this section have been met.
11 The temporary successor may serve no more than thirty days
12 from the date of the vacancy.

13 (c) If an election is necessary under section one of this
14 article, the county commission, or the president thereof in

15 vacation, shall be responsible for the proper proclamation, by
16 order, and notice required by section one of this article.

17 (d) Section one of this article shall be followed with respect
18 to any election needed to fill a vacancy, except that if the
19 vacancy occurs after the primary cutoff date but not later than
20 the general cutoff date, candidates to fill the vacancy shall be
21 nominated by the county executive committee in the manner
22 provided in section nineteen, article five of this chapter, as in the
23 case of filling vacancies in nominations, and the names of the
24 persons, so nominated and certified to the clerk of the county
25 commission of the county, shall be placed upon the ballot to be
26 voted at the next general election.

§3-10-9. Costs of special elections paid by state.

1 If an election as required by section two or four of this
2 article cannot be held in conjunction with the regular election
3 dates, then the cost of printing ballots and all other reasonable
4 and necessary expenses in holding and making the return of the
5 new election to fill a vacancy are obligations of the state incurred
6 by the ballot commissioners, clerks of the county commissions
7 and county commissions of the various counties as agents of the
8 state. All expenses of the new election are to be audited by the
9 Secretary of State. The Secretary of State shall prepare and
10 transmit to the county commissions forms on which the county
11 commissions shall certify all expenses of the new election to the
12 Secretary of State. If satisfied that the expenses as certified by
13 the county commissions are reasonable and were necessarily
14 incurred, the Secretary of State shall requisition the necessary
15 warrants from the Auditor of the state to be drawn on the State
16 Treasurer and shall mail the warrants directly to the vendors of
17 the new election services, supplies and facilities.

CHAPTER 77

**(Com. Sub. for H. B. 2571 - By Delegates Craig,
White, Marcum, Morgan, Stowers, Eldridge,
R. Phillips, Reynolds, Skaff and Miller)**

[Passed April 13, 2013; in effect from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT to amend and reenact §22B-3-1 of the Code of West Virginia, 1931, as amended, relating to the Environmental Quality Board; removing outdated language; providing that board members may serve on the board until their successor is appointed; permitting individuals who receive a portion of income from state agencies, other than the Department of Environmental Protection, who hold or are applicants to hold certain environment permits to serve on the board; and prohibiting board members who are employed or have been employed by a state agency from voting on a matter concerning a permit issued to that agency.

Be it enacted by the Legislature of West Virginia:

That §22B-3-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. ENVIRONMENTAL QUALITY BOARD.

§22B-3-1. Environmental quality board; composition and organization; appointment, qualifications, terms, vacancies.

- 1 (a) The Environmental Quality Board is continued.
- 2 (b) The board is composed of five members, appointed by
- 3 the Governor with the advice and consent of the Senate.

4 (1) No more than three members may be of the same
5 political party.

6 (2) As each member's term ends, a qualified successor shall
7 be appointed by the Governor with the advice and consent of the
8 Senate.

9 (3) Individuals appointed to the board shall be persons who
10 by reason of previous training and experience are knowledgeable
11 in the husbandry of the state's water resources.

12 (4) At least one member shall have experience in industrial
13 pollution control.

14 (c) (1) No member of the board shall receive or, during the
15 two years next preceding the member of the board's
16 appointment, may have received a significant portion his or her
17 income directly or indirectly from a national pollutant discharge
18 elimination system permit holder or an applicant for a permit
19 issued under article eleven, chapter twenty-two of this code.

20 (2) For the purposes of this subsection:

21 (A) The term "significant portion of the member of the
22 board's income" means ten percent of gross personal income for
23 a calendar year, except that it means fifty percent of gross
24 personal income for a calendar year if the recipient is over sixty
25 years of age and is receiving such portion pursuant to retirement,
26 a pension or similar arrangement;

27 (B) The term "income" includes retirement benefits,
28 consultant fees and stock dividends;

29 (C) Income is not received "directly or indirectly" from
30 "permit holders" or "applicants for a permit" where it is derived
31 from mutual-fund payments or from other diversified

32 investments with respect to which the recipient does not know
33 the identity of the primary sources of income; and

34 (D) The terms “permit holders” and “applicants for a permit”
35 do not include any university or college operated by this state or
36 political subdivision of this state or any department or agency of
37 this state, other than the Department of Environmental
38 Protection: *Provided*, That no board member may vote on any
39 matter concerning a permit issued to a department or agency of
40 the state by which the member is or has been employed.

41 (d) (1) The members of the board shall serve five year terms,
42 staggered in accordance with prior enactments of this section.

43 (2) Any member whose term expires may be reappointed by
44 the Governor.

45 (3) Members may serve until their successors are appointed
46 and qualified.

47 (4) If a board member is unable to complete the term, the
48 Governor shall appoint a person with similar qualification to
49 complete the term.

50 (5) The successor of any board member appointed pursuant
51 to this section must possess the qualification as prescribed in this
52 section.

53 (6) Each vacancy occurring in the office of a member of the
54 board shall be filled by appointment within sixty days after the
55 vacancy occurs.

CHAPTER 78

**(H. B. 2842 - By Delegates Boggs, Swartzmiller,
Ferro, Caputo and D. Poling)
[By Request of the State Auditor's Office]**

[Passed April 13, 2013; in effect ninety days from passage.]
[Approved by the Governor on May 1, 2013.]

AN ACT to amend and reenact §36-9-3 and §36-9-23 of the Code of West Virginia, 1931, as amended, all relating to clarifying that time-sharing plans, accommodations and facilities are subject to regulation by the Division of Land Sales and Condominiums; and granting the Division of Land Sales and Condominiums the authority to seek additional relief in circuit courts.

Be it enacted by the Legislature of West Virginia:

That §36-9-3 and §36-9-23 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 9. WEST VIRGINIA REAL ESTATE TIME-SHARING ACT.

§36-9-3. Scope.

1 (a) This article applies only to time-sharing plans consisting
2 of more than seven time-sharing periods other than
3 condominium fee ownership time-sharing plans, except that
4 sections six, ten, eleven, twelve, thirteen, seventeen, twenty,
5 twenty-one, twenty-three, twenty-four, twenty-five and twenty-
6 six of this article shall apply to all time-sharing plans.

7 (b) All time-sharing accommodations or facilities which are
8 located outside the state but offered for sale in this state shall be
9 subject to all of the provisions of this article except sections
10 eleven through sixteen and twenty through twenty-two.

11 (c) Notwithstanding other provisions of this article, either
12 expressed or implied, to the contrary, it is the legislative intent
13 that nothing herein be deemed to alter the existing procedure for
14 the assessment and collection of ad valorem taxes on
15 accommodations or facilities subject to a time-sharing plan.

§36-9-23. Regulation by division.

1 The division of land sales and condominiums is hereby
2 created in the office of the State Auditor to administer the
3 provisions of this article. The division has the power and
4 authority to enforce and ensure compliance with the provisions
5 of this article. In performing its duties, the division shall have
6 the following powers and duties:

7 (a) To aid in the enforcement of this chapter, the division
8 may make necessary public or private investigations within or
9 outside this state to determine whether any person has violated
10 or is about to violate this article;

11 (b) The division may require or permit any person to file a
12 written statement under oath or otherwise, as the division
13 determines, as to the facts and circumstances concerning a
14 matter under investigation;

15 (c) For the purpose of any investigation under this chapter,
16 the director of the division or any officer or employee designated
17 by the director may administer oaths or affirmations, subpoena
18 witnesses and compel their attendance, take evidence, and
19 require the production of any matter which is relevant to the
20 investigation, including the identity, existence, description,
21 nature, custody, condition and location of any books, documents
22 or other tangible things and the identity and location of persons
23 having knowledge of relevant facts or any other matter
24 reasonably calculated to lead to the discovery of material
25 evidence. Upon failure to obey a subpoena or to answer
26 questions propounded by the investigating officer and upon
27 reasonable notice to all persons affected thereby, the division

28 may apply to the circuit court for an order compelling
29 compliance;

30 (d) The division may prepare and disseminate a prospectus
31 and other information to assist prospective purchasers, sellers
32 and managing entities of time-sharing plans in assessing the
33 rights, privileges and duties pertaining thereto; and

34 (e) Notwithstanding any remedies available to purchasers, if
35 the division has reasonable cause to believe that a violation of
36 this chapter has occurred, the division may institute enforcement
37 proceedings in its own name against any developer, exchange
38 program, seller, managing entity, association or other person as
39 follows:

40 (1) The division may permit any person whose conduct or
41 actions may be under investigation to waive formal proceedings
42 and enter into a consent proceeding whereby an order, rule or
43 letter of censure or warning, whether formal or informal, may be
44 entered against that person;

45 (2) The division may issue an order requiring a developer,
46 exchange program, seller, managing entity, association or other
47 person, or other assignees or agents, to cease and desist from an
48 unlawful practice under this article and take such affirmative
49 action as in the judgment of the division will carry out the
50 purposes of this article;

51 (3) The division may bring an action in circuit court for
52 declaratory or injunctive relief and for other appropriate relief;

53 (4)(A) The division may impose a civil penalty against any
54 developer, exchange program, seller, managing entity,
55 association or other person for a violation of this chapter. A
56 penalty may be imposed on the basis of each day of continuing
57 violation, but in no event shall the penalty for any offense
58 exceed \$10,000. All accounts collected shall be deposited with
59 the treasurer to the credit of the West Virginia real estate time-
60 sharing trust fund;

61 (B) If a developer, exchange program, seller or other person
62 fails to pay the civil penalty, the division shall thereupon issue
63 an order directing that such developer, exchange program, seller
64 or other person cease and desist from further operation until such
65 time as the civil penalty is paid; or the division may pursue
66 enforcement of the penalty in a court of competent jurisdiction.
67 If an association or managing entity fails to pay the civil penalty,
68 the division shall thereupon pursue enforcement in a court of
69 competent jurisdiction;

70 (5) In order to permit the developer, exchange program,
71 seller, managing entity, association or other person an
72 opportunity either to appeal such decision administratively or to
73 seek relief in a court of competent jurisdiction, the order
74 imposing the civil penalty or the cease and desist order shall not
75 become effective until twenty days after the date of such order;
76 and

77 (6) Any action commenced by the division shall be brought
78 in the county in which the violation occurred.

CHAPTER 79

(Com. Sub. for S. B. 200 - By Senator Laird)

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §62-1E-1, §62-1E-2 and §62-1E-3 of the Code of West Virginia, 1931, as amended, all relating to eyewitness identification, lineups and showups; defining terms and updating definitions; establishing certain recommended procedures before a lineup or showup; setting forth additional instructions to be given prior to a lineup or showup; expanding eyewitness

identification procedures; recommending all lineups to be conducted in a sequential and blind manner; expressing a legislative preference for lineups over showups; prohibiting photographic showups; eliminating a task force that is no longer active; and requiring each law-enforcement agency performing lineups or showups to create specific procedures for conducting lineups and showups.

Be it enacted by the Legislature of West Virginia:

That §62-1E-1, §62-1E-2 and §62-1E-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 1E. EYEWITNESS IDENTIFICATION ACT.

§62-1E-1. Definitions.

1 For the purposes of this article:

2 (1) “Administrator” means the person conducting the live
3 lineup, photo lineup or showup.

4 (2) “Suspect” means the person believed by law enforcement
5 to be the possible perpetrator of the crime.

6 (3) “Blind” means the administrator does not know the
7 identity of the suspect.

8 (4) “Blinded” means the administrator may know who the
9 suspect is, but does not know which lineup member is being
10 viewed by the eyewitness.

11 (5) “Eyewitness” means a person whose identification of
12 another person may be relevant in a criminal proceeding.

13 (6) “Filler” means either a person or a photograph of a
14 person who is not suspected of an offense and is included in an
15 identification procedure.

16 (7) “Folder shuffle method” means a procedure for
17 displaying a photo lineup with the following steps:

18 (A) Photos used in a photo lineup are placed in their own
19 respective folder, and the folders are shuffled, numbered and
20 then presented to an eyewitness such that the administrator
21 cannot see or track which photo is being presented to the witness
22 until after the procedure is completed;

23 (B) The procedure is completed only when the eyewitness
24 has viewed the entire array of numbered folders, even if an
25 affirmative identification is made prior to the eyewitness
26 viewing all of the numbered folders;

27 (C) If an eyewitness requests a second viewing, the
28 eyewitness must be shown all of the lineup members again, even
29 if the eyewitness makes an identification during this second
30 showing; and

31 (D) The eyewitness shall be allowed to review the folders
32 only once after the initial viewing is complete.

33 (8) “Lineup” means a live lineup or photo lineup of persons
34 or photographs of persons matching as close as possible the
35 eyewitness’s description of the perpetrator.

36 (9) “Live lineup” means a procedure in which a group of
37 people is displayed to an eyewitness for the purpose of
38 determining if the eyewitness is able to identify the perpetrator
39 of a crime.

40 (10) “Photo lineup” means a procedure in which an array of
41 photographs is displayed to an eyewitness for the purpose of
42 determining if the eyewitness is able to identify the perpetrator
43 of a crime.

44 (11) “Sequential presentation” means presenting live or
45 photo lineup persons to the eyewitness one-by-one rather than all
46 at once.

47 (12) "Showup" means an identification procedure in which
48 an eyewitness is presented with a single suspect for the purpose
49 of determining whether the eyewitness identifies this individual
50 as the perpetrator.

§62-1E-2. Eyewitness identification procedures.

1 (a) Prior to a lineup or showup, law enforcement should
2 record as complete a description as possible of the perpetrator
3 provided by the eyewitness, in the eyewitness's own words. This
4 statement should also include information regarding the
5 conditions under which the eyewitness observed the perpetrator
6 including location, time, distance, obstructions, lighting and
7 weather conditions. The eyewitness should also be asked if he or
8 she wears or has been prescribed glasses or contact lenses and
9 whether he or she was wearing them at the time of the witnessed
10 event. The administrator should record whether or not the
11 eyewitness was wearing glasses or contact lenses at the time of
12 the lineup or showup.

13 (b) After completing the requirements of subsection (a) of
14 this section, but before a lineup or showup, the eyewitness
15 should be given the following instructions:

16 (1) That the perpetrator may or may not be present in the
17 lineup, or, in the case of a showup, may or may not be the person
18 that is presented to the eyewitness;

19 (2) That the eyewitness is not required to make an
20 identification;

21 (3) That it is as important to exclude innocent persons as it
22 is to identify the perpetrator;

23 (4) That the investigation will continue whether or not an
24 identification is made; and

25 (5) That the administrator does not know the identity of the
26 perpetrator.

27 (c) Nothing should be said, shown or otherwise suggested to
28 the eyewitness that might influence the eyewitness's
29 identification of any particular lineup or showup member, at any
30 time prior to, during or following a lineup or showup.

31 (d) All lineups should be conducted blind unless to do so
32 would place an undue burden on law enforcement or the
33 investigation. If conducting a blind lineup would place an undue
34 burden on law enforcement or the investigation, then the
35 administrator shall use the folder shuffle method.

36 (e) All lineups should be conducted in a sequential
37 presentation. When there are multiple suspects, each
38 identification procedure shall include only one suspect.

39 (f) At least four fillers should be used in all lineups. The
40 fillers shall resemble the description of the suspect as much as
41 practicable and shall not unduly stand out.

42 (g) In a photo lineup, there should be no characteristics of
43 the photos themselves or the background context in which they
44 are placed which shall make any of the photos unduly stand out.

45 (h) In a live lineup, all lineup participants must be out of
46 view of the eyewitness prior to the identification procedure.

47 (i) If there are multiple eyewitnesses for the same lineup:

48 (1) Each eyewitness should view the lineup or lineups
49 separately;

50 (2) The suspect should be placed in a different position in the
51 lineup for each eyewitness; and

52 (3) The eyewitnesses should not be permitted to
53 communicate with each other until all identification procedures
54 have been completed.

55 (j) Showups should only be performed using a live suspect
56 and only in exigent circumstances that require the immediate
57 display of a suspect to an eyewitness. A law-enforcement official
58 shall not conduct a showup with a single photo; rather a photo
59 lineup must be used.

60 (k) Law-enforcement officers should make a written or video
61 record of a lineup which shall be provided to the prosecuting
62 attorney in the event that any person is charged with the offense
63 under investigation. The written record shall include all steps
64 taken to comply with this article which shall include the
65 following information:

66 (1) The date, time and location of the lineup;

67 (2) The names of every person in the lineup, if known, and
68 all other persons present at the lineup;

69 (3) The words used by the eyewitness in any identification,
70 including words that describe the eyewitness's certainty or
71 uncertainty in the identification at the time the identification is
72 made;

73 (4) Whether it was a photo lineup or live lineup;

74 (5) The number of photos or individuals that were presented
75 in the lineup;

76 (6) Whether the lineup administrator knew which person in
77 the lineup was the suspect;

78 (7) Whether, before the lineup, the eyewitness was instructed
79 that the perpetrator might or might not be presented in the
80 lineup;

81 (8) Whether the lineup was simultaneous or sequential;

82 (9) The signature, or initials, of the eyewitness, or notation
83 if the eyewitness declines or is unable to sign; and

84 (10) A video of the lineup and the eyewitness's response
85 may be included.

§62-1E-3. Training of law-enforcement officers.

1 The Superintendent of State Police may create educational
2 materials and conduct training programs to instruct law-
3 enforcement officers and recruits how to conduct lineups in
4 compliance with this section. Any West Virginia law-
5 enforcement agency, as defined in section one, article twenty-
6 nine, chapter thirty of this code, conducting eyewitness
7 identification procedures shall adopt specific written procedures
8 for conducting photo lineups, live lineups and showups that
9 comply with this article on or before January 1, 2014.

CHAPTER 80

**(S. B. 387 - By Senators Cookman, Unger,
Plymale and Palumbo)**

[Passed April 11, 2013; in effect from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT to amend and reenact §51-2A-7 of the Code of West Virginia, 1931, as amended, relating generally to the powers of family court judges; and granting family court judges the authority to compel and supervise the production of criminal background investigations when appropriate.

Be it enacted by the Legislature of West Virginia:

That §51-2A-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2A. FAMILY COURTS.**§51-2A-7. Powers; administrative and judicial functions of family court judge.**

1 (a) The family court judge will exercise any power or
2 authority provided in this article, in chapter forty-eight of this
3 code or as otherwise provided by general law. Additionally, the
4 family court judge has the authority to:

5 (1) Manage the business before them;

6 (2) Summon witnesses and compel their attendance in court;

7 (3) Exercise reasonable control over discovery;

8 (4) Compel and supervise the production of evidence,
9 including criminal background investigations when appropriate;

10 (5) Discipline attorneys;

11 (6) Prevent abuse of process; and

12 (7) Correct errors in a record.

13 (b) The family court judge has responsibility for the
14 supervision and administration of the family court. A family
15 court judge may promulgate local administrative rules governing
16 the conduct and administration of the family court. In family
17 court circuits with more than one family court judge, all family
18 court judges must agree to the rules. If all of the family court
19 judges in a family court circuit cannot agree, the chief judge of
20 each circuit court in the counties in which the family court
21 circuit is located shall promulgate the local administrative rules.
22 If the chief judges of the circuit courts cannot agree, the
23 Supreme Court of Appeals may promulgate the local
24 administrative rules. Local administrative rules are subordinate
25 and subject to the rules of the Supreme Court of Appeals or the

26 orders of the chief justice. Rules promulgated by the family or
27 circuit court are made by order entered upon the order book of
28 the circuit court and are effective when filed with the Clerk of
29 the Supreme Court of Appeals.

30 (c) Prior to the 2003 regular session of the Legislature and
31 annually thereafter, the Supreme Court of Appeals shall report
32 to the Legislature on the caseload in each family court circuit
33 and shall recommend changes to the management of the family
34 court as the Supreme Court of Appeals deems warranted or
35 necessary to improve the family court.

36 (d) The Supreme Court of Appeals shall promulgate a
37 procedural rule to establish time-keeping requirements for
38 family court judges, family case coordinators and secretary-
39 clerks of family court judges so as to assure the maximum
40 funding of incentive payments, grants and other funding sources
41 available to the state for the processing of cases filed for the
42 location of absent parents, the establishment of paternity and the
43 establishment, modification and enforcement of child support
44 orders.

CHAPTER 81

**(Com. Sub. for H. B. 2603 - By Delegates Morgan,
Stephens, Stagers, Eldridge, Jones, Lynch, Paxton,
Hartman, M. Smith, Barrett and Skinner)**

[Passed April 12, 2013; in effect from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT to repeal §48-26-404, §48-26-405, §48-26-601, §48-26-602,
§48-26-901, §48-26-902, §48-26-1003, §48-26-1005, §48-26-1006

and §48-26-1007 of the Code of West Virginia, 1931, as amended; to amend and reenact §48-26-202, §48-26-203, §48-26-204, §48-26-205, §48-26-206, §48-26-301, §48-26-401, §48-26-402, §48-26-403, §48-26-406, §48-26-603, §48-26-604, §48-26-701, §48-26-1001, §48-26-1002 and §48-26-1004 of said code; and to amend said code by adding thereto nine new sections, designated §48-26-207, §48-26-208, §48-26-209, §48-26-210, §48-26-211, §48-26-212, §48-26-213, §48-26-214 and §48-26-408, all relating to the Family Protection Services Board; revising definitions; adding definitions; revising qualifications for membership on the board; adding two new members to the board; clarifying that the two ex officio members have voting privileges; prohibiting certain persons from serving on the board at the same time as certain other persons; providing for appointments for unexpired terms of board members; providing appointments for members who become disqualified; clarifying and expanding the board's powers and duties; requiring board to submit annual report to Governor and Joint Committee on Government and Finance; authorizing legislative rules; increasing the percentage of board funds that may be used for administrative functions; authorizing the board to develop formulas to direct funds to certain programs; prohibiting programs from falsely representing that they are licensed; authorizing the board to develop preliminary and full application forms; requiring board to respond in writing within certain time after receiving preliminary and full applications; providing for conditional, provisional and full licenses; allowing certain entities to provide support to programs in certain situations; authorizing the board to issue licenses for up to three years; updating provisions related to the closure of programs; authorizing the board to issue notices to cease and desist and seek injunctive relief in certain situations; setting forth procedures for hearings and appeals; clarifying the uses of the Domestic Violence Legal Services Fund; requiring programs to report annually to the board; updating confidentiality protections for programs participants; updating provisions related to monitored parenting and exchange

programs; providing that judges and magistrates may order persons to participate in a monitored parenting and exchange program; and allowing monitored parenting and exchange programs to receive referrals.

Be it enacted by the Legislature of West Virginia:

That §48-26-404, §48-26-405, §48-26-601, §48-26-602, §48-26-901, §48-26-902, §48-26-1003, §48-26-1005, §48-26-1006 and §48-26-1007 of the Code of West Virginia, 1931, as amended, be repealed; that §48-26-202, §48-26-203, §48-26-204, §48-26-205, §48-26-206, §48-26-301, §48-26-401, §48-26-402, §48-26-403, §48-26-406, §48-26-603, §48-26-604, §48-26-701, §48-26-1001, §48-26-1002 and §48-26-1004 of said code be amended and reenacted; and that said code be amended by adding thereto nine new sections, designated §48-26-207, §48-26-208, §48-26-209, §48-26-210, §48-26-211, §48-26-212, §48-26-213, §48-26-214 and §48-26-408, all to read as follows:

ARTICLE 26. DOMESTIC VIOLENCE ACT.

PART II. DEFINITIONS.

§48-26-202. Advocacy defined.

1 “Advocacy” means assisting victims and survivors of
2 domestic violence, dating violence, sexual assault, stalking or
3 human trafficking, and their children, in securing rights,
4 remedies and services, by directly providing for, or referring to
5 public and private agencies to provide for, safety planning;
6 shelter; housing; legal services; outreach; counseling; case
7 management; information and referral; training; employment;
8 child care; health care; transportation; financial literacy
9 education, financial planning and related economic
10 empowerment services; parenting and other educational services;
11 and other support services.

§48-26-203. Batterer Intervention and Prevention Program defined.

1 “Batterer intervention and prevention program”, previously
2 referred to as a program of intervention for perpetrators, means
3 a licensed educational program that provides classes to
4 individuals who commit acts of domestic violence or abuse,
5 offering nonviolent strategies and values that promote respect
6 and equality in intimate partner relationships.

§48-26-204. Board defined.

1 “Board” means the Family Protection Services Board created
2 pursuant to Chapter 53 of the Acts of the Legislature of 1989 and
3 subsequently recodified by this article.

§48-26-205. Closure defined.

1 “Closure” means the temporary or permanent prohibition of
2 specified services and the corresponding suspension of licensure
3 of a program or program component that violates the standards
4 established by the board or that threatens the health, well being
5 or safety of its program participants or staff.

§48-26-206. Department defined.

1 “Department” means the Department of Health and Human
2 Resources.

§48-26-207. Domestic Violence Legal Services Fund defined.

1 “Domestic Violence Legal Services Fund” means the special
2 revenue account established by section six hundred three of this
3 article for the purposes set forth in that section.

§48-26-208. Domestic violence program defined.

1 “Domestic violence program” means a licensed program of
2 a locally controlled nonprofit organization, established primarily

3 for the purpose of providing advocacy services, comprising both
4 a shelter component and an outreach component, to victims of
5 domestic violence, dating violence, sexual assault, stalking or
6 human trafficking, and their children: *Provided*, That the board
7 may temporarily or permanently close either the shelter
8 component or the outreach component of a domestic violence
9 program.

§48-26-209. Family Protection Fund defined.

1 “Family Protection Fund” means the special revenue account
2 established by Chapter 74 of the Acts of the Legislature of 1981,
3 held by the department, for the purpose of collecting marriage
4 license fees pursuant to section ten, article one, chapter fifty-nine
5 of this code, divorce surcharge fees pursuant to section
6 twenty-eight-a, article one, chapter fifty-nine of this code, fees
7 for failure to present a premarital education course completion
8 certificate pursuant to section ten, article one, chapter fifty-nine
9 of this code and any other funding source, including any source
10 created in another section of this code, and distributed to
11 licensed domestic violence programs, in accordance with the
12 formula designated by the board.

§48-26-210. Intimate partner defined.

1 “Intimate partner” means a current or former spouse, a
2 person with whom one shares a child in common, a person with
3 whom one is cohabiting or has cohabited, or a person with whom
4 one is or has been in a relationship of a romantic or intimate
5 nature.

§48-26-211. Licenses defined.

1 (a) “Conditional license” means a license issued for up to
2 ninety days, to programs that have violations of safety or
3 accountability standards that may threaten the health, well-being
4 or safety of its program participants or staff, or the responsible

5 operation of the program, or that have a history or pattern of
6 noncompliance with established standards.

7 (b) "Provisional license" means a license issued for up to
8 one hundred and eighty days, to programs that are not in
9 compliance with nonlife threatening safety, programmatic,
10 facility or administrative standards, that may be extended for an
11 additional six months, if the board determines that the program
12 is making active progress toward compliance.

13 (c) "Full license" means a license issued for up to the
14 maximum licensure period of three years, to programs that are
15 in compliance with the standards established by the board and
16 have no violations of safety or accountability standards that may
17 threaten the health, well-being or safety of its program
18 participants or staff, or the responsible operation of the program.

§48-26-212. Monitored parenting and exchange defined.

1 (a) "Monitored parenting" means the contact between a
2 parent without custodial responsibility, guardian or other adult
3 and one or more children, in the presence of a third person who
4 monitors the contact to promote the safety of the participants.

5 (b) "Monitored exchange" means the observation of
6 movement of a child or children from the custodial responsibility
7 of one parent or guardian to the custodial responsibility of the
8 other parent or other adult without allowing contact between the
9 adults.

10 (c) "Monitored parenting and exchange program" means a
11 licensed program offered by a locally controlled nonprofit
12 organization for purposes of providing a neutral, safe and
13 child-friendly environment to allow the child or children access
14 to a parent or other adult without allowing contact between the
15 adults.

§48-26-213. Outreach defined.

1 “Outreach” means a licensed domestic violence program’s
2 community-based activities that increase awareness and
3 availability of services, in every county within the program’s
4 regional service area, to victims and survivors of domestic
5 violence, dating violence, sexual assault, stalking or human
6 trafficking, and their children.

§48-26-214. Shelter defined.

1 “Shelter” means residential services offered by a licensed
2 domestic violence program on a temporary basis, to persons who
3 are victims of domestic violence, dating violence, sexual assault,
4 stalking or human trafficking, and their children.

PART III. FAMILY PROTECTION SERVICES BOARD.**§48-26-301. Family protection services board continued; terms.**

1 (a) The family protection services board, is continued.

2 (b) Membership of the board is comprised of seven persons.
3 The Governor, with the advice and consent of the Senate, shall
4 appoint five members of the board who meet the following
5 qualifications:

6 (1) One member must be a director of a licensed domestic
7 violence program;

8 (2) One member must be a representative of the West
9 Virginia Coalition Against Domestic Violence;

10 (3) One member must be a representative of a batterer
11 intervention and prevention program licensed by the board;

12 (4) One member must be a representative of the West
13 Virginia Supreme Court of Appeals who is familiar with
14 monitored parenting and exchange program services; and

15 (5) One member must be a citizen who is a resident of this
16 state and who is not employed by, under contract with or a
17 volunteer for a program licensed by the board, and who is
18 knowledgeable about services for victims and survivors of
19 domestic violence;

20 (c) The secretary of the Department of Health and Human
21 Resources, or his or her designee, and the chair of the
22 Governor's Committee on Crime, Delinquency and Correction,
23 or his or her designee shall serve as ex officio voting members.

24 (d) The terms of the five members appointed by the
25 Governor are for three years, staggered in accordance with prior
26 enactments of this act.

27 (e) No person who is employed by, under contract with or
28 volunteers for an organization that is licensed to operate any
29 program under the provisions of this article may serve on the
30 board at the same time as another person who is employed by,
31 under contract with or volunteers for that organization.

32 (f) If a member resigns or is unable to complete his or her
33 term or ceases to be qualified, the Governor shall appoint within
34 ninety days a person who meets the qualifications of this section
35 to serve the remainder of the unexpired term.

PART IV. DUTIES OF FAMILY PROTECTION SERVICES BOARD.

§48-26-401. Powers and duties of board.

1 (a) The board shall:

2 (1) Propose rules for legislative approval, in accordance with
3 the provisions of article three, chapter twenty-nine-a of this code,
4 to implement the provisions of this article and any applicable
5 federal guidelines;

6 (2) Receive and consider applications for licensure of
7 domestic violence programs, batterer intervention and prevention
8 programs and monitored parenting and exchange programs;

9 (3) Assess the need for domestic violence programs, batterer
10 intervention and prevention programs and monitored parenting
11 and exchange programs, including licensure preapplication and
12 application processes;

13 (4) Conduct licensure renewal reviews of domestic violence
14 programs, batterer intervention and prevention programs and
15 monitored parenting and exchange programs, that will ensure the
16 safety, well-being and health of the programs' participants and
17 staff;

18 (5) For each fiscal year, expend from the Family Protection
19 Fund a sum not to exceed fifteen percent for the costs of
20 administering the provisions of this article, and direct the
21 Department of Health and Human Resources to distribute one
22 half of the remaining funds equally and the other half of the
23 remaining funds in accordance with a formula determined by the
24 board, to licensed domestic violence programs;

25 (6) Submit an annual report on the status of programs
26 licensed under the provisions of this article to the Governor and
27 the Joint Committee on Government and Finance;

28 (7) Conduct hearings as necessary under this article; and

29 (8) Collect data about licensed programs for use in the
30 annual report of the board.

31 (b) The board may:

32 (1) Advise the Secretary of the Department of Health and
33 Human Resources and the Chair of the Governor's Committee
34 on Crime, Delinquency and Correction on matters of concern
35 relative to their responsibilities under this article;

36 (2) Delegate to the Secretary of the Department of Health
37 and Human Resources such powers and duties of the board as the
38 board considers appropriate to delegate, including, but not
39 limited to, the authority to approve, disapprove, revoke or
40 suspend licenses;

41 (3) Advise administrators of state or federal funds of
42 licensure violations and closures of programs; and

43 (4) Exercise all other powers necessary to implement the
44 provisions of this article.

**§48-26-402. Requirements, qualifications and terms of licensure;
collaboration to assist programs.**

1 (a) No domestic violence program, batterer intervention and
2 prevention program or monitored parenting and exchange
3 program may represent that it is licensed unless it is licensed by
4 the board pursuant to the provisions of this article and the
5 legislative rules promulgated pursuant to this article.

6 (b) The board shall establish preliminary application and full
7 application forms for the initial licensing of domestic violence
8 programs, batterer intervention and prevention programs and
9 monitored parenting and exchange programs.

10 (1) To meet basic eligibility requirements an applicant for
11 licensure must complete a preliminary application form to
12 demonstrate local need for the proposed service, method of
13 governance and accountability, administrative and programmatic
14 design, and fiscal efficiency. The board shall respond in writing
15 within sixty days of receipt of the preliminary application;

16 (2) If the board approves the preliminary application, the
17 applicant may complete a full application form;

18 (3) The board shall determine whether all documentation set
19 forth on the licensure checklist has been submitted, and may

20 request supplemental or clarifying information or
21 documentation; and

22 (4) The board shall grant or deny a license within sixty days
23 of the receipt of the completed full application form and all
24 supplemental or clarifying information or documentation
25 requested by the board.

26 (c) Licenses may be granted or renewed for periods not to
27 exceed three years: *Provided*, That the board may conduct
28 licensure reviews at any time during the licensure period, and
29 may downgrade, suspend or revoke a license in accordance with
30 the provisions of this article.

31 (d) The license granted by the board shall be prominently
32 displayed by the licensees.

33 (e) The board may grant a provisional license for up to one
34 hundred and eighty days, to a program that is not in compliance
35 with non-life threatening safety, programmatic, facility or
36 administrative standards. A provisional license may be extended
37 for up to an additional one hundred and eighty days, if the board,
38 in its sole discretion, determines that the program is making
39 active progress toward compliance.

40 (f) The board may grant a conditional license for up to ninety
41 days to a program that has violations of safety or accountability
42 standards that may threaten the health, well-being or safety of its
43 participants or staff, or the responsible operation of the program,
44 or that have a history or pattern of noncompliance with
45 established standards. If a program does not correct the
46 violations within the conditional license period, the board may
47 institute closure proceedings.

48 (g) The Department of Health and Human Resources, the
49 Division of Justice and Community Services, the Family
50 Protection Services Board, the WV Coalition Against Domestic

51 Violence, the West Virginia Supreme Court of Appeals and the
52 Division of Corrections may, collectively or in any combination
53 as appropriate to the program, collaborate to provide technical
54 assistance to prevent and resolve deficiencies in a program's
55 ability to meet the standards to operate and maintain licensure.

56 (h) If the board obtains information that a person or persons
57 has engaged in, is engaging in or is about to engage in an act that
58 constitutes or will constitute a violation of the provisions of this
59 article or the legislative rules promulgated pursuant to this
60 article, it may issue a notice to the person or persons to cease and
61 desist the act, or apply to the circuit court for an order enjoining
62 the act. Upon a showing that the person has engaged, is engaging
63 or is about to engage in such an act, the court may order an
64 injunction, restraining order or other order as the court considers
65 appropriate.

§48-26-403. Legislative rules.

1 (a) The board shall propose rules for legislative approval in
2 accordance with the provisions of article three, chapter
3 twenty-nine-a of this code to effectuate the provisions of this
4 article.

5 (b) The rules shall include, at a minimum:

6 (1) Operating procedures of the board;

7 (2) Minimum standards, including, but not limited to,
8 governance, administration, safety, referral process, intake,
9 services, financial accountability, staffing, personnel policies,
10 communication, program participant records, service plans,
11 confidentiality, program evaluation, facility requirements,
12 reports, restrictions, and other requirements in this article, for
13 licensure of:

14 (A) Domestic violence programs, including requirements for
15 both shelter and outreach components;

16 (B) Community-based, local government and Division of
17 Corrections batterer intervention and prevention programs; and

18 (C) Monitored parenting and exchange programs; and

19 (3) A licensure checklist to determine the ability of
20 applicants and licensees to meet licensure standards, to
21 determine eligibility for a full license, provisional license,
22 conditional license or no license.

23 (c) The rules in effect as of the effective date of the
24 reenactment of this section will remain in effect until modified,
25 amended or repealed provided that they are not inconsistent with
26 this article.

§48-26-406. Closure of programs.

1 (a) The board may close any program that violates the
2 standards established under this article or that threatens the
3 health, well-being or safety of its participants or staff: *Provided*,
4 That if a shelter is closed, the governing body of the program, in
5 conjunction with the board, shall establish a plan to place the
6 participants in other shelters or alternative housing.

7 (b) In order to close a domestic violence program or one of
8 its components, a batterer intervention and prevention program
9 or a monitored parenting and exchange program, the board must
10 vote unanimously in the affirmative.

11 (c) If either the shelter component or the outreach
12 component of a domestic violence program is closed, the
13 remaining component of the program may continue to be
14 licensed and to receive funds.

§48-26-408. Hearing procedures; judicial review.

1 (a) When a license for a program is downgraded or
2 discontinued through permanent or temporary closure, the

3 program's governing body is entitled to a hearing before the
4 board.

5 (b) Hearings shall be held in accordance with the provisions
6 of article five, chapter twenty-nine-a of this code.

7 (c) The board may conduct the hearing or elect to have a
8 hearing examiner or an administrative law judge conduct the
9 hearing. If the hearing is conducted by a hearing examiner or an
10 administrative law judge:

11 (1) The hearing examiner or administrative law judge shall
12 be licensed to practice law in this state and shall conform to the
13 Code of Conduct for Administrative Law Judges as set forth by
14 the Ethics Commission in legislative rule;

15 (2) At the conclusion of a hearing, the hearing examiner or
16 administrative law judge shall prepare a proposed written order
17 containing recommended findings of fact and conclusions of law
18 and may include recommended sanctions, including closure, if
19 the board so directs;

20 (3) The board may accept, reject, modify or amend the
21 recommendations of the hearing examiner or administrative law
22 judge; and

23 (4) If the board rejects, modifies or amends the
24 recommendations, the board shall state in the order a reasoned,
25 articulate justification based on the record for the rejection,
26 modification or amendment.

27 (d) Pursuant to the provisions of section one, article five,
28 chapter twenty-nine-a of this code, informal disposition may also
29 be made by the board by stipulation, agreed settlement, consent
30 order or default. Further, the board may suspend its decision and
31 place a license on conditional or provisional status.

32 (e) A licensee adversely affected by a decision of the board
33 entered after a hearing may seek an appeal to the Circuit Court,
34 in accordance with the provisions of section four, article five,
35 chapter twenty-nine-a of this code, and may appeal a decision of
36 the Circuit Court to the West Virginia Supreme Court of
37 Appeals, in accordance with the provisions of article six, chapter
38 twenty-nine-a of this code.

PART VI. FUNDING.

§48-26-603. Domestic Violence Legal Services Fund.

1 (a) There is continued in the State Treasury a special revenue
2 account, designated as the “Domestic Violence Legal Services
3 Fund,” that shall be an appropriated fund for receipt of grants,
4 gifts, fees, or federal or state funds designated for legal services
5 for domestic violence victims. Expenditures from the fund shall
6 be limited to attorneys employed or contracted by licensed
7 domestic violence programs, or employed or contracted by West
8 Virginia’s federally designated legal services program, its
9 successor organization or other nonprofit organization as
10 determined by the department, that establish a collaborative
11 relationship with a licensed domestic violence program, to
12 provide civil legal services to victims of domestic violence.

13 (b) Any court of this state may order a nonprevailing party
14 to pay an amount equivalent to the reasonable attorney’s fee to
15 which the prevailing litigant would be entitled into the Domestic
16 Violence Legal Services Fund, established in subsection (a) of
17 this section, if the following circumstances occur:

18 (1) A prevailing litigant is entitled by statute or common law
19 to a reasonable attorney’s fee, and

20 (2) The prevailing litigant’s legal counsel informs the court
21 that no fee will be requested.

§48-26-604. Annual reports of licensed programs.

1 (a) All programs licensed pursuant to this article shall report
2 specific information annually as required by the board.

3 (b) No information contained in a report may identify any
4 person served by the program or enable any person to determine
5 the identity of any such person.

PART VII. CONFIDENTIALITY.**§48-26-701. Confidentiality.**

1 (a) No program licensed pursuant to this article may
2 disclose, reveal or release or be compelled to disclose, reveal or
3 release, any written records or personal or personally identifying
4 information about a program participant created or maintained
5 in providing services, regardless of whether the information has
6 been encoded, encrypted, hashed, or otherwise protected,
7 pursuant to this article except:

8 (1) Upon written consent, or upon oral consent in emergency
9 situations defined by legislative rule, of the person seeking or
10 who has sought services from the program;

11 (2) In any proceeding brought under sections four and five,
12 article six, chapter nine of this code or article six, chapter
13 forty-nine of this code;

14 (3) As mandated by article six-a, chapter forty-nine and
15 article six, chapter nine of this code;

16 (4) Pursuant to an order of any court based upon a finding
17 that said information is sufficiently relevant to a proceeding
18 before the court to outweigh the importance of maintaining the
19 confidentiality established by this section;

20 (5) To protect against a clear and substantial danger of
21 imminent injury by a person receiving services to himself or
22 herself or another; or

23 (6) As authorized by the releases signed by batterer
24 intervention and prevention program participants pursuant to the
25 provisions of subsection (b) of this section.

26 (b) Batterer intervention and prevention program participants
27 shall authorize the release of information by signing the
28 following releases:

29 (1) Allowing the provider to inform the victim or alleged
30 victim and the victim's advocates that the batterer is
31 participating in a batterer intervention and prevention program
32 with the provider and to provide information to the victim or
33 alleged victim and her or his advocates, if necessary, for the
34 victim's or alleged victim's safety;

35 (2) Allowing prior and current service providers to provide
36 information about the batterer to the provider;

37 (3) Allowing the provider, for good cause, to provide
38 information about the batterer to relevant legal entities, including
39 courts, parole officers, probation officers, child protective
40 services, adult protective services, law enforcement, licensed
41 domestic violence programs, or other referral agencies;

42 (4) Allowing the provider to report to the court, if the
43 participation was court ordered, and to the victim or alleged
44 victim, if she or he requests and provides a method of
45 notification, and to his or her advocate, any assault, failure to
46 comply with program requirements, failure to attend the
47 program, threat of harm by the batterer, reason for termination
48 and recommendations for changes in the court order; and

49 (5) Allowing the provider to report to the victim or alleged
50 victim, or his or her advocate, without the participant's

51 authorization, all perceived threats of harm, the participant's
52 failure to attend and reason for termination.

53 (c) Monitored parenting and exchange programs may
54 disclose to one parent or guardian, without the permission of the
55 other parent or guardian, any perceived threat of harm or
56 violation of the court order or violation of the monitored
57 parenting and exchange program rules by the other parent or
58 guardian.

59 (d) No monitored parenting and exchange program may
60 release information about the child without consent of the parent
61 with custodial responsibility or guardian.

62 (e) In addition to the provisions set forth in this section, the
63 release of a victim's personally-identifying information is
64 subject to the provisions of 42 U.S.C. § 13925(b)(2).

65 (f) No consent or authorization for the transmission or
66 disclosure of confidential information is effective unless it is
67 signed by the program participant whose information is being
68 disclosed. Every person signing an authorization shall be given
69 a copy.

70 (g) A victim of domestic violence, dating violence, sexual
71 assault, or stalking shall not be required to provide consent to
72 release his or her personally identifying information as a
73 condition of eligibility for the services, nor may any personally
74 identifying information be shared in order to comply with federal
75 or state reporting, evaluation, or data collection requirements:
76 *Provided*, That nothing in this section prohibits a program from
77 reporting suspected abuse or neglect, as defined by law, when
78 the program is mandated by law to report suspected abuse or
79 neglect.

PART X . MONITORED PARENTING
AND EXCHANGE PROGRAMS.

§48-26-1001. Court orders; use of monitored parenting and exchange programs without court order.

1 (a) Judges and magistrates may order persons to apply to a
2 licensed monitored parenting and exchange program for
3 monitored parenting or monitored exchange of children:
4 *Provided*, That a licensed monitored parenting and exchange
5 program may not be required to perform duties that are beyond
6 the program's capacity or scope of services.

7 (b) Judges and magistrates may require a person to pay a
8 reasonable amount based on ability to pay and other relevant
9 criteria for any fee charged by a monitored parenting and
10 exchange program.

11 (c) Licensed monitored parenting and exchange programs
12 may receive referrals from judges, magistrates, child protective
13 services, attorneys and other agencies, for services under the
14 terms and conditions of those services as set forth in rules
15 promulgated by the board.

16 (d) Licensed monitored parenting and exchange programs
17 may serve self-referrals when the adult parties agree to the use
18 of the program.

§48-26-1002. Exclusions.

1 The provisions of this part do not apply to therapeutic or
2 supervised visitation or exchanges or any activity conducted by
3 the state or others in abuse and neglect proceedings pursuant to
4 articles six and six-a, chapter forty-nine of this code in which
5 assessment, evaluation, formulation of a treatment plan, case
6 management, counseling, therapy or similar activities occur.

§48-26-1004. Contract by persons using program.

1 Every program shall require that the parent, guardian or
2 other adult sign a written contract prior to using the program and
3 that the use of the services provided by the program can be
4 terminated by the program for violation of the contract.

CHAPTER 82

**(S. B. 108 - By Senators Laird, Stollings, Jenkins,
Plymale and Miller)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to repeal §48-25A-1, §48-25A-2 and §48-25A-3 of the Code of West Virginia, 1931, as amended; to repeal §48-27A-1, §48-27A-2 and §48-27A-3 of said code; to repeal §49-5D-5 of said code; and to amend said code by adding thereto a new article, designated §61-12A-1, §61-12A-2, §61-12A-3 and §61-12A-4, all relating to creating a Fatality and Mortality Review Team; setting forth membership of the team; setting forth terms of office; providing that members of the team are not to be compensated or reimbursed expenses; setting forth responsibilities of the team; requiring team to establish certain advisory panels; providing that team members will also serve as advisory panel members; requiring the Commissioner of the Bureau for Public Health, in consultation with the team, to promulgate legislative rules; providing for certain actions the team and advisory panels may not take in exercising their duties; requiring an annual report; providing confidentiality; setting forth record-keeping requirements; authorizing access to certain records; and requiring certain agencies to cooperate with the team and advisory panels.

Be it enacted by the Legislature of West Virginia:

That §48-25A-1, §48-25A-2 and §48-25A-3 of the Code of West Virginia, 1931, as amended, be repealed; that §48-27A-1, §48-27A-2 and §48-27A-3 of said code be repealed; that §49-5D-5 of said code be repealed; and that said code be amended by adding thereto a new article, designated §61-12A-1, §61-12A-2, §61-12A-3 and §61-12A-4, all to read as follows:

ARTICLE 12A. FATALITY AND MORTALITY REVIEW TEAM.

§61-12A-1. Fatality and Mortality Review Team.

1 (a) The Fatality and Mortality Review Team is created under
2 the Bureau for Public Health. The Fatality and Mortality Review
3 Team is a multidisciplinary team created to oversee and
4 coordinate the examination, review and assessment of:

5 (1) The deaths of all persons in West Virginia who die as a
6 result of unintentional prescription or pharmaceutical drug
7 overdoses;

8 (2) The deaths of children under the age of eighteen years;

9 (3) The deaths resulting from suspected domestic violence;
10 and

11 (4) The deaths of all infants and all women who die during
12 pregnancy, at the time of birth or within one year of the birth of
13 a child.

14 (b) The Fatality and Mortality Review Team shall consist of
15 the following members:

16 (1) The Chief Medical Examiner in the Bureau for Public
17 Health or his or her designee, who is to serve as the chairperson

18 and who is responsible for calling and coordinating meetings of
19 the Fatality and Mortality Review Team and meetings of any
20 advisory panel created by the Fatality and Mortality Review
21 Team;

22 (2) The Commissioner of the Bureau for Public Health or his
23 or her designee;

24 (3) The Superintendent of the West Virginia State Police or
25 his or her designee; and

26 (4) A prosecuting attorney, as appointed by the Governor,
27 who shall serve for a term of three years unless otherwise
28 reappointed to a second or subsequent term. A prosecuting
29 attorney appointed to the team shall continue to serve until his or
30 her term expires or until his or her successor has been appointed.

31 (c) Each member shall serve without additional
32 compensation and may not be reimbursed for any expenses
33 incurred in the discharge of his or her duties under the provisions
34 of this article.

**§61-12A-2. Responsibilities of the Fatality and Mortality Review
Team and Advisory Panels.**

1 (a) The Fatality and Mortality Review Team shall establish
2 the following advisory panels to carry out the purposes of this
3 article including:

4 (1) An unintentional pharmaceutical drug overdose fatality
5 review panel to examine, analyze and review deaths resulting
6 from unintentional prescription or pharmaceutical drug
7 overdose;

8 (2) A child fatality review panel to examine, analyze and
9 review deaths of children under the age of eighteen years;

10 (3) A domestic violence fatality review panel to examine,
11 analyze and review deaths resulting from suspected domestic
12 violence;

13 (4) An infant and maternal mortality review panel to
14 examine, analyze and review the deaths of infants and women
15 who die during pregnancy, at the time of birth or within one year
16 of the birth of a child.

17 (b) The members of the Fatality and Mortality Review Team
18 shall serve as members of each of the advisory panels
19 established pursuant to this article.

20 (c) The Commissioner of the Bureau for Public Health, in
21 consultation with the Fatality and Mortality Review Team, shall
22 propose rules for legislative approval in accordance with article
23 three, chapter twenty-nine-a of this code that the advisory panels
24 shall follow. Those rules shall include, at a minimum:

25 (1) The representatives that shall be included on each
26 advisory panel;

27 (2) The responsibilities of each of the advisory panels,
28 including but not limited to, each advisory panel's responsibility
29 to:

30 (A) Review and analyze all deaths as required by this article;

31 (B) Ascertain and document the trends, patterns and risk
32 factors; and

33 (C) Provide statistical information and analysis regarding the
34 causes of certain fatalities;

35 (3) The standard procedures for the conduct of the advisory
36 panels;

- 37 (4) The processes and protocols for the review and analysis
38 of fatalities and mortalities of those who were not suffering from
39 mortal diseases shortly before death;
- 40 (5) The processes and protocols to ensure confidentiality of
41 records obtained by the advisory panel;
- 42 (6) That the advisory panels must submit a report to the
43 Fatality and Mortality Review Team annually, the date the
44 annual report must be submitted and the contents of the annual
45 report;
- 46 (7) That the advisory panel may include any additional
47 persons with expertise or knowledge in a particular field that it
48 determines are needed in the review and consideration of a
49 particular case as a result of a death in subsection (a), section one
50 of this article;
- 51 (8) That the advisory panel may provide training for state
52 agencies and local multidisciplinary teams on the matters
53 examined, reviewed and analyzed by the advisory panel;
- 54 (9) The advisory panel's responsibility to promote public
55 awareness on the matters examined, reviewed and analyzed by
56 the advisory panel;
- 57 (10) Actions the advisory panel may not take or engage in
58 including:
- 59 (A) Call witnesses or take testimony from individuals
60 involved in the investigation of a fatality;
- 61 (B) Contact a family member of the deceased;
- 62 (C) Enforce any public health standard or criminal law or
63 otherwise participate in any legal proceeding; or

64 (D) Otherwise take any action which, in the determination of
65 a prosecuting attorney or his or her assistants, impairs the ability
66 of the prosecuting attorney, his or her assistants or any law-
67 enforcement officer to perform his or her statutory duties; and

68 (11) Other rules as may be deemed necessary to effectuate
69 the purposes of this article.

70 (d) The Fatality and Mortality Review Team shall submit an
71 annual report to the Governor and to the Legislative Oversight
72 Commission on Health and Human Resources Accountability
73 concerning its activities within the state and the activities of the
74 advisory panels. The report is due annually on December 1. The
75 report is to include statistical information concerning cases
76 reviewed during the year, trends and patterns concerning these
77 cases and the team's recommendations to reduce the number of
78 fatalities and mortalities that occur in the state.

**§61-12A-3. Access to information; other agencies of government
required to cooperate.**

1 (a) Notwithstanding any other provision of this code to the
2 contrary, the Fatality and Mortality Review Team and the
3 advisory panels established by the team pursuant to this article
4 may request information and records as necessary to carry out its
5 responsibilities. Records and information that may be requested
6 under this section include:

7 (1) Medical, dental and mental health records;

8 (2) Substance abuse records to the extent allowed by federal
9 law; and

10 (3) Information and records maintained by any state, county
11 and local government agency, except as provided in subsection
12 (c), section two of this article.

13 (b) State, county and local government agencies shall
14 provide the Fatality and Mortality Review Team and the
15 advisory panels established by the team with any information
16 requested in writing by the team or by an advisory panel.

§61-12A-4. Confidentiality.

1 (a) Proceedings, records and opinions of the Fatality and
2 Mortality Review Team and the advisory panels established by
3 the team pursuant to this article are confidential and are not
4 subject to discovery, subpoena or introduction into evidence in
5 any civil or criminal proceeding. This section does not limit or
6 restrict the right to discover or use in any civil or criminal
7 proceeding anything that is available from another credible
8 source and entirely independent of the proceedings of the team
9 or advisory panels.

10 (b) Members of the Fatality and Mortality Review Team and
11 members of the advisory panels established by the team may not
12 be questioned in any civil or criminal proceeding regarding
13 information presented in or opinions formed as a result of a
14 meeting of the team. This subsection does not prevent a member
15 of the team or an advisory panel from testifying to information
16 obtained independently of the team or advisory panel which is
17 public information.

18 (c) Proceedings, records and opinions of the Fatality and
19 Mortality Review Team and the advisory panels established by
20 the team are exempt from disclosure under the Freedom of
21 Information Act as provided in chapter twenty-nine-b of this
22 code.

CHAPTER 83

**(S. B. 663 - By Senators Unger, Edgell,
Cookman, Laird, Miller, Palumbo, Plymale, Prezioso, Stollings,
M. Hall and Barnes)**

[Passed April 13, 2013; in effect from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to repeal §18-5-37 the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated §18-5D-1, §18-5D-2, §18-5D-3 and §18-5D-4, all relating to improving the nutrition, physical activity and health of West Virginia's children; creating the West Virginia Feed to Achieve Act; providing legislative findings and intent; encouraging adoption of comprehensive policies and programs; phasing in implementation of the West Virginia Feed to Achieve Act; making nutritious breakfast and lunch be made available to all students; promoting delivery systems, strategies and methods to maximize participation by students; providing for recordkeeping and reporting; authorizing continuation or termination of nutrition programs under certain conditions; providing that classroom teachers may not be required to operate a breakfast program as part of their regular duties; establishing restricted use funds or nonprofit foundations to provide moneys for school nutrition programs; providing for acceptance of private contributions; authorizing expenditures of private funds to draw down maximum federal funds for child nutrition; authorizing certain expenditures; prohibiting use of private funds for administrative or personnel expenses; authorizing partnerships with federal and state agencies and public and private organizations to expand options for providing healthy, nutritious food to children; encouraging healthy food initiatives such as community gardens and farm-to-school programs; and requiring an annual audit of the private funds.

Be it enacted by the Legislature of West Virginia:

That §18-5-37 of the Code of West Virginia, 1931, as amended, be repealed; and that said code be amended by adding thereto a new article, designated §18-5D-1, §18-5D-2, §18-5D-3 and §18-5D-4, all to read as follows:

ARTICLE 5D. WEST VIRGINIA FEED TO ACHIEVE ACT.

§18-5D-1. Short title.

1 This act shall be known and may be cited as the West
2 Virginia Feed to Achieve Act.

§18-5D-2. Legislative findings; intent.

1 (a) The Legislature finds and declares that:

2 (1) Every child in school needs to have nutritious meals in
3 order to achieve his or her potential. Providing the best schools
4 and teachers alone does not ensure a child is mentally present
5 and able to learn. A growing body of research establishes that a
6 hungry child is less able to process the information provided and
7 is less likely to be attentive to the lessons being taught.

8 (2) President Harry S. Truman began the national school
9 lunch program in 1946 as a measure of national security to
10 safeguard the health and well-being of the nation's children and
11 to encourage the domestic consumption of nutritious agricultural
12 commodities and other food. Last year in West Virginia, 32.3
13 million school lunches were served to students in public schools.

14 (3) Research shows that healthy eating, proper nutrition and
15 regular physical activity result in students who have: (A)
16 Increased standardized achievement test scores; (B) improved
17 attendance; (C) reduced tardiness; (D) improved academic,
18 behavioral and emotional functioning; and (E) improved

19 nutrition, and for many students, the nutritious breakfast at
20 school is essential.

21 (4) Schools that provide universal breakfast programs also
22 report: (A) Decreases in discipline and psychological problems;
23 (B) decreases in visits to school nurses; (C) decreases in
24 tardiness; (D) increases in student attentiveness; (E) increases in
25 attendance; and (F) improved learning environments, and these
26 positive attributes are furthered through comprehensive healthy
27 schools policies that include quality nutrition, integrating
28 physical activity during the school day, and teaching children
29 about the importance of embracing a healthy active lifestyle.

30 (5) An effective school breakfast program is not an
31 interruption of the school day; it is an integral and vital part of
32 the school day.

33 (6) The participation rate for the school breakfast program
34 varies greatly among our counties. Those counties which have
35 made a determined effort to increase participation by offering
36 programs to best meet student needs, such as Grab-And-Go
37 Breakfasts, providing Breakfast in the Classroom or providing
38 Breakfast After First Period, are feeding significantly higher
39 percentages of their students.

40 (7) The West Virginia Center on Budget and Policy reports
41 that in 2011 more than 25 percent of the children in West
42 Virginia lived in homes with a household income below the
43 federal poverty line, which is \$23,050 for a family of four. About
44 50 percent of West Virginia children live in homes with a
45 household income below twice the federal poverty level, \$46,100
46 for a family of four, which is approximately the level of the
47 Work Force West Virginia self-sufficiency standard.

48 (8) The majority of students from families below the self-
49 sufficiency standard are currently not eating breakfast at school.

50 On the average school day during the 2011-2012 school year,
51 less than half of the West Virginia students eligible for a
52 federally funded free breakfast actually received one. On that
53 same average day, only about one third of the students eligible
54 to receive a reduced price breakfast actually received one.

55 (9) In order to maximize each child's potential to learn and
56 develop, the Legislature, schools and communities must partner
57 to provide the most basic support for learning: nutritious meals.

58 (10) In order to maximize student participation in school
59 nutrition programs and to reduce the secondary adverse impacts
60 of poverty, it is important that schools provide nutritious meals
61 without a risk to students of being stigmatized as poor.

62 (11) High rates of childhood hunger and childhood obesity
63 occur simultaneously because children are not receiving healthy,
64 nutritious food. According to the Data Resource Center for Child
65 and Adolescent Health and others, in 2008 West Virginia ranked
66 44 in overall prevalence of childhood obesity, with 35.5 percent
67 of children considered either overweight or obese.

68 (12) According to the 2008 Pediatric Nutrition Surveillance
69 System, which assesses weight status of children from
70 low-income families participating in the Women, Infants and
71 Children program, 28.3 percent of low income children age 2-5
72 are overweight or obese in West Virginia.

73 (13) The Food Research and Action Center has found that
74 providing a balanced school breakfast may protect against
75 childhood obesity. School breakfast participation, particularly
76 when combined with comprehensive efforts that include regular
77 physical activity and promote healthy eating habits, is associated
78 with a lower body mass index, a lower probability of being
79 overweight and a lower probability of obesity, all of which help
80 prevent a range of chronic diseases including Type II Diabetes,

81 high blood cholesterol, high blood pressure, heart disease and
82 stroke.

83 (14) Participation in federally funded meals in child care,
84 preschool, school, or summer settings is associated with a lower
85 body mass index among young, low income children.

86 (15) Private and nonprofit sectors have shown a willingness
87 to commit significant resources to addressing hunger in America,
88 leveraging federal programs and enlisting their employees,
89 customers and clients to improve the availability and
90 accessibility of affordable, healthy food for those in need of
91 assistance.

92 (16) Public schools in this state and others are adopting a
93 continuum of policies to implement low cost, effective programs
94 that include physical activity, physical education, proper
95 nutrition and the promotion of healthy eating habits, along with
96 involvement by school staff, families and communities, and a
97 variety of resources to assist schools in adopting and
98 implementing these programs are easily accessible on the
99 internet and through the Office of Healthy Schools in the West
100 Virginia Department of Education.

101 (b) In order to maximize the economies of scale and to
102 access all available federal funds to support our school nutrition
103 programs, the Feed to Achieve initiative directs schools to make
104 available and to promote the federally approved and subsidized
105 meals to all pre-kindergarten through twelfth grade students, to
106 make them readily available and to consider reducing or
107 eliminating the cost to students if sufficient funds become
108 available.

109 (c) The Legislature intends to provide a framework for the
110 State Board of Education and the county boards of education to
111 provide, as effectively and as efficiently as possible, a minimum
112 of two nutritious meals each school day to all students.

113 (d) The Legislature intends for the state and county boards
114 of education to enter into public-private partnerships to
115 eventually provide free nutritious meals for all pre-kindergarten
116 through twelfth grade school children in West Virginia.

117 (e) The Legislature encourages county boards to examine the
118 options available for comprehensive policies and programs to
119 improve student health and promote academic achievement and
120 to establish a comprehensive policy on healthy schools that best
121 meets the needs of their student population.

122 (f) It is not the intention of the Legislature to allow or
123 encourage parents to abdicate their parental responsibility related
124 to providing healthy, nutritious meals for their children.
125 However, it is the intent of the Legislature that no child be
126 denied nutritious meals.

127 (g) It is the intent of the Legislature that healthy nutritious
128 school lunches be made available to all students in a manner
129 which maximizes participation and minimizes stigma attached
130 to participating low income students.

§18-5D-3. School nutrition programs.

1 (a) Each county board of education shall establish and
2 operate school nutrition programs under which, at a minimum,
3 a nutritious breakfast and lunch are made effectively available to
4 all students enrolled in the schools of the county in accordance
5 with the State Board of Education standards. The standards shall
6 include guidelines for determining the eligibility of students for
7 paid, free and reduced meals. The standards shall also establish
8 procedures and guidelines for the Feed to Achieve initiative to
9 allow for the provision of healthy, nutritious meals to all
10 elementary school students, without cost to students, where
11 schools find it practical to do so.

12 (b) The Feed to Achieve initiative will be phased in for all
13 elementary schools as sufficient funds become available, through
14 donations, contributions and payments made by individuals,
15 communities, businesses, organizations and parents or guardians
16 on behalf of students. Nothing in this article prohibits any school
17 from providing free meals to all of its students.

18 (c) Each county board of education shall:

19 (1) Require all schools to adopt a delivery system approved
20 by the state Office of Child Nutrition, no later than the 2015
21 school year, that ensures all students are given an adequate
22 opportunity to eat breakfast. These approved systems shall
23 include, but are not limited to, Grab-And-Go Breakfasts,
24 Breakfast in the Classroom or Breakfast After First Period; and

25 (2) Collaborate with the state Office of Child Nutrition to
26 develop strategies and methods to increase the percentage of
27 children participating in the school breakfast and lunch nutrition
28 programs.

29 (d) In addition to other statistics, the county boards of
30 education, in consultation with the state Office of Child
31 Nutrition, shall determine the number of children in each school
32 who are participating in each meal offered by the school; the
33 number of children who are not eating each meal offered by the
34 school; and the total daily attendance.

35 (e) The state Office of Child Nutrition shall report to the
36 Joint Committee on Government and Finance, the Select
37 Committee on Children and Poverty and the Legislative
38 Oversight Commission on Education Accountability on or before
39 December 31, 2015, and each year thereafter, on the impacts of
40 the Feed to Achieve Act and any recommendations for
41 legislation.

42 (f) County boards of education may utilize the nonprofit
43 funds or foundations established in section four of this article or
44 other available funds to offset the costs of providing free meals,
45 after school and summer nutrition programs to elementary
46 students.

47 (g) If at any time federal financial appropriations to this state
48 for school nutrition programs are terminated, county boards of
49 education are hereby authorized, but not required, to continue the
50 programs at their own expense.

51 (h) Classroom teachers may not be required to participate in
52 the operation of the school breakfast program as part of their
53 regular duties.

§18-5D-4. Creating public-private partnerships; creating nonprofit foundation or fund; audit.

1 (a) The Department of Education and each county board of
2 education shall promptly establish a fund that is restricted solely
3 for the receipt and expenditure of gifts, grants and bequests for
4 the purposes of this article and may establish in lieu thereof a
5 nonprofit foundation for this purpose. The purpose of the fund or
6 nonprofit foundation is to provide supplemental or matching
7 funds to increase participation in the nutrition programs in the
8 Feed to Achieve initiative set forth in subsection (c) of this
9 section. The Department of Education shall utilize its fund or
10 nonprofit foundation to assist county boards of education in
11 counties whose fund or foundation lacks sufficient business,
12 industry and individual contributors to fund the Feed to Achieve
13 nutrition programs.

14 (b) Financial support for the fund or foundation may come
15 from either public or private gifts, grants, contributions, bequests
16 and endowments.

17 (c) Expenditures from the state or county funds or by the
18 foundations shall be used for provision of food to students
19 through any of the programs or initiatives approved by the
20 Office of Child Nutrition, including the following programs:
21 School Breakfast Program, National School Lunch Program, the
22 Summer Food Service Program, the Fresh Fruit and Vegetable
23 Program, the Child and Adult Care Food Program, the farm-to-
24 school initiative and community gardens. Expenditures may also
25 be made for initiatives developed with the Department of Health
26 and Human Resources and public-private partnerships to provide
27 outreach and nutritional meals when students are not in school.

28 (d) No administrative expenses or personnel expenses for
29 any of the state departments implementing this act, the State
30 Board of Education, any county board of education, school or
31 program may be paid from the funds or by the foundations.

32 (e) Individuals or businesses that contribute to the funds or
33 foundations may specify schools or nutrition programs for which
34 the contribution is to be used.

35 (f) The Department of Education and county boards of
36 education may establish public-private partnerships to enhance
37 current or advance additional nutrition programs that provide
38 nutritious food for children to take home for weekend meals.

39 (g) The Department of Education and county boards of
40 education shall form or expand existing partnerships with the
41 federal and state departments of agriculture, Department of
42 Health and Human Resources, local master gardeners, county
43 extension agents or other experts in the field of agriculture or
44 gardening to develop community gardens, farm-to-school
45 programs and other such programs that teach students how to
46 grow and produce healthy food and provide healthy food to the
47 students.

48 (h) The Department of Education shall collaborate with the
49 Department of Health and Human Resources to develop effective
50 strategies and programs such as after school nutrition outreach
51 and programs that improve the healthy lifestyle of all students in
52 pre-kindergarten through twelfth grade. The Department of
53 Health and Human Resources may propose rules for
54 promulgation in accordance with the provisions of article three,
55 chapter twenty-nine-a of this code to effectuate any programs so
56 developed.

57 (i) All moneys contributed to a fund or foundation
58 established pursuant to this section and all expenditures made
59 therefrom shall be audited as part of the annual independent
60 audit of the State Board of Education and the county boards of
61 education.



CHAPTER 84

**(Com. Sub. for H. B. 2866 - By Delegates Hamilton,
A. Evans, Andes, Ireland, Walker, Moye,
Lynch, P. Smith, J. Nelson, Frich and Sponaugle)**

[Passed April 12, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §20-2-58 of the Code of West Virginia, 1931, as amended, relating to the prohibited discharge of firearms in proximity to buildings, public roads and crowds; providing a limited and conditional exception to allow a resident of a dwelling house, and his or her authorized guest, to discharge a firearm in a lawful manner within five hundred feet of the dwelling house where the resident lives, subject to certain conditions; conditions

giving rise to exception; increasing the distance between where a person is permitted to discharge a firearm in relation to a school or church; and establishing misdemeanor criminal penalties for violations.

Be it enacted by the Legislature of West Virginia:

That §20-2-58 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. WILDLIFE RESOURCES.

§20-2-58. Shooting across road or near building or crowd; penalty.

1 (a) In addition to any other prohibitions which may exist by
2 law, it shall be unlawful for any person to shoot or discharge any
3 firearms:

4 (1) Across or in any public road in this state, at any time;

5 (2) Within five hundred feet of any school or church; or

6 (3) Within five hundred feet of any dwelling house:
7 *Provided*, That a person who is a resident of a dwelling house,
8 and his or her authorized guest, may shoot or discharge a firearm
9 in a lawful manner within five hundred feet of the dwelling
10 house where the person lives, if the firearm is being discharged
11 with the express or implied knowledge and consent of all
12 residents of that dwelling house, and no other dwelling houses
13 are located within five hundred feet of where the firearm is
14 discharged; or

15 (4) On or near any park or other place where persons gather
16 for purposes of pleasure.

17 (b) Any person violating this section is guilty of a
18 misdemeanor and, upon conviction thereof, shall be fined not
19 less than fifty dollars nor more than \$500 or confined in jail for
20 not more than one hundred days, or both fined and confined.

21 (b) Notwithstanding the provisions of subsection (a) of this
22 section, any person operating a gun repair shop, licensed to do
23 business in the State of West Virginia and duly licensed under
24 applicable federal statutes, may be exempted from the
25 prohibition established by this section and section twelve, article
26 seven, chapter sixty-one of this code for the purpose of test firing
27 a firearm. The director of the Division of Natural Resources shall
28 prescribe such rules as may be necessary to carry out the
29 purposes of the exemption under this section and section twelve,
30 article seven, chapter sixty-one and shall ensure that any person
31 residing in any dwelling home within five hundred feet of such
32 gun repair shop be given an opportunity to protest the granting
33 of such exemption.



CHAPTER 85

**(Com. Sub. for S. B. 542 - By Senators Snyder,
Kessler (Mr. President), Barnes, Blair, Edgell, Facemire,
Fitzsimmons, Green, D. Hall, Kirkendoll, Laird, Miller,
Unger and Yost)**

[Passed April 11, 2013; in effect ninety days from passage.]

[Approved by the Governor on April 30, 2013.]

AN ACT to amend and reenact §19-23-13b of the Code of West Virginia, 1931, as amended, relating to restricted races at pari-mutuel thoroughbred horse race tracks; permitting up to two restricted races at certain tracks if there are at least seven single betting interests; permitting a third restricted race at certain tracks if there are at least nine single betting interests; and eliminating a provision concerning if less than seventy-five percent of the restricted races fail to receive enough entries to race.

Be it enacted by the Legislature of West Virginia:

That §19-23-13b of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 23. HORSE AND DOG RACING.

§19-23-13b. West Virginia Thoroughbred Development Fund; distribution; restricted races; nonrestricted purse supplements; preference for West Virginia accredited thoroughbreds.

1 (a) The Racing Commission shall deposit moneys required
2 to be withheld by an association or licensee in subsection (b),
3 section nine of this article in a banking institution of its choice
4 in a special account to be known as West Virginia Racing
5 Commission Special Account – West Virginia Thoroughbred
6 Development Fund: *Provided*, That after the West Virginia
7 Lottery Commission has divided moneys between the West
8 Virginia Thoroughbred Development Fund and the West
9 Virginia Greyhound Breeding Development Fund, pursuant to
10 the provisions of sections ten and ten-b, article twenty-two-a,
11 chapter twenty-nine of this code, the Racing Commission shall,
12 beginning October 1, 2005, deposit the remaining moneys
13 required to be withheld from an association or licensee
14 designated to the Thoroughbred Development Fund under the
15 provisions of subsection (b), section nine of this article,
16 subdivision (3), subsection (e), section twelve-b of this article,
17 subsection (b), section twelve-c of this article, paragraph (B),
18 subdivision (3), subsection (b), section thirteen-c of this article
19 and sections ten and ten-b, article twenty-two-a, chapter twenty-
20 nine of this code into accounts for each thoroughbred racetrack
21 licensee with a banking institution of its choice with a separate
22 account for each association or licensee. Each separate account
23 shall be a special account to be known as West Virginia Racing
24 Commission Special Account – West Virginia Thoroughbred
25 Development Fund and shall name the licensee for which the

26 special account has been established: *Provided, however,* That
27 the Racing Commission shall deposit all moneys paid into the
28 Thoroughbred Development Fund by a thoroughbred racetrack
29 licensee that did not participate in the Thoroughbred
30 Development Fund for at least four consecutive calendar years
31 prior to December 31, 1992, from July 8, 2005, until the
32 effective date of the amendment to this section passed during the
33 fourth extraordinary session of the seventy-seventh Legislature
34 shall be paid into the purse fund of that thoroughbred racetrack
35 licensee: *Provided further,* That the moneys paid into the
36 Thoroughbred Development Fund by a thoroughbred racetrack
37 licensee that did not participate in the Thoroughbred
38 Development Fund for at least four consecutive calendar years
39 prior to December 31, 1992, shall be transferred into that
40 licensee's purse fund until April 1, 2006. Notice of the amount,
41 date and place of the deposits shall be given by the Racing
42 Commission, in writing, to the State Treasurer. The purpose of
43 the funds is to promote better breeding and racing of
44 thoroughbred horses in the state through awards and purses for
45 accredited breeders/raisers, sire owners and thoroughbred race
46 horse owners: *Provided,* That five percent of the deposits
47 required to be withheld by an association or licensee in
48 subsection (b), section nine of this article shall be placed in a
49 special revenue account hereby continued in the State Treasury
50 called the Administration and Promotion Account: *Provided,*
51 *however,* That four and one-half percent of the deposits into the
52 Thoroughbred Development Fund shall be placed in the
53 Administration and Promotion Account, except that of this
54 percentage, no more than \$305,000 shall be placed in the account
55 in any year.

56 (b) The Racing Commission is authorized to expend the
57 moneys deposited in the administration and promotion account
58 at times and in amounts as the commission determines to be
59 necessary for purposes of administering and promoting the
60 thoroughbred development program: *Provided,* That during any

61 fiscal year in which the commission anticipates spending any
62 money from the account, the commission shall submit to the
63 executive department during the budget preparation period prior
64 to the Legislature convening before that fiscal year for inclusion
65 in the executive budget document and budget bill the
66 recommended expenditures, as well as requests of appropriations
67 for the purpose of administration and promotion of the program.
68 The commission shall make an annual report to the Legislature
69 on the status of the administration and promotion account,
70 including the previous year's expenditures and projected
71 expenditures for the next year.

72 (c) The fund or funds and the account or accounts
73 established in subsection (a) of this section shall operate on an
74 annual basis.

75 (d) Funds in the Thoroughbred Development Fund or funds
76 in the separate accounts for each association or licensee as
77 provided in subsection (a) of this section shall be expended for
78 awards and purses except as otherwise provided in this section.
79 Annually, the first \$800,000 shall be available for distribution
80 for a minimum of fourteen accredited stakes races at a racetrack
81 which has participated in the West Virginia Thoroughbred
82 Development Fund for a period of more than four consecutive
83 calendar years prior to December 31, 1992. The weights for all
84 accredited stakes races shall be weight for age. One of the stakes
85 races shall be the West Virginia Futurity and the second shall be
86 the Frank Gall Memorial Stakes. For the purpose of participating
87 in the West Virginia Futurity only, all mares, starting with the
88 breeding season beginning February 1 through July 31, 2004,
89 and each successive breeding season thereafter, shall be bred
90 back that year to an accredited West Virginia stallion only which
91 is registered with the West Virginia Thoroughbred Breeders
92 Association. The accredited stake races shall be chosen by the
93 committee set forth in subsection (f) of this section.

94 (e) Awards and purses shall be distributed as follows:

95 (1) The breeders/raisers of accredited thoroughbred horses
96 that earn a purse at a participating West Virginia meet shall
97 receive a bonus award calculated at the end of the year as a
98 percentage of the fund dedicated to the breeders/raisers, which
99 shall be sixty percent of the fund available for distribution in any
100 one year. The total amount available for the breeders'/raisers'
101 awards shall be distributed according to the ratio of purses
102 earned by an accredited race horse to the total amount earned in
103 the participating races by all accredited race horses for that year
104 as a percentage of the fund dedicated to the breeders/raisers.
105 However, no breeder/raiser may receive from the fund dedicated
106 to breeders'/raisers' awards an amount in excess of the earnings
107 of the accredited horse at West Virginia meets. In addition,
108 should a horse's breeder and raiser qualify for the same award on
109 the same horse, they will each be awarded one half of the
110 proceeds. The bonus referred to in this subdivision may only be
111 paid on the first \$100,000 of any purse and not on any amounts
112 in excess of the first \$100,000.

113 (2) The owner of an accredited West Virginia sire of an
114 accredited thoroughbred horse that earns a purse in any race at
115 a participating West Virginia meet shall receive a bonus award
116 calculated at the end of the year as a percentage of the fund
117 dedicated to sire owners, which shall be fifteen percent of the
118 fund available for distribution in any one year. The total amount
119 available for the sire owners' awards shall be distributed
120 according to the ratio of purses earned by the progeny of
121 accredited West Virginia stallions in the participating races for
122 a particular stallion to the total purses earned by the progeny of
123 all accredited West Virginia stallions in the participating races.
124 However, no sire owner may receive from the fund dedicated to
125 sire owners an amount in excess of thirty-five percent of the
126 accredited earnings for each sire. The bonus referred to in this
127 subdivision shall only be paid on the first \$100,000 of any purse
128 and not on any amounts in excess of the first \$100,000.

129 (3) The owner of an accredited thoroughbred horse that earns
130 a purse in any participating race at a West Virginia meet shall
131 receive a restricted purse supplement award calculated at the end
132 of the year, which shall be twenty-five percent of the fund
133 available for distribution in any one year, based on the ratio of
134 the earnings in the races of a particular race horse to the total
135 amount earned by all accredited race horses in the participating
136 races during that year as a percentage of the fund dedicated to
137 purse supplements. However, the owners may not receive from
138 the fund dedicated to purse supplements an amount in excess of
139 thirty-five percent of the total accredited earnings for each
140 accredited race horse. The bonus referred to in this subdivision
141 shall only be paid on the first \$100,000 of any purse and not on
142 any amounts in excess of the first \$100,000.

143 (4) In no event may purses earned at a meet held at a track
144 which did not make a contribution to the Thoroughbred
145 Development Fund out of the daily pool on the day the meet was
146 held qualify or count toward eligibility for an award under this
147 subsection.

148 (5) Any balance in the breeders/raisers, sire owners and
149 purse supplement funds after yearly distributions shall first be
150 used to fund the races established in subsection (f) of this
151 section. Any amount not so used shall revert into the general
152 account of the Thoroughbred Development Fund for each racing
153 association or licensee for distribution in the next year.

154 Distribution shall be made on the fifteenth day of each
155 February for the preceding year's achievements.

156 (f)(1) Each pari-mutuel thoroughbred horse track shall
157 provide at least one restricted race per racing day: *Provided,*
158 That sufficient horses and funds are available. For purposes of
159 the one restricted race required by this subdivision, there are
160 sufficient horses if there are at least seven single betting interests
161 received for the race: *Provided, however,* That, if sufficient

162 horses and funds are available, any thoroughbred horse racetrack
163 whose licensee participated in the Thoroughbred Development
164 Fund for at least four consecutive calendar years prior to
165 December 31, 1992, shall provide three restricted races per
166 racing day, at least one of which may be split at the discretion of
167 the racing secretary. For the purposes of a second restricted race
168 there shall be at least seven single betting interests and for
169 purposes of a third restricted race there must be at least nine
170 single betting interests in one of the restricted races run that day.
171 The restricted race required by this section must be included in
172 the first nine races written in the condition book for that racing
173 day.

174 (2) The restricted races established in this subsection shall
175 be administered by a three-member committee at each track
176 consisting of:

177 (A) The racing secretary at each track;

178 (B) A member appointed by the authorized representative of
179 a majority of the owners and trainers at the thoroughbred track;
180 and

181 (C) A member appointed by the West Virginia
182 Thoroughbred Breeders Association.

183 (3) Restricted races shall be funded by each racing
184 association from:

185 (A) Moneys placed in the general purse fund: *Provided*, That
186 a thoroughbred horse racetrack which did not participate in the
187 West Virginia Thoroughbred Development fund for a period of
188 more than four consecutive years prior to December 31, 1992,
189 may fund restricted races in an amount not to exceed \$1,000,000
190 per year.

191 (B) Moneys as provided in subdivision (5), subsection (e) of
192 this section, which shall be placed in a special fund called the
193 West Virginia Accredited Race Fund.

194 (4) The racing schedules, purse amounts and types of races
195 are subject to the approval of the West Virginia Racing
196 Commission.

197 (g) As used in this section, "West Virginia-bred foal" means
198 a horse that was born in the State of West Virginia.

199 (h) To qualify for the West Virginia Accredited Race Fund,
200 the breeder must qualify under one of the following:

201 (1) The breeder of the West Virginia-bred foal is a West
202 Virginia resident;

203 (2) The breeder of the West Virginia-bred foal is not a West
204 Virginia resident, but keeps his or her breeding stock in West
205 Virginia year round; or

206 (3) The breeder of the West Virginia-bred foal is not a West
207 Virginia resident and does not qualify under subdivision (2) of
208 this subsection, but either the sire of the West Virginia-bred foal
209 is a West Virginia stallion, or the mare is covered only by a West
210 Virginia accredited stallion or stallions before December 31 of
211 the calendar year following the birth of that West Virginia-bred
212 foal.

213 (i) From July 1, 2001, West Virginia accredited
214 thoroughbred horses have preference for entry in all accredited
215 races at a thoroughbred race track at which the licensee
216 participates in the West Virginia Thoroughbred Development
217 Fund.

218 (j) Beginning July 1, 2006, any racing association licensed
219 by the Racing Commission to conduct thoroughbred racing and
220 permitting and conducting pari-mutuel wagering under the
221 provisions of this article must have a West Virginia
222 Thoroughbred Racing Breeders Program.

CHAPTER 86

**(Com. Sub. for S. B. 478 - By Senators Miller,
Laird, Barnes and Williams)**

[Passed April 12, 2013; in effect from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to amend and reenact §29-22A-3 of the Code of West Virginia, 1931, as amended; to amend and reenact §29-22B-332 of said code; and to amend and reenact §29-25-2 and §29-25-24 of said code, all relating to wagering at video lottery and gaming facilities; deleting those video lottery games that allow players an option to select replacement symbols or numbers or additional symbols or numbers after the game is initiated and in the course of play from the definition of “video lottery game”; deleting prohibition against game themes commonly associated with casino gambling; and permitting certain employees of an historic resort hotel to wager at the gaming facility of that historic hotel.

Be it enacted by the Legislature of West Virginia:

That §29-22A-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §29-22B-332 of said code be amended and reenacted; and that §29-25-2 and §29-25-24 of said code be amended and reenacted, all to read as follows:

ARTICLE 22A. RACETRACK VIDEO LOTTERY.

§29-22A-3. Definitions.

- 1 As used in this article:
- 2 (a) “Applicant” means any person applying for any video
- 3 lottery license or permit.

4 (b) "Associated equipment" means any hardware located on
5 a licensed racetrack's premises which is connected to the video
6 lottery system for the purpose of performing communication,
7 validation or other functions, but not including the video lottery
8 terminals or the communication facilities of a regulated public
9 utility.

10 (c) "Background investigation" means a security, criminal
11 and credit investigation of a person, as defined in this section,
12 who has applied for a video lottery license or permit, or who has
13 been granted a video lottery license or permit.

14 (d) "Central computer," "central control computer" or
15 "central site system" means any central site computer provided
16 to and controlled by the commission to which video lottery
17 terminals communicate for purposes of information retrieval and
18 terminal activation and to disable programs.

19 (e) "Commission" or "State Lottery Commission" means the
20 West Virginia Lottery Commission created by article twenty-two
21 of this chapter.

22 (f) "Control" means the authority to direct the management
23 and policies of an applicant or a license or permit holder.

24 (g) "Costs" means the expenses incurred by the commission
25 in the testing and examination of video lottery terminals and the
26 performance of background investigations and other related
27 activities which are charged to and collected from applicants or
28 license or permit holders.

29 (h) "Director" means the individual appointed by the
30 Governor to provide management and administration necessary
31 to direct the State Lottery Office.

32 (i) "Disable" or "terminal disable" means the process of
33 executing a shutdown command from the central control

34 computer which causes video lottery terminals to cease
35 functioning.

36 (j) “Display” means the visual presentation of video lottery
37 game features on a video lottery terminal in the form of video
38 images, actual symbols or both.

39 (k) “EPROM” and “erasable programmable read-only
40 memory chips” means the electronic storage medium on which
41 the operation software for all games playable on a video lottery
42 terminal resides and which can also be in the form of CD-ROM,
43 flash RAM or other new technology medium that the
44 commission may from time to time approve for use in video
45 lottery terminals. All electronic storage media are considered to
46 be the property of the State of West Virginia.

47 (l) “Floor attendant” means a person, employed by a licensed
48 racetrack, who holds a permit issued by the commission and who
49 corrects paper jams and bill jams in video lottery terminals and
50 also provides courtesy services for video lottery players.

51 (m) “Gross terminal income” means the total amount of
52 cash, vouchers or tokens inserted into the video lottery terminals
53 operated by a licensee, minus the total value of coins and tokens
54 won by a player and game credits which are cleared from the
55 video lottery terminals in exchange for winning redemption
56 tickets.

57 (n) “License” or “video lottery license” means authorization
58 granted by the commission to a racetrack which is licensed by
59 the West Virginia Racing Commission to conduct thoroughbred
60 or greyhound racing meetings pursuant to article twenty-three,
61 chapter nineteen of this code permitting the racetrack to operate
62 video lottery terminals authorized by the commission.

63 (o) “Lottery” means the public gaming systems or games
64 established and operated by the State Lottery Commission.

65 (p) "Manufacturer" means any person holding a permit
66 granted by the commission to engage in the business of
67 designing, building, constructing, assembling or manufacturing
68 video lottery terminals, the electronic computer components of
69 the video lottery terminals, the random number generator of the
70 video lottery terminals, or the cabinet in which it is housed, and
71 whose product is intended for sale, lease or other assignment to
72 a licensed racetrack in West Virginia, and who contracts directly
73 with the licensee for the sale, lease or other assignment to a
74 licensed racetrack in West Virginia.

75 (q) "Net terminal income" means gross terminal income
76 minus an amount deducted by the commission to reimburse the
77 commission for its actual costs of administering racetrack video
78 lottery at the licensed racetrack. No deduction for any or all costs
79 and expenses of a licensee related to the operation of video
80 lottery games shall be deducted from gross terminal income.

81 (r) "Noncash prize" means merchandise which a video
82 lottery player may be given the option to receive in lieu of cash
83 in exchange for a winning redemption ticket and which shall be
84 assigned a redemption value equal to the actual cost of the
85 merchandise to the licensed racetrack.

86 (s) "Own" means any beneficial or proprietary interest in any
87 property or business of an applicant or licensed racetrack.

88 (t) "Pari-mutuel racing facility," "licensed racetrack,"
89 "racetrack" or "track" means a facility where horse or dog race
90 meetings are held and the pari-mutuel system of wagering is
91 authorized pursuant to the provisions of article twenty-three,
92 chapter nineteen of this code: *Provided*, That, for the purposes
93 of this article, "pari-mutuel racing facility," "licensed racetrack,"
94 "racetrack" or "track" includes only a facility which was
95 licensed prior to January 1, 1994, to hold horse or dog race
96 meetings, and which conducts not less than two hundred twenty

97 live racing dates for each horse or dog race meeting or such
98 other number of live racing dates as may be approved by the
99 Racing Commission in accordance with the provisions of section
100 twelve-b, article twenty-three, chapter nineteen of this code.

101 (u) "Permit" means authorization granted by the commission
102 to a person to function as either a video lottery manufacturer,
103 service technician or validation manager.

104 (v) "Person" means any natural person, corporation,
105 association, partnership, limited partnership, or other entity,
106 regardless of its form, structure or nature.

107 (w) "Player" means a person who plays a video lottery game
108 on a video lottery terminal at a racetrack licensed by the
109 commission to conduct video lottery games.

110 (x) "Service technician" means a person, employed by a
111 licensed racetrack, who holds a permit issued by the commission
112 and who performs service, maintenance and repair on licensed
113 video lottery terminals in this state.

114 (y) "Video lottery game" means a commission approved,
115 owned and controlled electronically simulated game of chance
116 which is displayed on a video lottery terminal and which:

117 (1) Is connected to the commission's central control
118 computer by an on-line or dial-up communication system;

119 (2) Is initiated by a player's insertion of coins, currency,
120 vouchers or tokens into a video lottery terminal, which causes
121 game play credits to be displayed on the video lottery terminal
122 and, with respect to which, each game play credit entitles a
123 player to choose one or more symbols or numbers or to cause the
124 video lottery terminal to randomly select symbols or numbers;

125 (3) Allows the player to win additional game play credits,
126 coins or tokens based upon game rules which establish the

127 random selection of winning combinations of symbols or
128 numbers or both and the number of free play credits, coins or
129 tokens to be awarded for each winning combination of symbols
130 or numbers or both;

131 (4) Is based upon computer-generated random selection of
132 winning combinations based totally or predominantly on chance;

133 (5) Allows a player at any time to simultaneously clear all
134 game play credits and print a redemption ticket entitling the
135 player to receive the cash value of the free plays cleared from the
136 video lottery terminal; and

137 (z) "Validation manager" means a person who holds a permit
138 issued by the commission and who performs video lottery ticket
139 redemption services.

140 (aa) "Video lottery" means a lottery which allows a game to
141 be played utilizing an electronic computer and an interactive
142 computer terminal device, equipped with a video screen and
143 keys, a keyboard or other equipment allowing input by an
144 individual player, into which the player inserts coins, currency,
145 vouchers or tokens as consideration in order for play to be
146 available, and through which terminal device the player may
147 receive free games, coins, tokens or credit that can be redeemed
148 for cash, annuitized payments over time, a noncash prize or
149 nothing, as may be determined wholly or predominantly by
150 chance. "Video lottery" does not include a lottery game which
151 merely utilizes an electronic computer and a video screen to
152 operate a lottery game and communicate the results of the game,
153 such as the game "Travel," and which does not utilize an
154 interactive electronic terminal device allowing input by an
155 individual player.

156 (bb) "Video lottery terminal" means a commission-approved
157 interactive electronic terminal device which is connected with

158 the commission's central computer system, and which is used for
159 the purpose of playing video lottery games authorized by the
160 commission. A video lottery terminal may simulate the play of
161 one or more video lottery games.

162 (cc) "Wager" means a sum of money or thing of value risked
163 on an uncertain occurrence.

ARTICLE 22B. LIMITED VIDEO LOTTERY.

§29-22B-332. Video lottery game defined.

1 "Video lottery game" means an electronically simulated
2 game of chance that is approved, owned and controlled under
3 this article by the commission, which is displayed on the screen
4 or video monitor of a video lottery terminal and that:

5 (1) Is connected to the commission's central control
6 computer by an on-line or dial-up communication system;

7 (2) Is initiated by a player's insertion of coins or currency
8 into a video lottery terminal, which causes game play credits to
9 be displayed on the video lottery terminal and, with respect to
10 which, each game play credit entitles a player to choose one or
11 more symbols or numbers or to cause the video lottery terminal
12 to randomly select symbols or numbers;

13 (3) Allows the player to win additional game play credits
14 based upon game rules which establish the random selection of
15 winning combinations of symbols or numbers or both and the
16 number of free-play credits to be awarded for each winning
17 combination of symbols or numbers or both;

18 (4) Is based upon computer-generated random selection of
19 winning combinations based totally or predominantly on chance;

20 (5) Allows a player at any time to simultaneously clear all
21 game play credits and print a redemption ticket entitling the

22 player to receive the cash value of the free plays cleared from the
23 video lottery terminal; and

ARTICLE 25. AUTHORIZED GAMING FACILITY.

§29-25-2. Definitions.

1 As used in this article, unless the context otherwise requires,
2 the following words and phrases have meanings indicated:

3 (a) “Applicant” means any person or entity applying for a
4 license.

5 (b) “Adjusted gross receipts” means the gross receipts of a
6 gaming facility from West Virginia Lottery table games less
7 winnings paid to wagerers in such games.

8 (c) “Annual average gross receipts of the pari-mutuel
9 racetracks with table games licenses” means the amount
10 obtained by adding the adjusted gross receipts of all West
11 Virginia pari-mutuel racetracks with table games licenses and
12 then dividing that calculation by the number of West Virginia
13 pari-mutuel racetracks with table games licenses.

14 (d) “Background investigation” means a security, criminal
15 and credit investigation of an applicant who has applied for the
16 issuance or renewal of a license pursuant to this article or a
17 licensee who holds a current license.

18 (e) “Controlling interest” means:

19 (1) For a partnership, an interest as a general or limited
20 partner holding more than five percent interest in the entity;

21 (2) For a corporation, an interest of more than five percent
22 of the stock in the corporation; and

23 (3) For any other entity, an ownership interest of more than
24 five percent in the entity.

25 (f) "Controlling person" means, with respect to another
26 person, any person directly or indirectly owning or holding a
27 controlling interest in that other person.

28 (g) "Commission" means the State Lottery Commission
29 created in section four, article twenty-two of this chapter.

30 (h) "Designated gaming area" means one or more specific
31 floor areas of a licensed gaming facility within which the
32 commission has authorized operation of video lottery terminals
33 or West Virginia Lottery table games, or the operation of both
34 video lottery terminals and West Virginia Lottery table games.

35 (i) "Director" means the Director of the State Lottery
36 Commission.

37 (j) "Erasable programmable read-only memory chips" or
38 "EPROM" means the electronic storage medium on which the
39 operation software for all games playable on a video lottery
40 terminal resides and can also be in the form of CD ROM, flash
41 ROM or other new technology medium that the commission may
42 from time to time approve for use in video lottery terminals. All
43 electronic storage media are considered to be property of the
44 State of West Virginia.

45 (k) "Fringe benefits" means sickness and accident benefits
46 and benefits relating to medical and pension coverage.

47 (l) "Gaming devices and supplies" mean gaming tables for
48 all West Virginia Lottery table games, roulette wheels, wheels
49 of fortune, video lottery terminals, cards, dice, chips, tokens,
50 markers or any other mechanical, electronic or other device,
51 mechanism or equipment or related supplies utilized in the
52 operation of a West Virginia Lottery table game.

53 (m) "Gaming facility" means a designated area on the
54 premises of an existing historic resort hotel in which West

55 Virginia Lottery table games are conducted by a gaming
56 licensee.

57 (n) "Gaming licensee" means the licensed operator of a
58 gaming facility.

59 (o) "Gross receipts" means the total amount of money
60 exchanged for the purchase of chips, tokens or electronic cards
61 by patrons of a gaming facility reduced by gross terminal income
62 to the extent gross terminal income is included in the amount of
63 money exchanged.

64 (p) "Gross terminal income", as used in this article and as
65 used in article twenty-two-a of this chapter, means the total
66 amount of cash, vouchers or tokens inserted into the video
67 lottery terminals operated by a licensee, minus promotional
68 credits played, and minus the total value of coins and tokens won
69 by a player and game credits which are cleared from the video
70 lottery terminals in exchange for winning redemption tickets.

71 (q) "Historic resort hotel" means a resort hotel registered
72 with the United States Department of the Interior as a national
73 historic landmark in its National Registry of Historic Places
74 having not fewer than five hundred guest rooms under common
75 ownership and having substantial recreational guest amenities in
76 addition to the gaming facility.

77 (r) "Historic Resort Hotel Fund" means the special fund in
78 the State Treasury created in section twenty-two of this article.

79 (s) "Human Resource Benefit Fund" means the special fund
80 in the State Treasury created in section twenty-two-a of this
81 article.

82 (t) "Human Resource Benefit Advisory Board" or "board"
83 means the advisory board created in section twenty-two-a of this
84 article.

85 (u) "License" means a license issued by the commission,
86 including:

87 (1) A license to operate a gaming facility;

88 (2) A license to supply gaming devices and supplies to a
89 gaming facility;

90 (3) A license to be employed in connection with the
91 operation of a gaming facility; or

92 (4) A license to provide management services under a
93 contract to a gaming facility under this article.

94 (v) "Licensed gaming facility employee" means any
95 individual licensed to be employed by a gaming licensee in
96 connection with the operation of a gaming facility.

97 (w) "Licensed gaming facility supplier" means a person who
98 is licensed by the commission to engage in the business of
99 supplying gaming devices and gaming supplies to a gaming
100 facility.

101 (x) "Licensee" means a gaming licensee, a licensed gaming
102 facility supplier or a licensed gaming facility employee.

103 (y) "Manufacturer" means any person holding a license
104 granted by the commission to engage in the business of
105 designing, building, constructing, assembling or manufacturing
106 video lottery terminals, the electronic computer components of
107 the video lottery terminals, the random number generator of the
108 video lottery terminals, or the cabinet in which it is housed, and
109 whose product is intended for sale, lease or other assignment to
110 a licensed gaming facility in West Virginia and who contracts
111 directly with the licensee for the sale, lease or other assignment
112 to a licensed gaming facility in West Virginia.

113 (z) "Net terminal income" means gross terminal income
114 minus an amount deducted by the commission to reimburse the
115 commission for its actual cost of administering video lottery at
116 the licensed gaming facility. No deduction for any or all costs
117 and expenses of a licensee related to the operation of video
118 lottery games shall be deducted from gross terminal income.

119 (aa) "Person" means any natural person, corporation,
120 association, partnership, limited partnership, limited liability
121 company or other entity, regardless of its form, structure or
122 nature.

123 (bb) "Premises of an existing historic resort hotel" means the
124 historic resort hotel, attachments of the historic resort hotel, and
125 the traditional, immediate grounds of the historic resort hotel.

126 (cc) "Promotional credits" means credits given by the
127 licensed gaming facility or licensed racetrack to players allowing
128 limited free play of video lottery terminals in total amounts and
129 under conditions approved in advance by the commission.

130 (dd) "Video lottery game", as used in this article and as used
131 in article twenty-two-a of this chapter, means a commission-
132 approved, -owned and -controlled electronically simulated game
133 of chance which is displayed on a video lottery terminal and
134 which:

135 (1) Is connected to the commission's central control
136 computer by an online or dial-up communication system;

137 (2) Is initiated by a player's insertion of cash, vouchers or
138 tokens into a video lottery terminal, which causes game play
139 credits to be displayed on the video lottery terminal and, with
140 respect to which, each game play credits entitles a player to
141 choose one or more symbols or numbers or to cause the video
142 lottery terminal to randomly select symbols or numbers;

143 (3) Allows the player to win additional game play credits,
144 coins or tokens based upon game rules which establish the
145 random selection of winning combinations of symbols or
146 numbers or both and the number of free play credits, coins or
147 tokens to be awarded for each winning combination of symbols
148 or numbers or both;

149 (4) Is based upon a computer-generated random selection of
150 winning combinations based totally or predominantly on chance;

151 (5) Allows a player at any time to simultaneously clear all
152 game play credits and print a redemption ticket entitling the
153 player to receive the cash value of the free plays cleared from the
154 video lottery terminal; and

155 (ee) "Wager" means a sum of money or thing of value risked
156 on an uncertain occurrence.

157 (ff) "West Virginia Lottery table game" means any game
158 played with cards, dice or any mechanical, electromechanical or
159 electronic device or machine for money, credit or any
160 representative of value, including, but not limited to, baccarat,
161 blackjack, poker, craps, roulette, wheel of fortune or any
162 variation of these games similar in design or operation and
163 expressly authorized by rule of the commission, including
164 multiplayer electronic table games, machines and devices, but
165 excluding video lottery, punchboards, faro, numbers tickets,
166 push cards, jar tickets, pull tabs or similar games.

§29-25-24. Individual gaming restrictions.

1 (a) An individual may enter a designated gaming area or
2 remain in a designated gaming area only if the individual:

3 (1) Is either;

4 (A) A registered overnight guest at the historic resort hotel
5 on whose premises the gaming facility is located;

6 (B) A person who is a not a registered overnight guest, but
7 is a registered participant at a convention or event being held at
8 the historic resort hotel: *Provided*, That this paragraph does not
9 apply on any calendar day when less than four hundred guest
10 rooms are occupied at the historic resort hotel; or

11 (C) A member of a homeowner or facility association that
12 entitles members to substantial privileges at the historic resort
13 hotel on whose premises the gaming facility is located or an
14 overnight guest or ~~member~~ member: *Provided*, That the
15 association was in existence as of April 1, 2009;

16 (2) Is at least twenty-one years of age;

17 (3) Is not visibly intoxicated;

18 (4) Has not been determined by the gaming facility operator
19 or the commission to be unruly, disruptive or otherwise
20 interfering with operation of the gaming facility; or to be likely
21 to commit, or to attempt to commit, a violation of this article;
22 and

23 (5) Has not been barred by the commission from entering a
24 gaming facility.

25 (b) Notwithstanding any provisions of this code to the
26 contrary, no employee of the commission or any member of his
27 or her immediate household may wager at the gaming facility,
28 and no licensed limited gaming facility employee may wager on
29 any table game at the limited gaming facility.

CHAPTER 87

**(Com. Sub. for H. B. 2505 - By Mr. Speaker,
(Mr. Thompson) and Delegate Armstead)
[By Request of the Executive]**

[Passed April 12, 2013; in effect ninety days from passage]
[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact §24B-4-6 of the Code of West Virginia, 1931, as amended, relating to civil penalties imposed by the Public Service Commission for pipeline safety violations; increasing civil penalties; providing that civil penalties collected by the Public Service Commission are submitted to the Treasurer for deposit in the General Revenue Fund; and prohibiting consideration of assessed penalties for rate increases.

Be it enacted by the Legislature of West Virginia:

That §24B-4-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. HEARINGS; BURDEN OF PROOF; ENFORCEMENT.

§24B-4-6. Penalties.

- 1 (a) Any person who violates any provision of this chapter or
- 2 any valid regulation or order issued thereunder is subject to a
- 3 civil penalty to be imposed by the commission not to exceed
- 4 \$200,000 for each violation for each day the violation persists:
- 5 *Provided*, That the maximum aggregate civil penalty may not
- 6 exceed \$2 million for any related series of violations.

7 (b) Any civil penalty may be compromised by the
8 commission. In determining the amount of penalty, or the
9 amount agreed upon in compromise, the commission shall
10 consider the appropriateness of the penalty to the size of the
11 business of the person charged, the gravity of the violation, and
12 the good faith of the person charged in attempting to achieve
13 compliance after notification of the violation. The amount of the
14 penalty, when finally determined, or the amount agreed upon in
15 compromise, may be deducted from any sums owing by the state
16 to the person charged or may be recovered in a civil action in the
17 state courts.

18 (c) Civil penalties collected by the commission under this
19 section shall be submitted to the Treasurer for deposit into the
20 General Revenue Fund.

21 (d) No civil penalty paid under this section may be
22 considered by the commission in support of any application for
23 a rate increase submitted by the violator.



CHAPTER 88

**(S. B. 463 - By Senators Kirkendoll, Beach, Facemire,
Green, Laird, Snyder and Plymale)**

[Passed April 8, 2013; in effect July 1, 2013.]
[Approved by the Governor on April 19, 2013.]

AN ACT to amend and reenact §24B-5-3 of the Code of West Virginia, 1931, as amended, relating to the special license fees paid by pipeline companies to the Public Service Commission; increasing the aggregate amount of fees collected; and specifying for what purpose the fees may be used.

Be it enacted by the Legislature of West Virginia:

That §24B-5-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. EMPLOYEES OF COMMISSION; FUNDING.

§24B-5-3. Funding; property and revenue license fees.

1 (a) Every pipeline company shall pay a special license fee in
2 addition to those now required by law. The amount of such fees
3 shall be fixed by the Public Service Commission and levied by
4 it upon each of such pipeline companies according to the number
5 of three-inch equivalent pipeline miles included in its pipeline
6 facilities and shall be apportioned among such pipeline
7 companies upon the basis of the pipeline companies' reports
8 submitted to the commission in such form as the commission
9 may prescribe, so as to produce a revenue of not more than
10 \$385,000 per annum, which fees shall be paid on or before July
11 1 in each year.

12 (b) Such sums collected under subsection (a) of this section
13 shall be paid into the State Treasury and kept as a special fund,
14 designated the Public Service Commission Pipeline Safety Fund,
15 to be appropriated as provided by law for the purpose of paying
16 the salaries, compensation, costs and expenses of its employees
17 to the extent of the employees' direct involvement in the
18 enforcement of the provisions of this article. Any balance in said
19 fund at the end of any fiscal year shall not revert to the Treasury,
20 but shall remain in said fund and may be appropriated as
21 provided in this subsection. All funds which heretofore were in
22 the Public Service Commission Gas Pipeline Safety Fund shall
23 be transferred to the Public Service Commission Pipeline Safety
24 Fund.

CHAPTER 89

(Com. Sub. for S. B. 335 - By Senators Yost, Edgell and Fitzsimmons)

[Passed April 13, 2013; in effect from passage.]
[Approved by the Governor on May 1, 2013.]

AN ACT to amend and reenact §16-2D-4 of the Code of West Virginia, 1931, as amended, relating to permitting certain hospitals to request an exemption from certificates of need for health care facilities in specific instances.

Be it enacted by the Legislature of West Virginia:

That §16-2D-4 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2D. CERTIFICATE OF NEED.

§16-2D-4. Exemptions from certificate of need program.

1 (a) Except as provided in subdivision (9), subsection (b),
2 section three of this article, nothing in this article or the rules
3 adopted pursuant to this article may be construed to authorize the
4 licensure, supervision, regulation or control in any manner of the
5 following:

6 (1) Private office practice of any one or more health
7 professionals licensed to practice in this state pursuant to chapter
8 thirty of this code: *Provided*, That such exemption from review
9 of private office practice shall not be construed to include such
10 practices where major medical equipment otherwise subject to
11 review under this article is acquired, offered or developed:
12 *Provided, however*, That such exemption from review of private

13 office practice shall not be construed to include the acquisition,
14 offering or development of one or more health services,
15 including ambulatory surgical facilities or centers, lithotripsy,
16 magnetic resonance imaging and radiation therapy by one or
17 more health professionals. The state agency shall adopt rules
18 pursuant to section eight of this article which specify the health
19 services acquired, offered or developed by health professionals
20 which are subject to certificate of need review;

21 (2) Dispensaries and first-aid stations located within
22 business or industrial establishments maintained solely for the
23 use of employees: *Provided*, That such facility does not contain
24 inpatient or resident beds for patients or employees who
25 generally remain in the facility for more than twenty-four hours;

26 (3) Establishments, such as motels, hotels and
27 boardinghouses, which provide medical, nursing personnel and
28 health-related services;

29 (4) The remedial care or treatment of residents or patients in
30 any home or institution conducted only for those who rely solely
31 upon treatment by prayer or spiritual means in accordance with
32 the creed or tenets of any recognized church or religious
33 denomination;

34 (5) The creation of new primary care services located in
35 communities that are underserved with respect to primary care
36 services: *Provided*, That to qualify for this exemption, an
37 applicant must be a community-based nonprofit organization
38 with a community board that provides or will provide primary
39 care services to people without regard to ability to pay:
40 *Provided, however*, That the exemption from certificate of need
41 review of new primary care services provided by this subdivision
42 shall not include the acquisition, offering or development of
43 major medical equipment otherwise subject to review under this
44 article or to include the acquisition, offering or development of
45 ambulatory surgical facilities, lithotripsy, magnetic resonance

46 imaging or radiation therapy. The Office of Community and
47 Rural Health Services shall define which services constitute
48 primary care services for purposes of this subdivision and shall,
49 to prevent duplication of primary care services, determine
50 whether a community is underserved with respect to certain
51 primary care services within the meaning of this subdivision.
52 Any organization planning to qualify for an exemption pursuant
53 to this subdivision shall submit to the state agency a letter of
54 intent describing the proposed new services and area of service;
55 and

56 (6) The creation of birthing centers by nonprofit primary
57 care centers that have a community board and provide primary
58 care services to people in their community without regard to
59 ability to pay or by nonprofit hospitals with less than one
60 hundred licensed acute care beds: *Provided*, That to qualify for
61 this exemption, an applicant shall be located in an area that is
62 underserved with respect to low-risk obstetrical services:
63 *Provided, however*, That if a primary care center attempting to
64 qualify for this exemption is located in the same county as a
65 hospital that is also eligible for this exemption, or if a hospital
66 attempting to qualify for this exemption is located in the same
67 county as a primary care center that is also eligible for this
68 exemption, then at least one primary care center and at least one
69 hospital from that county shall collaborate for the provision of
70 services at a birthing center in order to qualify for this
71 exemption: *Provided further*, That for purposes of this
72 subsection, a “birthing center” is a short-stay ambulatory health
73 care facility designed for low-risk births following normal
74 uncomplicated pregnancy. Any primary care center or hospital
75 planning to qualify for an exemption pursuant to this subdivision
76 shall submit to the state agency a letter of intent describing the
77 proposed birthing center and area of service.

79 (b) (1) A health care facility is not required to obtain a
80 certificate of need for the acquisition of major medical
81 equipment to be used solely for research, the addition of health
82 services to be offered solely for research or the obligation of a
83 capital expenditure to be made solely for research if the health
84 care facility provides the notice required in subdivision (2) of
85 this subsection and the state agency does not find, within sixty
86 days after it receives such notice, that the acquisition, offering or
87 obligation will or will have the effect to:

88 (A) Affect the charges of the facility for the provision of
89 medical or other patient care services other than the services
90 which are included in the research;

91 (B) Result in a substantial change to the bed capacity of the
92 facility; or

93 (C) Result in a substantial change to the health services of
94 the facility.

95 (2) Before a health care facility acquires major medical
96 equipment to be used solely for research, offers a health service
97 solely for research or obligates a capital expenditure solely for
98 research, such health care facility shall notify in writing the state
99 agency of such facility's intent and the use to be made of such
100 medical equipment, health service or capital expenditure.

101 (3) If major medical equipment is acquired, a health service
102 is offered or a capital expenditure is obligated and a certificate
103 of need is not required for such acquisition, offering or
104 obligation as provided in subdivision (1) of this subsection, such
105 equipment or service or equipment or facilities acquired through
106 the obligation of such capital expenditure may not be used in
107 such a manner as to have the effect or to make a change
108 described in paragraphs (A), (B) and (C) of that subdivision

109 unless the state agency issues a certificate of need approving
110 such use.

111 (4) For purposes of this subsection, the term “solely for
112 research” includes patient care provided on an occasional and
113 irregular basis and not as part of a research program.

114 (c) (1) The state agency may adopt rules pursuant to section
115 eight of this article to specify the circumstances under which a
116 certificate of need may not be required for the obligation of a
117 capital expenditure to acquire, either by purchase or under lease
118 or comparable arrangement, an existing health care facility:
119 *Provided*, That a certificate of need is required for the obligation
120 of a capital expenditure to acquire, either by purchase or under
121 lease or comparable arrangement, an existing health care facility
122 if:

123 (A) The notice required by subdivision (2) of this subsection
124 is not filed in accordance with that subdivision with respect to
125 such acquisition; or

126 (B) The state agency finds, within thirty days after the date
127 it receives a notice in accordance with subdivision (2) of this
128 subsection, with respect to such acquisition, that the services or
129 bed capacity of the facility will be changed by reason of that
130 acquisition.

131 (2) Before any person enters into a contractual arrangement
132 to acquire an existing health care facility, such person shall
133 notify the state agency of his or her intent to acquire the facility
134 and of the services to be offered in the facility and its bed
135 capacity. Such notice shall be made in writing and shall be made
136 at least thirty days before contractual arrangements are entered
137 into to acquire the facility with respect to which the notice is
138 given. The notice shall contain all information the state agency
139 requires.

140 (d) The state agency shall adopt rules pursuant to section
141 eight of this article to specify the circumstances under which and
142 the procedures by which a certificate of need may not be
143 required for shared services between two or more acute care
144 facilities providing services made available through existing
145 technology that can reasonably be mobile. The state agency shall
146 specify the types of items in the rules and under what
147 circumstances mobile MRI and mobile lithotripsy may be so
148 exempted from review. In no case, however, will mobile cardiac
149 catheterization be exempted from certificate of need review. In
150 addition, if the shared services mobile unit proves less cost
151 effective than a fixed unit, the acute care facility will not be
152 exempted from certificate of need review.

153 On a yearly basis, the state agency shall review existing
154 technologies to determine if other shared services should be
155 included under this exemption.

156 (e) The state agency shall promulgate rules for legislative
157 approval in accordance with article three, chapter twenty-nine-a
158 of this code to specify the circumstances under which, and the
159 procedures by which, a certificate of need may not be required
160 for the construction, development, acquisition or other
161 establishment by a hospital of an ambulatory health care facility.
162 Certificate of need may not be required if:

163 (1) (A) The ambulatory health care facility is located in the
164 same county as the hospital; or

165 (B) The ambulatory health care facility is located in the same
166 zip code as the hospital, and the hospital is located in a zip code
167 that crosses a county line, the hospital is the only hospital in the
168 county, the hospital is located less than one-half mile from the
169 county line in which it is located and the hospital is located less
170 than one mile from a state bordering West Virginia;

171 (2) Employs five or less physicians licensed to practice in
172 this state pursuant to either article three or article fourteen,
173 chapter thirty of this code;

174 (3) The total capital expenditure does not exceed the
175 expenditure minimum set forth in subsection two of this section;
176 and

177 (4) The construction, development, acquisition or other
178 establishment of an ambulatory health care facility is not
179 opposed by an affected person after substantive public notice
180 pursuant to article three, chapter fifty-nine of this code has been
181 given by the Health Care Authority.

182 (f) The Health Care Authority shall provide at least thirty
183 days' notice to the public of the intent of a health care facility to
184 construct, acquire or develop an ambulatory health care facility.
185 The Health Care Authority shall cause a Class II legal
186 advertisement to be published in a qualified newspaper of
187 general circulation where the construction, acquisition or
188 development of the ambulatory health care facility is or will be
189 geographically located. The thirty-day notice shall commence
190 with the first date of publication. Additionally, if the county in
191 which the ambulatory health care facility is or will be
192 geographically located contains a daily newspaper, a legal
193 advertisement shall also be placed at least once in the daily
194 newspaper. Any public notice shall include the name of the
195 hospital seeking to develop, acquire or construct an ambulatory
196 health care facility, the kind of practice to be developed,
197 acquired or constructed, the geographic location of the
198 ambulatory health care facility and the address where protests
199 may be submitted or filed.

200 (g) The state agency shall promulgate emergency rules
201 pursuant to chapter twenty-nine-a of this code by July 1, 2009,
202 to establish an exemption process for such projects.

203 (h) The acquisition, development or establishment of a
204 certified interoperable electronic health record or electronic

204 medical record system is not subject to certificate of need
205 review.

206 (i) A health care facility is not required to obtain a certificate
207 of need for any nonhealth-related project that does not exceed:

208 (1) \$5 million for a hospital with less than one hundred
209 licensed acute care beds;

210 (2) \$10 million for a hospital with one hundred or more
211 licensed acute care beds; or

212 (3) \$5 million for any other project.

213 (j) A certificate of need is not required for a psychiatric
214 hospital operated by state government for the purpose of
215 constructing forensic beds.

216 (k) Any behavioral health care service selected by the
217 Department of Health and Human Resources in response to its
218 request for application for services intended to return children
219 currently placed in out-of-state facilities to the state or to prevent
220 placement of children in out-of-state facilities is not subject to a
221 certificate of need.



CHAPTER 90

**(Com. Sub. for S. B. 557 - By Senators Yost,
Kessler (Mr. President), Fitzsimmons and Stollings)**

[Passed April 12, 2013; in effect from passage.]

[Approved by the Governor on April 29, 2013.]

AN ACT to amend and reenact § 16-2J-3 of the Code of West Virginia,
1931, as amended, relating to authorizing continued operation of

certain pilot programs after expiration date; adding a reporting requirement; and resetting expiration date.

Be it enacted by the Legislature of West Virginia:

That §16-2J-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2J. PREVENTIVE CARE PILOT PROGRAM.

§16-2J-3. Authorization of preventive care pilot program; number of participants and sites; Health Care Authority considerations in selection of participating providers; funding.

1 (a) (1) The Health Care Authority shall, in consultation with
2 the Insurance Commissioner, develop and implement during the
3 fiscal year beginning July 1, 2006, a pilot program that permits
4 providers to market and sell prepaid memberships entitling
5 subscribers to obtain preventive and primary health care from the
6 participating providers.

7 (2) Participating providers shall not be allowed to offer their
8 qualifying services at more than six separate sites.

9 (3) The pilot program shall expire on June 30, 2016.

10 (4) Those providers participating in the pilot program as of
11 its expiration date may continue to operate pursuant to this
12 article.

13 (5) The Health Care Authority shall report to the Legislative
14 Oversight Commission on Health and Human Resources
15 Accountability on the pilot program by December 1, 2015.

16 (b) Subject to this article, the Health Care Authority is
17 vested with discretion to select providers using diversity in

18 practice organization, geographical diversity and other criteria
19 it deems appropriate. The Health Care Authority also shall give
20 consideration to providers located in rural areas or serving a high
21 percentage or large numbers of uninsured.

22 (c) In furtherance of the objectives of this article, the Health
23 Care Authority is authorized to accept any and all gifts, grants
24 and matching funds whether in the form of money or services.
25 However, no gifts, grants and matching funds shall be provided
26 to the Health Care Authority by the State of West Virginia to
27 further the objectives of this article.

CHAPTER 91

**(Com. Sub. for H. B. 2731 - By Delegates Fleischauer,
Marshall, Barill, Manypenny, Campbell, Pasdon, Fragale,
Iaquinta, Staggers, Miley and Perry)**

[Passed April 13, 2013; in effect from passage.]

[Approved by the Governor on May 3, 2013.]

AN ACT to amend and reenact §16-5O-1, §16-5O-2, §16-5O-3, §16-5O-4, §16-5O-5, §16-5O-6, §16-5O-7, §16-5O-8, §16-5O-10 and §16-5O-11 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §16-5O-12, all relating to regulating the performance of health maintenance tasks by unlicensed personnel in certain personal care facilities; providing exceptions; identifying who may perform health maintenance tasks; requiring record keeping; requiring the administrative monitoring system to have input from registered professional nurses; requiring liability insurance; changing the short title; defining terms including health

maintenance tasks; requiring legislative rules necessary to implement the article; and the creation of an advisory committee to review definition of health maintenance tasks, along with polices and procedures authorized by the article.

Be it enacted by the Legislature of West Virginia:

That §16-50-1, §16-50-2, §16-50-3, §16-50-4, §16-50-5, §16-50-6, §16-50-7, §16-50-8, §16-50-10 and §16-50-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted, and that said code be amended by adding thereto a new section, designated §16-50-12, all to read as follows:

**ARTICLE 50. ADMINISTRATION OF MEDICATION AND
PERFORMANCE OF HEALTH
MAINTENANCE TASKS BY UNLICENSED
PERSONNEL.**

§16-50-1. Short title.

1 This article may be cited as the “Ken Ervin Community
2 Living Act.”

§16-50-2. Definitions.

1 As used in this article the following definitions apply:

2 (a) “Administration of medication” means:

3 (1) Assisting a person in the ingestion, application or
4 inhalation of medications, including prescription drugs, or in the
5 use of universal precautions or rectal or vaginal insertion of
6 medication, according to the legibly written or printed directions
7 of the attending physician or authorized practitioner, or as
8 written on the prescription label; and

9 (2) Making a written record of such assistance with regard
10 to each medication administered, including the time, route and

11 amount taken. However, for purposes of this article,
12 “administration” does not include judgment, evaluation,
13 assessments, injections of medication, or monitoring of
14 medication or self-administration of medications, such as
15 prescription drugs and self-injection of medication by the
16 resident.

17 (b) “Authorizing agency” means the office of Health Facility
18 Licensure and Certification within the Department of Health and
19 Human Resources.

20 (c) “Department” means the Department of Health and
21 Human Resources.

22 (d) “Facility” means an intermediate care facility for
23 individuals with an intellectual disability, assisted living,
24 behavioral health group home, private residence in which health
25 care services and health maintenance tasks are provided under
26 the supervision of a registered professional nurse as defined in
27 article seven, chapter thirty of this code.

28 (e) “Facility staff member” means an individual employed
29 by a facility but does not include a health care professional
30 acting within his or her scope of practice.

31 (f) “Health care professional” means a medical doctor or
32 doctor of osteopathy, a podiatrist, registered professional nurse,
33 practical nurse, advanced practice registered nurse, physician’s
34 assistant, dentist, optometrist or respiratory care professional
35 licensed under chapter thirty of this code.

36 (g) “Health maintenance tasks” means performing the
37 following tasks according to the legibly written or printed
38 directions of a physician licensed under the provisions of article
39 two-A, chapter thirty of this code or article fourteen, chapter
40 thirty of this code, or other authorized practitioner, or as written
41 on the prescription label, and making a written record of that

42 assistance with regard to each health maintenance task
43 administered, including the time, route and amount taken:

44 (1) Administering glucometer tests;

45 (2) Administering gastrostomy tube feedings;

46 (3) Administering enemas; and

47 (4) Performing ostomy care which includes skin care and
48 changing appliances;

49 “Health maintenance tasks” do not include judgment,
50 evaluation, assessments, injections of medication, or monitoring
51 of medication or self-administration of medications, such as
52 prescription drugs and self-injection of medication by the
53 resident.

54 (h) “Location of medication administration or location where
55 health maintenance tasks are performed” means a facility or
56 location where the resident requires administration of medication
57 or assistance in taking medications or the performance of health
58 maintenance tasks.

59 (i) “Medication” means a drug, as defined in section one
60 hundred one, article one, chapter sixty-a of this code, which has
61 been prescribed by a authorized health care professional to be
62 ingested through the mouth, applied to the outer skin, eye or ear,
63 or applied through nose drops, vaginal or rectal suppositories.

64 (j) “Registered professional nurse” means a person who
65 holds a valid license pursuant to article seven, chapter thirty of
66 this code.

67 (k) “Resident” means a resident of a facility who for
68 purposes of this article, is in a stable condition.

69 (l) “Secretary” means the Secretary of the Department of
70 Health and Human Resources or his or her designee.

71 (m) "Self-administration of medication" means the act of a
72 resident, who is independently capable of reading and
73 understanding the labels of drugs ordered by a physician, in
74 opening and accessing prepackaged drug containers, accurately
75 identifying and taking the correct dosage of the drugs as ordered
76 by the physician, at the correct time and under the correct
77 circumstances.

78 (n) "Self-administration of medication with assistance"
79 means assisting residents who are otherwise able to self
80 administer their own medications except their physical
81 disabilities prevent them from completing one or more steps in
82 the process.

83 (p) "Stable" means the individual's medical condition is
84 predictable and consistent as determined by the registered
85 professional nurse.

86 (q) "Supervision of self-administration of medication"
87 means a personal service which includes reminding residents to
88 take medications, opening medication containers for residents,
89 reading the medication label to residents, observing residents
90 while they take medication, checking the self administered
91 dosage against the label on the container and reassuring residents
92 that they have obtained and are taking the dosage as prescribed.

**§16-50-3. Administration of medications; performance of health
maintenance tasks; maintenance of liability
insurance in facilities.**

1 (a) The secretary shall establish and implement a program
2 for the administration of medications and performance of health
3 maintenance tasks in locations covered by this article. The
4 program shall be developed and conducted in cooperation with
5 the appropriate agencies, advisory bodies and boards.

6 (b) Administration of medication or performance of health
7 maintenance tasks pursuant to this article shall be performed
8 only by:

9 (1) Licensed health care professionals; or

10 (2) Facility staff members who have been trained and
11 retrained every two years and who are subject to the supervision
12 of and approval by a registered professional nurse.

13 (c) After assessing the health status of an individual resident,
14 a registered professional nurse, in collaboration with the
15 resident's attending physician and the facility staff member, may
16 recommend that the facility authorize a facility staff member to
17 administer medication or perform health maintenance tasks if the
18 staff member:

19 (1) Has been trained pursuant to the requirements of this
20 article;

21 (2) Is considered by the registered professional nurse to be
22 competent;

23 (3) Consults with the registered professional nurse or
24 attending physician on a regular basis; and

25 (4) Is monitored or supervised by the registered professional
26 nurse.

27 (d) An agency or facility employing a health care provider
28 licensed pursuant to the provisions of chapter thirty of this code
29 for the purposes of supervising the administration of medication
30 or performance of health maintenance tasks shall maintain
31 liability insurance for the licensed health care provider and any
32 facility staff member who has been trained and is employed to
33 administer medication or perform health maintenance tasks
34 pursuant to this article.

35 (e) Nothing in this article may be construed to prohibit any
36 facility staff member from administering medications or
37 performing health maintenance tasks, or providing any other

38 prudent emergency assistance to aid any person who is in acute
39 physical distress or requires emergency assistance.

40 (f) Supervision of self-administration of medication by
41 facility staff members who are not licensed health care
42 professionals may be permitted in certain circumstances, when
43 the substantial purpose of the setting is other than the provision
44 of health care.

§16-50-4. Exemption from licensure; statutory construction.

1 (a) Any individual who is not otherwise authorized by law
2 to administer medication or perform health maintenance tasks
3 may administer medication or perform health maintenance tasks
4 in locations covered by this article if he or she meets the
5 requirements of this article and is exempt from the licensing
6 requirements of chapter thirty of this code.

7 (b) Licensed health care professionals remain subject to
8 their respective licensing laws.

9 (c) Notwithstanding any other provision of law to the
10 contrary, this article shall not be construed to violate or be in
11 conflict with articles seven or seven-a, chapter thirty of this
12 code.

13 (d) Any parent or guardian may administer medication to, or
14 perform health maintenance tasks for, his or her adult or minor
15 child regardless of whether or not the parent or guardian receives
16 compensation for caring for said child.

§16-50-5. Instruction and training.

1 (a) The Office of Health Facility Licensure and Certification
2 shall establish a council of nurses to represent the facilities and
3 registered professional nurses affected by this article. The
4 council shall prepare a procedural manual and recommendations

5 regarding a training course to the secretary. The council shall
6 meet every two years to review the training curricula,
7 competency evaluation procedures and rules implemented by the
8 secretary, and shall make recommendations as deemed
9 necessary.

10 (b) The department shall develop and approve training
11 curricula and competency evaluation procedures for facility staff
12 members who administer medication or perform health
13 maintenance tasks pursuant to this article. The department shall
14 consider the recommendations of the council and shall consult
15 with the West Virginia Board of Examiners for Registered
16 Nurses in developing the training curricula and competency
17 evaluation procedures.

18 (c) The program developed by the department shall require
19 that any person who applies to act as a facility staff member
20 authorized to administer medications or perform health
21 maintenance tasks pursuant to this article shall:

22 (1) Hold a high school diploma or general education
23 diploma;

24 (2) Be trained or certified in cardiopulmonary resuscitation
25 and first aid;

26 (3) Participate in the initial training program developed by
27 the department;

28 (4) Pass a competency evaluation developed by the
29 department; and

30 (5) Participate in a retraining program every two years.

31 (d) Any facility may offer the training and competency
32 evaluation program developed by the department to its facility
33 staff members. The training and competency programs shall be
34 provided by the facility through a registered professional nurse.

35 (e) A registered professional nurse who is authorized to train
36 facility staff members to administer medications or perform
37 health maintenance tasks in facilities shall:

38 (1) Possess a current active West Virginia license as set forth
39 in article seven chapter thirty of this code in good standing to
40 practice as a registered nurse;

41 (2) Have practiced as a registered professional nurse in a
42 position or capacity requiring knowledge of medications and the
43 performance of health maintenance tasks for the immediate two
44 years prior to being authorized to train facility staff members;
45 and

46 (3) Be familiar with the nursing care needs of residents of
47 facilities as described in this article.

**§16-50-6. Availability of records; eligibility requirements of
facility staff.**

1 (a) Any facility which authorizes unlicensed staff members
2 to administer medications or perform health maintenance tasks
3 pursuant to this article shall make available to the authorizing
4 agency a list of the individual facility staff members authorized
5 to administer medications or perform health maintenance tasks.

6 (b) Any facility may permit a facility staff member to
7 administer medications or perform health maintenance tasks in
8 a single specific agency only after compliance with all of the
9 following:

10 (1) The staff member has successfully completed a training
11 program and received a satisfactory competency evaluation as
12 required by this article;

13 (2) The facility determines there is no statement on the state
14 administered nurse aide registry indicating that the staff member

15 has been the subject of finding of abuse or neglect of a long-term
16 care facility resident or convicted of the misappropriation of a
17 resident's property;

18 (3) The facility staff member has had a criminal background
19 check or if applicable, a check of the State Police abuse registry,
20 establishing that the individual has been convicted of no crimes
21 against persons or drug related crimes;

22 (4) The medication to be administered is received and
23 maintained by the facility staff member in the original container
24 in which it was dispensed by a pharmacist or the prescribing
25 health care professional; and

26 (5) The facility staff member has complied with all other
27 applicable requirements of this article, the legislative rules
28 adopted pursuant to this article and other criteria, including
29 minimum competency requirements, as are specified by the
30 authorizing agency.

**§16-50-7. Oversight of medication administration and
performance of health maintenance tasks by
unlicensed personnel.**

1 (a) Any facility in which medication is administered or
2 health maintenance tasks performed by unlicensed personnel
3 shall establish an administrative monitoring system in
4 administrative policy. The specific requirements of the
5 administrative policy shall be established by the department,
6 through legislative rules. These rules shall be developed in
7 consultation with the West Virginia Board of Examiners for
8 Registered Nurses, the West Virginia Nurses Association, the
9 West Virginia Statewide Independent Living Council, and the
10 West Virginia Board of Respiratory Care. These rules are
11 required to include, at a minimum, instructions on protocols for
12 contacting an appropriate healthcare professional in situations

13 where a condition arises which may create a risk to the resident's
14 health and safety. These rules shall also include the type and
15 frequency of monitoring and training requirements for
16 management of these occurrences.

17 (b) Monitoring of facility staff members authorized pursuant
18 to this article shall be performed by a registered professional
19 nurse employed or contracted by the facility, who shall exercise
20 judgment, evaluate and assess the patient, inject medicine, and
21 monitor medications, self-administration of medications and
22 self-injections by the resident in accordance with his or her
23 scope of practice.

§16-50-8. Withdrawal of authorization.

1 The registered professional nurse who monitors or
2 supervises the facility staff members authorized to administer
3 medication or perform health maintenance tasks may withdraw
4 authorization for a facility staff member if the nurse determines
5 that the facility staff member is not performing medication
6 administration or health maintenance tasks in accordance with
7 the training and written instructions. The withdrawal of the
8 authorization shall be documented and shall be relayed to the
9 facility and the department in order to remove the facility staff
10 member from the list of authorized individuals.

§16-50-10. Limitations on medication administration or performance of health maintenance tasks.

1 The following limitations apply to the administration of
2 medication or performance of health maintenance tasks by
3 facility staff members:

4 (a) Injections or any parenteral medications may not be
5 administered, except that prefilled insulin or insulin pens may be
6 administered;

7 (b) Irrigations or debriding agents used in the treatment of a
8 skin condition or minor abrasions may not be administered;

9 (c) No verbal medication orders may be accepted, no new
10 medication orders shall be transcribed and no drug dosages may
11 be converted and calculated; and

12 (d) No medications ordered by the physician or a health care
13 professional with legal prescriptive authority to be given "as
14 needed" may be administered unless the order is written with
15 specific parameters which preclude independent judgment.

§16-50-11. Rules.

1 The department shall propose rules for legislative approval
2 in accordance with the provisions of article three, chapter
3 twenty-nine-a of this code as may be necessary to implement the
4 provision of this article.

§16-50-12. Advisory Committee.

1 (a) There is established an advisory committee to assist with
2 the development polices and procedures regarding health
3 maintenance care in order to safeguard the well-being and to
4 preserve the dignity of persons who need assistance to live in
5 their communities and avoid institutionalization.

6 (b) (1) The advisory committee shall consist of seven voting
7 members as follows:

8 (A) The Olmstead Coordinator within the Department of
9 Health and Human Resources, Office of Inspector General;

10 (B) One physician with expertise in respiratory medicine to
11 be chosen by the West Virginia Board of Respiratory Care.

12 (C) The State Health Officer, as defined in section four,
13 article three, chapter thirty of this code;

14 (D) A representative chosen by the West Virginia Statewide
15 Independent Living Council;

16 (E) A representative chosen by the West Virginia
17 Developmental Disability Council;

18 (F) A representative chosen by the West Virginia Board of
19 Respiratory Care; and

20 (G) A representative chosen by the West Virginia Society for
21 Respiratory Care.

22 (2) The advisory committee shall also include five non-
23 voting members as follows:

24 (A) The co-chairs of the Joint Standing Committee on
25 Health, or their designees;

26 (B) One representative of the West Virginia Board of
27 Examiners for Registered Professional Nurses;

28 (C) One representative of the West Virginia Nurses
29 Association;

30 (D) One representative of the Fair Shake Network; and

31 (E) The Office Director of the Office of Health Facility
32 License and Certification within the Department of Health and
33 Human Resources;

34 (c) A chairman shall be selected from the voting members of
35 the advisory committee.

36 (d) The advisory committee shall meet at least four times
37 annually and upon the call of the chairman. A simple majority of
38 the members shall constitute a quorum.

39 (e) On or before December 31, 2013, the advisory committee
40 shall prepare a report to the Legislative Oversight Commission

41 on Health and Human Resources Accountability. The report
42 shall make recommendations on the need for further legislation,
43 policies or procedures regarding health maintenance tasks.

44 (f) All members of the committee shall be reimbursed
45 reasonable expenses pursuant to the rules promulgated by the
46 Department of Administration for the reimbursement of
47 expenses of state officials and employees and shall receive no
48 other compensation for their services.



CHAPTER 92

**(Com. Sub. for H. B. 2802 - By Delegates Pethtel,
Jones, Craig, Canterbury, Kump, Lynch and Stowers)**

[Passed April 2, 2013; in effect ninety days from passage.]
[Approved by the Governor on April 19, 2013.]

AN ACT to amend and reenact §16-5V-2, §16-5V-8, §16-5V-11, §16-5V-20, §16-5V-21 and §16-5V-24 of the Code of West Virginia, 1931, as amended, and to amend said code by adding thereto two new sections, designated §16-5V-8a and §16-5V-35, all relating to the Emergency Medical Services Retirement System; modifying the definition of annual compensation as it relates to determining benefits; adding a definition for contributing service to this article; adding a definition for the terms retire and retirement to this article; providing for correction of participating public employer errors by the board; providing eligibility requirements for commencement of benefits; specifying that the board must be in receipt of a request for estimation of benefits prior to providing a member with an explanation of their estimated gross monthly annuity and a retirement application; providing that a member shall

have at least ten years of contributing service to qualify for nonduty related disability retirement; specifying that the total nonduty disability award received by a member shall be based on their average monthly compensation during the twelve month period immediately preceding the disability award; providing that all costs associated with disability benefit examinations shall be paid from the board's expense fund; providing that disability benefits shall cease on the first day of the month following termination of disability by the board; requiring annual disability recertification for a retirant who is less than sixty years of age during the first five years of retirement and once every three years thereafter; providing that if a member who is receiving a nonduty disability benefit dies the surviving spouse shall receive the average monthly compensation received by the member prior to the disability award; and providing for the annuity calculation for a member who returns to covered employment after retirement.

Be it enacted by the Legislature of West Virginia:

That §16-5V-2, §16-5V-8, §16-5V-11, §16-5V-20, §16-5V-21 and §16-5V-24 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto two new sections, designated §16-5V-8a and §16-5V-35, all to read as follows:

ARTICLE 5V. EMERGENCY MEDICAL SERVICES RETIREMENT SYSTEM ACT.

§16-5V-2. Definitions.

1 As used in this article, unless a federal law or regulation or
2 the context clearly requires a different meaning:

3 (a) "Accrued benefit" means on behalf of any member two
4 and six-tenths percent per year of the member's final average
5 salary for the first twenty years of credited service. Additionally,
6 two percent per year for twenty-one through twenty-five years

7 and one percent per year for twenty-six through thirty years will
8 be credited with a maximum benefit of sixty-seven percent. A
9 member's accrued benefit may not exceed the limits of Section
10 415 of the Internal Revenue Code and is subject to the provisions
11 of section twelve of this article.

12 (1) The board may upon the recommendation of the board's
13 actuary increase the employees' contribution rate to ten and
14 five-tenths percent should the funding of the plan not reach
15 seventy percent funded by July 1, 2012. The board shall decrease
16 the contribution rate to eight and one-half percent once the plan
17 funding reaches the seventy percent support objective as of any
18 later actuarial valuation date.

19 (2) Upon reaching the seventy-five percent actuarial funded
20 level, as of an actuarial valuation date, the board shall increase
21 the two and six-tenths percent to two and three-quarter percent
22 for the first twenty years of credited service. The maximum
23 benefit will also be increased from sixty-seven percent to
24 seventy percent.

25 (b) "Accumulated contributions" means the sum of all
26 retirement contributions deducted from the compensation of a
27 member, or paid on his or her behalf as a result of covered
28 employment, together with regular interest on the deducted
29 amounts.

30 (c) "Active military duty" means full-time active duty with
31 any branch of the Armed Forces of the United States, including
32 service with the National Guard or reserve military forces when
33 the member has been called to active full-time duty and has
34 received no compensation during the period of that duty from
35 any board or employer other than the Armed Forces.

36 (d) "Actuarial equivalent" means a benefit of equal value
37 computed upon the basis of the mortality table and interest rates

38 as set and adopted by the board in accordance with the
39 provisions of this article.

40 (e) “Annual compensation” means the wages paid to the
41 member during covered employment within the meaning of
42 Section 3401(a) of the Internal Revenue Code, but determined
43 without regard to any rules that limit the remuneration included
44 in wages based upon the nature or location of employment or
45 services performed during the plan year plus amounts excluded
46 under Section 414(h)(2) of the Internal Revenue Code and less
47 reimbursements or other expense allowances, cash or noncash
48 fringe benefits or both, deferred compensation and welfare
49 benefits. Annual compensation for determining benefits during
50 any determination period may not exceed the maximum
51 compensation allowed as adjusted for cost of living in
52 accordance with section seven, article ten-d, chapter five of this
53 code and Section 401(a)(17) of the Internal Revenue Code.

54 (f) “Annual leave service” means accrued annual leave.

55 (g) “Annuity starting date” means the first day of the month
56 for which an annuity is payable after submission of a retirement
57 application. For purposes of this subsection, if retirement income
58 payments commence after the normal retirement age,
59 “retirement” means the first day of the month following or
60 coincident with the latter of the last day the member worked in
61 covered employment or the member’s normal retirement age and
62 after completing proper written application for “retirement” on
63 an application supplied by the board.

64 (h) “Board” means the Consolidated Public Retirement
65 Board.

66 (i) “Contributing service” or “contributory service” means
67 service rendered by a member while employed by a participating
68 public employer for which the member made contributions to the
69 plan.

70 (j) "County commission or political subdivision" has the
71 meaning ascribed to it in this code.

72 (k) "Covered employment" means either: (1) Employment
73 as a full-time emergency medical technician, emergency medical
74 technician/paramedic or emergency medical services/registered
75 nurse and the active performance of the duties required of
76 emergency medical services officers; or (2) the period of time
77 during which active duties are not performed but disability
78 benefits are received under this article; or (3) concurrent
79 employment by an emergency medical services officer in a job
80 or jobs in addition to his or her employment as an emergency
81 medical services officer where the secondary employment
82 requires the emergency medical services officer to be a member
83 of another retirement system which is administered by the
84 Consolidated Public Retirement Board pursuant to this code:
85 *Provided*, That the emergency medical services officer
86 contributes to the fund created in this article the amount
87 specified as the member's contribution in section eight of this
88 article.

89 (l) "Credited service" means the sum of a member's years of
90 service, active military duty, disability service and accrued
91 annual and sick leave service.

92 (m) "Dependent child" means either:

93 (1) An unmarried person under age eighteen who is:

94 (A) A natural child of the member;

95 (B) A legally adopted child of the member;

96 (C) A child who at the time of the member's death was
97 living with the member while the member was an adopting
98 parent during any period of probation; or

99 (D) A stepchild of the member residing in the member's
100 household at the time of the member's death; or

101 (2) Any unmarried child under age twenty-three:

102 (A) Who is enrolled as a full-time student in an accredited
103 college or university;

104 (B) Who was claimed as a dependent by the member for
105 federal income tax purposes at the time of the member's death;
106 and

107 (C) Whose relationship with the member is described in
108 paragraph (A), (B) or (C), subdivision (1) of this subsection.

109 (n) "Dependent parent" means the father or mother of the
110 member who was claimed as a dependent by the member for
111 federal income tax purposes at the time of the member's death.

112 (o) "Disability service" means service received by a
113 member, expressed in whole years, fractions thereof or both,
114 equal to one half of the whole years, fractions thereof, or both,
115 during which time a member receives disability benefits under
116 this article.

117 (p) "Early retirement age" means age forty-five or over and
118 completion of twenty years of contributory service.

119 (q) "Effective date" means January 1, 2008.

120 (r) "Emergency medical services officer" means an
121 individual employed by the state, county or other political
122 subdivision as a medical professional who is qualified to respond
123 to medical emergencies, aids the sick and injured and arranges
124 or transports to medical facilities, as defined by the West
125 Virginia Office of Emergency Medical Services. This definition
126 is construed to include employed ambulance providers and other

127 services such as law enforcement, rescue or fire department
128 personnel who primarily perform these functions and are not
129 provided any other credited service benefits or retirement plans.
130 These persons may hold the rank of emergency medical
131 technician/basic, emergency medical technician/paramedic,
132 emergency medical services/registered nurse, or others as
133 defined by the West Virginia Office of Emergency Medical
134 Services and the Consolidated Public Retirement Board.

135 (s) "Employer error" means an omission, misrepresentation
136 or violation of relevant provisions of the West Virginia Code or
137 of the West Virginia Code of State Rules or the relevant
138 provisions of both the West Virginia Code and of the West
139 Virginia Code of State Rules by the participating public
140 employer that has resulted in an underpayment or overpayment
141 of contributions required. A deliberate act contrary to the
142 provisions of this article by a participating public employer does
143 not constitute employer error.

144 (t) "Final average salary" means the average of the highest
145 annual compensation received for covered employment by the
146 member during any five consecutive plan years within the
147 member's last ten years of service while employed, prior to any
148 disability payment. If the member did not have annual
149 compensation for the five full plan years preceding the member's
150 attainment of normal retirement age and during that period the
151 member received disability benefits under this article, then "final
152 average salary" means the average of the monthly salary
153 determined paid to the member during that period as determined
154 under section nineteen of this article multiplied by twelve. "Final
155 average salary" does not include any lump sum payment for
156 unused, accrued leave of any kind or character.

157 (u) "Full-time employment" means permanent employment
158 of an employee by a participating public employer in a position
159 which normally requires twelve months per year service and

160 requires at least one thousand forty hours per year service in that
161 position.

162 (v) "Fund" means the West Virginia Emergency Medical
163 Services Retirement Fund created by this article.

164 (w) "Hour of service" means:

165 (1) Each hour for which a member is paid or entitled to
166 payment for covered employment during which time active
167 duties are performed. These hours shall be credited to the
168 member for the plan year in which the duties are performed; and

169 (2) Each hour for which a member is paid or entitled to
170 payment for covered employment during a plan year but where
171 no duties are performed due to vacation, holiday, illness,
172 incapacity including disability, layoff, jury duty, military duty,
173 leave of absence or any combination thereof and without regard
174 to whether the employment relationship has terminated. Hours
175 under this subdivision shall be calculated and credited pursuant
176 to West Virginia Division of Labor rules. A member will not be
177 credited with any hours of service for any period of time he or
178 she is receiving benefits under section nineteen or twenty of this
179 article; and

180 (3) Each hour for which back pay is either awarded or agreed
181 to be paid by the employing county commission or political
182 subdivision, irrespective of mitigation of damages. The same
183 hours of service shall not be credited both under subdivision (1)
184 or (2) of this subsection and under this subdivision. Hours under
185 this paragraph shall be credited to the member for the plan year
186 or years to which the award or agreement pertains, rather than
187 the plan year in which the award, agreement or payment is made.

188 (x) "Member" means a person first hired as an emergency
189 medical services officer by an employer which is a participating
190 public employer of the Public Employees Retirement System or

191 the Emergency Medical Services Retirement System after the
192 effective date of this article, as defined in subsection ~~(p)~~ (q) of
193 this section, or an emergency medical services officer of an
194 employer which is a participating public employer of the Public
195 Employees Retirement System first hired prior to the effective
196 date and who elects to become a member pursuant to this article.
197 A member shall remain a member until the benefits to which he
198 or she is entitled under this article are paid or forfeited.

199 (y) "Monthly salary" means the W-2 reportable
200 compensation received by a member during the month.

201 (z) "Normal form" means a monthly annuity which is one
202 twelfth of the amount of the member's accrued benefit which is
203 payable for the member's life. If the member dies before the sum
204 of the payments he or she receives equals his or her accumulated
205 contributions on the annuity starting date, the named beneficiary
206 shall receive in one lump sum the difference between the
207 accumulated contributions at the annuity starting date and the
208 total of the retirement income payments made to the member.

209 (aa) "Normal retirement age" means the first to occur of the
210 following:

211 (1) Attainment of age fifty years and the completion of
212 twenty or more years of regular contributory service, excluding
213 active military duty, disability service and accrued annual and
214 sick leave service;

215 (2) While still in covered employment, attainment of at least
216 age fifty years and when the sum of current age plus regular
217 contributory years of service equals or exceeds seventy years;

218 (3) While still in covered employment, attainment of at least
219 age sixty years and completion of ten years of regular
220 contributory service; or

221 (4) Attainment of age sixty-two years and completion of five
222 or more years of regular contributory service.

223 (bb) "Participating public employer" means any county
224 commission or political subdivision in the state which has
225 elected to cover its emergency medical services officers, as
226 defined in this article, under the West Virginia Emergency
227 Medical Services Retirement System.

228 (cc) "Political subdivision" means a county, city or town in
229 the state; any separate corporation or instrumentality established
230 by one or more counties, cities or towns, as permitted by law;
231 any corporation or instrumentality supported in most part by
232 counties, cities or towns; and any public corporation charged by
233 law with the performance of a governmental function and whose
234 jurisdiction is coextensive with one or more counties, cities or
235 towns: *Provided*, That any public corporation established under
236 section four, article fifteen, chapter seven of this code is
237 considered a political subdivision solely for the purposes of this
238 article.

239 (dd) "Plan" means the West Virginia Emergency Medical
240 Services Retirement System established by this article.

241 (ee) "Plan year" means the twelve-month period
242 commencing on January 1 of any designated year and ending the
243 following December 31.

244 (ff) "Public Employees Retirement System" means the West
245 Virginia Public Employee's Retirement System created by West
246 Virginia Code.

247 (gg) "Regular interest" means the rate or rates of interest per
248 annum, compounded annually, as the board adopts in accordance
249 with the provisions of this article.

250 (hh) "Required beginning date" means April 1 of the
251 calendar year following the later of: (1) The calendar year in

252 which the member attains age seventy and one-half; or (2) the
253 calendar year in which he or she retires or otherwise separates
254 from covered employment.

255 (ii) "Retirant" means any member who commences an
256 annuity payable by the plan.

257 (jj) "Retire" or "retirement" means a member's withdrawal
258 from the employ of a participating public employer and the
259 commencement of an annuity by the plan.

260 (kk) "Retirement income payments" means the monthly
261 retirement income payments payable under the plan.

262 (ll) "Spouse" means the person to whom the member is
263 legally married on the annuity starting date.

264 (mm) "Surviving spouse" means the person to whom the
265 member was legally married at the time of the member's death
266 and who survived the member.

267 (nn) "Totally disabled" means a member's inability to
268 engage in substantial gainful activity by reason of any medically
269 determined physical or mental impairment that can be expected
270 to result in death or that has lasted or can be expected to last for
271 a continuous period of not less than twelve months.

272 For purposes of this subsection:

273 (1) A member is totally disabled only if his or her physical
274 or mental impairment or impairments is so severe that he or she
275 is not only unable to perform his or her previous work as an
276 emergency medical services officer but also cannot, considering
277 his or her age, education and work experience, engage in any
278 other kind of substantial gainful employment which exists in the
279 state regardless of whether: (A) The work exists in the
280 immediate area in which the member lives; (B) a specific job

281 vacancy exists; or (C) the member would be hired if he or she
 282 applied for work. For purposes of this article, substantial gainful
 283 employment is the same definition as used by the United States
 284 Social Security Administration.

285 (2) "Physical or mental impairment" is an impairment that
 286 results from an anatomical, physiological or psychological
 287 abnormality that is demonstrated by medically accepted clinical
 288 and laboratory diagnostic techniques. The board may require
 289 submission of a member's annual tax return for purposes of
 290 monitoring the earnings limitation.

291 (oo) "Year of service" means a member shall, except in his
 292 or her first and last years of covered employment, be credited
 293 with years of service credit based upon the hours of service
 294 performed as covered employment and credited to the member
 295 during the plan year based upon the following schedule:

296	Hours of Service	Year of Service Credited.
297	Less than 500	0
298	500 to 999	1/3
299	1,000 to 1,499	2/3
300	1,500 or more	1

301 During a member's first and last years of covered
 302 employment, the member shall be credited with one twelfth of
 303 a year of service for each month during the plan year in which
 304 the member is credited with an hour of service for which
 305 contributions were received by the fund. A member is not
 306 entitled to credit for years of service for any time period during
 307 which he or she received disability payments under section
 308 nineteen or twenty of this article. Except as specifically
 309 excluded, years of service include covered employment prior to
 310 the effective date.

311 Years of service which are credited to a member prior to his
312 or her receipt of accumulated contributions upon termination of
313 employment pursuant to section eighteen of this article or
314 section thirty, article ten, chapter five of this code, shall be
315 disregarded for all purposes under this plan unless the member
316 repays the accumulated contributions with interest pursuant to
317 section eighteen of this article or has prior to the effective date
318 made the repayment pursuant to section eighteen, article ten,
319 chapter five of this code.

§16-5V-8. Members' contributions; employer contributions.

1 (a) There shall be deducted from the monthly salary of each
2 member and paid into the fund an amount equal to eight and
3 one-half percent of his or her monthly salary. An additional
4 amount shall be paid to the fund by the county commission or
5 political subdivision in which the member is employed in
6 covered employment in an amount determined by the board:
7 *Provided*, That in no year may the total of the employer
8 contributions provided in this section, to be paid by the county
9 commission or political subdivision, exceed ten and one-half
10 percent of the total payroll for the members in the employ of the
11 county commission or political subdivision.

12 (b) Any active member who has concurrent employment in
13 an additional job or jobs and the additional employment requires
14 the emergency medical services officer to be a member of
15 another retirement system which is administered by the
16 Consolidated Public Retirement Board pursuant to article ten-d,
17 chapter five of this code shall contribute to the fund the sum of
18 eight and one-half percent of his or her monthly salary earned as
19 an emergency medical services officer as well as the sum of
20 eight and one-half percent of his or her monthly salary earned
21 from any additional employment which additional employment
22 requires the emergency medical services officer to be a member
23 of another retirement system which is administered by the

24 Consolidated Public Retirement Board pursuant to article ten-d,
25 chapter five of this code. An additional percent of the monthly
26 salary of each member shall be paid to the fund by the
27 concurrent employer by which the member is employed in an
28 amount determined by the board: *Provided*, That in no year may
29 the total of the employer contributions provided in this section,
30 to be paid by the concurrent employer, exceed ten and one-half
31 percent of the payroll for the concurrent member employees.

32 (c) All required deposits shall be remitted to the board no
33 later than fifteen days following the end of the calendar month
34 for which the deposits are required. If the board upon the
35 recommendation of the board actuary finds that the benefits
36 provided by this article can be actuarially funded with a lesser
37 contribution, then the board shall reduce the required member
38 and employer contributions proportionally. Any county
39 commission or political subdivision which fails to make any
40 payment due the Emergency Medical Services Retirement Fund
41 by the fifteenth day following the end of each calendar month in
42 which contributions are due may be required to pay the actuarial
43 rate of interest lost on the total amount owed for each day the
44 payment is delinquent. Accrual of the loss of earnings owed by
45 the delinquent county commission or political subdivision
46 commences after the fifteenth day following the end of the
47 calendar month in which contributions are due and continues
48 until receipt of the delinquent amount. Interest compounds daily
49 and the minimum surcharge is \$50.

§16-5V-8a. Correction of errors; underpayments; overpayments.

1 (a) General rule: If any change or employer error in the
2 records of any participating public employer or the plan results
3 in any member, retirant or beneficiary receiving from the plan
4 more or less than he or she would have been entitled to receive
5 had the records been correct, the board shall correct the error. If
6 correction of the error occurs after the effective retirement date

7 of a retirant, and as far as is practicable, the board shall adjust
8 the payment of the benefit in a manner that the actuarial
9 equivalent of the benefit to which the retirant was correctly
10 entitled shall be paid.

11 (b) Underpayments: Any error resulting in an underpayment
12 to the retirement system of required contributions may be
13 corrected by the member or retirant remitting the required
14 employee contribution and the participating public employer
15 remitting the required employer contribution. Interest shall
16 accumulate in accordance with the Legislative Rule 162 CSR 7
17 concerning retirement board refund, reinstatement, retroactive
18 service, loan and employer error interest factors and any
19 accumulating interest owed on the employee and employer
20 contributions resulting from an employer error shall be the
21 responsibility of the participating public employer. The
22 participating public employer may remit total payment and the
23 employee reimburse the participating public employer through
24 payroll deduction over a period equivalent to the time period
25 during which the employer error occurred. If the correction of an
26 error involving an underpayment of required contributions to the
27 retirement system will result in increased payments to a retirant,
28 including increases to payments already made, any adjustments
29 shall be made only after the board receives full payment of all
30 required employee and employer contributions, including
31 interest.

32 (c) Overpayments: (1) When mistaken or excess employer
33 contributions, including any overpayments, have been made to
34 the retirement system by a participating public employer, due to
35 error or other reason, the board shall credit the participating
36 public employer with an amount equal to the erroneous
37 contributions, to be offset against the participating public
38 employer's future liability for employer contributions to the
39 system. Earnings or interest shall not be credited to the
40 employer.

41 (2) When mistaken or excess employee contributions,
42 including any overpayments, have been made to the retirement
43 system, due to error or other reason, the board shall have sole
44 authority for determining the means of return, offset or credit to
45 or for the benefit of the employee of the amounts, and may use
46 any means authorized or permitted under the provisions of
47 Section 401(a), et seq. of the Internal Revenue Code and
48 guidance issued thereunder applicable to governmental plans.
49 Alternatively, in its full and complete discretion, the board may
50 require the participating public employer to pay the employee
51 the amounts as wages, with the board crediting the participating
52 public employer with a corresponding amount to offset against
53 its future contributions to the plan: *Provided*, That the wages
54 paid to the employee shall not be considered compensation for
55 any purposes under this article. Earnings or interest shall not be
56 returned, offset, or credited under any of the means utilized by
57 the board for returning mistaken or excess employee
58 contributions, including any overpayments, to an employee.

§16-5V-11. Retirement; commencement of benefits.

1 (a) Except for duty disability retirement, no member may
2 retire before January 1, 2011.

3 (b) On or after the date a member attains early or normal
4 retirement age, a member may retire and commence to receive
5 retirement income payments on the first day of the calendar
6 month following termination of employment and receipt of his
7 or her written application for retirement in an amount as
8 provided under this article: *Provided*, That retirement income
9 payments under this plan are subject to the provisions of this
10 article. Upon receipt of a request for estimation of benefits, the
11 board shall promptly provide the member with an explanation of
12 his or her optional forms of retirement benefits and the estimated
13 gross monthly annuity. Upon receipt of properly executed
14 retirement application forms from the member, the board shall

15 process member's request for and commence payments as soon
16 as administratively feasible.

§16-5V-20. Awards and benefits for disability — Due to other causes.

1 (a) Any member with ten or more years of contributing
2 service and who during covered employment: (1) Has been or
3 becomes totally disabled from any cause other than those set
4 forth in section nineteen of this article and not due to vicious
5 habits, intemperance or willful misconduct on his or her part;
6 and (2) in the opinion of two physicians after medical
7 examination, one of whom shall be named by the board, he or
8 she is by reason of the disability unable to perform adequately
9 the duties required of an emergency medical services officer, is
10 entitled to receive and shall be paid from the fund in monthly
11 installments, the compensation set forth in, either subsection (b)
12 or (c) of this section.

13 (b) If the member is totally disabled, he or she shall receive
14 sixty-six and two-thirds percent of his or her average monthly
15 compensation for the twelve-month period immediately
16 preceding the disability award, or if the member has not worked
17 all twelve months during the twelve month period immediately
18 preceding the disability award, the average of the months in
19 which compensation was received for the twelve month period
20 shall be used.

21 (c) If the member remains totally disabled until attaining
22 sixty years of age, then the member shall receive the retirement
23 benefit provided in sections sixteen and seventeen of this article.

24 (d) The board shall propose legislative rules for
25 promulgation in accordance with the provisions of article three,
26 chapter twenty-nine-a of this code concerning member disability
27 payments so as to ensure that the payments do not exceed one

28 hundred percent of the average current salary for the position last
29 held by the member.

30 (e) The disability benefit payments will begin the first day
31 of the month following termination of employment and receipt
32 of the disability retirement application by the Consolidated
33 Public Retirement Board.

§16-5V-21. Same — Physical examinations; termination of disability.

1 (a) The board may require any member who has applied for
2 or is receiving disability benefits under this article to submit to
3 a physical examination, mental examination or both, by a
4 physician or physicians selected or approved by the board. All
5 costs incident to any examination by a board selected physician
6 shall be paid from the board's expense fund. The costs may
7 include hospital, laboratory, X-ray, medical and physicians' fees.
8 A report of the findings of any physician shall be submitted in
9 writing to the board for its consideration. If, from the report,
10 independent information, or from the report and any hearing on
11 the report, the board is of the opinion and finds that: (1) The
12 member has become reemployed as an emergency medical
13 services officer; (2) a physician who has examined the member
14 has found that considering the opportunities for emergency
15 medical services in West Virginia, the member could be so
16 employed as an emergency medical services officer; or (3) other
17 facts exist to demonstrate that the member is no longer totally
18 disabled, then the disability benefits shall cease the first day of
19 the month following board action.

20 (b) The board shall require recertification for a disabled
21 retirant, who has not attained age sixty, at least once each year
22 during the first five years following his or her retirement and at
23 least once in each three year period thereafter.

24 (c) If a retirant refuses to submit to a medical examination
25 or submit a statement by his or her physician certifying
26 continued disability in any period, his or her disability annuity
27 may be discontinued by the board until the retirant complies. If
28 the refusal continues for one year, all the retirant's rights in and
29 to the annuity may be revoked by the board.

§16-5V-24. Awards and benefits to surviving spouse — When member dies from nonservice-connected causes.

1 (a) If a member who has been a member for at least ten
2 years, while in covered employment after the effective date of
3 this article, has died or dies from any cause other than those
4 specified in section twenty-three of this article and not due to
5 vicious habits, intemperance or willful misconduct on his or her
6 part, the fund shall pay annually in equal monthly installments
7 to the surviving spouse during his or her lifetime, a sum equal to
8 the greater of: (1) One half of the annual compensation received
9 in the preceding twelve-month employment period by the
10 deceased member; or (2) if the member dies after his or her early
11 or normal retirement age, the monthly amount which the spouse
12 would have received had the member retired the day before his
13 or her death, elected a one hundred percent joint and survivor
14 annuity with the spouse as the joint annuitant, and then died.
15 Where the member is receiving disability benefits under this
16 article at the time of his or her death, the average monthly
17 compensation received in the plan year prior to disability shall
18 be substituted for the annual compensation in subdivision (1) of
19 this subsection.

20 (b) Benefits for a surviving spouse received under this
21 section, or other sections of this article are in lieu of receipt of
22 any other benefits under this article for the spouse or any other
23 person or under the provisions of any other state retirement
24 system based upon the member's covered employment.

§16-5V-35. Return to covered employment by retiree.

1 The annuity of any member who retires under the provisions
2 of this article and who resumes service in covered employment
3 shall be suspended while the member continues in covered
4 employment. The monthly annuity payment for the month in
5 which the service resumes shall be pro-rated to the date of
6 commencement of service, and the member shall again become
7 a contributing member during resumption of service. At the
8 conclusion of resumed service in covered employment the
9 member shall have his or her annuity recalculated to take into
10 account the entirety of service in covered employment.



CHAPTER 93

**(Com. Sub. for S. B. 444 - By Senators Plymale,
Jenkins and Beach)**

[Passed April 13, 2013; in effect from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT to amend and reenact §12-1-12d of the Code of West Virginia, 1931, as amended; to amend and reenact §18B-2A-1 and §18B-2A-3 of said code; and to amend and reenact §18B-7-11 of said code, all relating to higher education generally; increasing the amounts that Marshall University and West Virginia University may have invested with their respective foundations under certain conditions; authorizing certain members of institutional governing boards are eligible to succeed themselves under certain conditions; collecting, synthesizing and disseminating data from state institutions of higher education; directing institutional boards of governors to cooperate in certain data-related operations; providing

certain privacy protections for data; exempting the West Virginia Policy Commission and West Virginia Council for Community and Technical College Education from meeting certain employee ratios; and modifying the method of calculating certain employee ratios.

Be it enacted by the Legislature of West Virginia:

That §12-1-12d of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §18B-2A-1 and §18B-2A-3 of said code be amended and reenacted; and that §18B-7-11 of said code be amended and reenacted, all to read as follows:

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 1. STATE DEPOSITORIES.

§12-1-12d. Investments by Marshall University and West Virginia University.

1 (a) Notwithstanding any provision of this article to the
2 contrary, the governing boards of Marshall University and West
3 Virginia University each may invest certain funds with its
4 respective nonprofit foundation that has been established to
5 receive contributions exclusively for that university and which
6 exists on January 1, 2005. The investment is subject to the
7 limitations of this section.

8 (b) A governing board, through its chief financial officer,
9 may enter into agreements, approved as to form by the State
10 Treasurer, for the investment by its foundation of certain funds
11 subject to their administration. Any interest or earnings on the
12 moneys invested is retained by the investing university.

13 (c) Moneys of a university that may be invested with its
14 foundation pursuant to this section are those subject to the
15 administrative control of the university that are collected under

16 an act of the Legislature for specific purposes and do not include
17 any funds made available to the university from the State
18 General Revenue Fund or the funds established in sections
19 eighteen or eighteen-a, article twenty-two, chapter twenty-nine
20 of this code. Moneys permitted to be invested under this section
21 may be aggregated in an investment fund for investment
22 purposes.

23 (d) Of the moneys authorized for investment by this section,
24 Marshall University and West Virginia University each,
25 respectively, may have invested with its foundation at any time
26 not more than the greater of:

27 (1) \$18 million for Marshall University and \$25 million for
28 West Virginia University; or

29 (2) Sixty-five percent of its unrestricted net assets as
30 presented in the statement of net assets for the fiscal year end
31 audited financial reports.

32 (3) Notwithstanding subdivisions (1) and (2) of this
33 subsection, with the approval of the Higher Education Policy
34 Commission, Marshall University may increase the amount
35 invested to \$60 million and West Virginia University may
36 increase the amount invested to \$70 million.

37 (e) Investments by foundations that are authorized under this
38 section shall be made in accordance with and subject to the
39 provisions of the Uniform Prudent Investor Act codified as
40 article six-c, chapter forty-four of this code. As part of its
41 fiduciary responsibilities, each governing board shall establish
42 investment policies in accordance with the Uniform Prudent
43 Investor Act for those moneys invested with its foundation. The
44 governing board shall review, establish and modify, if necessary,
45 the investment objectives as incorporated in its investment
46 policies so as to provide for the financial security of the moneys

47 invested with its foundation. The governing boards shall give
48 consideration to the following:

49 (1) Preservation of capital;

50 (2) Diversification;

51 (3) Risk tolerance;

52 (4) Rate of return;

53 (5) Stability;

54 (6) Turnover;

55 (7) Liquidity; and

56 (8) Reasonable cost of fees.

57 (f) A governing board shall report annually by December 31
58 to the Governor and to the Joint Committee on Government and
59 Finance on the performance of investments managed by its
60 foundation pursuant to this section.

61 (g) The amendments to this section in the second
62 extraordinary session of the Legislature in 2010 apply
63 retroactively so that the authority granted by this section shall be
64 construed as if that authority did not expire on July 1, 2010.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

§18B-2A-1. Findings; composition of boards; terms and qualifications of members; vacancies; eligibility for reappointment.

1 (a) *Findings.* —

2 The Legislature finds that the State of West Virginia is
3 served best when the membership of each governing board
4 includes the following:

5 (1) The academic expertise and institutional experience of
6 faculty members and a student of the institution governed by the
7 board;

8 (2) The technical or professional expertise and institutional
9 experience of a classified employee of the institution governed
10 by the board;

11 (3) An awareness and understanding of the issues facing the
12 institution governed by the board; and

13 (4) The diverse perspectives that arise from a membership
14 that is balanced in terms of gender and varied in terms of race
15 and ethnic heritage.

16 (b) *Boards of governors established.* –

17 A board of governors is continued at each of the following
18 institutions: Bluefield State College, Blue Ridge Community and
19 Technical College, Bridgmont Community and Technical
20 College, Concord University, Eastern West Virginia Community
21 and Technical College, Fairmont State University, Glenville
22 State College, Kanawha Valley Community and Technical
23 College, Mountwest Community and Technical College,
24 Marshall University, New River Community and Technical
25 College, Pierpont Community and Technical College, Shepherd
26 University, Southern West Virginia Community and Technical
27 College, West Liberty University, West Virginia Northern
28 Community and Technical College, the West Virginia School of
29 Osteopathic Medicine, West Virginia State University, West
30 Virginia University and West Virginia University at
31 Parkersburg.

32 (c) *Board membership.* –

33 (1) An appointment to fill a vacancy on the board or
34 reappointment of a member who is eligible to serve an additional
35 term is made in accordance with the provisions of this section.

36 (2) The Board of Governors for Marshall University consists
37 of sixteen persons. The Board of Governors for West Virginia
38 University consists of seventeen persons. The boards of
39 governors of the other state institutions of higher education
40 consist of twelve persons.

41 (3) Each board of governors includes the following
42 members:

43 (A) A full-time member of the faculty with the rank of
44 instructor or above duly elected by the faculty of the respective
45 institution;

46 (B) A member of the student body in good academic
47 standing, enrolled for college credit work and duly elected by the
48 student body of the respective institution; and

49 (C) A member from the institutional classified employees
50 duly elected by the classified employees of the respective
51 institution;

52 (4) For the Board of Governors at Marshall University,
53 thirteen lay members appointed by the Governor, by and with the
54 advice and consent of the Senate, pursuant to this section;

55 (5) For the Board of Governors at West Virginia University,
56 twelve lay members appointed by the Governor, by and with the
57 advice and consent of the Senate, pursuant to this section, and
58 additionally:

59 (A) The Chairperson of the Board of Visitors of West
60 Virginia University Institute of Technology;

61 (B) A full-time faculty member representing the extension
62 service at the institution or a full-time faculty member
63 representing the health sciences, selected by the faculty senate.

64 (6) For each board of governors of the other state institutions
65 of higher education, nine lay members appointed by the
66 Governor, by and with the advice and consent of the Senate,
67 pursuant to this section.

68 (A) Of the nine members appointed by the Governor, no
69 more than five may be of the same political party. Of the thirteen
70 members appointed by the Governor to the governing board of
71 Marshall University, no more than eight may be of the same
72 political party. Of the twelve members appointed by the
73 Governor to the governing board of West Virginia University, no
74 more than seven may be of the same political party.

75 (B) Of the nine members appointed by the Governor, at least
76 five shall be residents of the state. Of the thirteen members
77 appointed by the Governor to the governing board of Marshall
78 University, at least eight shall be residents of the state. Of the
79 twelve members appointed by the Governor to the governing
80 board of West Virginia University, at least seven shall be
81 residents of the state.

82 (7) In making lay appointments, the Governor shall consider
83 the institutional mission and membership characteristics
84 including the following:

85 (A) The need for individual skills, knowledge and
86 experience relevant to governing the institution;

87 (B) The need for awareness and understanding of
88 institutional problems and priorities, including those related to
89 research, teaching and outreach;

90 (C) The value of gender, racial and ethnic diversity; and

91 (D) The value of achieving balance in gender and diversity
92 in the racial and ethnic characteristics of the lay membership of
93 each board.

94 (d) *Board member terms.* –

95 (1) The student member serves for a term of one year. Each
96 term begins on July 1.

97 (2) The faculty member serves for a term of two years. Each
98 term begins on July 1. Faculty members are eligible to succeed
99 themselves for three additional terms, not to exceed a total of
100 eight consecutive years.

101 (3) The member representing classified employees serves for
102 a term of two years. Each term begins on July 1. Members
103 representing classified employees are eligible to succeed
104 themselves for three additional terms, not to exceed a total of
105 eight consecutive years.

106 (4) The appointed lay citizen members serve terms of four
107 years each and are eligible to succeed themselves for no more
108 than one additional term, except that citizen members who are
109 appointed to fill unexpired terms are eligible to succeed
110 themselves for two full terms after completing an unexpired
111 term.

112 (5) A vacancy in an unexpired term of a member shall be
113 filled for the unexpired term within thirty days of the occurrence
114 of the vacancy in the same manner as the original appointment
115 or election. Except in the case of a vacancy, all elections are held
116 and all appointments are made no later than June 30 preceding
117 the commencement of the term. Each board of governors shall
118 elect one of its appointed lay members to be chairperson in June

119 of each year. A member may not serve as chairperson for more
120 than four consecutive years.

121 (6) The appointed members of the boards of governors serve
122 staggered terms of up to four years except that four of the initial
123 appointments to the governing boards of community and
124 technical colleges that became independent July 1, 2008, are for
125 terms of two years and five of the initial appointments are for
126 terms of four years.

127 (e) *Board member eligibility, expenses.* –

128 (1) A person is ineligible for appointment to membership on
129 a board of governors of a state institution of higher education
130 under the following conditions:

131 (A) For a baccalaureate institution or university, a person is
132 ineligible for appointment who is an officer, employee or
133 member of any other board of governors; an employee of any
134 institution of higher education; an officer or member of any
135 political party executive committee; the holder of any other
136 public office or public employment under the government of this
137 state or any of its political subdivisions; an employee of any
138 affiliated research corporation created pursuant to article twelve
139 of this chapter; an employee of any affiliated foundation
140 organized and operated in support of one or more state
141 institutions of higher education; or a member of the council or
142 commission. This subsection does not prevent the representative
143 from the faculty, classified employees, students or the
144 superintendent of a county board of education from being
145 members of the governing boards.

146 (B) For a community and technical college, a person is
147 ineligible for appointment who is an officer, employee or
148 member of any other board of governors; a member of a board
149 of visitors of any public institution of higher education; an

150 employee of any institution of higher education; an officer or
151 member of any political party executive committee; the holder
152 of any other public office, other than an elected county office, or
153 public employment, other than employment by the county board
154 of education, under the government of this state or any of its
155 political subdivisions; an employee of any affiliated research
156 corporation created pursuant to article twelve of this chapter; an
157 employee of any affiliated foundation organized and operated in
158 support of one or more state institutions of higher education; or
159 a member of the council or commission. This subsection does
160 not prevent the representative from the faculty, classified
161 employees or students from being members of the governing
162 boards.

163 (2) Before exercising any authority or performing any duties
164 as a member of a governing board, each member shall qualify as
165 such by taking and subscribing to the oath of office prescribed
166 by section five, article IV of the Constitution of West Virginia
167 and the certificate thereof shall be filed with the Secretary of
168 State.

169 (3) A member of a governing board appointed by the
170 Governor may not be removed from office by the Governor
171 except for official misconduct, incompetence, neglect of duty or
172 gross immorality and then only in the manner prescribed by law
173 for the removal of the state elective officers by the Governor.

174 (4) The members of the board of governors serve without
175 compensation, but are reimbursed for all reasonable and
176 necessary expenses actually incurred in the performance of
177 official duties under this article upon presentation of an itemized
178 sworn statement of expenses.

179 (5) The president of the institution shall make available
180 resources of the institution for conducting the business of its
181 board of governors. All expenses incurred by the board of

182 governors and the institution under this section are paid from
183 funds allocated to the institution for that purpose.

§18B-2A-3. Supervision of governing boards; promulgation of rules; data collection and dissemination.

1 (a) The governing boards are subject to the supervision of
2 the commission or the council, as appropriate, except in those
3 instances where specific statutory exceptions are granted by law
4 to the governing boards of Marshall University and West
5 Virginia University.

6 (b) The governing boards of all state institutions of higher
7 education are subject to the provisions of law that relate to the
8 administration of personnel matters including, specifically,
9 articles seven, eight, nine and nine-a of this chapter and to rules
10 promulgated and adopted in accordance with these provisions.

11 (c) The Chancellor for Higher Education and the Chancellor
12 for Community and Technical College Education, under the
13 supervision of their respective boards, are responsible for the
14 coordination of policies, purposes and rules of the governing
15 boards and shall provide for and facilitate sufficient interaction
16 among the governing boards and between the governing boards
17 and the State Board of Education to meet the goals and
18 objectives provided in the compacts and in section one-a, article
19 one and article one-d of this chapter.

20 (d) The governing boards and the State Board of Education
21 shall provide all information requested by the commission and
22 the council, whether the request is made separately or jointly, in
23 an appropriate format and in a timely manner.

24 (1) Each governing board shall cooperate with the West
25 Virginia Network for Educational Telecomputing (WVNET) in
26 designing appropriate interfaces with the databases of

27 institutions under its jurisdiction and shall grant WVNET direct
28 access to these databases.

29 (2) WVNET, on behalf of the commission or council or both,
30 shall generate reports from the data accessed for the purposes set
31 forth in section five, article one-a and sections eight and ten,
32 article one-d of this chapter.

33 (3) All data accessed or received from an institution shall be
34 treated in a manner consistent with the privacy protections
35 outlined in section ten, article one-d of this chapter.

ARTICLE 7. PERSONNEL GENERALLY.

§18B-7-11. Employees designated as nonclassified; limits; exceptions; reports required.

1 (a) Notwithstanding any provision of this code to the
2 contrary, by July 1, 2015, the percentage of personnel placed in
3 the category of nonclassified at a higher education organization
4 may not exceed twenty percent of the total number of classified
5 and nonclassified employees of that organization as those terms
6 are defined in section two, article nine-a of this chapter and who
7 are eligible for membership in a state retirement system of the
8 State of West Virginia or other retirement plan authorized by the
9 state.

10 A higher education organization which has more than twenty
11 percent of its employees placed in the nonclassified category as
12 defined by this subsection on July 1, 2011, shall reduce the
13 number of nonclassified employees to no more than twenty-five
14 percent by July 1, 2013, and to no more than twenty percent by
15 July 1, 2015, except as set forth in subsections (b) and (c) of this
16 section.

17 (b) For the purpose of determining the ratio of nonclassified
18 employees pursuant to this section, the following conditions
19 apply:

20 (1) Organizations shall count faculty or classified
21 employees, respectively, who retain the right to return to faculty
22 or classified employee positions, in the employee category they
23 are serving in at the time of reporting as required by subsections
24 (a) and (b), section eight of this article. Such employees will be
25 counted in their original category at such time as they exercise
26 their return rights.

27 (2) Athletic coaches are excluded from calculation of the
28 ratio. The commission and the council shall include
29 consideration of this employee category in each review required
30 by section nine of this article and shall monitor organizations'
31 use of ~~this~~ category and include this information in the reports
32 required by subsections (a) and (b), section eight of this article.

33 (c) An organization may place up to twenty-five percent of
34 the total number of classified and nonclassified employees of
35 that organization as defined by this section in the nonclassified
36 category under the following conditions:

37 (1) The governing board of an institution votes to approve
38 any percentage or fraction of a percentage number above twenty
39 percent and seeks and receives the approval of the commission
40 or council, as appropriate, before increasing the total above
41 twenty percent.

42 (A) The commission and council each shall approve or
43 disapprove the increase and shall include the vote, as well as
44 details of the position and justification for placing the position
45 in the nonclassified category, in its minute record.

46 (B) The number of nonclassified personnel may not be
47 increased above twenty percent unless the increase is approved
48 by both the commission and the council.

49 (2) *Powers and duties of commission and council regarding*
50 *nonclassified staff ratios.* –

51 (A) It is the duty of the commission and council jointly to
52 establish criteria for the purpose of making decisions on
53 approving or disapproving requests by organizations to exceed
54 the twenty percent limit for personnel placed in the nonclassified
55 category;

56 (B) The commission and council shall provide technical
57 assistance to organizations under their respective jurisdictions in
58 collecting and interpreting data to ensure that they fulfill the
59 requirements established by this section. Consideration of these
60 issues shall be made part of each review required by section nine
61 of this article and information from the review included in the
62 reports required by subsections (a) and (b), section eight of this
63 article;

64 (C) The chancellors shall monitor the progress of the
65 organizations in meeting the deadlines established in this section
66 and shall report periodically to the council and commission. The
67 commission and council shall make a preliminary compliance
68 report to the Legislative Oversight Commission on Education
69 Accountability by September 1, 2013, and a final report on
70 organization compliance to that body by September 1, 2015.

71 (D) Subject to a joint recommendation by the commission
72 and the council and subsequent affirmative action by the
73 Legislature to extend the authority beyond the specified date of
74 termination, the authority of an organization to place more than
75 twenty percent of its personnel in the nonclassified category
76 pursuant to this section expires on July 1, 2016.

77 (d) The current annual salary of a nonclassified employee
78 may not be reduced if his or her position is redefined as a
79 classified position solely to meet the requirements of this
80 section. If such a nonclassified employee is reclassified, his or
81 her salary does not constitute evidence of inequitable
82 compensation in comparison to other employees in the same
83 paygrade.

- 84 (e) For the purposes of this section only the commission and
85 council are not considered higher education organizations.

CHAPTER 94

(Com. Sub. for S. B. 438 - By Senators Plymale, Wells and McCabe)

[Passed April 13, 2013; in effect from passage.]

[Approved by the Governor on May 2, 2013.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18B-3F-1, §18B-3F-2, §18B-3F-3, §18B-3F-4, §18B-3F-5, §18B-3F-6, §18B-3F-7, §18B-3F-8, §18B-3F-9 and §18B-3F-10, all relating to reorganization and consolidation of Bridgemont Community and Technical College and Kanawha Valley Community and Technical College; creating an independent, multi-campus community and technical college on June 30, 2013; abolishing certain boards of governors and providing for appointment of a new board of governors; setting forth legislative findings; providing definitions; requiring development of a strategic reorganization plan; establishing an administrative planning committee; providing for committee membership, powers, duties and termination date; appointing president and other officers; specifying certain duties; providing for transfer of assets and liabilities, operating budgets, orders, rules and procedures; providing for the transfer of faculty, classified employees and nonclassified employees; providing for employee rights and benefits when positions are abolished; requiring notification of employment status by certain date under certain circumstances; and providing for the transfer of students.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §18B-3F-1, §18B-3F-2, §18B-3F-3, §18B-3F-4, §18B-3F-5, §18B-3F-6, §18B-3F-7, §18B-3F-8, §18B-3F-9 and §18B-3F-10, all to read as follows:

ARTICLE 3F. REORGANIZATION OF COMMUNITY AND TECHNICAL COLLEGES.

§18B-3F-1. Legislative findings.

1 (a) The Legislature finds that while certain areas of the state
2 currently lack a sufficient population or employer base to
3 support an independent community and technical college, it is
4 vital to the citizens and businesses of these areas to have access
5 to comprehensive, high-quality community and technical
6 education programs and services that are well articulated with
7 the public schools, baccalaureate institutions and other
8 community and technical colleges; that make the most efficient
9 and effective use of facilities, faculty, staff, equipment and other
10 available resources; that encourage students of all ages, ability
11 levels and economic circumstances to pursue a lifetime of
12 learning; that serve as engines of economic development; and
13 that have the ability to adapt quickly to changing needs for
14 workforce training.

15 (b) The Legislature further finds that a critical need exists to
16 enhance the role of technical education in every area of the state;
17 to encourage and strengthen collaborative and cooperative
18 relationships between and among institutions in order to provide
19 the highest quality programs and services most effectively; and
20 to make the most efficient use of scarce resources while
21 avoiding, to the extent practicable, duplication of administrative
22 and programmatic costs. Establishment of multicampus
23 institutions provides an excellent opportunity to implement more
24 effective and efficient systems of program delivery and to

25 explore alternative organizational and management structures
26 best suited to serving the needs of students, employers and the
27 citizens of a geographic region. Reorganization offers an
28 efficient and effective method to provide high-quality,
29 comprehensive community and technical education in an area
30 where two institutions serve the same community and technical
31 college district or population center. Creating a consolidated
32 multicampus institution will enhance the delivery of
33 comprehensive community and technical college education to
34 that entire geographical region.

§18B-3F-2. Definitions.

1 (a) *General.* – For the purposes of this article, terms have the
2 meaning ascribed to them in section two, article one of this
3 chapter, unless the context in which the term is used clearly
4 requires a different meaning or a specific definition is provided
5 in this section.

6 (b) *Definitions.* –

7 (1) “Administrative planning committee” or “planning
8 committee” means the advisory group established pursuant to
9 section seven of this article to advise the governing board of the
10 reorganized multicampus community and technical college and
11 to serve as liaison to the council.

12 (2) “Affected institution” means a community and technical
13 college which is included in a reorganization.

14 (3) “Chancellor” means the chief executive officer of the
15 council appointed pursuant to section three, article two-b of this
16 chapter.

17 (4) “Consolidated institution” means a community and
18 technical college formed by joining together one or more
19 institutions to create a new multicampus college or integrating

20 two or more institutions into an existing institution to form one
21 multicampus college. An institution that is included in a
22 consolidation or integrated into an existing institution ceases to
23 exist as an independent institution of higher education.

24 (5) “Institution” means any community and technical college
25 under the jurisdiction of the council.

26 (6) “Multicampus institution” means a college that has more
27 than one campus as defined and approved by the Higher
28 Learning Commission of the North Central Association of
29 Schools and Colleges. In the case of the consolidation of
30 Bridgemont Community and Technical College and Kanawha
31 Valley Community and Technical College, “multicampus
32 institution” means the consolidated institution comprised of
33 existing campuses in Montgomery and South Charleston and any
34 other campuses that may be established in the future, in
35 accordance with the Higher Learning Commission standards of
36 accreditation.

37 (7) “Institutional reorganization” or “reorganization” means
38 the process of combining institutions to form a consolidated
39 community and technical college or integrating one institution
40 into another.

41 (8) “Strategic reorganization plan” or “plan” means the
42 document developed in accordance with section eight of this
43 article consisting of strategies, procedures and guidelines to be
44 used in implementing an institutional reorganization.

§18B-3F-3. Appointment of institutional board of governors.

1 (a) Effective June 30, 2013, Bridgemont Community and
2 Technical College and Kanawha Valley Community and
3 Technical College become one independent, multicampus
4 community and technical college administered by its own
5 governing board under the jurisdiction and authority of the

6 council and subject to all applicable provisions of this chapter
7 and chapter eighteen-c of this code, and to continued fulfillment
8 of institutional accreditation requirements. The boards of
9 governors of Bridgemont Community and Technical College and
10 Kanawha Valley Community and Technical College are
11 abolished on June 30, 2013.

12 (1) The consolidated institution is comprised of existing
13 campuses in Montgomery and South Charleston and any other
14 campuses that may be established in the future, in accordance
15 with the Higher Learning Commission standards of
16 accreditation.

17 (2) The board of governors of the consolidated institution
18 shall develop, implement and complete the reorganization by
19 July 1, 2014.

20 (3) Beginning on July 1, 2013, and thereafter, any reference
21 in this code to Bridgemont Community and Technical College or
22 Kanawha Valley Community and Technical College means the
23 multicampus institution created pursuant to this article.

24 (b) Initial appointments to the board of governors of the
25 reorganized institution are made pursuant to the provisions of
26 section one, article two-a of this chapter, except as follows:

27 (1) As soon after the effective date of this article as
28 practicable, but before July 1, 2013, the Governor shall select lay
29 citizen members of the board of governors for the consolidated
30 institution from the former lay citizen members of each of the
31 boards of governors of the affected institutions. The Governor
32 shall appoint an equal number of lay citizen members from each
33 of the boards of the affected institutions. One such member
34 serves a one-year term only, after which that membership
35 position is not reappointed.

36 (2) One of the initial appointments is for a term of one year,
37 four of the initial appointments are for terms of four years and
38 five of the initial appointments are for terms of three years.

39 (3) Until June 30, 2014, all of the constituent members of the
40 boards of governors of the affected institutions representing
41 faculty, classified employees and students serve as members on
42 the board of governors of the reorganized institution. Beginning
43 July 1, 2014, the constituent members of the reorganized
44 institution are appointed according to the provisions of section
45 one, article two-a of this chapter.

46 (c) At the end of each initial term, and thereafter, an
47 appointment to the board of governors of the consolidated
48 institution, either to fill a vacancy or to reappoint a member who
49 is eligible to serve an additional term, shall be made in
50 accordance with section one, article two-a of this chapter.

51 (d) The chancellor shall call the first meeting of the board of
52 governors as soon after June 30, 2013, as feasible, at which time
53 the members shall elect a chairperson and other officers pursuant
54 to article two-a of this chapter. Thereafter, the board shall hold
55 an annual meeting in June of each year for the purpose of
56 electing officers.

§18B-3F-4. Powers and duties of board of governors.

1 (a) The actions of the board of governors appointed pursuant
2 to section three of this article are subject to the terms and
3 conditions prescribed in article two-a of this chapter. The board
4 has all the powers and duties provided in section four, article
5 two-a of this chapter.

6 (b) The programs of the consolidated institution are operated
7 under the rules and procedures of the institution's board of
8 governors, which, initially, shall adopt rules from one or both of
9 the affected institutions until the time when new or revised rules

10 are proposed and approved pursuant to section six, article one of
11 this chapter.

12 (1) The administrative planning committee shall make
13 recommendations to the board of governors regarding which of
14 the rules of the affected institutions should be adopted.

15 (2) Nothing in this section requires the initial rules of the
16 board of governors to be promulgated again under the rule
17 adopted by the Council for Community and Technical College
18 Education pursuant to section six, article one of this chapter
19 unless the rules are rescinded, revised, amended or otherwise
20 altered.

21 (c) It is the duty of the board of governors of the
22 consolidated institution to adopt rules and procedures that
23 authorize, support and encourage the consolidated institution to
24 fulfill its core mission. It is further the specific duty of the board
25 of governors to facilitate delivery of a comprehensive program
26 of community and technical college education in all the counties
27 that are served by the multicampus consolidated institution. To
28 that end, the board shall expend from the appropriations
29 allocated to the affected institutions such funds as are necessary
30 or expedient to operate and conduct programs, to acquire clear
31 title to any real property and to make necessary capital
32 improvements.

33 (d) In addition to the powers and duties set forth in this
34 section and in article two-a of this chapter, the board of
35 governors shall perform the following duties:

36 (1) Choose a name for the consolidated multicampus
37 institution from the recommendations submitted by the
38 administrative planning committee pursuant to section seven of
39 this article.

40 (2) Choose the president of one of the affected institutions
41 to serve as president of the consolidated institution pursuant to
42 section five of this article;

43 (3) Determine which positions of the affected institutions are
44 to be abolished and notify employees as required by section nine
45 of this article; and

46 (4) Serve as the designated board of advisors for the
47 Advantage Valley Advanced Technology Center created by
48 section fourteen, article three-c of this chapter.

§18B-3F-5. Appointment of institutional president; other officers.

1 (a) The board of governors shall designate the president of
2 one of the affected institutions to serve as president of the
3 consolidated multicampus institution. The other president shall
4 serve as provost or chief executive officer of his or her
5 respective campus. The salary and benefits of an individual who
6 is serving as an institutional president at the time of a
7 reorganization may not be reduced solely as a result of the
8 reorganization. Provosts and chief executive officers report
9 directly to the president of the consolidated institution.

10 (b) After the initial contract period ends or at the expiration
11 of a president's current contract, the board of governors of the
12 consolidated multicampus institution shall appoint and evaluate
13 the president in accordance with section six, article one-b of this
14 chapter.

**§18B-3F-6. Budget; transfer of financial assets, property, liability,
orders, policies, procedures, etc.**

1 When a consolidated institution is formed:

2 (1) The operating budget of each affected institution is
3 integrated under the authority and jurisdiction of the board of
4 governors of the consolidated institution.

5 (2) All financial assets, including state fund balances, and
6 liabilities are transferred from the authority of the board of
7 governors of each affected institution to the authority of the
8 board of governors of the consolidated institution.

9 (3) Any capital debt service payment formerly the
10 responsibility of an affected institution or the affected
11 institution's share of any capital debt service payment of its
12 former sponsoring institution continues in the required amount
13 and is the responsibility of the board of governors of the
14 consolidated institution.

15 (4) The titles to all real property, facilities and equipment of,
16 as well as each valid agreement and obligation undertaken by,
17 the affected institutions are transferred to the board of governors
18 of the consolidated institution, which shall exercise general
19 determination, control, supervision and management of the
20 financial, business and education policies and affairs of the
21 consolidated multicampus institution.

22 (5) The title to all property purchased for the use of an
23 affected institution is vested in the board of governors of the
24 consolidated multicampus institution.

**§18B-3F-7. Administrative planning committee; purpose;
membership; duties; termination.**

1 (a) On the effective date of this article, or as soon thereafter
2 as practicable, the council shall establish an administrative
3 planning committee to advise in the reorganization of
4 Bridgemont and Kanawha Valley Community and Technical
5 Colleges.

6 (b) *Membership.* – The administrative planning committee
7 consists of the following members:

8 (1) The president of each affected institution;

9 (2) The chair of the board of governors of each affected
10 institution;

11 (3) The chair of the council;

12 (4) The vice chancellor for administration, appointed
13 pursuant to section two, article four of this chapter, or a
14 designee; and

15 (5) The chancellor, who chairs the planning committee.

16 (c) The administrative planning committee serves in an
17 advisory capacity to the board of governors in developing the
18 strategic reorganization plan and serves as liaison to the council
19 during the reorganization period.

20 (d) The administrative planning committee shall submit to
21 the board of governors a list of at least three names from which
22 the board shall choose a name for the consolidated, multicampus
23 community and technical college at their first meeting as soon
24 after June 30, 2013, as feasible.

25 (e) The planning committee shall report to the council at
26 least quarterly, or more often if requested, on development of the
27 strategic reorganization plan and the progress of the board of
28 governors in implementing the reorganization.

29 (f) The administrative planning committee is created
30 specifically to assist in the reorganization of Bridgemont and
31 Kanawha Valley Community and Technical Colleges and ceases
32 to exist on July 1, 2014, or on the date when the council
33 determines the reorganization has been completed, whichever
34 occurs first.

§18B-3F-8. Strategic reorganization plan.

1 (a) The board of governors, with the advice of the
2 administrative planning committee, shall develop a strategic

3 reorganization plan for Bridgemont and Kanawha Valley
4 Community and Technical Colleges, including all campuses and
5 instruction sites of each institution. The board of governors shall
6 develop, implement and complete the reorganization by July 1,
7 2014.

8 (b) The reorganization plan includes, but is not limited to,
9 the following elements:

10 (1) A timeline showing specific steps for completing the
11 reorganization by July 1, 2014;

12 (2) A procedure to assure that all employees of the affected
13 institutions are notified of their employment status pursuant to
14 section nine of this article;

15 (3) A statement of assurance showing specific steps to be
16 taken to safeguard the rights, privileges and benefits of faculty,
17 classified employees and nonclassified employees of the affected
18 institutions including provisions for fulfilling contracts and
19 protecting earned benefits;

20 (4) A description of the instructional benefits expected from
21 the reorganization including a detailed explanation of
22 enhancements to academic program offerings, workforce
23 development programs for employers and services to students;

24 (5) A description of the fiscal benefits expected from the
25 reorganization including a detailed explanation of management
26 efficiencies, enhanced leadership skills, better coordination of
27 instruction and student support services and efficiencies in
28 expenditures per full-time equivalent student;

29 (6) A statement of assurance that student access to high-
30 quality education programming will be enhanced and/or
31 maintained; and

32 (7) A strategy to secure regional accreditation of the
33 reorganized institution by July 1, 2014.

§18B-3F-9. Rights and benefits of employees of affected institutions; positions to be abolished; notice of employment status by certain date required.

1 (a) When a consolidated institution is formed, the faculty,
2 classified employees and nonclassified employees of the affected
3 institutions become the faculty, classified employees and
4 nonclassified employees of the consolidated institution, subject
5 to the provisions of this article.

6 (b) By December 31, 2013, the board of governors of the
7 consolidated institution, in consultation with the president, shall
8 determine which, if any, positions existing at the affected
9 institutions on the effective date of this article are to be
10 abolished.

11 (1) In the case of positions which the board chooses to
12 retain, but which exist at both affected institutions, when there
13 is an overlap of duties and responsibilities of employees who
14 occupy those positions, the board of governors, in consultation
15 with the president, shall determine which position or positions
16 shall be abolished.

17 (2) A classified employee who holds a position scheduled to
18 be abolished is afforded all rights and benefits provided by this
19 article and by section three, article seven of this chapter.

20 (c) *Official notification to employees.* –

21 (1) The president shall provide official notice of employment
22 status to each classified employee, faculty member and
23 nonclassified employee of the affected institutions not later than
24 thirty days after the board's decision. For an employee whose
25 position is to be abolished, the official notice shall specify his or
26 her date of termination. The termination date shall be within
27 three to six months following the date of official notification.

28 (2) Any person who was employed full time by an affected
 29 institution on the effective date of this article and whose
 30 employment continues in any capacity with the board of
 31 governors of the consolidated institution is considered to have no
 32 break in service for calculation of years of service, seniority,
 33 participation in health and retirement plans or continued
 34 employment by the state.

35 (3) The board of governors, created pursuant to this article,
 36 is an organization as defined in section two, article nine-a of this
 37 chapter and is subject to all the terms and conditions that apply
 38 to higher education organizations as provided in this chapter and
 39 chapter eighteen-c of this code. Specifically, the board is subject
 40 to section three, article seven of this chapter when making
 41 reductions in force of classified employees.

§18B-3F-10. Transfer of students.

1 When a consolidated institution is formed, the students of
 2 the affected institutions become the students of the consolidated
 3 institution, subject to the provisions of section eight, article one
 4 of this chapter.



CHAPTER 95

**(Com. Sub. for H. B. 2490 - By Delegates Iaquina,
 Fleischauer, Longstreth, Stephens and Azinger)**

[Passed April 13, 2013; in effect ninety days from passage.]

[Approved by the Governor on May 1, 2013.]

AN ACT to amend and reenact §18B-4-9 of the Code of West Virginia, 1931, as amended, relating to providing services for and addressing needs of student veterans enrolled in state institutions of higher education; designating role and duties of veterans

advocates; and specifying certain provisions to be implemented for student veterans.

Be it enacted by the Legislature of West Virginia:

That §18B-4-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 4. GENERAL ADMINISTRATION.

§18B-4-9. Development of services and facilities for student veterans.

1 (a) *Legislative findings.* — The Legislature finds that
2 veterans of the Armed Forces of the United States that attend
3 institutions of higher education in this state have many unique
4 needs, issues and concerns that most traditional students do not
5 have. Many of these veterans have had or will be subject to
6 multiple deployments to active duty, including overseas
7 deployment, resulting in challenges to their pursuit of higher
8 education.

9 (b) *Legislative intent.* — It is the intent of the Legislature
10 that state institutions of higher education provide adequate
11 services and facilities for student veterans in order to better serve
12 their unique needs and to make West Virginia’s state institutions
13 of higher education veteran-friendly.

14 (c) The commission, council and each state institution of
15 higher education shall establish and implement measures to
16 assure that veterans enrolled in the institutions receive services
17 and are provided facilities appropriate for their needs, that
18 student veterans complete programs of study and earn degrees,
19 and that the institutions become veteran-friendly by actively and
20 effectively providing academic and social support and assistance
21 to student veterans. The measures shall include, but are not
22 limited to, the following:

23 (1) Establishing veteran-friendly community and technical
24 college degree programs which recognize and award academic

25 credit toward degrees for various types of technical and
26 vocational military training and experience;

27 (2) Developing policies for each state institution of higher
28 education to grant academic credit for Armed Forces
29 experiences;

30 (3) Developing programs to encourage student veterans to
31 share their specialized experience and knowledge gained through
32 military service by making presentations in class, public school
33 programs and local community organizations;

34 (4) Establishing and sponsoring an organization for student
35 veterans on campus and encouraging other veteran-friendly
36 organizations;

37 (5) Appointing and training specific faculty within each
38 degree program or major as liaisons and contacts for student
39 veterans;

40 (6) Providing information about programs that grant credit
41 for prior learning to student veterans and potential student
42 veterans;

43 (7) Coordinating existing disability services on campus with
44 veteran disability services available from the United States
45 Department of Veterans Affairs, other federal and state agencies,
46 and private resources;

47 (8) Designating individuals to provide financial and
48 psychological counseling services on each campus who are
49 trained to effectively respond to the needs of veterans and to
50 provide services or referrals to services to fulfill these needs for
51 student veterans; and to the extent practicable, providing those
52 services and programs in one location;

53 (9) Developing training materials on responding to student
54 veteran needs to be available for continued professional
55 development of counselors to student veterans;

56 (10) Facilitating regular statewide meetings for all personnel
57 at state institutions of higher education who regularly provide
58 specific services to student veterans to discuss and develop best
59 practices, exchange ideas and experiences, and hear
60 presentations by individuals with generally accepted expertise in
61 areas of the various needs of student veterans;

62 (11) Gathering data on the status of student veterans,
63 including their graduation rates, comparing that rate with the
64 graduation rate of other students in the institution, and reporting
65 those results to appropriate state and federal agencies, including
66 the West Virginia Legislature;

67 (12) Establishing a program to create a collaborative
68 relationship between student veterans and alumni of the
69 institution, and with prospective employers to facilitate and
70 provide employment as well as social opportunities to graduating
71 student veterans;

72 (13) Developing and facilitating communications between
73 state institutions of higher education and various veteran
74 organizations in the state to advance veteran causes that benefit
75 student veterans; and

76 (14) Coordinating among all relevant departments within
77 each state institution of higher education including but not
78 limited to admissions, the registrar, the bursar, the veterans
79 advocate and financial aid to ensure that relevant deadlines or
80 time-lines are met for certifying veterans' enrollment as early as
81 practicable to ensure that assistance is received from the U.S.
82 Department of Veterans Affairs (DVA) in a timely fashion.
83 Measures to achieve greater coordination shall include but are
84 not limited to:

85 (A) Identifying applicants who are veterans as early as
86 possible;

87 (B) Taking affirmative steps to reach out to veteran
88 applicants to inform them of relevant policies, time-lines or
89 deadlines for receiving veterans assistance;

90 (C) Developing a communications plan between
91 departments, applicants and students to ensure that deadlines or
92 time-lines are being met;

93 (D) Developing plans to assist students when U.S.
94 Department of Veterans Affairs benefits are not received in a
95 timely fashion. Such plans could include forbearance of payment
96 deadlines, short-term loans, grants, or a revolving fund.

97 (E) Making every effort to provide sufficient class sections
98 to meet the needs of students for classes which are required for
99 graduation, including where appropriate, giving student veterans
100 priority registration.

101 (d) *Veterans Advocates*. — Each state institution of higher
102 education shall appoint or designate and train a person,
103 preferably a veteran, to serve as a veterans advocate on its
104 campus. The commission and council shall also provide training
105 for veterans advocates at each of the institutions under their
106 respective jurisdictions. The veterans advocate shall serve as the
107 primary point of contact and campus advocate for current and
108 prospective students who are veterans of the Armed Forces of
109 the United States or are current members of the Armed Forces of
110 the United States, including reserve components of the National
111 Guard of this state or any other state. The duties and
112 responsibilities of the veterans advocate include, but are not
113 limited to the following:

114 (1) Assist and facilitate student veterans in utilizing services,
115 resources and facilities available at the institution; and

116 (2) To the extent resources are available for such purposes,
117 provide services, programs and assistance to current and
118 prospective student veterans designed to encourage, promote and
119 facilitate the recruitment, retention and academic success of such
120 students.

121 (e) The commission and council jointly shall submit a report
122 to the Legislature on September 1, annually, on the progress
123 toward implementing this section.