ACTS
OF THE
LEGISLATURE
OF
WEST VIRGINIA

Regular Session, 2013

Volume I
Chapters 1 - 95
FOREWORD


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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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

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<td>George &quot;Boogie&quot; Ambler (R)</td>
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<td>Ray Canterbury (R)</td>
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<td>Denise L. Campbell (D)</td>
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<td>William G. Hartman (D)</td>
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<td>Amanda Pasdon (R)</td>
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<td>Isaac Sponaugle (D)</td>
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<td>81st</td>
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<td>Gary G. Howell (R)</td>
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<td>Larry D. Kump (R)</td>
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<td>Larry W. Faircloth (R)</td>
<td>Inwood</td>
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<td>Jason Barrett (D)</td>
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<td>John Overington (R)</td>
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<td>Michael “Mike” Folk (R)</td>
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<td>Tiffany E. Lawrence (D)</td>
<td>Charles Town</td>
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<td>Paul Espinosa (R)</td>
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<td>Stephen Skinner (D)</td>
<td>Shepherdstown</td>
<td>81st</td>
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</table>

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

[XXXII]
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

<table>
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<th>District</th>
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<th>Legislative Service</th>
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<tr>
<td>First. .</td>
<td>Robert J. Fitzsimmons (D).</td>
<td>Wheeling.</td>
<td>Appt. 12/26/12, 81st</td>
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<td>Jack Yost (D).</td>
<td>Wellsburg.</td>
<td>(House 76th - 78th); 79th - 81st</td>
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<td>Larry J. Edgell (D).</td>
<td>New Martinsburg.</td>
<td>74th - 81st</td>
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<td>Jeffrey V. Kessler (D).</td>
<td>Glen Dale.</td>
<td>Appt. 11/1997, 73rd, 74th - 81st</td>
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<td>Donna J. Boley (R).</td>
<td>St. Marys.</td>
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<td>David C. Nohe (R).</td>
<td>Vienna.</td>
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<td>Mitch B. Carmichael (R).</td>
<td>Ripley.</td>
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<td>Evan H. Jenkins (D).</td>
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<td>Robert H. Plymale (D).</td>
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<td>H. Truman Chaifin (D).</td>
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<td>Bill Cole (R).</td>
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<td>Erik P. Wells (D).</td>
<td>Charleston.</td>
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<td>Robert D. Beach (D).</td>
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<td>Corey Palumbo.</td>
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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, Iaquinta, 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.

[XXXIV]
HOUSE OF DELEGATES COMMITTEES

ENERGY, INDUSTRY AND LABOR,
ECONOMIC DEVELOPMENT
AND SMALL BUSINESS


FINANCE

White (Chair), Reynolds (Vice Chair), Craig, Guthrie, Iaquinta, 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.

[XXXV]
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.

[XXXVI]
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.

[XXXVII]
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.
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.

As used in this article:

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

(b) “Member” means a member of an association without capitol stock, and a holder of common stock in an association organized with capital stock;

(c) “Cooperative association” or “association” means any corporation organized under this article. Each association shall also comply with the business corporation provisions of chapter thirty-one-d or the nonprofit corporation provisions of chapter thirty-one-e of this code.

§19-4-2. Who may organize.

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

§19-4-6. Articles of incorporation.

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

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

(b) The purposes for which it is formed;
(c) The place where its principal business will be transacted;

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

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

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

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

(h) If the association is authorized to issue more than one class of stock, the total number of shares of all classes of stock which the association may issue, including: (1) The number of shares of each class that have a par value and the par value of each share by class; (2) the number of shares that are to be without par value; and (3) a statement of the powers, preferences, rights, qualifications, limitations or restrictions that are permitted by section thirteen of this article in respect to a class of stock fixed by the articles of incorporation or by resolution of the board of directors;
(i) The articles shall be signed, notarized and filed in accordance with the provisions of the business or nonprofit corporation laws of this state;

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

§19-4-10. Directors.

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

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

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

(d) An association may provide a fair remuneration for the time actually spent by its officers and directors in its service and for the service of the members of its executive committee. No
director, during the term of his or her office, shall be a party to a contract for profit with the association differing from the contractual terms accorded regular members or holders of common stock of the association.

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

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

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

§19-4-19. Annual reports.

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

§19-4-21. Use of term “cooperative.”

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

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

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

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

(b) The commissioner may summon witnesses in the hearings before him or her, and fees of witnesses summoned on behalf of the state in proceedings to sanction licenses shall be
treated as a part of the expenses of administration and
enforcement. The fees shall be the same as those in similar
hearings in the circuit courts of this state. The commissioner
may, upon a finding of violation, assess a licensee a sum not to
exceed $150 per violation to reimburse the commissioner for
expenditures for witness fees, court reporter fees and travel costs
incurred in holding the hearing. Moneys so assessed shall be
transferred to the Nonintoxicating Beer Fund created by section
twenty-three of this article.

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

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


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

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

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

(d) The judgment of the circuit court reviewing the order of
the commissioner is final unless reversed, vacated or modified
on appeal to the Supreme Court of Appeals in accordance with
the provisions of section one, article six, chapter twenty-nine-a
of this code.
(e) Legal counsel and services for the commissioner in all the proceedings in any circuit court and the Supreme Court of Appeals shall be provided by the Attorney General or his or her assistants and in any proceedings in any circuit court by the prosecuting attorney of that county as well, all without additional compensation.

(f) Upon final revocation, the commissioner shall proceed to reissue the retail license by following the procedures set forth 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.

(a) The commissioner may not revoke or suspend a license issued pursuant to this article or impose civil penalties authorized under this article unless and until a hearing is held after at least ten days’ notice to the licensee of the time and place of the hearing, which notice shall contain a statement or specification of the charges, grounds or reasons for the proposed contemplated action, and which is served upon the licensee as notices under the West Virginia Rules of Civil Procedure or by certified mail, return receipt requested, to the address for which license was issued. At the time and place, designated in the notice, the licensee has the right to appear and produce evidence in his or her behalf, and to be represented by counsel: Provided, That the commissioner may forthwith suspend the license when the commissioner believes the public safety will be adversely affected by the licensee’s continued operation.
(b) The commissioner may summon witnesses in the hearing before him or her, and fees of witnesses summoned on behalf of the state in proceedings to sanction licenses shall be treated as a part of the expenses of administration and enforcement. The fees shall be the same as those in similar hearings in the circuit courts of this state. The commissioner may, upon a finding of violation, assess a licensee a sum, not to exceed $150 per violation, to reimburse the commissioner for expenditures of witness fees, court reporter fees and travel costs incurred in holding the hearing. Moneys so assessed shall be transferred to the Alcohol Beverage Control Enforcement Fund created by section thirteen of this article.

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

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

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

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

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

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

(A) Revoke the licensee’s license;

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

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

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

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

(b) If a supplier or distributor fails or refuses to keep in effect the bond required by section twenty-nine of this article, 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
the order. Any such order is final unless vacated or modified upon judicial review thereof.

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

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

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

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

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

(1) The child is believed to be abducted;

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

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

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

(b) In the event of suspicion that a child has been abducted or is missing, and in the initial stages of a missing or abducted child investigation, the reporting law enforcement agency shall contact the West Virginia State Police Communications Center by telephone. The communications center will then contact the Amber Alert Coordinator to determine if the Amber Alert 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.
§5. Maximum expenditures.

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

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

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

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

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

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

“General revenue fund” shall mean the general operating fund of the state and includes all moneys received or collected by the state except as provided in W.Va. Code §12-2-2 or as otherwise provided.
“Special revenue funds” shall mean specific revenue sources which by legislative enactments are not required to be accounted for as general revenue, including federal funds.

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

Sec. 3. Classification of appropriations. — An appropriation for:

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

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

“Employee benefits” shall mean social security matching, workers’ compensation, unemployment compensation, pension and retirement contributions, public employees insurance matching, personnel fees or any other benefit normally paid by the employer as a direct cost of employment. Should the appropriation be insufficient to cover such costs, the remainder of such cost shall be transferred by each spending unit from its “personal services” line item or its “unclassified” or “current
expenses” line item or other appropriate line item to its “employee benefits” line item. If there is no appropriation for “employee benefits”, such costs shall be paid by each spending unit from its “personal services” line item, its “unclassified” line item, or its “current expenses” line item or other appropriate line item. Each spending unit is hereby authorized and required to make such payments in accordance with the provisions of Article 2, Chapter 11B of the Code.

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

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

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

West Virginia Council for Community and Technical College Education and Higher Education Policy Commission entities operating with special revenue funds and/or federal funds shall pay their proportionate share of the Board of Risk and Insurance Management total insurance premium cost for their respective institutions.
“Current expenses” shall mean operating costs other than personal services and shall not include equipment, repairs and alterations, buildings or lands. Each spending unit shall be responsible for and charged monthly for all postage meter service and shall reimburse the appropriate revolving fund monthly for all such amounts. Such expenditures shall be considered a current expense.

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

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

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

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

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

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

Appropriations classified in any of the above categories shall be expended only for the purposes as defined above and only for the spending units herein designated: Provided, That the secretary of each department shall have the authority to transfer
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.
Appropriations otherwise classified shall be expended only where the distribution of expenditures for different purposes cannot well be determined in advance or it is necessary or desirable to permit the spending unit the freedom to spend an appropriation for more than one of the above classifications.

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

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

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§12. Specific funds and collection accounts
§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.
The appropriations for the Senate for the fiscal year 2013 are to remain in full force and effect and are hereby reappropriated to June 30, 2014. Any balances so reappropriated may be transferred and credited to the fiscal year 2013 accounts.

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

The Clerk of the Senate, with the approval of the President, is authorized to draw his or her requisitions upon the auditor, payable out of the Current Expenses and Contingent Fund of the Senate.
Senate, for any bills for supplies and services that may have been
incurred by the Senate and not included in the appropriation bill,
for supplies and services incurred in preparation for the opening,
the conduct of the business and after adjournment of any regular
or extraordinary session, and for the necessary operation of the
Senate offices, the requisitions for which are to be accompanied
by bills to be filed with the auditor.

The Clerk of the Senate, with the approval of the President,
or the President of the Senate shall have authority to employ
such staff personnel during any session of the Legislature as
shall be needed in addition to staff personnel authorized by the
Senate resolution adopted during any such session. The Clerk of
the Senate, with the approval of the President, or the President
of the Senate shall have authority to employ such staff personnel
between sessions of the Legislature as shall be needed, the
compensation of all staff personnel during and between sessions
of the Legislature, notwithstanding any such Senate resolution,
to be fixed by the President of the Senate. The Clerk is hereby
authorized to draw his or her requisitions upon the auditor for the
payment of all such staff personnel for such services, payable out
of the appropriation for Compensation and Per Diem of Officers
and Employees or Current Expenses and Contingent Fund of the
Senate.

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

The distribution of the blue book shall be by the office of the
Clerk of the Senate and shall include 75 copies for each member
of the Legislature and two copies for each classified and
approved high school and junior high or middle school and one
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 Officers and Employees (R) .... 005 700,000
3. Current Expenses and Contingent Fund (R) ............... 021 3,954,031
4. Expenses of Members (R) ............ 399 1,700,000
5. BRIM Premium (R) ................... 913 50,000
6. Total .................................. $ 9,404,031

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

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

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

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

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

3 - Joint Expenses

(WV Code Chapter 4)

Fund 0175 FY 2014 Org 2300

| 1 | Joint Committee on Government and Finance (R) | 104 | $6,758,015 |
| 2 | Legislative Printing (R) | 105 | 760,000 |
| 3 | Legislative Rule-Making Review Committee (R) | 106 | 147,250 |
| 4 | Legislative Computer System (R) | 107 | 902,500 |
| 5 | BRIM Premium (R) | 913 | 27,692 |
| 6 | Total | | $8,595,457 |
The appropriations for the joint expenses for the fiscal year 2013 are to remain in full force and effect and are hereby reappropriated to June 30, 2014. Any balances reappropriated may be transferred and credited to the fiscal year 2013 accounts.

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

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

**JUDICIAL**

*4 - Supreme Court – General Judicial*

Fund 0180 FY 2014 Org 2400

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<td>Employee Benefits (R)</td>
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<td>Children's Protection Act (R)</td>
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<td>Current Expenses (R)</td>
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<td>13,486,000</td>
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<td>Repairs and Alterations (R)</td>
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<td>700,000</td>
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<td>Equipment (R)</td>
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<td>Judges' Retirement System (R)</td>
<td>110</td>
<td>2,456,000</td>
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<td>Other Assets (R)</td>
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<td>919,979</td>
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<td>BRIM Premium (R)</td>
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<td>Total</td>
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<td>$121,511,992</td>
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The appropriations to the Supreme Court of Appeals for the fiscal years 2012 and 2013 are to remain in full force and effect and are hereby reappropriated to June 30, 2014. Any balances so reappropriated may be transferred and credited to the fiscal year 2013 accounts.

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

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

**EXECUTIVE**

*5 - Governor's Office*

(WV Code Chapter 5)

Fund 0101 FY 2014 Org 0100

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<td>Employee Benefits</td>
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<td>Current Expenses (R)</td>
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<td>GO HELP (R)</td>
<td>116</td>
<td>473,383</td>
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<td>National Governors Association</td>
<td>123</td>
<td>60,700</td>
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<td>Southern States Energy Board</td>
<td>124</td>
<td>28,732</td>
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<td>9</td>
<td>Herbert Henderson Office of Minority Affairs</td>
<td>134</td>
<td>162,800</td>
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11 Southern Governors’ Association... 314  40,000
12  BRIM Premium. ..................    913  156,851
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  5,000
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.
Any unexpended balances remaining in the appropriations for Business and Economic Development Stimulus – Surplus (fund 0105, activity 084), Civil Contingent Fund – Total (fund 0105, activity 114), 2012 Natural Disaster – Surplus (fund 0105, activity 135), May 2009 Flood Recovery – Surplus (fund 0105, activity 236), Civil Contingent Fund – Total – Surplus (fund 0105, activity 238), Civil Contingent Fund – Surplus (fund 0105, activity 263), Business and Economic Development Stimulus (fund 010, activity 586), and Civil Contingent Fund (fund 0105, activity 614) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

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

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

Personal Services ..................... 001 $ 2,274,943
Salary of Auditor ..................... 002 95,000
<table>
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<td>Repairs and Alterations</td>
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<td>$3,486,565</td>
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Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0116, activity 097), Unclassified (fund 0116, activity 099), and Current Expenses (fund 0116, activity 130) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

9 - Treasurer’s Office

(WV Code Chapter 12)

Fund 0126 FY 2014 Org 1300

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<td>Employee Benefits</td>
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<td>5</td>
<td>Current Expenses (R)</td>
<td>130</td>
<td>457,912</td>
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<td>6</td>
<td>Equipment</td>
<td>070</td>
<td>10,000</td>
</tr>
<tr>
<td>7</td>
<td>Abandoned Property Program</td>
<td>118</td>
<td>260,947</td>
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<td>8</td>
<td>Other Assets</td>
<td>690</td>
<td>10,000</td>
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<td>9</td>
<td>Tuition Trust Fund (R)</td>
<td>692</td>
<td>147,390</td>
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<td>10</td>
<td>BRIM Premium</td>
<td>913</td>
<td>30,809</td>
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<tr>
<td>11</td>
<td>Total</td>
<td></td>
<td>$3,644,918</td>
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</table>

Any unexpended balances remaining in the appropriations for Current Expenses (fund 0126, activity 130) and Tuition Trust Fund (fund 0126, activity 692) at the close of the fiscal year
2013 are hereby reappropriated for expenditure during the fiscal year 2014.

10 - Department of Agriculture

(WV Code Chapter 19)

Fund 0131 FY 2014 Org 1400

<table>
<thead>
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<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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<td>001</td>
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<td>002</td>
<td>Salary of Commissioner</td>
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<td>010</td>
<td>Employee Benefits</td>
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<td>039</td>
<td>Animal Identification Program</td>
<td>$183,899</td>
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<td>055</td>
<td>State Farm Museum</td>
<td>$104,500</td>
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<td>099</td>
<td>Unclassified (R)</td>
<td>$67,969</td>
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<td>130</td>
<td>Current Expenses (R)</td>
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<td>064</td>
<td>Repairs and Alterations</td>
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<td>070</td>
<td>Equipment</td>
<td>$23,402</td>
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<td>119</td>
<td>Gypsy Moth Program (R)</td>
<td>$1,365,844</td>
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<td>128</td>
<td>Huntington Farmers Market</td>
<td>$43,866</td>
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<td>137</td>
<td>Black Fly Control (R)</td>
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<td>363</td>
<td>Donated Foods Program</td>
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<td>470</td>
<td>Predator Control (R)</td>
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<td>501</td>
<td>Logan Farmers Market</td>
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<td>691</td>
<td>Bee Research</td>
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<td>755</td>
<td>Capital Outlay and Maintenance (R)</td>
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<tr>
<td>785</td>
<td>Microbiology Program (R)</td>
<td>$116,210</td>
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<tr>
<td>786</td>
<td>Moorefield Agriculture Center (R)</td>
<td>$1,124,278</td>
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<td>830</td>
<td>Chesapeake Bay Watershed</td>
<td>$125,793</td>
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<td>843</td>
<td>Livestock Care Standards Board</td>
<td>$15,000</td>
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<td>913</td>
<td>BRIM Premium</td>
<td>$120,202</td>
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<td>942</td>
<td>Threat Preparedness</td>
<td>$81,656</td>
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<tr>
<td>969</td>
<td>WV Food Banks</td>
<td>$115,000</td>
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</tbody>
</table>
Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0131, activity 097), Unclassified (fund 0131, activity 099), Gypsy Moth Program (fund 0131, activity 119), Current Expenses (fund 0131, activity 130), Black Fly Control (fund 0131, activity 137), Predator Control (fund 0131, activity 470), Capital Outlay, Repairs and Equipment – Surplus (fund 0131, activity 677), Capital Outlay and Maintenance (fund 0131, activity 755), Microbiology Program (fund 0131, activity 785), Moorefield Agriculture Center (fund 0131, activity 786), and Agricultural Disaster and Mitigation Needs – Surplus (fund 0131, activity 850) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

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

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

11 - West Virginia Conservation Agency
(WV Code Chapter 19)

Fund 0132 FY 2014 Org 1400

<table>
<thead>
<tr>
<th></th>
<th>Personal Services.</th>
<th>001</th>
<th>$</th>
<th>523,092</th>
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<tbody>
<tr>
<td>2</td>
<td>Employee Benefits.</td>
<td>010</td>
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<td>238,016</td>
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<td>099</td>
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<td>4</td>
<td>Current Expenses (R).</td>
<td>130</td>
<td></td>
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<tr>
<td>Appropriation</td>
<td>Code</td>
<td>Amount</td>
<td></td>
<td></td>
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<tr>
<td>------------------------------------</td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>10,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Equipment</td>
<td>070</td>
<td>10,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Soil Conservation Projects (R)</td>
<td>120</td>
<td>8,246,830</td>
<td></td>
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<td>BRIM Premium</td>
<td>913</td>
<td>26,326</td>
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<td><strong>Total</strong></td>
<td></td>
<td><strong>$ 9,475,342</strong></td>
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</table>

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

**12 - Department of Agriculture – Meat Inspection**

(WV Code Chapter 19)

Fund 0135 FY 2014 Org 1400

<table>
<thead>
<tr>
<th>Appropriation</th>
<th>Code</th>
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</tr>
</thead>
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<tr>
<td>Personal Services</td>
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<td>$ 436,095</td>
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<tr>
<td>Employee Benefits</td>
<td>010</td>
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<tr>
<td>Unclassified</td>
<td>099</td>
<td>7,182</td>
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<td>Current Expenses</td>
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<td>94,344</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$ 721,312</strong></td>
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</tbody>
</table>

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

**13 - Department of Agriculture – Agricultural Awards**

(WV Code Chapter 19)

Fund 0136 FY 2014 Org 1400

<table>
<thead>
<tr>
<th>Appropriation</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Programs and Awards for 4-H</td>
<td>577</td>
<td>$ 15,000</td>
</tr>
<tr>
<td>Clubs and FFA/FHA</td>
<td></td>
<td></td>
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</tbody>
</table>
3 Commissioner’s Awards and Programs. 737 $39,250
5 Total. $54,250

14 - Department of Agriculture – West Virginia Agricultural Land Protection Authority (WV Code Chapter 8A)

Fund 0607 FY 2014 Org 1400

<table>
<thead>
<tr>
<th>Activity</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>001</td>
<td>Personal Services</td>
<td>$75,000</td>
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<td>010</td>
<td>Employee Benefits</td>
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<td>099</td>
<td>Unclassified</td>
<td>$750</td>
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<td>Total</td>
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</table>

15 - Attorney General (WV Code Chapters 5, 14, 46A and 47)

Fund 0150 FY 2014 Org 1500

<table>
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<tr>
<th>Activity</th>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>001</td>
<td>Personal Services (R)</td>
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<tr>
<td>002</td>
<td>Salary of Attorney General</td>
<td>$95,000</td>
</tr>
<tr>
<td>010</td>
<td>Employee Benefits (R)</td>
<td>$1,145,115</td>
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<tr>
<td>099</td>
<td>Unclassified (R)</td>
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<tr>
<td>130</td>
<td>Current Expenses (R)</td>
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<td>064</td>
<td>Repairs and Alterations</td>
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<tr>
<td>070</td>
<td>Equipment</td>
<td>$40,000</td>
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<tr>
<td>260</td>
<td>Criminal Convictions and Habeas</td>
<td>$1,194,652</td>
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<tr>
<td>740</td>
<td>Better Government Bureau</td>
<td>$326,731</td>
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<tr>
<td>913</td>
<td>BRIM Premium</td>
<td>$118,590</td>
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<td></td>
<td>Total</td>
<td>$5,514,137</td>
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</table>

Any unexpended balances remaining in the above appropriations for Personal Services (fund 0150, activity 001),
Employee Benefits (fund 0150, activity 010), Unclassified (fund 0150, activity 099), Current Expenses (fund 0150, activity 130), Criminal Convictions and Habeas Corpus Appeals (fund 0150, activity 260), and Agency Client Revolving Liquidity Pool (fund 0150, activity 362) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

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

16 - Secretary of State

(WV Code Chapters 3, 5 and 59)

Fund 0155 FY 2014 Org 1600

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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<tr>
<td>1</td>
<td>Salary of Secretary of State.</td>
<td>002</td>
<td>$95,000</td>
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<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>25,308</td>
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<td>3</td>
<td>Unclassified (R)</td>
<td>099</td>
<td>11,217</td>
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<tr>
<td>4</td>
<td>Current Expenses (R)</td>
<td>130</td>
<td>1,072,497</td>
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<td>5</td>
<td>BRIM Premium</td>
<td>913</td>
<td>16,000</td>
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<td>6</td>
<td>Total</td>
<td></td>
<td>$1,220,022</td>
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</tbody>
</table>

Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0155, activity 097), Unclassified (fund 0155, activity 099), Current Expenses (fund 0155, activity 130), and Technology Improvements – Surplus
(fund 0155, activity 725) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

17 - State Election Commission

(WV Code Chapter 3)

Fund 0160 FY 2014 Org 1601

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>001</td>
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<td>010</td>
<td>Employee Benefits</td>
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<td>3</td>
<td>099</td>
<td>Unclassified</td>
<td>90</td>
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<td>4</td>
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<td>Current Expenses</td>
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<td>$9,028</td>
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DEPARTMENT OF ADMINISTRATION

18 - Department of Administration – Office of the Secretary

(WV Code Chapter 5F)

Fund 0186 FY 2014 Org 0201

<table>
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<th>Item</th>
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<td>1</td>
<td>001</td>
<td>Personal Services</td>
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<td>Employee Benefits</td>
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<td>3</td>
<td>099</td>
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<td>9,397</td>
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<td>4</td>
<td>130</td>
<td>Current Expenses</td>
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<td>100</td>
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<td>6</td>
<td>070</td>
<td>Equipment</td>
<td>5,000</td>
</tr>
<tr>
<td>7</td>
<td>304</td>
<td>Financial Advisor (R)</td>
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<td>8</td>
<td>516</td>
<td>Lease Rental Payments</td>
<td>15,000,000</td>
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<td>9</td>
<td>540</td>
<td>Design-Build Board</td>
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<td>10</td>
<td>690</td>
<td>Other Assets</td>
<td>5,000</td>
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<td>11</td>
<td>913</td>
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<td>Total</td>
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</table>
Any unexpended balance remaining in the appropriation for Financial Advisor (fund 0186, activity 304) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

The appropriation for Lease Rental Payments (activity 516) 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

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

20 - Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2014 Org 0209

<table>
<thead>
<tr>
<th>Description</th>
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</thead>
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<td>Unclassified</td>
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<td>2,438</td>
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<td>Current Expenses</td>
<td>130</td>
<td>113,126</td>
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<td>Repairs and Alterations</td>
<td>064</td>
<td>1,500</td>
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<td>Equipment</td>
<td>070</td>
<td>1,000</td>
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<td>Other Assets</td>
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</tr>
<tr>
<td>Item</td>
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<td>Amount</td>
<td></td>
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<tr>
<td>----------------------------------------------------------------------</td>
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<td></td>
</tr>
<tr>
<td>BRIM Premium</td>
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<td>$ 4,526</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$ 852,955</strong></td>
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</table>

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

21 - Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2014 Org 0211

<table>
<thead>
<tr>
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<tr>
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<td>010</td>
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<td>20,000</td>
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<td>Current Expenses</td>
<td>130</td>
<td>858,155</td>
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<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>10,000</td>
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<tr>
<td>Equipment</td>
<td>070</td>
<td>5,000</td>
</tr>
<tr>
<td>Fire Service Fee</td>
<td>126</td>
<td>14,000</td>
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<tr>
<td>Buildings</td>
<td>258</td>
<td>1,000</td>
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<tr>
<td>Preservation and Maintenance of Statues and Monuments on Capitol</td>
<td>371</td>
<td>68,000</td>
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<tr>
<td>Grounds</td>
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<td>Other Assets</td>
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<tr>
<td>Land</td>
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<td>500</td>
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<td>BRIM Premium</td>
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<td><strong>Total</strong></td>
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<td><strong>$ 3,710,167</strong></td>
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</table>

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

(WV Code Chapter 5A)

Fund 0210 FY 2014 Org 0213

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Description</th>
<th>Amount</th>
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<td>1</td>
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<td>099</td>
<td>Unclassified</td>
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<td>064</td>
<td>Repairs and Alterations</td>
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<td>6</td>
<td>070</td>
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<td>7</td>
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<td>Other Assets</td>
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</tr>
<tr>
<td>8</td>
<td>913</td>
<td>BRIM Premium</td>
<td>$6,167</td>
</tr>
<tr>
<td>9</td>
<td></td>
<td>Total</td>
<td>$1,093,584</td>
</tr>
</tbody>
</table>

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

23 - Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2014 Org 0215

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### 24 - Commission on Uniform State Laws

(WV Code Chapter 29)

**Fund 0214 FY 2014 Org 0217**

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

### 25 - West Virginia Public Employees Grievance Board

(WV Code Chapter 6C)

**Fund 0220 FY 2014 Org 0219**

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<td>Land</td>
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Any unexpended balance remaining in the appropriation for Current Expenses (fund 0220, activity 130) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.
26 - Ethics Commission

(WV Code Chapter 6B)

Fund 0223 FY 2014 Org 0220

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<td>Repairs and Alterations</td>
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<td>Other Assets</td>
<td>690</td>
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<td>BRIM Premium</td>
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27 - Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2014 Org 0221

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<td>Employee Benefits</td>
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<td>Unclassified</td>
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<td>4</td>
<td>Public Defender Corporations</td>
<td>352</td>
<td>19,801,266</td>
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<td>Appointed Counsel Fees (R)</td>
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<td>10,723,115</td>
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<td>Total</td>
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<td>$31,858,377</td>
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</table>

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

The director shall have the authority to transfer funds from 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 1,878
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

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) . . . . . . 749 100,152
3 Total. ................................ $ 240,237

Any unexpended balances remaining in the appropriations for Forensic Medical Examinations (fund 0557, activity 683) and Federal Funds/Grant Match (fund 0557, activity 749) at the close of the fiscal year 2013 are hereby reappropriated for expenditure 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. ....................... 856 497,035
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
### DEPARTMENT OF COMMERCE

**33 - Division of Tourism**

(WV Code Chapter 5B)

Fund 0246 FY 2014 Org 0304

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$3,246,736</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$1,251,793</td>
</tr>
<tr>
<td>Unclassified</td>
<td>099</td>
<td>$21,435</td>
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<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$1,417,163</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$135,000</td>
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<tr>
<td>Equipment</td>
<td>070</td>
<td>$100,000</td>
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<tr>
<td><strong>BRIM Premium</strong></td>
<td>913</td>
<td>$85,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$6,257,127</strong></td>
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</table>

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

### 34 - Division of Forestry

(WV Code Chapter 19)

Fund 0250 FY 2014 Org 0305

<table>
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<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$3,246,736</td>
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<tr>
<td>Employee Benefits</td>
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<td>Unclassified</td>
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<td>Current Expenses</td>
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<td>$1,417,163</td>
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<td>Repairs and Alterations</td>
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<td>Equipment</td>
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<td>$100,000</td>
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<tr>
<td><strong>BRIM Premium</strong></td>
<td>913</td>
<td>$85,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
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<td><strong>$6,257,127</strong></td>
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</table>

Out of the above appropriation a sum may be used to match federal funds for cooperative studies or other funds for similar purposes.
35 - Geological and Economic Survey

(WV Code Chapter 29)

Fund 0253 FY 2014 Org 0306

<table>
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<td>Equipment</td>
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Any unexpended balance remaining in the appropriation for Mineral Mapping System (fund 0253, activity 207) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

The above Unclassified and Current Expenses appropriations include funding to secure federal and other contracts and may be transferred to a special revolving fund (fund 3105, activity 099) 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

<table>
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<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
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<td>Code</td>
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<td>Equipment</td>
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<td>for Environmental and Advanced</td>
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<td>Advantage Valley</td>
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<td>Partnership</td>
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<td>I-79 Development Council</td>
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<td>Mingo County Post Mine Land Use Projects</td>
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<td>4-H Camp Improvements (R)</td>
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<td>Hatfield McCoy Recreational Trail</td>
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<td>Hardwood Alliance Zone</td>
<td>992</td>
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<td><strong>Total</strong></td>
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</table>

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

The above appropriation to Local Economic Development Partnerships (activity 133) shall be used by the West Virginia development office for the award of funding assistance to county and regional economic development corporations or authorities participating in the certified development community program developed under the provisions of W.Va. Code §5B-2-14. The West Virginia development office shall award the funding
assistance through a matching grant program, based upon a formula whereby funding assistance may not exceed $34,000 per county served by an economic development or redevelopment corporation or authority.

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

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

37 - Division of Labor

(WV Code Chapters 21 and 47)

Fund 0260 FY 2014 Org 0308

<table>
<thead>
<tr>
<th></th>
<th>FY 2014 Org 0308</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
<tr>
<td>1</td>
<td>Personal Services</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
</tr>
<tr>
<td>3</td>
<td>Unclassified</td>
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<tr>
<td>5</td>
<td>Repairs and Alterations</td>
</tr>
<tr>
<td>6</td>
<td>Equipment</td>
</tr>
<tr>
<td>7</td>
<td>BRIM Premium</td>
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<td>8</td>
<td>Total</td>
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</table>
**38 - Division of Labor –**  
*Occupational Safety and Health Fund*  
(WV Code Chapter 21)  
Fund 0616 FY 2014 Org 0308

<table>
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<th>Amount</th>
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<tr>
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<td>Personal Services</td>
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<tr>
<td>4</td>
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<td>064</td>
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<td>5</td>
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<td>070</td>
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</tr>
<tr>
<td>6</td>
<td>BRIM Premium</td>
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<td>7</td>
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<td>$185,275</td>
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**39 - Division of Natural Resources**  
(WV Code Chapter 20)  
Fund 0265 FY 2014 Org 0310

<table>
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<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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<td>1</td>
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<td>$8,705,153</td>
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<td>Unclassified</td>
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<tr>
<td>5</td>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$  400</td>
</tr>
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<td>6</td>
<td>Equipment</td>
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<td>Litter Control Conservation Officers</td>
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<td>9</td>
<td>Upper Mud River Flood Control</td>
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<td>11</td>
<td>Land (R)</td>
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Any unexpended balances remaining in the appropriations for Buildings (fund 0265, activity 258), Canaan Valley Resort State Park Operating – Surplus (fund 0265, activity 710), Land (fund 0265, activity 730), and Fish Hatchery Improvements (fund 0265, activity 825) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

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

40 - Division of Miners' Health, Safety and Training
(WV Code Chapter 22)

Fund 0277 FY 2014 Org 0314

<table>
<thead>
<tr>
<th>Description</th>
<th>Fund</th>
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<th>Org</th>
<th>Amount</th>
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<td>1,851,467</td>
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<td>Coal Dust and Rock Dust Sampling</td>
<td>270</td>
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<td>566,479</td>
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<td>BRIM Premium</td>
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<td>13,067,125</td>
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</table>

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

41 - Board of Coal Mine Health and Safety
(WV Code Chapter 22)

Fund 0280 FY 2014 Org 0319

<table>
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<tr>
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<th>FY 2014</th>
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<td>4</td>
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**42 - WorkForce West Virginia**

(WV Code Chapter 23)

Fund **0572 FY 2014 Org 0323**

<p>| | | |</p>
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<tr>
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<td>Employee Benefits</td>
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<td>3</td>
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<tr>
<td>4</td>
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<td>130</td>
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**43 - Department of Commerce – Office of the Secretary**

(WV Code Chapter 19)

Fund **0606 FY 2014 Org 0327**

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<tr>
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**44 - Department of Commerce – Office of the Secretary – Office of Economic Opportunity**

Fund **0617 FY 2014 Org 0327**

<p>| | | |</p>
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<tr>
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<tr>
<td>1</td>
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</table>
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 3,297
7 Total.................................. $ 1,782,864

From the above appropriation for Current Expenses (fund 0612, activity 130) $641,487 is for West Virginia University and $641,487 is for Southern West Virginia Community and Technical College for the Mine Training and Energy 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 2,000
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**

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<td>125,152</td>
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<td>21,694</td>
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<td>$1,055,406</td>
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### 48 - State Board of Education –
*State Department of Education*

(WV Code Chapters 18 and 18A)

**Fund 0313 FY 2014 Org 0402**

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<td>3,019,000</td>
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<td>062</td>
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<td>Repairs and Alterations</td>
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<td>Teachers’ Retirement Savings</td>
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<td>Increased Enrollment</td>
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<td>National Teacher Certification (R)</td>
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<td>Technology Repair and Modernization</td>
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<td>951,003</td>
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<td>APPROPRIATIONS</td>
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<td>17</td>
<td>HVAC Technicians</td>
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<td>18</td>
<td>Early Retirement Notification</td>
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<td>19</td>
<td>Incentive</td>
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<td>20</td>
<td>MATH Program</td>
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<td>21</td>
<td>Assessment Programs</td>
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<td>22</td>
<td>21st Century Fellows</td>
<td>507</td>
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<tr>
<td>23</td>
<td>English as a Second Language</td>
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<td>24</td>
<td>Teacher Reimbursement</td>
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<td>25</td>
<td>Hospitality Training</td>
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<td>26</td>
<td>Hi-Y Youth in Government</td>
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<td>27</td>
<td>High Acuity Special Needs (R)</td>
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<td>28</td>
<td>Foreign Student Education</td>
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<td>29</td>
<td>State Teacher of the Year</td>
<td>640</td>
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<td>30</td>
<td>Principals Mentorship</td>
<td>649</td>
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<td>31</td>
<td>State Board of Education</td>
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<tr>
<td>32</td>
<td>Administrative Costs</td>
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<td>33</td>
<td>Other Assets</td>
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<td>34</td>
<td>Land (R)</td>
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<td>35</td>
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<td>36</td>
<td>Prevention and Recovery</td>
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</tr>
<tr>
<td>37</td>
<td>Elementary/Middle Alternative</td>
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<td>38</td>
<td>Schools</td>
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<td>39</td>
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<td>40</td>
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<td>41</td>
<td>21st Century Learners (R)</td>
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<td>42</td>
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<td>43</td>
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<td>44</td>
<td>High Acuity Health Care</td>
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<td>46</td>
<td>21st Century Assessment and Professional Development</td>
<td>931</td>
</tr>
<tr>
<td>47</td>
<td>WV Commission on Holocaust Education</td>
<td>935</td>
</tr>
</tbody>
</table>
The above appropriations include funding for the state board of education and their executive office.

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

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

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

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

The above appropriation for Hospitality Training (activity 600), shall be allocated only to entities that have a plan approved
for funding by the Department of Education, at the funding level
determined by the State Superintendent of Schools. Plans shall
be submitted to the State Superintendent of Schools to be
considered for funding.

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

From the above appropriation for Educational Program
Allowance (activity 996), $100,000 shall be expended for
Webster County Board of Education for Hacker Valley;
$150,000 for the Randolph County Board of Education for
Pickens School; and $100,000 shall be for the Preston County
Board of Education for the Aurora School and $66,250 is for
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 17,287,610
8 Total......................... $ 28,837,488

Any unexpended balance remaining in the appropriation for
Education of Institutionalized Juveniles and Adults (fund 0314,
activity 472) at the close of the fiscal year 2013 is hereby
reappropriated for expenditure during the fiscal year 2014.
From the above appropriations, the superintendent shall have authority to expend funds for the costs of special education for 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

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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<td>Other Current Expenses</td>
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<td>Advanced Placement</td>
<td>053</td>
<td>489,948</td>
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<td>Professional Educators</td>
<td>151</td>
<td>871,207,235</td>
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<td>Service Personnel</td>
<td>152</td>
<td>290,524,089</td>
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<td>Fixed Charges</td>
<td>153</td>
<td>104,250,383</td>
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<td>Transportation</td>
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<td>84,860,000</td>
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<td>Professional Student Support Services</td>
<td>655</td>
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<td>Improved Instructional Programs</td>
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<td>21st Century Strategic Technology</td>
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<td>11,504,938</td>
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<td>Learning Growth</td>
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<td>Basic Foundation Allowances</td>
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<td>Teachers’ Retirement System</td>
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<td>School Building Authority</td>
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<td>Retirement Systems –</td>
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<td>Unfunded Liability</td>
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<td>Total</td>
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<td>$1,851,786,578</td>
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</tbody>
</table>

An additional $20,000,000 is appropriated in fund 7007, fiscal year 2014, organization 0701 for the Teachers’ Retirement.
System unfunded liability actuarially required contribution as determined by the Consolidated Public Retirement Board.

51 - State Board of Education – Vocational Division

(WV Code Chapters 18 and 18A)

<table>
<thead>
<tr>
<th>Fund</th>
<th>FY 2014 Org</th>
<th>Description</th>
<th>Amount</th>
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<td>Equipment</td>
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<td>Vocational Program</td>
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<td>Albert Yanni Vocational Program</td>
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<td>FFA Grant Awards</td>
<td>$11,496</td>
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<tr>
<td></td>
<td></td>
<td>Pre-Engineering Academy Program</td>
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<tr>
<td></td>
<td></td>
<td>Total</td>
<td>$28,267,315</td>
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</tbody>
</table>

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

From the above appropriation for Unclassified (fund 0390, activity 099) $240,000 is for the construction of a 21st Century Animal and Veterinary Science Facility on the campus of 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

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
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<tr>
<td>1 Personal Services</td>
<td>001</td>
<td>$426,610</td>
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<td>2 Employee Benefits</td>
<td>010</td>
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<td>099</td>
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<td>$381,899</td>
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<tr>
<td>5 Repairs and Alterations</td>
<td>064</td>
<td>$1,000</td>
</tr>
<tr>
<td>6 Equipment</td>
<td>070</td>
<td>$1,000</td>
</tr>
<tr>
<td>7 Other Assets</td>
<td>690</td>
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<td><strong>Total</strong></td>
<td></td>
<td><strong>$938,959</strong></td>
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</tbody>
</table>

### 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

<table>
<thead>
<tr>
<th>Item Description</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>001</td>
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<td>2 Employee Benefits</td>
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<td>$2,878,100</td>
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<td>3 Unclassified</td>
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<td>$128,601</td>
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<td>4 Current Expenses</td>
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<td>5 Repairs and Alterations</td>
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<tr>
<td>6 Equipment</td>
<td>070</td>
<td>$35,000</td>
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<tr>
<td>7 Buildings (R)</td>
<td>258</td>
<td>$25,000</td>
</tr>
<tr>
<td>8 Other Assets</td>
<td>690</td>
<td>$25,000</td>
</tr>
<tr>
<td>9 Capital Outlay and Maintenance (R)</td>
<td>755</td>
<td>$62,500</td>
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<tr>
<td>10 BRIM Premium</td>
<td>913</td>
<td>$68,628</td>
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<tr>
<td>11 <strong>Total</strong></td>
<td></td>
<td><strong>$12,860,163</strong></td>
</tr>
</tbody>
</table>

12 Any unexpended balances remaining in the appropriations for Buildings (fund 0320, activity 258) and Capital Outlay and
Ch. 4]  APPROPRIATIONS  81

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

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
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<td>$666,750</td>
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<td>Employee Benefits</td>
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<td>4</td>
<td>Current Expenses</td>
<td>130</td>
<td>25,498</td>
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<tr>
<td>5</td>
<td>Center for Professional</td>
<td></td>
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<td>6</td>
<td>Development (R)</td>
<td>115</td>
<td>2,528,967</td>
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<tr>
<td>7</td>
<td>National Youth Science Camp</td>
<td>132</td>
<td>246,500</td>
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<td>8</td>
<td>WV Humanities Council</td>
<td>168</td>
<td>450,000</td>
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<td>9</td>
<td>Benedum Professional</td>
<td></td>
<td></td>
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<tr>
<td>10</td>
<td>Development Collaborative (R)</td>
<td>427</td>
<td>927,500</td>
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<td>11</td>
<td>Governor’s Honor Academy (R)</td>
<td>478</td>
<td>600,780</td>
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<td>12</td>
<td>Energy Express</td>
<td>861</td>
<td>470,000</td>
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<td>13</td>
<td>BRIM Premium</td>
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<td>4,509</td>
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<tr>
<td>14</td>
<td>Special Olympic Games</td>
<td>966</td>
<td>25,000</td>
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<td>15</td>
<td>Total</td>
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</tbody>
</table>

Any unexpended balances remaining in the appropriations for Unclassified (fund 0294, activity 099), Center for Professional Development (fund 0294, activity 115), Benedum Professional Development Collaborative (fund 0294, activity 427), Governor’s Honor Academy (fund 0294, activity 478), and Educational Enhancements – Surplus (fund 0294, activity 927) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.
55 - Division of Culture and History
(WV Code Chapter 29)

Fund 0293 FY 2014 Org 0432

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$2,663,067</td>
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<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$1,225,010</td>
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<td>Unclassified (R)</td>
<td>099</td>
<td>$56,173</td>
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<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$900,897</td>
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<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$20,000</td>
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<tr>
<td>Equipment</td>
<td>070</td>
<td>$1,000</td>
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<tr>
<td>Buildings (R)</td>
<td>258</td>
<td>$1,000</td>
</tr>
<tr>
<td>Other Assets</td>
<td>690</td>
<td>$1,000</td>
</tr>
<tr>
<td>Land (R)</td>
<td>730</td>
<td>$1</td>
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<tr>
<td>Culture and History Programming</td>
<td>732</td>
<td>$278,298</td>
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<tr>
<td>Capital Outlay and Maintenance (R)</td>
<td>755</td>
<td>$100,000</td>
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<tr>
<td>Historical Highway Marker Program</td>
<td>844</td>
<td>$75,185</td>
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<td>BRIM Premium</td>
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<td><strong>Total</strong></td>
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<td>$5,355,308</td>
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</table>

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

The Current Expense appropriation includes funding for the arts funds, department programming funds, grants, fairs and festivals and Camp Washington Carver and shall be expended only upon authorization of the division of culture and history and in accordance with the provisions of Chapter 5A, Article 3, and Chapter 12 of the Code.
### 56 - Library Commission

(WV Code Chapter 10)

**Fund 0296 FY 2014 Org 0433**

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>001</td>
<td>$1,005,322</td>
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<td>2 Employee Benefits</td>
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<td>3 Current Expenses</td>
<td>130</td>
<td>$189,690</td>
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<tr>
<td>4 Repairs and Alterations</td>
<td>064</td>
<td>$6,500</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>070</td>
<td>$450</td>
</tr>
<tr>
<td>6 Services to Blind &amp; Handicapped</td>
<td>181</td>
<td>$185,064</td>
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<td>7 BRIM Premium</td>
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<td>$15,177</td>
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<td><strong>Total</strong></td>
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</table>

### 57 - Educational Broadcasting Authority

(WV Code Chapter 10)

**Fund 0300 FY 2014 Org 0439**

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>001</td>
<td>$2,995,925</td>
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<tr>
<td>2 Employee Benefits</td>
<td>010</td>
<td>$1,237,251</td>
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<td>3 Current Expenses (R)</td>
<td>130</td>
<td>$612,273</td>
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<td>4 Mountain Stage</td>
<td>249</td>
<td>$300,000</td>
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<td>5 Capital Outlay and Maintenance (R)</td>
<td>755</td>
<td>$50,000</td>
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<td>6 BRIM Premium</td>
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<td><strong>Total</strong></td>
<td></td>
<td><strong>$5,237,378</strong></td>
</tr>
</tbody>
</table>

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

From the above appropriation for Current Expenses (fund 0300, activity 130) $45,000 is for the WV Music Hall of Fame
and $100,000 for Healthy Choices Children Television Program in conjunction with WVSOM.

58 - State Board of Rehabilitation – Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 0310 FY 2014 Org 0932

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services</td>
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<tr>
<td>Independent Living Services (R)</td>
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</tr>
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<td>Employee Benefits</td>
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<td>2,778,071</td>
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<tr>
<td>Current Expenses</td>
<td>130</td>
<td>502,066</td>
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<tr>
<td>Workshop Development</td>
<td>163</td>
<td>2,116,149</td>
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<tr>
<td>Supported Employment</td>
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<tr>
<td>Extended Services (R)</td>
<td>206</td>
<td>100,000</td>
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<tr>
<td>Ron Yost Personal Assistance Fund (R)</td>
<td>407</td>
<td>388,698</td>
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<tr>
<td>Employment Attendant</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Care Program</td>
<td>598</td>
<td>156,065</td>
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<tr>
<td>BRIM Premium</td>
<td>913</td>
<td>67,033</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$14,311,968</td>
</tr>
</tbody>
</table>

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

From the above appropriation for Workshop Development (activity 163), funds shall be used exclusively with the private non-profit community rehabilitation program organizations known as work centers or sheltered workshops. The appropriation shall also be used to continue the support of the
program, services, and individuals with disabilities currently in place at those 31 organizations.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

*59 - Environmental Quality Board*

(WV Code Chapter 20)

Fund 0270 FY 2014 Org 0311

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
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<td>Employee Benefits</td>
<td>010</td>
<td>21,700</td>
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<td>Current Expenses</td>
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<td>38,568</td>
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<td>Repairs and Alterations</td>
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<td>100</td>
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<tr>
<td>Equipment</td>
<td>070</td>
<td>750</td>
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<tr>
<td>Other Assets</td>
<td>690</td>
<td>600</td>
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<tr>
<td>BRIM Premium</td>
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<td>684</td>
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<td><strong>Total</strong></td>
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</table>

*60 - Division of Environmental Protection*

(WV Code Chapter 22)

Fund 0273 FY 2014 Org 0313

<table>
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<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
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<td>001</td>
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<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>1,298,374</td>
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<tr>
<td>Water Resources Protection and Management</td>
<td>068</td>
<td>582,828</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>357,541</td>
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<td>Repairs and Alterations</td>
<td>064</td>
<td>12,150</td>
</tr>
<tr>
<td>Equipment</td>
<td>070</td>
<td>4,600</td>
</tr>
<tr>
<td>Dam Safety</td>
<td>607</td>
<td>217,632</td>
</tr>
<tr>
<td>West Virginia Stream Partners Program</td>
<td>637</td>
<td>77,396</td>
</tr>
<tr>
<td>Meth Lab Cleanup</td>
<td>656</td>
<td>227,388</td>
</tr>
<tr>
<td>Other Assets</td>
<td>690</td>
<td>4,500</td>
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### APPROPRIATIONS [Ch. 4]

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>WV Contribution to River Commissions</td>
<td>776</td>
<td>148,485</td>
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<tr>
<td>Office of Water Resources Non-Enforcement Activity</td>
<td>855</td>
<td>1,221,675</td>
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<td>BRIM Premium</td>
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<td>56,802</td>
</tr>
<tr>
<td><strong>Total</strong></td>
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<td><strong>$ 7,510,922</strong></td>
</tr>
</tbody>
</table>

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

#### 61 - Air Quality Board

(WV Code Chapter 16)

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
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<tr>
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<td>Current Expenses</td>
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<td>17,143</td>
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<tr>
<td>Repairs and Alterations</td>
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<td>Equipment</td>
<td>070</td>
<td>350</td>
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<tr>
<td>Other Assets</td>
<td>690</td>
<td>400</td>
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<td>BRIM Premium</td>
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<td>2,013</td>
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<td><strong>Total</strong></td>
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<td><strong>$ 94,465</strong></td>
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</table>

#### DEPARTMENT OF HEALTH AND HUMAN RESOURCES

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

(WV Code Chapter 5F)

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$ 139,096</td>
</tr>
</tbody>
</table>
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  231,965
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 | 2,025,233 |
| 41 | Total .......... $ 77,620,616 |

Any unexpended balances remaining in the appropriations for Unclassified – Surplus (fund 0407, activity 097), Statewide EMS Program Support (fund 0407, activity 383), Maternal and Child Health Clinics, Clinicians and Medical Contracts and Fees (fund 0407, activity 575), Capital Outlay and Maintenance (fund 0407, activity 755), Emergency Response Entities – Special.
Projects (fund 0407, activity 822), Assistance to Primary Health Care Centers Community Health Foundation (fund 0407, activity 845), and Tobacco Education Program (fund 0407, activity 906) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

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

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

Included in the above appropriation for Primary Care Centers - Mortgage Finance (activity 413) is $23,750 for the mortgage payment for the Lincoln Primary Care Center, Inc.; $25,242 for the mortgage payment for the Monroe Health Center; $20,218 for the mortgage payment for Roane County Family Health Care, Inc.; $22,800 for the mortgage payment for Community Care (formerly Primary Care Systems); $9,500 for the mortgage payment for the Belington Community Medical Services; $14,250 for the mortgage payment for Community Care (formerly Tri-County Health Clinic); $7,125 for the mortgage payment for Valley Health Care (Randolph); $12,618 for the mortgage payment for WomenCare (Family Care Health Center - Madison); $3,800 for the mortgage payment for Northern Greenbrier Health Clinic; $6,030 for the mortgage payment for the Women’s Care, Inc. (Putnam); $11,875 for the mortgage payment for the Preston-Taylor Community Health Centers, Inc.; $9,500 for the mortgage payment for the North
Fork Clinic (Pendleton); $19,000 for the mortgage payment for
the Pendleton Community Care; $18,240 for the mortgage
payment for Clay-Battelle Community Health Center; $23,500
for the mortgage payment for Monongahela Valley Association
of Health Centers, Inc. (Marion); $15,960 for the mortgage
payment for Mountaineer Community Health Center; $6,175 for
the mortgage payment for the St. George Medical Clinic;
$13,300 for the mortgage payment for the Bluestone Health
Center; $21,375 for the mortgage payment for Wheeling Health
Right; $22,800 for the mortgage payment for the Minnie
Hamilton Health Care Center, Inc.; $25,650 for the mortgage
payment for the Shenandoah Valley Medical Systems, Inc.;
$21,375 for the mortgage payment for the Change, Inc.; and
$13,755 for the mortgage payment for the Wirt County Health
Services Association.

From the above appropriation for Maternal and Child Health
Clinics, Clinicians and Medical Contracts and Fees (fund 0407,
activity 575), $11,000 is for the Marshall County Health
Department for dental services.

64 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 0525 FY 2014 Org 0506

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<td>of Care (R)</td>
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Capital Outlay and Maintenance (R) .......... 755 950,000
Renaissance Program .................... 804 179,450
BRIM Premium ............................. 913 1,088,070
Total ................................ $183,154,192

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

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

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

From the above appropriation to Institutional Facilities Operations, together with available funds from the division of health – hospital services revenue account (fund 5156, activity 335), on July 1, 2013, the sum of $160,000 shall be transferred to the department of agriculture – land division – farm operating fund (1412) as advance payment for the purchase of food products; actual payments for such purchases shall not be required until such credits have been completely expended.
From the above appropriation for Substance Abuse Continuum of Care (fund 0525, activity 354), the funding will be consistent with the goal areas outlined in the Comprehensive Substance Abuse Strategic Action Plan.

Additional funds have been appropriated in fund 5156, fiscal year 2014, organization 0506, for the operation of the institutional facilities. The secretary of the department of health and human resources is authorized to utilize up to ten percent of the funds from the Institutional Facilities Operations line item to facilitate cost effective and cost saving services at the 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 Revolving Fund – Transfer shall be transferred to the West Virginia Drinking Water Treatment Revolving Fund or appropriate bank depository and the Drinking Water Treatment Revolving – Administrative Expense Fund as provided by 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
### 67 - Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2014 Org 0511

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<td>Medical Services Contracts and Office of Managed Care</td>
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<td>Services Fund</td>
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<td>James &quot;Tiger&quot; Morton Catastrophic Illness Fund</td>
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<td>Child Care Maintenance of Effort Match</td>
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<td>Sexual Assault and Intervention</td>
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<tr>
<td>and Prevention</td>
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<td>125,000</td>
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<td>Child and Family Services</td>
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<td>Grants for Licensed Domestic</td>
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<td>Violence Programs and Statewide Prevention</td>
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<td>Capital Outlay and Maintenance (R.)</td>
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<td>Indigent Burials (R)</td>
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<td>Rural Hospitals Under 150 Beds.</td>
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<td>Children’s Trust Fund – Transfer</td>
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<td><strong>Total</strong></td>
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Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0403, activity 755) and Indigent Burials (fund 0403, activity 851) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.
Notwithstanding the provisions of Title I, section three of this bill, the secretary of the department of health and human resources shall have the authority to transfer funds within the above account: Provided, That no more than five percent of the funds appropriated to one line item may be transferred to other line items: Provided, however, That no funds from other line items shall be transferred to the personal services line item.

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

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

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

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

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

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

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

The above appropriation for Children’s Trust Fund – Transfer (activity 951) shall be transferred to the Children’s 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

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<td>Other Assets</td>
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Any unexpended balances remaining in the appropriations for Unclassified (fund 0430, activity 099), Fusion Center (fund 0430, activity 469), WV Fire and EMS Survivor Benefit (fund 0430, activity 939), and Homeland State Security Administrative Agency (fund 0430, activity 953) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal 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

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

From the above appropriation an amount approved by the adjutant general and the secretary of military affairs and public safety may be transferred to the State Armory Board for operation and maintenance of National Guard Armories.
**70 - Adjutant General –
Military Fund**

(WV Code Chapter 15)

Fund 0605 FY 2014 Org 0603

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**71 - West Virginia Parole Board**

(WV Code Chapter 62)

Fund 0440 FY 2014 Org 0605

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

**72 - Division of Homeland Security and Emergency Management**

(WV Code Chapter 15)

Fund 0443 FY 2014 Org 0606

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### APPROPRIATIONS

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<td>5 Repairs and Alterations</td>
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Any unexpended balances remaining in the appropriations for Unclassified (fund 0443, activity 099), Federal Funds/Grant Match (fund 0443, activity 749), Early Warning Flood System (fund 0443, activity 877), and Disaster Mitigation (fund 0443, activity 952) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

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73 - Division of Corrections – Central Office

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

Fund 0446 FY 2014 Org 0608

<table>
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### 74 - Division of Corrections –
**Correctional Units**

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

**Fund 0450 FY 2014 Org 0608**

<table>
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<td>1</td>
<td>Employee Benefits</td>
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<td>Facilities Planning and Administration</td>
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<td>Charleston Work Release Center</td>
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<td>Beckley Correctional Center</td>
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<td>Huntington Work Release Center</td>
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<td>Anthony Correctional Center</td>
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<td>Northern Correctional Center</td>
<td>534</td>
<td>8,073,773</td>
</tr>
<tr>
<td>12</td>
<td>Inmate Medical Expenses (R)</td>
<td>535</td>
<td>24,226,064</td>
</tr>
<tr>
<td>13</td>
<td>Pruntytown Correctional Center</td>
<td>543</td>
<td>7,232,237</td>
</tr>
<tr>
<td>14</td>
<td>Corrections Academy</td>
<td>569</td>
<td>1,387,820</td>
</tr>
<tr>
<td>15</td>
<td>Martinsburg Correctional Center</td>
<td>663</td>
<td>3,515,366</td>
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<tr>
<td>16</td>
<td>Parole Services</td>
<td>686</td>
<td>3,020,766</td>
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<tr>
<td>17</td>
<td>Special Services</td>
<td>687</td>
<td>3,989,683</td>
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<tr>
<td>18</td>
<td>Capital Outlay and Maintenance (R)</td>
<td>755</td>
<td>2,000,000</td>
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<tr>
<td>19</td>
<td>Salem Correctional Center</td>
<td>774</td>
<td>7,500,000</td>
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<tr>
<td>20</td>
<td>McDowell County Correctional Center</td>
<td>790</td>
<td>1,949,983</td>
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<tr>
<td>21</td>
<td>Stevens Correctional Center</td>
<td>791</td>
<td>6,474,500</td>
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<td>22</td>
<td>Parkersburg Correctional Center</td>
<td>828</td>
<td>2,428,421</td>
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<tr>
<td>23</td>
<td>St. Mary's Correctional Center</td>
<td>881</td>
<td>13,076,645</td>
</tr>
<tr>
<td>24</td>
<td>Denmar Correctional Center</td>
<td>882</td>
<td>4,634,234</td>
</tr>
</tbody>
</table>
Any unexpended balances remaining in the appropriations for Children’s Protection Act (fund 0450, activity 090), Unclassified—Surplus (fund 0450, activity 097), Inmate Medical Expenses (fund 0450, activity 535), Payments to Federal, County and/or Regional Jails (fund 0450, activity 555), Payments for Voluntary Inmate Placement—Surplus (fund 0450, activity 592), Capital Improvements—Surplus (fund 0450, activity 661), Capital Outlay, Repairs and Equipment—Surplus (fund 0450, activity 677), and Capital Outlay and Maintenance (fund 0450, activity 755) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

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

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

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

Any realized savings from the Energy Savings Contract for Mt. Olive Correctional Complex, Huttonsville Correction
Center, Pruntytown Correctional Center, or Denmar Correctional Center may be transferred from the listed individual correctional units to Facilities Planning and Administration (activity 386).

75 - West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2014 Org 0612

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$ 46,509,813</td>
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<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>10,088,464</td>
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<tr>
<td>Children’s Protection Act.</td>
<td>090</td>
<td>923,993</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>10,922,384</td>
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<tr>
<td>Repairs and Alterations.</td>
<td>064</td>
<td>450,523</td>
</tr>
<tr>
<td>Vehicle Purchase</td>
<td>451</td>
<td>2,269,600</td>
</tr>
<tr>
<td>Barracks Lease Payments.</td>
<td>556</td>
<td>246,478</td>
</tr>
<tr>
<td>Communications and Other</td>
<td>558</td>
<td>1,268,968</td>
</tr>
<tr>
<td>Trooper Retirement Fund.</td>
<td>605</td>
<td>4,740,327</td>
</tr>
<tr>
<td>Handgun Administration Expense.</td>
<td>747</td>
<td>78,163</td>
</tr>
<tr>
<td>Capital Outlay and Maintenance (R).</td>
<td>755</td>
<td>250,000</td>
</tr>
<tr>
<td>Retirement Systems –</td>
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<tr>
<td>Unfunded Liability</td>
<td>775</td>
<td>25,146,000</td>
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<tr>
<td>Automated Fingerprint</td>
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<td></td>
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<tr>
<td>Identification System</td>
<td>898</td>
<td>666,711</td>
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<tr>
<td>BRIM Premium</td>
<td>913</td>
<td>4,946,608</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$ 108,508,032</td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations for Communications and Other Equipment (fund 0453, activity 558), Capital Outlay, Repairs and Equipment – Surplus (fund 0453, activity 677), and Capital Outlay and Maintenance (fund 0453, activity 755) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.
From the above appropriation for Personal Services (activity 001), an amount not less than $25,000 shall be expended to offset the costs associated with providing police services for the West Virginia State Fair.

76 - Fire Commission
(WV Code Chapter 29)
Fund 0436 FY 2014 Org 0619

1 Current Expenses ................ 130 $ 75,069

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

Any unexpended balances remaining in the appropriations for Buildings (fund 0546, activity 258), Child Advocacy Centers (fund 0546, activity 458), and Community Corrections (fund 0546, activity 561) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.
From the above appropriation for Child Advocacy Centers (fund 0546, activity 458), the division may retain an amount not to exceed four percent of the total appropriation for administrative purposes.

78 - Division of Juvenile Services

(WV Code Chapter 49)

Fund 0570 FY 2014 Org 0621

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Activity</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jones Building Treatment Center.</td>
<td>261</td>
<td>$2,170,886</td>
</tr>
<tr>
<td>Statewide Reporting Centers.</td>
<td>262</td>
<td>$4,311,938</td>
</tr>
<tr>
<td>Robert L. Shell Juvenile Center.</td>
<td>267</td>
<td>$2,005,533</td>
</tr>
<tr>
<td>Central Office</td>
<td>701</td>
<td>$2,158,320</td>
</tr>
<tr>
<td>Capital Outlay and Maintenance (R).</td>
<td>755</td>
<td>$250,000</td>
</tr>
<tr>
<td>Gene Spadaro Juvenile Center.</td>
<td>793</td>
<td>$2,060,770</td>
</tr>
<tr>
<td>Davis Center for Girls (R).</td>
<td>818</td>
<td>$0</td>
</tr>
<tr>
<td>BRIM Premium.</td>
<td>913</td>
<td>$96,187</td>
</tr>
<tr>
<td>WV Industrial Home for Youth.</td>
<td>979</td>
<td>$2,331,499</td>
</tr>
<tr>
<td>Kenneth Honey Rubenstein Juvenile Center (R).</td>
<td>980</td>
<td>$5,238,585</td>
</tr>
<tr>
<td>Vicki Douglas Juvenile Center.</td>
<td>981</td>
<td>$1,834,148</td>
</tr>
<tr>
<td>Northern Regional Juvenile Center.</td>
<td>982</td>
<td>$1,376,302</td>
</tr>
<tr>
<td>Lorrie Yeager Jr. Juvenile Center.</td>
<td>983</td>
<td>$1,927,696</td>
</tr>
<tr>
<td>Sam Perdue Juvenile Center.</td>
<td>984</td>
<td>$1,934,001</td>
</tr>
<tr>
<td>Tiger Morton Center.</td>
<td>985</td>
<td>$2,074,949</td>
</tr>
<tr>
<td>Donald R. Kuhn Juvenile Center.</td>
<td>986</td>
<td>$4,102,285</td>
</tr>
<tr>
<td>J.M. &quot;Chick&quot; Buckbee Juvenile Center.</td>
<td>987</td>
<td>$1,986,034</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$35,859,133</td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations for Capital Outlay and Maintenance (fund 0570, activity 755),
Davis Center for Girls (fund 0570, activity 818), and Kenneth Honey Rubenstein Juvenile Center (fund 0570, activity 980) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

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

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

79 - Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2014 Org 0622

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

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

80 - Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2014 Org 0701

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$ 458,660</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>162,258</td>
</tr>
<tr>
<td>3</td>
<td>Unclassified</td>
<td>099</td>
<td>7,305</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses</td>
<td>130</td>
<td>90,000</td>
</tr>
<tr>
<td>5</td>
<td>Repairs and Alterations</td>
<td>064</td>
<td>3,000</td>
</tr>
<tr>
<td>6</td>
<td>Equipment</td>
<td>070</td>
<td>10,000</td>
</tr>
<tr>
<td>7</td>
<td>Other Assets</td>
<td>690</td>
<td>2,000</td>
</tr>
<tr>
<td>8</td>
<td>Total</td>
<td></td>
<td>$ 733,223</td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 0465, activity 096) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

81 - Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2014 Org 0702

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services (R)</td>
<td>001</td>
<td>$ 13,000,443</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits (R)</td>
<td>010</td>
<td>5,093,345</td>
</tr>
<tr>
<td>3</td>
<td>Unclassified (R)</td>
<td>099</td>
<td>255,144</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses (R)</td>
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<td>6,674,566</td>
</tr>
<tr>
<td>5</td>
<td>Repairs and Alterations</td>
<td>064</td>
<td>15,100</td>
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<tr>
<td>6</td>
<td>Equipment</td>
<td>070</td>
<td>282,500</td>
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<td>7</td>
<td>GIS Development Project (R)</td>
<td>562</td>
<td>150,000</td>
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<td>8</td>
<td>Multi State Tax Commission</td>
<td>653</td>
<td>77,958</td>
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<tr>
<td>9</td>
<td>Other Assets</td>
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<td>25,000</td>
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</table>
Any unexpended balances remaining in the appropriations for Personal Services (fund 0470, activity 001), Employee Benefits (fund 0470, activity 010), Tax Technology Upgrade (fund 0470, activity 094), Unclassified (fund 0470, activity 099), Current Expenses (fund 0470, activity 130), and GIS Development Project (fund 0470, activity 562) at the close of the fiscal year 2013 are hereby reappropriated for expenditure 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 2,589
6 Total................................. $ 804,706

Any unexpended balance remaining in the appropriation for Unclassified (fund 0595, activity 099) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the 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
<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>130</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>064</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>070</td>
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<tr>
<td>6</td>
<td>Other Assets</td>
<td>690</td>
</tr>
<tr>
<td>7</td>
<td>BRIM Premium</td>
<td>913</td>
</tr>
<tr>
<td>8</td>
<td>Total</td>
<td></td>
</tr>
</tbody>
</table>

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

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

(WV Code Chapter 29)

Fund 0523 FY 2014 Org 0933

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
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<tr>
<td>3</td>
<td>Current Expenses</td>
<td>130</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
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</tr>
</tbody>
</table>

DEPARTMENT OF TRANSPORTATION

85 - State Rail Authority

(WV Code Chapter 29)

Fund 0506 FY 2014 Org 0804

<table>
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<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>130</td>
</tr>
<tr>
<td>4</td>
<td>Other Assets (R)</td>
<td>690</td>
</tr>
<tr>
<td>5</td>
<td>BRIM Premium</td>
<td>913</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td></td>
</tr>
</tbody>
</table>
Any unexpended balances remaining in the appropriations for Unclassified (fund 0506, activity 099) and Other Assets (fund 0506, activity 690) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

86 - Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2014 Org 0805

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Equipment.</td>
<td>070</td>
<td>$261,049</td>
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<tr>
<td>Current Expenses (R.)</td>
<td>130</td>
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<tr>
<td>Buildings (R.)</td>
<td>258</td>
<td>$270,956</td>
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<tr>
<td>Other Assets.</td>
<td>690</td>
<td>$162,528</td>
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<tr>
<td>Total.</td>
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<td>$2,677,058</td>
</tr>
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</table>

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

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

87 - Public Port Authority

(WV Code Chapter 17)

Fund 0581 FY 2014 Org 0806

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services.</td>
<td>001</td>
<td>$197,992</td>
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<tr>
<td>Employee Benefits.</td>
<td>010</td>
<td>$75,609</td>
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<tr>
<td>Current Expenses.</td>
<td>130</td>
<td>$102,939</td>
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<tr>
<td>BRIM Premium.</td>
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<td>$2,764</td>
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<tr>
<td>Total.</td>
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<td>$379,304</td>
</tr>
</tbody>
</table>
Any unexpended balance remaining in the appropriation for Unclassified (fund 0581, activity 099) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the 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 2,768
7 Total ...................... $ 1,272,456

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

From the above appropriation for Current Expenses, the sum of $120,000 shall be distributed equally to each of the twelve 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
### APPROPRIATIONS

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Unclassified</td>
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<td>20,000</td>
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<tr>
<td>Current Expenses</td>
<td>130</td>
<td>167,447</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>5,000</td>
</tr>
<tr>
<td>Veterans’ Field Offices</td>
<td>228</td>
<td>168,345</td>
</tr>
<tr>
<td>Veterans’ Nursing Home (R)</td>
<td>286</td>
<td>6,836,188</td>
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<tr>
<td>Veterans’ Toll Free Assistance Line</td>
<td>328</td>
<td>2,015</td>
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<tr>
<td>Veterans’ Reeducation</td>
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<tr>
<td>Assistance (R)</td>
<td>329</td>
<td>29,502</td>
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<td>Veterans’ Grant Program (R)</td>
<td>342</td>
<td>50,000</td>
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<tr>
<td>Veterans’ Grave Markers</td>
<td>473</td>
<td>2,754</td>
</tr>
<tr>
<td>Veterans’ Transportation</td>
<td>485</td>
<td>625,000</td>
</tr>
<tr>
<td>Veterans Outreach Programs</td>
<td>617</td>
<td>205,926</td>
</tr>
<tr>
<td>Memorial Day Patriotic Exercise</td>
<td>697</td>
<td>20,000</td>
</tr>
<tr>
<td>Veterans Cemetery</td>
<td>808</td>
<td>374,055</td>
</tr>
<tr>
<td>BRIM Premium</td>
<td>913</td>
<td>23,860</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$10,154,386</td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations for Veterans’ Nursing Home (fund 0456, activity 286), Veterans’ Reeducation Assistance (fund 0456, activity 329), Veterans’ Grant Program (fund 0456, activity 342), Veterans’ Bonus – Surplus (fund 0456, activity 342), Veterans’ Bonus (fund 0456, activity 483), and Educational Opportunities for Children of Deceased Veterans (fund 0456, activity 854) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

### 90 - Department of Veterans’ Assistance – Veterans’ Home

(WV Code Chapter 9A)

Fund 0460 FY 2014 Org 0618

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$722,600</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>381,994</td>
</tr>
</tbody>
</table>
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 Services for Health Care and Title XIX Waiver for Senior Citizens
2 Services for Health Care and
3 Title XIX Waiver for
4 Senior Citizens
5

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

The above appropriation is in addition to funding provided 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
2 West Virginia Council for Community and Technical Education (R)
3 Transit Training Partnership
4

$ 0

$ 798,808

$ 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 2,091,518
11 Total........................................ $ 7,492,683

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

From the above appropriation for the Community College Workforce Development (fund 0596, activity 878), $200,000 shall be expended on the Mine Training Program in Southern 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 – 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 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 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 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

<table>
<thead>
<tr>
<th>Description</th>
<th>Activity</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$2,125,173</td>
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<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>414,635</td>
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<tr>
<td>Current Expenses</td>
<td>130</td>
<td>275,742</td>
</tr>
<tr>
<td>Higher Education Grant Program (R)</td>
<td>164</td>
<td>39,019,864</td>
</tr>
<tr>
<td>Tuition Contract Program (R)</td>
<td>165</td>
<td>1,316,697</td>
</tr>
<tr>
<td>Underwood-Smith Scholarship Program - Student Awards</td>
<td>167</td>
<td>200,000</td>
</tr>
<tr>
<td>Facilities Planning and Administration</td>
<td>386</td>
<td>2,000,000</td>
</tr>
<tr>
<td>PROMISE Scholarship - Transfer</td>
<td>800</td>
<td>18,500,000</td>
</tr>
<tr>
<td>HEAPS Grant Program (R)</td>
<td>867</td>
<td>5,005,687</td>
</tr>
<tr>
<td>BRIM Premium</td>
<td>913</td>
<td>17,243</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$68,875,041</strong></td>
</tr>
</tbody>
</table>

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

The above appropriation for Facilities Planning and Administration (activity 386) is for operational expenses of the
25 West Virginia Education, Research and Technology Park between construction and full occupancy.

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

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

35 The above appropriation for PROMISE Scholarship – Transfer (activity 800) shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. 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
WVU – School of Health Sciences . . 174 17,574,081
WVU School of Health Sciences –
Charleston Division . . . . . . . . 175 2,462,599
Rural Health Outreach Programs (R). 377 184,006
West Virginia University School
of Medicine BRIM Subsidy . . . . 460 1,274,838
Total . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . $ 23,905,147

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

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

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

The above appropriation for Rural Health Outreach
Programs (activity 377) includes rural health activities and
programs; rural residency development and education; and rural
outreach activities.
The above appropriation for BRIM subsidy (activity 460) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the “Total Premium Billed” to the institution as part of the full cost of their malpractice 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 Institute for Technology. ........ 479 | 8,620,982 |
| 5 | State Priorities – Brownfield Professional Development (R). 531 | 367,051 |
| 7 | West Virginia University – Potomac State. ............... 994 | 4,270,762 |
| 9 | Total.................................. | $ 119,683,309 |

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

Included in the above appropriation for West Virginia University (activity 459) is $34,500 for the Marshall and WVU Faculty and Course Development International Study Project; $246,429 for the WVU Law School – Skills Program; $300,000 for the WVU Coal and Energy Research Bureau to be expended in consultation with the Board of Coal Mine Health and Safety,
the Mine Safety Technology Task Force, and the DEP Advisory Council; $19,714 for the WVU College of Engineering and Mineral Resources – Diesel Training – Transfer; $500,000 for the Mining Engineering Program; $220,000 for the WVU Petroleum Engineering Program; $82,500 for the WVU – Sheep Study; $630,000 for the Davis College of Forestry Agriculture and Consumer Sciences of which $80,000 is for a Landscape Architect, $112,500 is to be used for Morgantown Farms, $112,500 is to be used for Raymond Memorial Farm, $112,500 is to be used for Reedsville Farm, and $112,500 is to be used for Kerneymill Farm; $200,000 for Reedsville Arena and Jackson’s Mill Arena; $100,000 for the WVU – Soil Testing Program; $100,000 for a veterinarian; $50,000 for the WVU Cancer Study; $500,000 for the Center for Multiple Sclerosis Program; $150,000 for the WV Alzheimer Disease Register; $100,000 for the rifle team; $200,000 is for the West Virginia University National Center of Excellence in Women’s Health; and $30,000 for the West Virginia University Extension Service to develop a cyber-bullying prevention program.

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

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

107 - Marshall University –
School of Medicine

(WV Code Chapter 18B)

Fund 0347 FY 2014 Org 0471

Marshall Medical School............. 173 $ 13,791,761
Any unexpended balance remaining in the appropriation for Rural Health Outreach Program (fund 0347, activity 377) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

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

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

The above appropriation for BRIM subsidy (activity 449) shall be paid to the Board of Risk and Insurance Management as a general revenue subsidy against the “Total Premium Billed” to the institution as part of the full cost of their malpractice insurance coverage.
<table>
<thead>
<tr>
<th></th>
<th>Activity</th>
<th>Marshall University</th>
<th>Vista E-Learning (R)</th>
<th>State Priorities – Brownfield</th>
<th>WV Autism Training Center</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>448</td>
<td>$49,488,599</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>2</td>
<td>519</td>
<td></td>
<td>$273,172</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>531</td>
<td></td>
<td></td>
<td></td>
<td>$367,051</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>932</td>
<td></td>
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<td>$1,922,742</td>
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<tr>
<td>5</td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td>$52,051,564</td>
</tr>
</tbody>
</table>

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

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

<table>
<thead>
<tr>
<th></th>
<th>Activity</th>
<th>West Virginia School of Osteopathic Medicine</th>
<th>Rural Health Outreach Programs (R)</th>
<th>West Virginia School of Osteopathic Medicine</th>
<th>BRIM Subsidy</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>172</td>
<td>$7,264,642</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>377</td>
<td>$184,006</td>
<td></td>
<td></td>
<td></td>
</tr>
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<td>5</td>
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<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>403</td>
<td></td>
<td></td>
<td></td>
<td>$158,872</td>
</tr>
</tbody>
</table>
8 Rural Health Initiative –  
9 Medical Schools Support........ 581 $437,975  
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

111 - Concord University  
(WV Code Chapter 18B)  
Fund 0357 FY 2014 Org 0483  
1 Concord University............... 410 $9,294,046

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

113 - Glenville State College

(WV Code Chapter 18B)

Fund 0363 FY 2014 Org 0485

1 Glenville State College. .............. 428 $ 6,489,479

2 Included in the above appropriation for Glenville State College (activity 428) is $300,000 for a 20 county “Hidden Promise” consortium between the County School Systems and Glenville State College; and $200,000 for courses offered in 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

2 Included in the above appropriation for Shepherd University (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
### 116 - West Virginia State University

(WV Code Chapter 18B)

**Fund 0373 FY 2014 Org 0490**

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Activity</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>West Virginia State University.</td>
<td>441</td>
<td>$10,657,707</td>
</tr>
<tr>
<td>2</td>
<td>West Virginia State University</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Land Grant Match.</td>
<td>956</td>
<td>$1,908,000</td>
</tr>
<tr>
<td>4</td>
<td>Total.</td>
<td></td>
<td>$12,565,707</td>
</tr>
</tbody>
</table>

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

**Total TITLE II, Section 1 — General Revenue**

(INCLUDING CLAIMS AGAINST THE STATE) **$4,136,001,000**

### Sec. 2. Appropriations from state road fund.

— From the state road fund there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for 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**

<table>
<thead>
<tr>
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<th>Description</th>
<th>Activity</th>
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<th>Fund</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services.</td>
<td>001</td>
<td>$15,647,549</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits.</td>
<td>010</td>
<td>$7,538,648</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses.</td>
<td>130</td>
<td>$16,399,041</td>
<td></td>
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</table>
126  APPROPRIATIONS

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>064</td>
<td>60,000</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>070</td>
<td>70,000</td>
</tr>
<tr>
<td>6</td>
<td>Buildings</td>
<td>258</td>
<td>10,000</td>
</tr>
<tr>
<td>7</td>
<td>Other Assets</td>
<td>690</td>
<td>1,600,000</td>
</tr>
<tr>
<td>8</td>
<td>BRIM Premium</td>
<td>913</td>
<td>53,487</td>
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<tr>
<td>9</td>
<td>Total</td>
<td></td>
<td>$41,378,725</td>
</tr>
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</table>

118 - Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2014 Org 0803

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

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

The commissioner of highways shall have the authority to operate revolving funds within the state road fund for the operation and purchase of various types of equipment used...
directly and indirectly in the construction and maintenance of roads and for the purchase of inventories and materials and supplies.

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

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

119 - Office of Administrative Hearings
(WV Code Chapter 17C)

Fund 9027 FY 2014 Org 0808

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$1,111,223</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>$473,729</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>130</td>
<td>$350,895</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$4,800</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>070</td>
<td>$1,750</td>
</tr>
<tr>
<td>6</td>
<td>BRIM Premium</td>
<td>913</td>
<td>$9,582</td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td></td>
<td>$1,951,979</td>
</tr>
</tbody>
</table>

Total TITLE II, Section 2 —

State Road Fund

(Including claims against the state) $1,199,969,148
Sec. 3. Appropriations from other funds. — From the funds designated there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2014.

**LEGISLATIVE**

*120 - Crime Victims Compensation Fund*

(WV Code Chapter 14)

Fund 1731 FY 2014 Org 2300

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

Any unexpended balance remaining in the appropriation for Economic Loss Claim Payment Fund (fund 1731, fiscal year 2013, activity 334) at the close of the fiscal year 2013 is hereby 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

<table>
<thead>
<tr>
<th>Activity</th>
<th>Other Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Current Expenses. ................. 130 $</td>
<td>1,000,000</td>
</tr>
</tbody>
</table>
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 $503,200  
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 $426,741  
7 Total................................. $1,513,918  

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

14 The total amount of this appropriation shall be paid from the  
special revenue fund out of fees and collections as provided by  
law.
124 - Auditor's Office –
Local Government Purchasing Card Expenditure Fund
(WV Code Chapter 6)

Fund 1224 FY 2014 Org 1200

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Org</th>
<th>FY 2014</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td></td>
<td>$232,500</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td></td>
<td>$75,587</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td></td>
<td>$62,030</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td></td>
<td>$6,000</td>
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<tr>
<td>Equipment</td>
<td>070</td>
<td></td>
<td>$10,805</td>
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<tr>
<td>Other Assets</td>
<td>690</td>
<td></td>
<td>$50,000</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$436,922</td>
</tr>
</tbody>
</table>

125 - Auditor's Office –
Securities Regulation Fund
(WV Code Chapter 32)

Fund 1225 FY 2014 Org 1200

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Org</th>
<th>FY 2014</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td></td>
<td>$1,332,581</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td></td>
<td>$549,929</td>
</tr>
<tr>
<td>Unclassified</td>
<td>099</td>
<td></td>
<td>$31,866</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td></td>
<td>$838,830</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td></td>
<td>$12,400</td>
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<tr>
<td>Equipment</td>
<td>070</td>
<td></td>
<td>$19,700</td>
</tr>
<tr>
<td>Other Assets</td>
<td>690</td>
<td></td>
<td>$673,326</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$3,458,632</td>
</tr>
</tbody>
</table>

126 - Auditor’s Office –
Technology Support and Acquisition Fund
(WV Code Chapter 12)

Fund 1233 FY 2014 Org 1200

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Org</th>
<th>FY 2014</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td></td>
<td>$300,000</td>
</tr>
</tbody>
</table>
2 Other Assets......................... 690 $100,000
3 Total................................. $400,000

4 Fifty percent of the deposits made into this fund shall be transferred to the Treasurer’s Office – Technology Support and Acquisition Fund (fund 1329, org 1300) for expenditure for the 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........................... 690 308,886
7 Total................................... $5,042,315

8 There is hereby appropriated from this fund, in addition to the above appropriation, the amount necessary to meet the transfer requirements to the Purchasing Improvement Fund (fund 2264) and the Hatfield-McCoy Regional Recreation Authority 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
### 129 - Treasurer's Office –
*College Prepaid Tuition and Savings Program*  
*Administrative Account*

(WV Code Chapter 18)

<table>
<thead>
<tr>
<th>Fund</th>
<th>FY 2014 Org</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1301</td>
<td>1300</td>
<td>Personal Services</td>
<td>001</td>
<td>$664,184</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Employee Benefits</td>
<td>010</td>
<td>$235,906</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Unclassified</td>
<td>099</td>
<td>$14,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Current Expenses</td>
<td>130</td>
<td>$494,541</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total</td>
<td></td>
<td>$1,408,631</td>
</tr>
</tbody>
</table>

### 130 - Treasurer's Office –
*Technology Support and Acquisition Fund*  
(WV Code Chapter 12)

<table>
<thead>
<tr>
<th>Fund</th>
<th>FY 2014 Org</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1329</td>
<td>1300</td>
<td>Personal Services</td>
<td>001</td>
<td>$147,236</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Employee Benefits</td>
<td>010</td>
<td>$39,757</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Unclassified</td>
<td>099</td>
<td>$4,700</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Current Expenses</td>
<td>130</td>
<td>$184,956</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Other Assets</td>
<td>690</td>
<td>$100,000</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Total</td>
<td></td>
<td>$476,649</td>
</tr>
</tbody>
</table>

### 131 - Department of Agriculture –
*Agriculture Fees Fund*  
(WV Code Chapter 19)

<table>
<thead>
<tr>
<th>Fund</th>
<th>FY 2014 Org</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1401</td>
<td>1400</td>
<td>Personal Services</td>
<td>001</td>
<td>$1,494,935</td>
</tr>
</tbody>
</table>
The above appropriation shall be expended in accordance 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**

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$218,525</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$83,692</td>
</tr>
<tr>
<td>Unclassified</td>
<td>099</td>
<td>$15,173</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$1,213,288</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$238,722</td>
</tr>
<tr>
<td>Equipment</td>
<td>070</td>
<td>$210,600</td>
</tr>
<tr>
<td>Other Assets</td>
<td>690</td>
<td>$20,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$2,000,000</strong></td>
</tr>
</tbody>
</table>

### 135 - Department of Agriculture – Donated Food Fund

(WV Code Chapter 19)

**Fund 1446 FY 2014 Org 1400**

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$661,476</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$297,388</td>
</tr>
<tr>
<td>Unclassified</td>
<td>099</td>
<td>$45,807</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$3,498,842</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$40,200</td>
</tr>
<tr>
<td>Equipment</td>
<td>070</td>
<td>$10,000</td>
</tr>
<tr>
<td>Other Assets</td>
<td>690</td>
<td>$27,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$4,580,713</strong></td>
</tr>
</tbody>
</table>

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

(WV Code Chapter 7)

**Fund 1465 FY 2014 Org 1400**

<table>
<thead>
<tr>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$25,000</td>
</tr>
</tbody>
</table>
### 137 - Department of Agriculture –  
**West Virginia Spay Neuter Assistance Fund**

(WV Code Chapter 7)

<table>
<thead>
<tr>
<th>Fund</th>
<th>FY 2014</th>
<th>Org</th>
</tr>
</thead>
<tbody>
<tr>
<td>137</td>
<td></td>
<td>1400</td>
</tr>
</tbody>
</table>

1. **Current Expenses**  
   - Amount: $100

### 138 - Attorney General –  
**Antitrust Enforcement Fund**

(WV Code Chapter 47)

<table>
<thead>
<tr>
<th>Fund</th>
<th>FY 2014</th>
<th>Org</th>
</tr>
</thead>
<tbody>
<tr>
<td>138</td>
<td></td>
<td>1500</td>
</tr>
</tbody>
</table>

1. **Personal Services**  
   - Amount: $268,883
2. **Employee Benefits**  
   - Amount: $84,626
3. **Current Expenses**  
   - Amount: $154,194
4. **Total**  
   - Amount: $507,703

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

(WV Code Chapter 47)

<table>
<thead>
<tr>
<th>Fund</th>
<th>FY 2014</th>
<th>Org</th>
</tr>
</thead>
<tbody>
<tr>
<td>139</td>
<td></td>
<td>1500</td>
</tr>
</tbody>
</table>

1. **Personal Services**  
   - Amount: $172,044
2. **Employee Benefits**  
   - Amount: $57,732
3. **Current Expenses**  
   - Amount: $37,065
4. **Total**  
   - Amount: $266,841

### 140 - Attorney General –  
**Preneed Funeral Guarantee Fund**

(WV Code Chapter 47)

<table>
<thead>
<tr>
<th>Fund</th>
<th>FY 2014</th>
<th>Org</th>
</tr>
</thead>
<tbody>
<tr>
<td>140</td>
<td></td>
<td>1500</td>
</tr>
</tbody>
</table>

1. **Current Expenses**  
   - Amount: $901,135
141 - Secretary of State –
Service Fees and Collection Account
(WV Code Chapters 3, 5, and 59)

<table>
<thead>
<tr>
<th>Fund 1612 FY 2014 Org 1600</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services. 001 $589,735</td>
</tr>
<tr>
<td>2 Employee Benefits. 010 $201,316</td>
</tr>
<tr>
<td>3 Unclassified. 099 $4,524</td>
</tr>
<tr>
<td>4 Current Expenses. 130 $8,036</td>
</tr>
<tr>
<td>5 Total. $803,611</td>
</tr>
</tbody>
</table>

142 - Secretary of State –
General Administrative Fees Account
(WV Code Chapters 3, 5 and 59)

<table>
<thead>
<tr>
<th>Fund 1617 FY 2014 Org 1600</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services. 001 $1,661,415</td>
</tr>
<tr>
<td>2 Employee Benefits. 010 $636,834</td>
</tr>
<tr>
<td>3 Unclassified. 099 $16,324</td>
</tr>
<tr>
<td>4 Current Expenses. 130 $682,306</td>
</tr>
<tr>
<td>5 Technology Improvements. 599 $750,000</td>
</tr>
<tr>
<td>6 Total. $3,746,879</td>
</tr>
</tbody>
</table>

DEPARTMENT OF ADMINISTRATION

143 - Department of Administration –
Office of the Secretary –
Tobacco Settlement Fund
(WV Code Chapter 4)

<table>
<thead>
<tr>
<th>Fund 2041 FY 2014 Org 0201</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Tobacco Settlement Fund – Transfer. 902 $51,650</td>
</tr>
</tbody>
</table>
2 The above appropriation for Tobacco Settlement Fund – Transfer (activity 902) shall be transferred to the Division of 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, activity 130) shall be transferred to the Consolidated Public Retirement Board – West Virginia Teachers’ Retirement System 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. ....................... 690 250,000
8 Total. .......................... $ 38,235,442

9 The total amount of this appropriation shall be paid from a special revenue fund out of collections made by the division of information services and communications as provided by law.
Each spending unit operating from the general revenue fund, from special revenue funds or receiving reimbursement for postage from the federal government shall be charged monthly for all postage meter service and shall reimburse the revolving fund monthly for all such amounts.

---

**146 - Division of Purchasing – Vendor Fee Fund**

(WV Code Chapter 5A)

<table>
<thead>
<tr>
<th>Fund 2263 FY 2014 Org 0213</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1</strong> Personal Services......... 001</td>
</tr>
<tr>
<td><strong>2</strong> Employee Benefits.......... 010</td>
</tr>
<tr>
<td><strong>3</strong> Unclassified.............. 099</td>
</tr>
<tr>
<td><strong>4</strong> Current Expenses.......... 130</td>
</tr>
<tr>
<td><strong>5</strong> Repairs and Alterations... 064</td>
</tr>
<tr>
<td><strong>6</strong> Equipment.................. 070</td>
</tr>
<tr>
<td><strong>7</strong> Other Assets............... 690</td>
</tr>
<tr>
<td><strong>8</strong> BRIM Premium.............. 913</td>
</tr>
<tr>
<td><strong>9</strong> Total.....................</td>
</tr>
</tbody>
</table>

---

**147 - Division of Purchasing – Purchasing Improvement Fund**

(WV Code Chapter 5A)

<table>
<thead>
<tr>
<th>Fund 2264 FY 2014 Org 0213</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1</strong> Personal Services......... 001</td>
</tr>
<tr>
<td><strong>2</strong> Employee Benefits.......... 010</td>
</tr>
<tr>
<td><strong>3</strong> Unclassified.............. 099</td>
</tr>
<tr>
<td><strong>4</strong> Current Expenses.......... 130</td>
</tr>
<tr>
<td><strong>5</strong> Repairs and Alterations... 064</td>
</tr>
<tr>
<td><strong>6</strong> Equipment.................. 070</td>
</tr>
</tbody>
</table>
### 148 - Travel Management

**Fleet Management Office Fund**

(WV Code Chapter 5A)

**Fund 2301 FY 2014 Org 0215**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$532,880</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$199,717</td>
</tr>
<tr>
<td>Unclassified</td>
<td>099</td>
<td>$4,000</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$7,088,784</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$12,000</td>
</tr>
<tr>
<td>Equipment</td>
<td>070</td>
<td>$104,000</td>
</tr>
<tr>
<td>Other Assets</td>
<td>690</td>
<td>$264,191</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$8,205,572</strong></td>
</tr>
</tbody>
</table>

### 149 - Travel Management

**Aviation Fund**

(WV Code Chapter 5A)

**Fund 2302 FY 2014 Org 0215**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unclassified</td>
<td>099</td>
<td>$1,000</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$147,000</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$400,237</td>
</tr>
<tr>
<td>Equipment</td>
<td>070</td>
<td>$1,000</td>
</tr>
<tr>
<td>Buildings</td>
<td>258</td>
<td>$1,000</td>
</tr>
<tr>
<td>Other Assets</td>
<td>690</td>
<td>$1,000</td>
</tr>
<tr>
<td>Land</td>
<td>730</td>
<td>$1,000</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$552,237</strong></td>
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</tbody>
</table>
150 - Division of Personnel
(WV Code Chapter 29)

Fund 2440 FY 2014 Org 0222

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$2,875,410</td>
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<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
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<td>Unclassified</td>
<td>099</td>
<td>$51,418</td>
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<td>Current Expenses</td>
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<td>$1,067,740</td>
</tr>
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<td>Repairs and Alterations</td>
<td>064</td>
<td>$5,000</td>
</tr>
<tr>
<td>6</td>
<td>Equipment</td>
<td>070</td>
<td>$20,000</td>
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<td>7</td>
<td>Other Assets</td>
<td>690</td>
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<tr>
<td>8</td>
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<td>$5,141,821</td>
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</table>

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

151 - West Virginia Prosecuting Attorneys Institute
(WV Code Chapter 7)

Fund 2521 FY 2014 Org 0228

<table>
<thead>
<tr>
<th>Item</th>
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<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
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<td>2</td>
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<td>$600</td>
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<td>Equipment</td>
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<td>$5,000</td>
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<td>Other Assets</td>
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</table>
### 152 - Office of Technology –
Chief Technology Officer Administration Fund

(WV Code Chapter 5A)

Fund 2531 FY 2014 Org 0231

<table>
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<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
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<td>5 Repairs and Alterations</td>
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<td>$1,000</td>
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<td>6 Equipment</td>
<td>070</td>
<td>$50,000</td>
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<td>7 Other Assets</td>
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<td><strong>Total</strong></td>
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<td>$694,976</td>
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</tbody>
</table>

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

### DEPARTMENT OF COMMERCE

153 - Division of Forestry

(WV Code Chapter 19)

Fund 3081 FY 2014 Org 0305

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
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<tbody>
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<td>1 Personal Services</td>
<td>001</td>
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<td><strong>Total</strong></td>
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</table>

154 - Division of Forestry –
Timbering Operations Enforcement Fund

(WV Code Chapter 19)

Fund 3082 FY 2014 Org 0305

<table>
<thead>
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<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
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<tbody>
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<td>1 Personal Services</td>
<td>001</td>
<td>$34,320</td>
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<td></td>
<td>Description</td>
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</tr>
<tr>
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<td>------</td>
</tr>
<tr>
<td>1</td>
<td>Personal Services</td>
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<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
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<td>3</td>
<td>Unclassified</td>
<td>099</td>
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<tr>
<td>4</td>
<td>Current Expenses</td>
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<td>5</td>
<td>Repairs and Alterations</td>
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<td>Other Assets</td>
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</table>

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

156 - West Virginia Development Office – Department of Commerce

Marketing and Communications Operating Fund

(WV Code Chapter 5B)

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
<th>Code</th>
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<tr>
<td>1</td>
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<td>001</td>
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<td>$500</td>
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</tbody>
</table>
157 - West Virginia Development Office –
Broadband Deployment Fund

(WV Code Chapter 31)

Fund 3174 FY 2014 Org 0307

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
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<td>$40,000</td>
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<td>2</td>
<td>Current Expenses</td>
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</table>

158 - Division of Labor –
Contractor Licensing Board Fund

(WV Code Chapter 21)

Fund 3187 FY 2014 Org 0308

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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<tr>
<td>1</td>
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<td>Employee Benefits</td>
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<td>Unclassified</td>
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<td>21,589</td>
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<td>4</td>
<td>Current Expenses</td>
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<td>597,995</td>
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<td>5</td>
<td>Repairs and Alterations</td>
<td>064</td>
<td>15,000</td>
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<td>6</td>
<td>Buildings</td>
<td>258</td>
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<tr>
<td>7</td>
<td>Total</td>
<td></td>
<td>$2,158,958</td>
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</tbody>
</table>

From the above account, Contractor Licensing Board Fund (fund 3187), an amount not to exceed $535,500 may be 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

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$118,330</td>
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</tbody>
</table>
### 160 - Division of Labor –
**Crane Operator Certification Fund**
(WV Code Chapter 21)

Fund 3191 FY 2014 Org 0308

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
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<td>Employee Benefits</td>
<td>010</td>
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<td>Unclassified</td>
<td>099</td>
<td>$1,380</td>
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<td>4</td>
<td>Current Expenses</td>
<td>130</td>
<td>$49,765</td>
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<td>5</td>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$1,500</td>
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<td>6</td>
<td>Buildings</td>
<td>258</td>
<td>$1,000</td>
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<tr>
<td>7</td>
<td>Total</td>
<td></td>
<td>$138,025</td>
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</table>

### 161 - Division of Labor –
**Amusement Rides and Amusement Attraction Safety Fund**
(WV Code Chapter 21)

Fund 3192 FY 2014 Org 0308

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$50,590</td>
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<td>Employee Benefits</td>
<td>010</td>
<td>$28,726</td>
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<td>Unclassified</td>
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<td>$1,281</td>
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<td>4</td>
<td>Current Expenses</td>
<td>130</td>
<td>$44,520</td>
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<td>5</td>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$2,000</td>
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<td>6</td>
<td>Buildings</td>
<td>258</td>
<td>$1,000</td>
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<td>7</td>
<td>Total</td>
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</table>
### Division of Labor – State Manufactured Housing Administration Fund

(WV Code Chapter 21)

Fund 3195 FY 2014 Org 0308

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$103,316</td>
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<td>Employee Benefits</td>
<td>010</td>
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<td>1,847</td>
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<td>Current Expenses</td>
<td>130</td>
<td>43,700</td>
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<td>Repairs and Alterations</td>
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<td>1,000</td>
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<td>Buildings</td>
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<td>1,000</td>
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<tr>
<td>BRIM Premium</td>
<td>913</td>
<td>3,404</td>
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</table>

### Division of Labor – Weights and Measures Fund

(WV Code Chapter 47)

Fund 3196 FY 2014 Org 0308

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$48,000</td>
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<td>Repairs and Alterations</td>
<td>064</td>
<td>81,000</td>
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<td>Equipment</td>
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<td>611,500</td>
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</table>

### Division of Natural Resources – License Fund – Wildlife Resources

(WV Code Chapter 20)

Fund 3200 FY 2014 Org 0310

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Wildlife Resources</td>
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<tr>
<td>Administration</td>
<td>155</td>
<td>1,387,974</td>
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<tr>
<td>Capital Improvements and</td>
<td></td>
<td></td>
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<tr>
<td>Land Purchase</td>
<td>248</td>
<td>1,387,973</td>
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</tbody>
</table>
5 Law Enforcement.......................... 806 $5,551,895
6 Total......................................... $13,879,737

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

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

(WV Code Chapter 20)
Fund 3202 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 | 106,615 |
| 5 | Total......................................... | $986,654 |

166 - Division of Natural Resources –
Nongame Fund

(WV Code Chapter 20)
Fund 3203 FY 2014 Org 0310

| 1 | Personal Services.......................... 001 | $132,580 |
| 2 | Employee Benefits.......................... 010 | 55,742 |
| 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 | $6,969 |
| 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 | $19,800 |
| 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

<table>
<thead>
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<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
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<td>001</td>
<td>$343,884</td>
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<td>WV Mining Extension Service</td>
<td>026</td>
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<td>Unclassified</td>
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<td>$40,985</td>
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<td>Buildings</td>
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<td>$481,358</td>
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<tr>
<td><strong>Total</strong></td>
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</table>

170 - Division of Energy –
Energy Assistance
(WV Code Chapter 5B)

Fund 3010 FY 2014 Org 0328

<table>
<thead>
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<th>Item</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Energy Assistance – Total</td>
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</table>

171 - Division of Energy –
Office of Coal Field Community Development
(WV Code Chapter 5B)

Fund 3011 FY 2014 Org 0328

<table>
<thead>
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<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
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<td>Unclassified</td>
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<td>$8,300</td>
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</table>
### DEPARTMENT OF EDUCATION

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

(WV Code Chapter 18)

Fund 3937 FY 2014 Org 0402

<table>
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<th>Item</th>
<th>Code</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>001</td>
<td>Personal Services</td>
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<td>010</td>
<td>Employee Benefits</td>
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<td>3</td>
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<td>4</td>
<td>130</td>
<td>Current Expenses</td>
<td>261,446</td>
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<td>064</td>
<td>Repairs and Alterations</td>
<td>1,000</td>
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<td>6</td>
<td>070</td>
<td>Equipment</td>
<td>1,000</td>
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**173 - School Building Authority**

(WV Code Chapter 18)

Fund 3959 FY 2014 Org 0402

<table>
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<th>Code</th>
<th>Description</th>
<th>Amount</th>
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<tr>
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<td>001</td>
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<td>064</td>
<td>Repairs and Alterations</td>
<td>7,500</td>
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<td>5</td>
<td>070</td>
<td>Equipment</td>
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<tr>
<td>6</td>
<td></td>
<td>Total</td>
<td>$1,369,802</td>
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</tbody>
</table>

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

<table>
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<tr>
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<tr>
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Any unexpended balance remaining in the appropriation for Educational Enhancements (fund 3508, activity 695) at the close of the fiscal year 2013 is hereby reappropriated for expenditure 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

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### 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

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### DEPARTMENT OF ENVIRONMENTAL PROTECTION

**178 - Solid Waste Management Board**

(WV Code Chapter 22C)

**Fund 3288 FY 2014 Org 0312**

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

(WV Code Chapter 22)

**Fund 3023 FY 2014 Org 0313**

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

(WV Code Chapter 22)

**Fund 3024 FY 2014 Org 0313**

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

(WV Code Chapter 22)

**Fund 3321 FY 2014 Org 0313**

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

(WV Code Chapter 22)

**Fund 3322 FY 2014 Org 0313**

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

(WV Code Chapter 22)

Fund 3323 FY 2014 Org 0313

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

(WV Code Chapter 22)

Fund 3324 FY 2014 Org 0313

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

(WV Code Chapter 22)

Fund 3325 FY 2014 Org 0313

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

(WV Code Chapter 22)

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<td>2  Employee Benefits. ........ 010</td>
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<td>3  Current Expenses. .......... 130</td>
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<td>4  Repairs and Alterations. ... 064</td>
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<td>5  Equipment. ................ 070</td>
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<td>6  Other Assets. .............. 690</td>
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### 187 - Division of Environmental Protection – Solid Waste Reclamation and Environmental Response Fund

(WV Code Chapter 22)

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<td>3  Current Expenses. .......... 130</td>
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<tr>
<td>4  Repairs and Alterations. ... 064</td>
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<td>5  Equipment. ................ 070</td>
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<td>6  Other Assets. .............. 690</td>
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**188 - Division of Environmental Protection – Solid Waste Enforcement Fund**

(WV Code Chapter 22)

Fund 3333 FY 2014 Org 0313

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

(WV Code Chapter 22)

Fund 3336 FY 2014 Org 0313

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

(WV Code Chapter 22)

Fund 3340 FY 2014 Org 0313

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

(WV Code Chapter 22)

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

(WV Code Chapter 22)

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#### 193 - Division of Environmental Protection – Recycling Assistance Fund

(WV Code Chapter 22)

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### Appropriations

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194 - Division of Environmental Protection – Mountaintop Removal Fund  
(WV Code Chapter 22)

Fund 3490 FY 2014 Org 0313

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195 - Oil and Gas Conservation Commission – Special Oil and Gas Conservation Fund  
(WV Code Chapter 22C)

Fund 3371 FY 2014 Org 0315

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### DEPARTMENT OF HEALTH AND HUMAN RESOURCES

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

(WV Code Chapter 4)

Fund 5124 FY 2014 Org 0506

<table>
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<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Institutional Facilities Operations</td>
<td>335</td>
<td>$61,218</td>
</tr>
</tbody>
</table>

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

(WV Code Chapter 16)

Fund 5144 FY 2014 Org 0506

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$622,875</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>$253,896</td>
</tr>
<tr>
<td>3</td>
<td>Unclassified</td>
<td>099</td>
<td>$15,500</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses</td>
<td>130</td>
<td>$185,954</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>070</td>
<td>$30,000</td>
</tr>
<tr>
<td>6</td>
<td>Other Assets</td>
<td>690</td>
<td>$441,834</td>
</tr>
<tr>
<td>7</td>
<td>Total</td>
<td></td>
<td>$1,550,059</td>
</tr>
</tbody>
</table>

#### 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

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Institutional Facilities Operations</td>
<td>335</td>
<td>$46,208,911</td>
</tr>
<tr>
<td>2</td>
<td>Medical Services Trust Fund -</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Transfer</td>
<td>512</td>
<td>$27,800,000</td>
</tr>
<tr>
<td>4</td>
<td>Total</td>
<td></td>
<td>$74,008,911</td>
</tr>
</tbody>
</table>
The total amount of this appropriation shall be paid from the hospital services revenue account special fund created by W.Va. Code §16-1-13, and shall be used for operating expenses and for improvements in connection with existing facilities and bond payments.

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

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

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

199 - Division of Health – Laboratory Services Fund
(WV Code Chapter 16)

Fund 5163 FY 2014 Org 0506

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$635,070</td>
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<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>277,587</td>
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<tr>
<td>Unclassified</td>
<td>099</td>
<td>18,114</td>
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<tr>
<td>Current Expenses</td>
<td>130</td>
<td>850,133</td>
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</table>
### 200 - Division of Health –
**The Health Facility Licensing Account**

(WV Code Chapter 16)

<table>
<thead>
<tr>
<th>Fund 5172 FY 2014 Org 0506</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services. ....... 001</td>
</tr>
<tr>
<td>2 Employee Benefits .......... 010</td>
</tr>
<tr>
<td>3 Unclassified. .............. 099</td>
</tr>
<tr>
<td>4 Current Expenses ........... 130</td>
</tr>
<tr>
<td>5 Total..................</td>
</tr>
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</table>

### 201 - Division of Health –
**Hepatitis B Vaccine**

(WV Code Chapter 16)

<table>
<thead>
<tr>
<th>Fund 5183 FY 2014 Org 0506</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services. ....... 001</td>
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<tr>
<td>2 Employee Benefits .......... 010</td>
</tr>
<tr>
<td>3 Unclassified. .............. 099</td>
</tr>
<tr>
<td>4 Current Expenses ........... 130</td>
</tr>
<tr>
<td>5 Total..................</td>
</tr>
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</table>

### 202 - Division of Health –
**Lead Abatement Account**

(WV Code Chapter 16)

<table>
<thead>
<tr>
<th>Fund 5204 FY 2014 Org 0506</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services.......... 001</td>
</tr>
<tr>
<td>2 Employee Benefits......... 010</td>
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<tr>
<td></td>
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<td>---</td>
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<td>3</td>
</tr>
<tr>
<td>4</td>
</tr>
<tr>
<td>5</td>
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</tbody>
</table>

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

(WV Code Chapter 16)

**Fund 5214 FY 2014 Org 0506**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services. 001</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits. 010</td>
</tr>
<tr>
<td>3</td>
<td>Unclassified. 099</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses. 130</td>
</tr>
<tr>
<td>5</td>
<td>Total.</td>
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</table>

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

(WV Code Chapter 16)

**Fund 5218 FY 2014 Org 0506**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Current Expenses. 130</td>
</tr>
</tbody>
</table>

205 - West Virginia Health Care Authority –
*Health Care Cost Review Fund*

(WV Code Chapter 16)

**Fund 5375 FY 2014 Org 0507**

<p>| | |</p>
<table>
<thead>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services. 001</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits. 010</td>
</tr>
<tr>
<td>3</td>
<td>Hospital Assistance. 025</td>
</tr>
<tr>
<td>4</td>
<td>Unclassified. 099</td>
</tr>
</tbody>
</table>
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 ............................... 690 100,000
10 Total ...................................... $ 6,738,766

The above appropriation is to be expended in accordance with and pursuant to the provisions of W.Va. Code §16-29B and from the special revolving fund designated health care cost 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 | 3,500,000 |
| 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 |
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 ...................... 789 418,992
4 Total ...................... $ 182,000,000

The above appropriation for Medical Services Administrative Costs (fund 5090, activity 789) shall be transferred to a special revenue account in the treasury for use by the department of health and human resources for administrative purposes. The remainder of all moneys deposited in the fund shall be transferred to the West Virginia medical services fund (fund 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 12,810,491
5 Total . ........................ $ 38,000,000

Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 5094, activity 096), Unclassified (fund 5094, activity 099), and Current Expenses (fund 5094, activity 130) at the close of the fiscal year 2013 is hereby 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

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>Medical Services</td>
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<td>$65,229,899</td>
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<td>Medical Services Administrative</td>
<td>789</td>
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<tr>
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<td></td>
<td>$548,723</td>
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<tr>
<td>3</td>
<td>Total</td>
<td>718</td>
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<tr>
<td></td>
<td></td>
<td>$65,778,622</td>
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</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
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<tr>
<td></td>
<td></td>
<td>$64,417</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
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<tr>
<td></td>
<td></td>
<td>$24,975</td>
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<tr>
<td>3</td>
<td>Unclassified</td>
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<tr>
<td></td>
<td></td>
<td>$16,031</td>
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<tr>
<td>4</td>
<td>Current Expenses</td>
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<tr>
<td></td>
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<td>$1,497,688</td>
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<tr>
<td></td>
<td></td>
<td>$1,603,111</td>
</tr>
</tbody>
</table>
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

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

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

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
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

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Current Expenses</td>
<td>130</td>
<td>$25,000</td>
</tr>
</tbody>
</table>

217 - State Armory Board –
 General Armory Fund

(WV Code Chapter 15)

Fund 6057 FY 2014 Org 0603

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$1,110,000</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>$528,250</td>
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<tr>
<td>3</td>
<td>Current Expenses</td>
<td>130</td>
<td>$750,000</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$490,750</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>070</td>
<td>$300,000</td>
</tr>
<tr>
<td>6</td>
<td>Buildings</td>
<td>258</td>
<td>$771,000</td>
</tr>
<tr>
<td>7</td>
<td>Land</td>
<td>730</td>
<td>$50,000</td>
</tr>
<tr>
<td>8</td>
<td>Total</td>
<td></td>
<td>$4,000,000</td>
</tr>
</tbody>
</table>

From the above appropriation, the Adjutant General may receive and expend funds to conduct operations and activities to include functions of the Military Authority. The Adjutant 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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$260,680</td>
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<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$4,500</td>
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<tr>
<td>Equipment</td>
<td>070</td>
<td>$170,000</td>
</tr>
<tr>
<td>Buildings</td>
<td>258</td>
<td>$534,000</td>
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<tr>
<td>Other Assets</td>
<td>690</td>
<td>$5,000</td>
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<tr>
<td>BRIM Premium</td>
<td>913</td>
<td>$302,432</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,412,242</strong></td>
<td></td>
</tr>
</tbody>
</table>

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

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$1,327,000</td>
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<tr>
<td>BRIM Premium</td>
<td>913</td>
<td>$154,452</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$1,481,452</strong></td>
<td></td>
</tr>
</tbody>
</table>

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

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Buildings</td>
<td>258</td>
<td>$443,980</td>
</tr>
<tr>
<td>Land</td>
<td>730</td>
<td>$1,000</td>
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<tr>
<td>BRIM Premium</td>
<td>913</td>
<td><strong>$77,222</strong></td>
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<td><strong>Total</strong></td>
<td><strong>$522,202</strong></td>
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</tr>
<tr>
<td>223 - West Virginia State Police – Surplus Transfer Account</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(WV Code Chapter 15)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fund 6519 FY 2014 Org 0612</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| 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 |
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 40,000
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 1,743
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
### 229 - Division of Justice and Community Services – WV Community Corrections Fund

(WV Code Chapter 62)

Fund 6386 FY 2014 Org 0620

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
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<td>001</td>
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<td>3 Current Expenses</td>
<td>130</td>
<td>$1,823,863</td>
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<td>4 Repairs and Alterations</td>
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<td>$1,000</td>
</tr>
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<td>Total</td>
<td></td>
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</table>

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

(WV Code Chapter 51)

Fund 6804 FY 2014 Org 0620

<table>
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<tr>
<th>Item</th>
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<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>001</td>
<td>$15,544</td>
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<td>2 Employee Benefits</td>
<td>010</td>
<td>$7,239</td>
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<td>$1,477,217</td>
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<td>Total</td>
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### DEPARTMENT OF REVENUE

231 - Division of Financial Institutions

(WV Code Chapter 31A)

Fund 3041 FY 2014 Org 0303

<table>
<thead>
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<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>001</td>
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<tr>
<td>2 Employee Benefits</td>
<td>010</td>
<td>$625,662</td>
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</tr>
<tr>
<td>---</td>
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<tr>
<td>3</td>
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</tr>
<tr>
<td>4</td>
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<tr>
<td>5</td>
<td>Repairs and Alterations</td>
<td>064</td>
</tr>
<tr>
<td>6</td>
<td>Equipment</td>
<td>070</td>
</tr>
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<td>7</td>
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</tr>
<tr>
<td>8</td>
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<td></td>
</tr>
</tbody>
</table>

232 - Office of the Secretary –
State Debt Reduction Fund

(WV Code Chapter 29)

Fund 7007 FY 2014 Org 0701

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
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<tr>
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<td>Directed Transfer</td>
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<td>Retirement Systems –</td>
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<td>3</td>
<td>Unfunded Liability</td>
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</tbody>
</table>

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

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

233 - Tax Division –
Cemetery Company Account

(WV Code Chapter 35)

Fund 7071 FY 2014 Org 0702

<p>| | | | |</p>
<table>
<thead>
<tr>
<th></th>
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<tr>
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<td>$ 7,000</td>
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<td>6</td>
<td>Equipment</td>
<td>070</td>
<td>$ 5,000</td>
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<td>7</td>
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</table>

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

(WV Code Chapter 11)

Fund 7086 FY 2014 Org 0702

<table>
<thead>
<tr>
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<th>Category</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
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<td>001</td>
<td>$28,648</td>
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<td>Employee Benefits</td>
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**236 - Tax Division – Wine Tax Administration Fund**

(WV Code Chapter 60)

Fund 7087 FY 2014 Org 0702

<table>
<thead>
<tr>
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<th>Code</th>
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<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$172,340</td>
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</table>
2 Employee Benefits.............................. 010 $81,822
3 Current Expenses.............................. 130 $5,406
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 $15,000  
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 $4,000,000  
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

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount ($)</th>
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<tr>
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<td>001</td>
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<td>Employee Benefits</td>
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<td>Equipment</td>
<td>070</td>
<td>50,000</td>
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<td>Buildings</td>
<td>258</td>
<td>35,000</td>
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<td>Other Assets</td>
<td>690</td>
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<td><strong>Total</strong></td>
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<td><strong>2,182,407</strong></td>
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</table>

### 240 - Insurance Commissioner – Consumer Advocate

(WV Code Chapter 33)

Fund 7151 FY 2014 Org 0704

<table>
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<tr>
<th>Item Description</th>
<th>Code</th>
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<td>Employee Benefits</td>
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<td>Current Expenses</td>
<td>130</td>
<td>204,186</td>
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<td>Repairs and Alterations</td>
<td>064</td>
<td>5,000</td>
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<tr>
<td>Equipment</td>
<td>070</td>
<td>20,000</td>
</tr>
<tr>
<td>Buildings</td>
<td>258</td>
<td>20,000</td>
</tr>
<tr>
<td>Other Assets</td>
<td>690</td>
<td>20,000</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>817,930</strong></td>
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</table>

### 241 - Insurance Commissioner

(WV Code Chapter 33)

Fund 7152 FY 2014 Org 0704

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount ($)</th>
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<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>16,907,778</td>
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</tbody>
</table>
2 Employee Benefits .................. 010 7,999,349
3 Current Expenses ................ 130 8,923,041
4 Repairs and Alterations ........... 064 68,510
5 Equipment. ...................... 070 1,350,661
6 Buildings ...................... 258 250,000
7 Other Assets .................... 690 500,661
8 Total ................................ $ 36,000,000

The total amount of this appropriation shall be paid from a special revenue fund out of collections of fees and charges as provided by law.

242 - Insurance Commissioner – Workers’ Compensation Old Fund

(WV Code Chapter 23)

Fund 7162 FY 2014 Org 0704

1 Employee Benefits.................. 010 $ 100,000
2 Current Expenses.................. 130 549,900,000
3 Total................................ $ 550,000,000

243 - Insurance Commissioner – Workers’ Compensation Uninsured Employers’ Fund

(WV Code Chapter 23)

Fund 7163 FY 2014 Org 0704

1 Current Expenses.................. 130 $ 27,000,000

244 - Insurance Commissioner – Self-Insured Employer Guaranty Risk Pool

(WV Code Chapter 23)

Fund 7164 FY 2014 Org 0704

1 Current Expenses.................. 130 $ 5,000,000
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

246 - Lottery Commission –  
Revenue Center Construction Fund

(WV Code Chapter 29)

Fund 7209 FY 2014 Org 0705

1 Buildings ...................... 258 $ 1,690,088

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

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

249 - Racing Commission – Administration and Promotion Account

(WV Code Chapter 19)

Fund 7304 FY 2014 Org 0707

<table>
<thead>
<tr>
<th>Category</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
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<td>Current Expenses</td>
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<td>Other Assets</td>
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<td>Total</td>
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<td>$355,000</td>
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</table>

250 - Racing Commission – General Administration

(WV Code Chapter 19)

Fund 7305 FY 2014 Org 0707

<table>
<thead>
<tr>
<th>Category</th>
<th>Code</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
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<tr>
<td>Employee Benefits</td>
<td>010</td>
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<td>Current Expenses</td>
<td>130</td>
<td>$752,498</td>
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<tr>
<td>Repairs and Alterations</td>
<td>064</td>
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<td>Other Assets</td>
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<td>$50,000</td>
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<tr>
<td>Total</td>
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<td>$3,637,578</td>
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</table>
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

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
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<td>Employee Benefits</td>
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<td>3</td>
<td>Current Expenses</td>
<td>130</td>
<td>$209,406</td>
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<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>064</td>
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<tr>
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<td>Other Assets</td>
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<td>6</td>
<td>Total</td>
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</table>

252 - Alcohol Beverage Control Administration –
Wine License Special Fund
(WV Code Chapter 60)

Fund 7351 FY 2014 Org 0708

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
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<td>Repairs and Alterations</td>
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<td>5</td>
<td>Equipment</td>
<td>070</td>
<td>$100</td>
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<tr>
<td>6</td>
<td>Buildings</td>
<td>258</td>
<td>$10,000</td>
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<tr>
<td>7</td>
<td>Other Assets</td>
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<td>$125,000</td>
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<tr>
<td>8</td>
<td>Total</td>
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</tr>
</tbody>
</table>

To the extent permitted by law, four classified exempt positions shall be provided from Personal Services line item for field auditors.
## 253 - Alcohol Beverage Control Administration

(WV Code Chapter 60)

### Fund 7352 FY 2014 Org 0708

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
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</thead>
<tbody>
<tr>
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<td>Repairs and Alterations</td>
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<td>12,548</td>
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<td>Buildings</td>
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<td>100</td>
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<tr>
<td>Other Assets</td>
<td>690</td>
<td>252,392</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$8,503,114</strong></td>
</tr>
</tbody>
</table>

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

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

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

There is hereby appropriated from liquor revenues, in addition to the above appropriation, the necessary amount for the 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

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
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</tr>
</thead>
<tbody>
<tr>
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<td>$189,000</td>
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</table>
255 - Division of Motor Vehicles –
Motor Vehicle Fees Fund

(WV Code Chapter 17B)

Fund 8223 FY 2014 Org 0802

<table>
<thead>
<tr>
<th>Category</th>
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<tr>
<td>Personal Services</td>
<td>001</td>
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<td>Employee Benefits</td>
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<td>BRIM Premium</td>
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</table>

256 - Division of Highways –
A. James Manchin Fund

(WV Code Chapter 22)

Fund 8319 FY 2014 Org 0803

<table>
<thead>
<tr>
<th>Category</th>
<th>Code</th>
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<tbody>
<tr>
<td>Current Expenses</td>
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</tbody>
</table>

257 - Public Port Authority –
Special Railroad and Intermodal Enhancement Fund

(WV Code Chapter 17)

Fund 8254 FY 2014 Org 0806

<table>
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<tr>
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<td>Other Assets</td>
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<td>$7,990,000</td>
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</table>
### DEPARTMENT OF VETERANS’ ASSISTANCE

**258 - Veterans’ Facilities Support Fund**

(WV Code Chapter 9A)

<table>
<thead>
<tr>
<th>Item</th>
<th>Account</th>
<th>Description</th>
<th>FY 2014</th>
<th>Amount</th>
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<td>Personal Services</td>
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<td>Current Expenses</td>
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<td>$2,355,790</td>
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<td>4</td>
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<td>Repairs and Alterations</td>
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<td>$100,000</td>
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<td>5</td>
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<td>Equipment</td>
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<td>$100,000</td>
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<td>6</td>
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<td>Other Assets</td>
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<tr>
<td>7</td>
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</table>

**259 - Department of Veterans’ Assistance –**

**WV Veterans’ Home – Special Revenue Operating Fund**

(WV Code Chapter 9A)

<table>
<thead>
<tr>
<th>Item</th>
<th>Account</th>
<th>Description</th>
<th>FY 2014</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>130</td>
<td>Current Expenses</td>
<td></td>
<td>$700,000</td>
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<tr>
<td>2</td>
<td>064</td>
<td>Repairs and Alterations</td>
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<td>3</td>
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</tr>
</tbody>
</table>

### BUREAU OF SENIOR SERVICES

**260 - Bureau of Senior Services – Community Based Service Fund**

(WV Code Chapter 22)

<table>
<thead>
<tr>
<th>Item</th>
<th>Account</th>
<th>Description</th>
<th>FY 2014</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>001</td>
<td>Personal Services</td>
<td></td>
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<td>2</td>
<td>010</td>
<td>Employee Benefits</td>
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</table>
3 Current Expenses. . . . . . . . . . . . . . . . . . 130 $10,350,733
4 Total. . . . . . . . . . . . . . . . . . . . . . . . . $10,500,000

The total amount of this appropriation is funded from annual table game license fees to enable the aged and disabled citizens of West Virginia to stay in their homes through the provision of 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

The total amount of this appropriation shall be paid from the special capital improvements fund created in W.Va. Code §18B-10-8. Projects are to be paid on a cash basis and made available on July 1 of each year and may be transferred to special revenue 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
General Capital Expenditures. 306 3,000,000
Facilities Planning and Administration. 386 421,082
Total. 32,327,851

The total amount of this appropriation shall be paid from the special capital improvement fund created in W.Va. Code §18B-10-8. Projects are to be paid on a cash basis and made available on July 1.

The above appropriations, except for debt service, may be transferred to special revenue funds for capital improvement projects at the institutions.

263 - Tuition Fee Revenue Bond Construction Fund
(WV Code Chapters 18 and 18B)

Fund 4906 FY 2014 Org 0442

Any unexpended balance remaining in the appropriation at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

The appropriation shall be paid from available unexpended cash balances and interest earnings accruing to the fund. The appropriation shall be expended at the discretion of the Higher Education Policy Commission and the funds may be allocated to any institution within the system.

The total amount of this appropriation shall be paid from the unexpended proceeds of revenue bonds previously issued pursuant to W.Va. Code §18-12B-8, which have since been refunded.
Any unexpended balance remaining in the appropriation for Capital Improvements – Total (fund 4908, activity 958) at the close of fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

The total amount of this appropriation shall be paid from the sale of the 2009 Series A Community and Technical College Capital Improvement Revenue Bonds and anticipated interest earnings.

265 - West Virginia University –
West Virginia University Health Sciences Center

(WV Code Chapters 18 and 18B)
Any unexpended balance remaining in the appropriation for Unclassified – Total (fund 4732, activity 096) at the close of fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

The total amount of this appropriation shall be used for the purchase of additional real property or technology, or for capital improvements at the institution.

The total amount of this appropriation shall be paid from a special revenue fund out of collections made by the board of barbers and cosmetologists as provided by law.
268 - Hospital Finance Authority

(WV Code Chapter 16)

Fund 5475 FY 2014 Org 0509

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$50,830</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$21,883</td>
</tr>
<tr>
<td>Unclassified</td>
<td>099</td>
<td>$819</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$71,639</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>$145,171</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$311,018</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$76,974</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$51,864</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$1</td>
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<tr>
<td>Other Assets</td>
<td>690</td>
<td>$100</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>$439,957</td>
</tr>
</tbody>
</table>

270 - WV Board of Examiners for Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2014 Org 0907

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$673,109</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$248,561</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$279,379</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$3,000</td>
</tr>
</tbody>
</table>
Equipment. . . . . . . . . . . . . . . . . . . . . 070 001 8,662,321
Other Assets. . . . . . . . . . . . . . . . . . . . 690 010 3,144,993
Total. . . . . . . . . . . . . . . . . . . . . . . $ 19,634,848

The total amount of this appropriation shall be paid from a special revenue fund out of collections for special license fees from public service corporation as provided by law.

The Public Service Commission is authorized to spend up to $500,000, from surplus funds in this account, to meet the expected deficiencies in the Motor Carrier Division (fund 8625, org 0926) due to the amendment and reenactment of W.Va. Code §24A-3-1 by Enrolled House Bill Number 2715, Regular 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

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Personal Services.</td>
<td>001</td>
<td>$203,371</td>
</tr>
<tr>
<td>2. Employee Benefits.</td>
<td>010</td>
<td>80,827</td>
</tr>
<tr>
<td>3. Unclassified.</td>
<td>099</td>
<td>3,851</td>
</tr>
<tr>
<td>4. Current Expenses.</td>
<td>130</td>
<td>93,115</td>
</tr>
<tr>
<td>5. Repairs and Alterations.</td>
<td>064</td>
<td>4,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$385,164</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from a special revenue fund out of receipts collected for or by the public service commission pursuant to and in the exercise of regulatory 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

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Personal Services.</td>
<td>001</td>
<td>$1,625,484</td>
</tr>
<tr>
<td>2. Employee Benefits.</td>
<td>010</td>
<td>618,042</td>
</tr>
<tr>
<td>3. Unclassified.</td>
<td>099</td>
<td>29,233</td>
</tr>
<tr>
<td>4. Current Expenses.</td>
<td>130</td>
<td>577,557</td>
</tr>
<tr>
<td>5. Repairs and Alterations.</td>
<td>064</td>
<td>23,000</td>
</tr>
<tr>
<td>6. Equipment.</td>
<td>070</td>
<td>50,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$2,923,316</strong></td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from a special revenue fund out of receipts collected for or by the public service commission pursuant to and in the exercise of regulatory authority over motor carriers as provided by law.
service commission pursuant to and in the exercise of regulatory authority over motor carriers as provided by law.

274 - Public Service Commission – Consumer Advocate

(WV Code Chapter 24)

Fund 8627 FY 2014 Org 0926

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$551,350</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>192,022</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>130</td>
<td>276,472</td>
</tr>
<tr>
<td>4</td>
<td>Equipment</td>
<td>070</td>
<td>10,000</td>
</tr>
<tr>
<td>5</td>
<td>BRIM Premium</td>
<td>913</td>
<td>4,532</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td></td>
<td>$1,034,376</td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid from a special revenue fund out of collections made by the public service commission.

275 - Real Estate Commission

(WV Code Chapter 30)

Fund 8635 FY 2014 Org 0927

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$432,305</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>150,108</td>
</tr>
<tr>
<td>3</td>
<td>Current Expenses</td>
<td>130</td>
<td>285,622</td>
</tr>
<tr>
<td>4</td>
<td>Repairs and Alterations</td>
<td>064</td>
<td>5,000</td>
</tr>
<tr>
<td>5</td>
<td>Equipment</td>
<td>070</td>
<td>10,000</td>
</tr>
<tr>
<td>6</td>
<td>Total</td>
<td></td>
<td>$883,035</td>
</tr>
</tbody>
</table>

The total amount of this appropriation shall be paid out of 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**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$57,720</td>
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<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$15,856</td>
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<td>Current Expenses</td>
<td>130</td>
<td>$41,237</td>
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<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$114,813</strong></td>
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</table>

### 277 - WV Board of Respiratory Care

(WV Code Chapter 30)

**Fund 8676 FY 2014 Org 0935**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$49,743</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$27,751</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$50,976</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$500</td>
</tr>
<tr>
<td>Other Assets</td>
<td>690</td>
<td>$2,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$130,970</strong></td>
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</tbody>
</table>

### 278 - WV Board of Licensed Dietitians

(WV Code Chapter 30)

**Fund 8680 FY 2014 Org 0936**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$7,500</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$1,148</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$14,352</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$23,000</strong></td>
</tr>
</tbody>
</table>
### 279 - Massage Therapy Licensure Board

(WV Code Chapter 30)

Fund 8671 FY 2014 Org 0938

<table>
<thead>
<tr>
<th>Category</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$73,020</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$23,786</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$30,200</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$127,006</strong></td>
</tr>
</tbody>
</table>

### 280 - Board of Medicine

(WV Code Chapter 30)

Fund 9070 FY 2014 Org 0945

<table>
<thead>
<tr>
<th>Category</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$717,258</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$263,053</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$617,230</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$4,000</td>
</tr>
<tr>
<td>Other Assets</td>
<td>690</td>
<td>$5,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$1,606,541</strong></td>
</tr>
</tbody>
</table>

### 281 - West Virginia Enterprise Resource Planning Board

(WV Code Chapter 12)

Fund 9080 FY 2014 Org 0947

<table>
<thead>
<tr>
<th>Category</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$3,150,000</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$1,070,469</td>
</tr>
<tr>
<td>Unclassified</td>
<td>099</td>
<td>$430,000</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$44,799,531</td>
</tr>
<tr>
<td>Repairs and Alterations</td>
<td>064</td>
<td>$100,000</td>
</tr>
<tr>
<td>Equipment</td>
<td>070</td>
<td>$250,000</td>
</tr>
<tr>
<td>Buildings</td>
<td>258</td>
<td>$100,000</td>
</tr>
<tr>
<td>Other Assets</td>
<td>690</td>
<td>$100,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$50,000,000</strong></td>
</tr>
</tbody>
</table>
282 - Board of Treasury Investments

(WV Code Chapter 12)

Fund 9152 FY 2014 Org 0950

<table>
<thead>
<tr>
<th>Item</th>
<th>Account</th>
<th>Description</th>
<th>FY 2014</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>001</td>
<td>Personal Services</td>
<td></td>
<td>520,940</td>
</tr>
<tr>
<td>2</td>
<td>010</td>
<td>Employee Benefits</td>
<td></td>
<td>186,559</td>
</tr>
<tr>
<td>3</td>
<td>099</td>
<td>Unclassified</td>
<td></td>
<td>12,667</td>
</tr>
<tr>
<td>4</td>
<td>130</td>
<td>Current Expenses</td>
<td></td>
<td>387,041</td>
</tr>
<tr>
<td>5</td>
<td>913</td>
<td>BRIM Premium</td>
<td></td>
<td>159,500</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>Total</td>
<td></td>
<td>1,266,707</td>
</tr>
</tbody>
</table>

There is hereby appropriated from this fund, in addition to the above appropriation, the amount of funds necessary for the Board of Treasury Investments to pay the fees and expenses of custodians, fund advisors and fund managers for the Consolidated fund of the State as provided in Article 6C, Chapter 12 of the Code.

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

Total TITLE II, Section 3 — Other Funds

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Including claims against the state)</td>
<td>$1,540,812,001</td>
</tr>
</tbody>
</table>

Sec. 4. Appropriations from lottery net profits. — Net profits of the lottery are to be deposited by the director of the lottery to the following accounts in the amounts indicated. The director of the lottery shall prorate each deposit of net profits in the proportion the appropriation for each account bears to the total of the appropriations for all accounts.

After first satisfying the requirements for Fund 2252, Fund 3963, and Fund 4908 pursuant to W.Va. Code §29-22-18, the director of the lottery shall make available from the remaining net profits of the lottery any amounts needed to pay debt service
for which an appropriation is made for Fund 9065, Fund 4297,
Fund 9067, and Fund 3514 and is authorized to transfer any such
amounts to Fund 9065, Fund 4297, Fund 9067, and Fund 3514
for that purpose. Upon receipt of reimbursement of amounts so
transferred, the director of the lottery shall deposit the
reimbursement amounts to the following accounts as required by
this section.

283 - Education, Arts, Sciences and Tourism –
Debt Service Fund

(WV Code Chapter 5)

Fund 2252 FY 2014 Org 0211

<table>
<thead>
<tr>
<th>Activity</th>
<th>Lottery Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Debt Service – Total. 310</td>
<td>$10,000,000</td>
</tr>
</tbody>
</table>

284 - West Virginia Development Office –
Division of Tourism

(WV Code Chapter 5B)

Fund 3067 FY 2014 Org 0304

<table>
<thead>
<tr>
<th>Activity</th>
<th>Lottery Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Unclassified-Transfer 482</td>
<td>$350,000</td>
</tr>
<tr>
<td>2 Tourism – Telemarketing Center 463</td>
<td>82,080</td>
</tr>
<tr>
<td>3 WV Film Office 498</td>
<td>338,723</td>
</tr>
<tr>
<td>4 Tourism – Advertising (R) 618</td>
<td>4,133,042</td>
</tr>
<tr>
<td>5 Tourism – Operations (R) 662</td>
<td>4,017,789</td>
</tr>
<tr>
<td>6 Total</td>
<td>$8,921,634</td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations
for Tourism – Advertising (fund 3067, activity 618), Tourism –
Operations (fund 3067, activity 662), and Tourism – Special
Projects (fund 3067, activity 859) at the close of the fiscal year
2013 are hereby reappropriated for expenditure during the fiscal year 2014.

From the above appropriation for Unclassified-Transfer (fund 3067, activity 482) $350,000 is to be transferred to the Tourism Promotion Fund (fund 3072).

285 - Division of Natural Resources

(WV Code Chapter 20)

Fund 3267 FY 2014 Org 0310

<table>
<thead>
<tr>
<th>Description</th>
<th>Org</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>001</td>
<td>$1,343,766</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>010</td>
<td>$766,119</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$36,327</td>
</tr>
<tr>
<td>Pricketts Fort State Park</td>
<td>324</td>
<td>$111,000</td>
</tr>
<tr>
<td>Non-Game Wildlife (R)</td>
<td>527</td>
<td>$386,721</td>
</tr>
<tr>
<td>State Parks and Recreation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Advertising (R)</td>
<td>619</td>
<td>$548,733</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>$3,192,666</td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the appropriations for Unclassified (fund 3267, activity 099), Capital Outlay - Parks (fund 3267, activity 288), Non-Game Wildlife (fund 3267, activity 527), and State Parks and Recreation Advertising (fund 3267, activity 619) at the close of the fiscal year 2013 are hereby 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

<table>
<thead>
<tr>
<th>Description</th>
<th>Org</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>130</td>
<td>$1,269,375</td>
</tr>
<tr>
<td>FBI Checks</td>
<td>372</td>
<td>$108,580</td>
</tr>
</tbody>
</table>
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  22,032,821
9  Total. ................................. $ 27,451,348

Any unexpended balances remaining in the appropriations for Unclassified (fund 3951, activity 099), Assessment Program (fund 3951, activity 396), and 21st Century Technology Infrastructure Network Tools and Support (fund 3951, activity 933) at the close of the fiscal year 2013 are hereby 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

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
<table>
<thead>
<tr>
<th>Program</th>
<th>Budget Year</th>
<th>Appropriation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commission for National and Community Service</td>
<td>193</td>
<td>$436,449</td>
</tr>
<tr>
<td>Governor’s Honor Academy (R)</td>
<td>478</td>
<td>$400,000</td>
</tr>
<tr>
<td>Arts Programs (R)</td>
<td>500</td>
<td>$81,277</td>
</tr>
<tr>
<td>College Readiness</td>
<td>579</td>
<td>$184,883</td>
</tr>
<tr>
<td>Challenger Learning Center</td>
<td>862</td>
<td>$109,844</td>
</tr>
<tr>
<td>Statewide STEM 21st Century Academy</td>
<td>897</td>
<td>$130,000</td>
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<tr>
<td>Literacy Project (R)</td>
<td>899</td>
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Total: $1,812,453

Any unexpended balances remaining in the appropriations for Unclassified (fund 3508, activity 099), Governor’s Honor Academy (fund 3508, activity 478), Arts Programs (fund 3508, activity 500), and Literacy Project (fund 3508, activity 899) at the close of fiscal year 2013 are hereby reappropriated for 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

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<td>Holiday Celebration</td>
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11 George Tyler Moore Center for the Study of the Civil War........ 397 53,816
12 Greenbrier Valley Theater.................. 423 138,254
13 Theater Arts of West Virginia............. 464 230,550
14 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 78,518
27 Total..................................... $ 5,227,761

Any unexpended balances remaining in the appropriations for Fairs and Festivals (fund 3534, activity 122), Archeological Curation/Capital Improvements (fund 3534, activity 246), Historic Preservation Grants (fund 3534, activity 311), Grants for Competitive Arts Program (fund 3534, activity 624), and Project ACCESS (fund 3534, activity 865) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

From the above appropriation for Preservation West Virginia (fund 3534) funding shall be provided to African-American Heritage Family Tree Museum (Fayette) $3,848, Aracoma Story (Logan) $42,750, Arts Monongahela (Monongalia) $17,100, Barbour County Arts and Humanities Council $1,283, Beckley Main Street (Raleigh) $4,275, Belle Boyd House (Berkeley) $1,710, Buffalo Creek Memorial (Logan) $4,275, Carnegie Hall (Greenbrier) $67,500, Ceredo Historical Society (Wayne)
$1,710, Ceredo Kenova Railroad Museum (Wayne)
Children’s Theatre of Charleston (Kanawha) $4,500, Chuck Mathena Center (Mercer) $90,000, Collis P Huntington Railroad Historical Society (Cabell) $8,550, Country Music Hall of Fame and Museum (Marion) $5,985, Flannigan Murrell House (Summers) $8,550, Fort Ashby Fort (Mineral) $1,283, Fort New Salem (Harrison) $3,164, Fort Randolph (Mason) $4,275, General Adam Stephen Memorial Foundation (Berkeley) $15,840, Grafton Mother’s Day Shrine Committee (Taylor) $7,268, Hardy County Tour and Crafts Association $17,100, Heritage Craft Center of the Eastern Panhandle (Berkeley) $5,985, Heritage Farm Museum & Village (Cabell) $42,750, Historic Fayette Theater (Fayette) $4,703, Historic Middleway Conservancy (Jefferson) $855, Jefferson County Black History Preservation Society $4,275, Jefferson County Historical Landmark Commission $6,840, Maddie Carroll House (Cabell) $6,413, Marshall County Historical Society $7,268, McCoy Theater (Hardy) $17,100, Morgantown Theater Company (Monongalia) $17,100, Mountaineer Boys’ State (Lewis) $8,550, Nicholas Old Main Foundation (Nicholas) $1,710, Norman Dillon Farm Museum (Berkeley) $8,550, Old Opera House Theater Company (Jefferson) $12,825, Parkersburg Arts Center (Wood) $17,100, Pocahontas Historic Opera House $5,130, Raleigh County All Wars Museum $8,550, Rhododendron Girl’s State (Ohio) $8,550, Roane County 4-H and FFA Youth Livestock Program $4,275, Scottish Heritage Society/N. Central WV (Harrison) $4,275, Society for the Preservation of McGrew House (Preston) $2,993, Southern WV Veterans’ Museum $3,848, Summers County Historic Landmark Commission $4,275, Those Who Served War Museum (Mercer) $3,420, Three Rivers Avian Center (Summers) $12,825, Tug Valley Arts Council (Mingo) $4,275, Tug Valley Chamber of Commerce Coal House (Mingo) $1,710, Tunnelton Historical Society (Preston) $1,710, Veterans Committee for Civic Improvement of Huntington (Wayne) $4,275, West Virginia Museum of Glass
Ch. 4] APPROPRIATIONS 201

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, Arkansaw 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,
202 APPROPRIATIONS [Ch. 4

114 Buckwheat Festival (Preston) $7,268, Buffalo 4th of July Celebration (Putnam) $475, Burlington Apple Harvest Festival (Mineral) $25,650, Burlington Pumpkin Harvest Festival (Raleigh) $4,275, Burnsville Harvest Festival (Braxton) $2,025, Cabell County Fair $8,550, Calhoun County Wood Festival $1,710, Campbell’s Creek Community Fair (Kanawha) $2,138, Cape Coalwood Festival Association (McDowell) $2,138, Capon Bridge Founders Day Festival (Hampshire) $1,710, Capon Springs Ruritan 4th of July (Hampshire) $950, Cass Homecoming (Pocahontas) $1,710, Cedarville Town Festival (Gilmer) $950, Celebration in the Park (Wood) $3,420, Celebration of America (Monongalia) $5,130, Ceredo Freedom Festival (Wayne) $973, Chapmanville Apple Butter Festival (Logan) $950, Chapmanville Fire Department 4th of July (Logan) $2,565, Charles Town Christmas Festival (Jefferson) $4,275, Charles Town Heritage Festival (Jefferson) $4,275, Charlie West Blues Festival (Kanawha) $8,550, Cherry River Festival (Nicholas) $5,558, Chester Fireworks (Hancock) $1,283, Chester Fourth of July Festivities (Hancock) $4,275, Chief Logan State Park-Civil War Celebration (Logan) $6,840, Chilifest, WV State Chili Championship (Cabell) $2,250, Christmas in Shepherdstown (Jefferson) $3,420, Christmas in the Park (Brooke) $4,275, Christmas in the Park (Logan) $21,375, City of Dunbar Critter Dinner (Kanawha) $8,550, City of New Martinsville Festival of Memories (Wetzel) $9,405, City of Pleasant Valley Celebration (Marion) $2,138, Civil War Horse Calvary Race (Barbour) $950, Clay County Golden Delicious Apple Festival $5,985, Coal Field Jamboree (Logan) $29,925, Coalton Days Fair (Randolph) $5,985, Country Roads Festival (Fayette) $1,710, Cowen Railroad Festival (Webster) $2,993, Craigsville Fall Festival (Nicholas) $2,993, Culturefest World Music & Arts Festival (Mercer) $6,750, Delbarton Homecoming (Mingo) $2,993, Doddridge County Fair $5,985, Durbin Days (Pocahontas) $4,275, Eastern Kanawha Valley Homecoming Festival (Kanawha) $2,250, Elbert/Filbert Reunion Festival
Elkins Randolph County 4th of July Car Show (Randolph) $1,710, Fairview 4th of July Celebration (Marion) $950, Farm Safety Day (Preston) $1,710, Farmer Day Festival (Monroe) $1,800, Fayette American Legion 4th of July (Fayette) $950, FestivALL Charleston (Kanawha) $17,100, First Stage Children’s Theater Company (Cabell) $1,710, Flatwood Days (Braxton) $973, Flemington Day Fair and Festival (Taylor) $2,993, Follansbee Community Days (Brooke) $7,054, Fort Gay Mountain Heritage Days (Wayne) $4,275, Fort Henry Days (Ohio) $4,532, Fort Henry Living History (Ohio) $2,250, Frankford Autumnfest (Greenbrier) $4,275, Franklin Fishing Derby (Pendleton) $6,413, Franklin’s Fireman Carnival (Pendleton) $4,275, Freshwater Folk Festival (Greenbrier) $4,275, Friends Auxiliary of W.R. Sharpe Hospital (Lewis) $4,275, Frontier Days (Harrison) $2,565, Frontier Fest/Canaan Valley (Taylor) $4,275, Fund for the Arts-Wine & All that Jazz Festival (Kanawha) $2,138, Gassaway Days Celebration (Braxton) $4,275, Gilbert Elementary Fall Blast (Mingo) $2,250, Gilbert Spring Fling (Mingo) $4,275, Gilmer County Farm Show $3,420, Grant County Arts Council $1,710, Grape Stomping Wine Festival (Nicholas) $1,710, Great Greenbrier River Race (Pocahontas) $8,550, Greater Quinwood Days (Greenbrier) $1,125, Green Spring Days (Hampshire) $950, Guyandotte Civil War Days (Cabell) $8,550, Hamlin 4th of July Celebration (Lincoln) $4,275, Hampshire Civil War Celebration Days (Hampshire) $950, Hampshire County 4th of July Celebration $17,100, Hampshire County Fair $7,200, Hampshire Heritage Days (Hampshire) $3,420, Hancock County Oldtime Fair $4,275, Hardy County Commission - 4th of July $8,550, Hatfield McCoy Matewan Reunion Festival (Mingo) $4,275, Hatfield McCoy Trail National ATV and Dirt Bike Weekend (Wyoming) $4,275, Heat’n the Hills Chilifest (Lincoln) $3,600, Heritage Craft Festival (Monroe) $950, Heritage Days Festival (Roane) $1,283,
Hicks Festival (Tucker) $950, Hilltop Festival (Cabell) $950, Hilltop Festival of Lights (McDowell) $1,710, Hinton Railroad Days (Summers) $4,703, Holly River Festival (Webster) $1,283, Hundred 4th of July (Wetzel) $6,199, Hundred American Legion Earl Kiger Post Bluegrass Festival (Wetzel) $1,710, Hurricane 4th of July Celebration (Putnam) $4,275, Iaeger Lions Club Annual Golf Show (McDowell) $1,283, Iaeger Town Fair (McDowell) $1,283, Irish Heritage Festival of WV (Raleigh) $4,275, Irish Spring Festival (Lewis) $950, Italian Heritage Festival-Clarksburg (Harrison) $25,650, Jackson County Fair $4,275, Jacksonburg Homecoming Festival (Wetzel) $950, Jamboree (Pocahontas) $4,275, Jane Lew Arts and Crafts Fair (Lewis) $950, Jefferson County Fair Association $21,375, Jersey Mountain Ruritan Pioneer Days (Hampshire) $950, John Henry Days Festival (Monroe) $4,275, Johnnie Johnson Blues and Jazz Festival (Marion) $4,275, Johnstown Community Fair (Harrison) $2,138, Junior Heifer Preview Show (Lewis) $1,710, Kanawha Coal Riverfest-St. Albans 4th of July Festival (Kanawha) $4,275, Kanawha County Fair $4,275, Keeper of the Mountains-Kayford (Kanawha) $2,138, Kenova Autumn Festival (Wayne) $6,300, Kermit Fall Festival (Mingo) $2,565, Keystone Reunion Gala (McDowell) $2,250, King Coal Festival (Mingo) $4,275, Kingwood Downtown Street Fair and Heritage Days (Preston) $1,710, L.Z. Rainelle WV Veterans Reunion (Greenbrier) $4,275, Lady of Agriculture (Preston) $950, Larry Joe Harless Center Octoberfest Hatfield McCoy Trail (Mingo) $8,550, Larry Joe Harless Community Center Spring Middle School Event (Mingo) $4,275, Last Blast of Summer (McDowell) $4,275, Lewis County Fair Association $2,993, Lewisburg Shanghai (Greenbrier) $1,710, Lincoln County Fall Festival $6,840, Lincoln County Winterfest $4,275, Little Birch Days Celebration (Braxton) $475, Little Levels Heritage Festival (Pocahontas) $1,710, Logan Freedom Festival $6,413, Lost Creek Community Festival (Harrison) $5,985, Main Street Arts Festival (Upshur) $4,500, Main Street Martinsburg Chocolate
219 Fest and Book Faire (Berkeley) $4,050, Mannington District Fair (Marion) $5,130, Maple Syrup Festival (Randolph) $950, Marion County FFA Farm Fest $2,138, Marshall County Antique Power Show $2,138, Marshall County Fair $6,413, Mason County Fair $4,275, Mason Dixon Festival (Monongalia) $5,985, Matewan Massacre Reenactment (Mingo) $5,130, Matewan-Magnolia Fair (Mingo) $38,475, McARTS-McDowell County $17,100, McDowell County Fair $2,138, McGrew House History Day (Preston) $1,710, McNeill’s Rangers (Mineral) $6,840, Meadow Bridge Hometown Festival (Fayette) $1,069, Meadow River Days Festival (Greenbrier) $2,565, Mercer Bluestone Valley Fair (Mercer) $1,710, Mercer County Fair $1,710, Mid Ohio Valley Antique Engine Festival (Wood) $2,565, Milton Christmas in the Park (Cabell) $2,138, Milton Fourth of July Celebration (Cabell) $2,138, Mineral County Fair $1,496, Mineral County Veterans Day Parade $1,283, Molasses Festival (Calhoun) $1,710, Monongahfest (Marion) $5,400, Moon Over Mountwood Fishing Festival (Wood) $2,565, Morgan County Fair-History Wagon $1,283, Moundsville Bass Festival (Marshall) $3,420, Moundsville July 4th Celebration (Marshall) $4,275, Mount Liberty Fall Festival (Barbour) $2,138, Mountain Fest (Monongalia) $17,100, Mountain Festival (Mercer) $3,954, Mountain Heritage Arts and Crafts Festival (Jefferson) $4,275, Mountain Music Festival (McDowell) $2,138, Mountain State Apple Harvest Festival (Berkeley) $6,413, Mountain State Arts Crafts Fair Cedar Lakes (Jackson) $38,475, Mountaineer Hot Air Balloon Festival (Monongalia) $3,420, Mud River Festival (Lincoln) $6,840, Mullens Dogwood Festival (Wyoming) $5,985, Multi-Cultural Festival of West Virginia (Kanawha) $17,100, New Cumberland Christmas Parade (Hancock) $2,565, New Cumberland Fourth of July Fireworks (Hancock) $4,275, New River Bridge Day Festival (Fayette) $34,200, Newburg Volunteer Fireman’s Field Day (Preston) $950, Nicholas County Fair $4,275, Nicholas County Potato Festival $2,993, North River Valley Festival (Hampshire).
$950, Northern Preston Mule Pull and Farmers Days (Preston)
$3,420, Oak Leaf Festival (Fayette) $9,000, Oceana Heritage
Festival (Wyoming) $5,130, Oglebay City Park - Festival of
Lights (Ohio) $68,400, Oglebay Festival (Ohio) $8,550, Ohio
County Country Fair $7,695, Ohio Valley Beef Association
(Wood) $2,138, Ohio Valley Black Heritage Festival (Ohio)
$4,703, Old Central City Fair (Cabell) $4,275, Old Century City
Fair (Barbour) $1,800, Old Tyme Christmas (Jefferson) $2,052,
Paden City Labor Day Festival (Wetzel) $5,558, Parkersburg
Homecoming (Wood) $12,600, Patty Fest (Monongalia) $1,710,
Paw Paw District Fair (Marion) $2,993, Pax Reunion Committee
(Fayette) $4,275, Pendleton County 4-H Weekend $1,710,
Pendleton County Committee for Arts $12,825, Pendleton
County Fair $9,000, Pennsboro Country Road Festival (Ritchie)
$1,710, Petersburg Fourth of July Celebration (Grant) $17,100,
Petersburg HS Celebration (Grant) $8,550, Piedmont-Annual
Back Street Festival (Mineral) $3,420, Pinch Reunion
(Kanawha) $1,283, Pine Bluff Fall Festival (Harrison) $3,420,
Pine Grove 4th of July Festival (Wetzel) $5,985, Pineville
Festival (Wyoming) $5,130, Pleasants County Agriculture Youth
Fair $4,275, Poca Heritage Days (Putnam) $2,565, Pocahontas
County Pioneer Days $5,985, Point Pleasant Stern Wheel
Regatta (Mason) $4,275, Potomac Highlands Maple Festival
(Grant) $5,130, Pratt Fall Festival (Kanawha) $2,138, Princeton
Autumnfest (Mercer) $2,250, Princeton Street Fair (Mercer)
$4,275, Putnam County Fair $4,275, Quartets on Parade (Hardy)
$3,420, Rainelle Fall Festival (Greenbrier) $4,500, Rand
Community Center Festival (Kanawha) $2,138, Randolph
County Community Arts Council $2,565, Randolph County Fair
$5,985, Randolph County Ramp and Rails $1,710, Ranson
Christmas Festival (Jefferson) $4,275, Ranson Festival
(Jefferson) $4,275, Ravenswood Octoberfest (Jackson) $6,840,
Renick Liberty Festival (Greenbrier) $950, Ripley 4th of July
(Jackson) $12,825, Ritchie County Fair and Exposition $4,275,
Ritchie County Pioneer Days $950, River City Festival (Preston)
$950, Riverfest (Marion) $1,710, Riverside Blues Festival
$4,500, Roane County Agriculture Field Day $2,565, Romney
Heritage Days (Hampshire) $2,700, Ronceverte River Festival
(Greenbrier) $4,275, Rotary International Day in the Park
(Harrison) $900, Rowlesburg Labor Day Festival (Preston) $950,
Rupert Country Fling (Greenbrier) $2,565, Saint Spyridon Greek
Festival (Harrison) $2,138, Salem Apple Butter Festival
(Harrison) $3,420, Sistersville 4th of July Fireworks (Wetzel)
$4,703, Skirmish on the River (Mingo) $1,800, Smoke on the
Water (Wetzel) $2,565, South Charleston Summerfest
(Kanawha) $8,550, Southern Wayne County Fall Festival $950,
Spirit of Grafton Celebration (Taylor) $8,550, Spring Mountain
Festival (Grant) $3,420, Springfield Peach Festival (Hampshire)
$1,026, St. Albans City of Lights - December (Kanawha) $4,275,
St. Albans Town Fair and Carnival (Kanawha) $9,000,
Sternwheel Festival (Wood) $2,565, Stoco Reunion (Raleigh)
$2,138, Stonewall Jackson Heritage Arts & Crafts Jubilee
$9,405, Storytelling Festival (Lewis) $475, Strawberry Festival
(Upshur) $25,650, Tacy Fair (Barbour) $950, Taste of
Parkersburg (Wood) $4,275, Taylor County Fair $4,703, Terra
Alta VFD 4th of July Celebration (Preston) $950, The Gathering
at Sweet Creek (Wood) $2,565, Three Rivers Coal Festival
(Marion) $6,626, Thunder on the Tygart - Mothers’ Day
Celebration (Taylor) $12,825, Town of Delbarton 4th of July
Celebration (Mingo) $2,565, Town of Fayetteville Heritage
Festival (Fayette) $6,413, Town of Hendricks Homecoming
(Tucker) $1,800, Town of Matoaka Hog Roast (Mercer) $950,
Town of Rivesville 4th of July Festival (Marion) $4,500,
Treasure Mountain Festival (Pendleton) $21,375, Tri-County
Fair (Grant) $32,454, Tucker County Arts Festival and
Celebration $15,390, Tucker County Fair $4,061, Tucker County
Health Fair $1,710, Tunnelton Depot Days (Preston) $950,
Tunnelton Volunteer Fire Department Festival (Preston) $950,
Turkey Festival (Hardy) $2,565, Tyler County Fair $4,446, Tyler
County Fourth of July $475, Union Community Irish Festival
(Barbour) $900, Uniquely West Virginian Festival (Morgan)
$1,710, Upper Kanawha Valley Oktoberfest (Kanawha) $2,138,
Upper Ohio Valley Italian Festival (Ohio) $10,260, Upshur
County Fair $5,985, Valley District Fair (Preston) $2,993,
Veterans Welcome Home Celebration (Cabell) $1,350, Vietnam
Veterans of America Christmas Party (Cabell) $950, Volcano
Days at Mountwood Park (Wood) $4,275, War Homecoming
Fall Festival (McDowell) $1,283, Wardensville Fall Festival
(Hardy) $4,275, Wayne County Fair $4,275, Wayne County Fall
Festival $4,275, Webster County Wood Chopping Festival
$12,825, Webster Wild Water Weekend $1,710, Weirton July
4th Celebration (Hancock) $17,100, Welcome Home Family Day
(Wayne) $2,736, Wellsburg 4th of July Celebration (Brooke)
$6,413, Wellsburg Apple Festival of Brooke County $4,275,
West Virginia Blackberry Festival (Harrison) $4,275, West
Virginia Chestnut Festival (Preston) $950, West Virginia Coal
Festival (Boone) $8,550, West Virginia Coal Show (Mercer)
$2,250, West Virginia Dairy Cattle Show (Lewis) $8,550, West
Virginia Dandelion Festival (Greenbrier) $4,275, West Virginia
Fair and Exposition (Wood) $6,926, West Virginia Fireman’s
Rodeo (Fayette) $2,138, West Virginia Honey Festival (Wood)
$1,710, West Virginia Oil and Gas Festival (Tyler) $9,405, West
Virginia Polled Hereford Association (Braxton) $1,283, West
Virginia Poultry Festival (Hardy) $4,275, West Virginia
Pumpkin Festival (Cabell) $8,550, West Virginia State Folk
Festival (Gilmer) $4,275, West Virginia State Monarch Butterfly
Festival (Brooke) $4,275, West Virginia Water Festival - City of
Hinton (Summers) $13,680, Weston VFD 4th of July Firemen
Festival (Lewis) $1,710, Wetzel County Autumnfest $4,703,
Wetzel County Town and Country Days $14,535, Wheeling
Celtic Festival (Ohio) $1,710, Wheeling City of Lights (Ohio)
$6,840, Wheeling Sterwheel Regatta (Ohio) $8,550, Wheeling
Vintage Raceboat Regatta (Ohio) $17,100, Whipple Community
Action (Fayette) $2,138, Widen Days Festival (Calhoun) $1,710,
Wileyville Homecoming (Wetzel) $3,420, Wine Festival and
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Mountain Music Event (Harrison) $4,275, Winter Festival of the
Waters (Berkeley) $4,275, Wirt County Fair $2,138, Wirt
County Pioneer Days $1,710, Youth Stockman Beef Expo
(Lewis) $1,710.

Any Fairs & Festivals awards shall be funded in addition to,
and not in lieu of, individual grant allocations derived from the
Arts Council and the Cultural Grant Program allocations.

290 - Library Commission –
Lottery Education Fund

(WV Code Chapter 10)

Fund 3559 FY 2014 Org 0433

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Any unexpended balance remaining in the appropriation for
Libraries – Special Projects (fund 3559, activity 625) at the close
of fiscal year 2013 is hereby reappropriated for expenditure
during the fiscal year 2014.

291 - Bureau of Senior Services –
Lottery Senior Citizens Fund

(WV Code Chapter 29)

Fund 5405 FY 2014 Org 0508

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<td>4 Current Expenses</td>
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<td>345,000</td>
<td></td>
</tr>
<tr>
<td>5 Repairs and Alterations</td>
<td>064</td>
<td>1,000</td>
<td></td>
</tr>
<tr>
<td>6 Local Programs Service</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>7 Delivery Costs</td>
<td>200</td>
<td>2,475,250</td>
<td></td>
</tr>
<tr>
<td>8 Silver Haired Legislature</td>
<td>202</td>
<td>18,500</td>
<td></td>
</tr>
<tr>
<td>9 Area Agencies Administration</td>
<td>203</td>
<td>35,783</td>
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<tr>
<td>10 Senior Citizen Centers and Programs (R)</td>
<td>462</td>
<td>1,143,132</td>
<td></td>
</tr>
<tr>
<td>11 Transfer to Division of Human Services for Health Care</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>12 Roger Tompkins Alzheimer’s</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>13 Respite Care</td>
<td>643</td>
<td>2,296,137</td>
<td></td>
</tr>
<tr>
<td>14 WV Alzheimer’s Hotline</td>
<td>724</td>
<td>45,000</td>
<td></td>
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<tr>
<td>15 Regional Aged and Disabled</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>16 Senior Services Medicaid Transfer</td>
<td>871</td>
<td>8,670,000</td>
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<tr>
<td>17 Legislative Initiatives for the Elderly</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>18 Long Term Care Ombudsman</td>
<td>905</td>
<td>297,226</td>
<td></td>
</tr>
<tr>
<td>19 BRIM Premium</td>
<td>913</td>
<td>6,500</td>
<td></td>
</tr>
<tr>
<td>20 In-Home Services and Nutrition for Senior Citizens</td>
<td>917</td>
<td>4,500,000</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$52,918,128</strong></td>
<td></td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the appropriation for Senior Citizen Centers and Programs (fund 5405, activity 462) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.
Included in the above appropriation for Current Expenses (fund 5405, activity 130), is funding to support an in-home direct care workforce registry.

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

In addition to the above appropriations, funding is available in the special revenue Community Based Service Fund (fund 5409) to provide in-home and community-based services for the eligible aged and disabled citizens of West Virginia that provides 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

<table>
<thead>
<tr>
<th></th>
<th>RHI Program and Site Support (R)</th>
<th>036</th>
<th>$2,015,526</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>RHI Program and Site Support –RHEP Program Administration (R)</td>
<td>037</td>
<td>154,553</td>
</tr>
<tr>
<td>4</td>
<td>RHI Program and Site Support –Grad Med Ed and Fiscal Oversight (R)</td>
<td>038</td>
<td>89,882</td>
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<td>8</td>
<td>Minority Doctoral Fellowship (R)</td>
<td>166</td>
<td>136,586</td>
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<td>9</td>
<td>Underwood – Smith Scholarship Program – Student Awards</td>
<td>167</td>
<td>141,142</td>
</tr>
<tr>
<td>11</td>
<td>Health Sciences Scholarship (R)</td>
<td>176</td>
<td>229,047</td>
</tr>
</tbody>
</table>
Any unexpended balances remaining in the appropriations for RHI Program and Site Support (fund 4925, activity 036), RHI Program and Site Support – RHEP Program Administration (fund 4925, activity 037), RHI Program and Site Support – Grad Med Ed and Fiscal Oversight (fund 4925, activity 038), Minority Doctoral Fellowship (fund 4925, activity 166), Health Sciences Scholarship (fund 4925, activity 176), and Vice Chancellor for Health Sciences – Rural Health Residency Program (fund 4925, activity 601) at the close of fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

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

The above appropriation for WV Engineering, Science, and Technology Scholarship Program (activity 868) shall be transferred to the West Virginia Engineering, Science and Technology Scholarship Fund (fund 4928, org 0441) established 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
Any unexpended balance remaining in the appropriation for Capital Outlay and Improvements – Total (fund 4908, activity 847) at the close of fiscal year 2013 is hereby reappropriated for 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

<table>
<thead>
<tr>
<th>Program</th>
<th>Fund</th>
<th>Activity</th>
<th>Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>WVU Health Sciences – RHI Program and Site</td>
<td>4185</td>
<td>035</td>
<td>$1,179,188</td>
</tr>
<tr>
<td>MA Public Health Program and Health Science Technology (R)</td>
<td>4185</td>
<td>623</td>
<td>56,895</td>
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<tr>
<td>Health Sciences Career Opportunities Program (R)</td>
<td>4185</td>
<td>869</td>
<td>344,372</td>
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<td>HSTA Program (R)</td>
<td>4185</td>
<td>870</td>
<td>1,750,000</td>
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<tr>
<td>Center for Excellence in Disabilities (R)</td>
<td>4185</td>
<td>967</td>
<td>318,701</td>
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<tr>
<td>Total</td>
<td></td>
<td></td>
<td>$3,649,156</td>
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</tbody>
</table>

Any unexpended balances remaining in the appropriations for WVU Health Sciences – RHI Program and Site Support (fund 4185, activity 035), RHI Program and Site Support – RHEP Program Administration (fund 4185, activity 037), MA Public Health Program and Health Science Technology (fund 4185, activity 623), Health Sciences Career Opportunities Program (fund 4185, activity 869), HSTA Program (fund 4185, activity 870), and Center for Excellence in Disabilities (fund 4185, activity 967) at the close of fiscal year 2013 are hereby 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 $ 177,822
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 601) at the close of fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

14 Total TITLE II, Section 4 —
15 Lottery Revenue. ............... $ 151,573,583

Sec. 5. Appropriations from state excess lottery revenue fund. — In accordance with W.Va. Code §29-22-18a, the following appropriations shall be deposited and disbursed by the director of the lottery to the following accounts in this section in the amounts indicated.

After first funding the appropriations required by W.Va. Code §29-22-18a, the director of the lottery shall provide funding from the state excess lottery revenue fund for the remaining appropriations in this section to the extent that funds are available. In the event that revenues to the state excess lottery revenue fund are not sufficient to meet all the appropriations made pursuant to this section, then the director of the lottery shall first provide the necessary funds to meet the appropriation for Fund 7208, activity 700 of this section; next, to provide the funds necessary for Fund 7208, activity 095 of this section. Allocation of the funds for each appropriation shall be allocated in succession before any funds are provided for the next subsequent appropriation.

297 - Lottery Commission – 
Refundable Credit

Fund 7207 FY 2014 Org 0705

<table>
<thead>
<tr>
<th>Activity</th>
<th>Excess Lottery Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Directed Transfer.              700 $ 10,000,000</td>
<td></td>
</tr>
</tbody>
</table>
The above appropriation shall be transferred to the General Revenue Fund to provide reimbursement for the refundable credit allowable under W.Va. Code §11-21-21. The amount of the required transfer shall be determined solely by the state tax commissioner and shall be completed by the director of the 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

The above appropriation shall be transferred to the General Revenue Fund as determined by the director of the lottery in 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

The above appropriation shall be transferred to the PROMISE Scholarship Fund (fund 4296, org 0441) established by W.Va. Code §18C-7-7.

The Legislature has explicitly set a finite amount of available appropriations and directed the administrators of the Program to provide for the award of scholarships within the 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
Pursuant to W.Va. Code §29-22-18a, subsection (f), excess lottery revenues are authorized to be transferred to the lottery fund as reimbursement of amounts transferred to the economic development project fund pursuant to section four of this title 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


304 - Higher Education Improvement Fund

Fund 4297 FY 2014 Org 0441

1 Directed Transfer..................... 700 $ 15,000,000

The above appropriation shall be transferred to fund 4903, 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  100,500
6 Total............................... $ 5,000,000

Any unexpended balances remaining in the above appropriations at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

Appropriations to the State Park Improvement Fund are not 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 $27,600,000
4 Total................................. $ 45,122,000

The above appropriation for Directed Transfer (fund 7208, activity 700) shall be transferred to the General Revenue Fund.

The above appropriation for Teachers’ Retirement Savings Realized (fund 7208, activity 095) shall be transferred to the Employee Pension and Health Care Benefit Fund (fund 2044).
308 - Joint Expenses

(WV Code Chapter 4)

Fund 1736 FY 2014 Org 2300

Any unexpended balance remaining in the appropriation for Tax Reduction and Federal Funding Increased Compliance (TRAFFIC) – Lottery Surplus (fund 1736, activity 929) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

309 - Governor’s Office

(WV Code Chapter 5)

Fund 1046 FY 2014 Org 0100

Any unexpended balance remaining in the appropriation for Publication of Papers and Transition Expenses – Lottery Surplus (fund 1046, activity 066) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

310 - West Virginia Development Office

(WV Code Chapter 5B)

Fund 3170 FY 2014 Org 0307

Any unexpended balances remaining in the appropriations for Unclassified – Total (fund 3170, activity 096), Recreational Grants or Economic Development Loans (fund 3170, activity 253), and Connectivity Research and Development – Lottery Surplus (fund 3170, activity 923) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal 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
Sec. 6. Appropriations of federal funds. — In accordance with Article 11, Chapter 4 of the Code from federal funds there are hereby appropriated conditionally upon the fulfillment of the provisions set forth in Article 2, Chapter 11B of the Code the following amounts, as itemized, for expenditure during the fiscal year 2014.

**LEGISLATIVE**

314 - Crime Victims Compensation Fund

(WV Code Chapter 14)

Fund 8738 FY 2014 Org 2300

<table>
<thead>
<tr>
<th>Activity</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic Loss Claim</td>
<td></td>
</tr>
<tr>
<td>Payment Fund</td>
<td>$ 3,000,000</td>
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</tbody>
</table>

**JUDICIAL**

315 - Supreme Court

Fund 8867 FY 2014 Org 2400

<table>
<thead>
<tr>
<th>Activity</th>
<th>Federal Funds</th>
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</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$ 200,000</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>50,000</td>
</tr>
<tr>
<td>Current Expenses</td>
<td>1,382,000</td>
</tr>
<tr>
<td>Total</td>
<td>1,632,000</td>
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</tbody>
</table>

**EXECUTIVE**

316 - Governor’s Office – American Recovery and Reinvestment Act

(WV Code Chapter 5)

Fund 8701 FY 2014 Org 0100

<table>
<thead>
<tr>
<th>Activity</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Economic Stimulus</td>
<td>$ 50,000</td>
</tr>
</tbody>
</table>
### 317 - Governor's Office –
**ARRA NTIA Broadband Infrastructure Grant Fund**

(WV Code Chapter 5)

Fund 8717 FY 2014 Org 0100

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Federal Economic Stimulus</td>
<td>891</td>
<td>$20,000,000</td>
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</table>

### 318 - Governor’s Office

(WV Code Chapter 5)

Fund 8742 FY 2014 Org 0100

<table>
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<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$65,000</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>21,677</td>
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<tr>
<td>3</td>
<td>Current Expenses</td>
<td>130</td>
<td>138,323</td>
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<td>4</td>
<td>Total</td>
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<td>$225,000</td>
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</table>

### 319 - Department of Agriculture

(WV Code Chapter 19)

Fund 8736 FY 2014 Org 1400

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$1,165,643</td>
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<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>359,430</td>
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<td>3</td>
<td>Unclassified</td>
<td>099</td>
<td>50,534</td>
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<tr>
<td>4</td>
<td>Current Expenses</td>
<td>130</td>
<td>3,317,848</td>
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<td>5</td>
<td>Repairs and Alterations</td>
<td>064</td>
<td>50,000</td>
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<tr>
<td>6</td>
<td>Equipment</td>
<td>070</td>
<td>110,000</td>
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<tr>
<td>7</td>
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</table>

### 320 - Department of Agriculture –
**Meat Inspection**

(WV Code Chapter 19)

Fund 8737 FY 2014 Org 1400

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$427,248</td>
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</tbody>
</table>
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......................... 070 114,478
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 1,717,520
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................... 130 449,052
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
<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>2 Employee Benefits</td>
<td>010</td>
<td>72,119</td>
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<tr>
<td>3 Unclassified</td>
<td>099</td>
<td>12,374</td>
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<tr>
<td>4 Current Expenses</td>
<td>130</td>
<td>749,993</td>
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<tr>
<td>5 Repairs and Alterations</td>
<td>064</td>
<td>15,000</td>
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<td>6 Equipment</td>
<td>070</td>
<td>150,000</td>
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<tr>
<td>7 Other Assets</td>
<td>690</td>
<td>100,000</td>
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<tr>
<td><strong>Total</strong></td>
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</table>

**DEPARTMENT OF ADMINISTRATION**

*324 - Children's Health Insurance Agency*

(WV Code Chapter 5)

Fund 8838 FY 2014 Org 0230

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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<tbody>
<tr>
<td>1 Personal Services</td>
<td>001</td>
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<td>2 Employee Benefits</td>
<td>010</td>
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<tr>
<td>3 Current Expenses</td>
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<td>47,379,427</td>
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<td><strong>$47,956,726</strong></td>
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</table>

**DEPARTMENT OF COMMERCE**

*325 - Division of Forestry*

(WV Code Chapter 19)

Fund 8703 FY 2014 Org 0305

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>001</td>
<td>$663,400</td>
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<tr>
<td>2 Employee Benefits</td>
<td>010</td>
<td>279,395</td>
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<tr>
<td>3 Unclassified</td>
<td>099</td>
<td>51,050</td>
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<tr>
<td>4 Current Expenses</td>
<td>130</td>
<td>5,622,560</td>
</tr>
<tr>
<td>5 Repairs and Alterations</td>
<td>064</td>
<td>155,795</td>
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<tr>
<td>6 Equipment</td>
<td>070</td>
<td>50,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>$6,822,200</strong></td>
</tr>
</tbody>
</table>
### 326 - Geological and Economic Survey
(WV Code Chapter 29)

**Fund 8704 FY 2014 Org 0306**

<table>
<thead>
<tr>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
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</tr>
<tr>
<td>3</td>
<td>Unclassified</td>
<td>099</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses</td>
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</tr>
<tr>
<td>5</td>
<td>Repairs and Alterations</td>
<td>064</td>
</tr>
<tr>
<td>6</td>
<td>Equipment</td>
<td>070</td>
</tr>
<tr>
<td>7</td>
<td>Other Assets</td>
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<tr>
<td>8</td>
<td>Federal Economic Stimulus</td>
<td>891</td>
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<tr>
<td>9</td>
<td>Total</td>
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### 327 - West Virginia Development Office
(WV Code Chapter 5B)

**Fund 8705 FY 2014 Org 0307**

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<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
</tr>
<tr>
<td>3</td>
<td>Unclassified</td>
<td>099</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses</td>
<td>130</td>
</tr>
<tr>
<td>5</td>
<td>Repairs and Alterations</td>
<td>064</td>
</tr>
<tr>
<td>6</td>
<td>Equipment</td>
<td>070</td>
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### 328 - Division of Labor
(WV Code Chapters 21 and 47)

**Fund 8706 FY 2014 Org 0308**

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<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
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<td>2</td>
<td>Employee Benefits</td>
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### 329 - Division of Natural Resources

(WV Code Chapter 20)

Fund **8707** FY 2014 Org **0310**

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<td>8  Other Assets</td>
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<td>9  Land</td>
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### 330 - Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund **8709** FY 2014 Org **0314**

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### 331 - WorkForce West Virginia

(WV Code Chapter 23)

Fund **8835** FY 2014 Org **0323**

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Pursuant to the requirements of 42 U.S.C. 1103, Section 903 of the Social Security Act, as amended, and the provisions of W.Va. Code §21A-9-9, the above appropriation to Unclassified and Current Expenses shall be used by WorkForce West Virginia for the specific purpose of administration of the state’s unemployment insurance program or job service activities, subject to each and every restriction, limitation or obligation imposed on the use of the funds by those federal and state statutes.

332 - Office of the Secretary –
Office of Economic Opportunity
(WV Code Chapters 5)

Fund 8780 FY 2014 Org 0327

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<td>Equipment</td>
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### 333 - Division of Energy
(WV Code Chapter 5B)

**Fund 8892 FY 2014 Org 0328**

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### DEPARTMENT OF EDUCATION

#### 334 - State Board of Education – State Department of Education
(WV Code Chapters 18 and 18A)

**Fund 8712 FY 2014 Org 0402**

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#### 335 - State Board of Education – School Lunch Program
(WV Code Chapters 18 and 18A)

**Fund 8713 FY 2014 Org 0402**

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### 336 - State Board of Education – Vocational Division  
(WV Code Chapters 18 and 18A)  
Fund 8714 FY 2014 Org 0402

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### 337 - State Board of Education – Aid for Exceptional Children  
(WV Code Chapters 18 and 18A)  
Fund 8715 FY 2014 Org 0402

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<th>Item</th>
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### 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

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339 - Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2014 Org 0431

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<td>Buildings</td>
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<td>Other Assets</td>
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<tr>
<td>Land</td>
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### 340 - Library Commission

(WV Code Chapter 10)

Fund 8720 FY 2014 Org 0433

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### 341 - Educational Broadcasting Authority

(WV Code Chapter 10)

Fund 8721 FY 2014 Org 0439

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<tr>
<th>Item Description</th>
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### 342 - State Board of Rehabilitation – Division of Rehabilitation Services

(WV Code Chapter 18)

Fund 8734 FY 2014 Org 0932

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<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
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<td>001</td>
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### 343 - State Board of Rehabilitation – Division of Rehabilitation Services – Disability Determination Services

(WV Code Chapter 18)

Fund 8890 FY 2014 Org 0932

<table>
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<th>Code</th>
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<td>DEPARTMENT OF ENVIRONMENTAL PROTECTION</td>
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<td>FY 2014</td>
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<td>151,813</td>
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DEPARTMENT OF HEALTH AND HUMAN RESOURCES

345 - Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 8723 FY 2014 Org 0506

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<td>4 Current Expenses</td>
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### 346 - Division of Health –
**Central Office**

(WV Code Chapter 16)

Fund 8802 FY 2014 Org 0506

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### 347 - Division of Health –
**West Virginia Safe Drinking Water Treatment**

(WV Code Chapter 16)

Fund 8824 FY 2014 Org 0506

<table>
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<td>2 Revolving Fund – Transfer</td>
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### 348 - West Virginia Health Care Authority

(WV Code Chapter 16)

Fund 8851 FY 2014 Org 0507

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### Human Rights Commission

(WV Code Chapter 5)

**Fund 8725 FY 2014 Org 0510**

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### Division of Human Services

(WV Code Chapters 9, 48 and 49)

**Fund 8722 FY 2014 Org 0511**

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</table>

### Department of Military Affairs and Public Safety

**Office of the Secretary**

(WV Code Chapter 5F)

**Fund 8876 FY 2014 Org 0601**

<table>
<thead>
<tr>
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### 352 - Adjutant General – State Militia

(WV Code Chapter 15)

Fund 8726 FY 2014 Org 0603

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<td>Charleston Starbase</td>
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The adjutant general shall have the authority to transfer between line items.

### 353 - Division of Homeland Security and Emergency Management

(WV Code Chapter 15)

Fund 8727 FY 2014 Org 0606

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354 - Division of Corrections
(WV Code Chapters 25, 28, 49 and 62)

Fund 8836 FY 2014 Org 0608

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355 - West Virginia State Police
(WV Code Chapter 15)

Fund 8741 FY 2014 Org 0612

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356 - Fire Commission
(WV Code Chapter 29)

Fund 8819 FY 2014 Org 0619

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357 - Division of Justice and Community Services
(WV Code Chapter 15)

Fund 8803 FY 2014 Org 0620

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3  Unclassified .......................... 099  74,900
4  Current Expenses ...................... 130  8,949,000
5  Repairs and Alterations ............... 064  2,000
6  Federal Economic Stimulus ........... 891  135,000
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

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  100,000
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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361 - State Rail Authority

(WV Code Chapter 29)

Fund 8733 FY 2014 Org 0804

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362 - Division of Public Transit

(WV Code Chapter 17)

Fund 8745 FY 2014 Org 0805

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363 - Public Port Authority

(WV Code Chapter 17)

Fund 8830 FY 2014 Org 0806

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### DEPARTMENT OF VETERANS' ASSISTANCE

**364 - Department of Veterans' Assistance**

(WV Code Chapter 9A)

Fund 8858 FY 2014 Org 0613

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<td>Equipment</td>
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<td>Buildings</td>
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<td>Other Assets</td>
<td>690</td>
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<tr>
<td><strong>Total</strong></td>
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**365 - Department of Veterans' Assistance – Veterans' Home**

(WV Code Chapter 9A)

Fund 8728 FY 2014 Org 0618

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<tr>
<td>Buildings</td>
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<td>10,000</td>
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<tr>
<td>Other Assets</td>
<td>690</td>
<td>20,000</td>
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<td>Land</td>
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<td>$10,000</td>
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**BUREAU OF SENIOR SERVICES**

366 - Bureau of Senior Services

(WV Code Chapter 29)

Fund 8724 FY 2014 Org 0508

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**MISCELLANEOUS BOARDS AND COMMISSIONS**

367 - Public Service Commission – Motor Carrier Division

(WV Code Chapter 24A)

Fund 8743 FY 2014 Org 0926

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<th>Code</th>
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<tbody>
<tr>
<td>1</td>
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<td>40,000</td>
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368 - Public Service Commission – Gas Pipeline Division

(WV Code Chapter 24B)

Fund 8744 FY 2014 Org 0926

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### 369 - National Coal Heritage Area Authority

(WV Code Chapter 29)

Fund 8869 FY 2014 Org 0941

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<td>3,000</td>
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</tr>
<tr>
<td>6 Other Assets</td>
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<td><strong>Total</strong></td>
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### 370 - Coal Heritage Highway Authority

(WV Code Chapter 29)

Fund 8861 FY 2014 Org 0942

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<td>1 Personal Services</td>
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#### Sec. 7. Appropriations from federal block grants. – The following items are hereby appropriated from federal block grants to be available for expenditure during the fiscal year 2014.
### 371 - West Virginia Development Office – Community Development

**Fund 8746 FY 2014 Org 0307**

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### 372 - WorkForce West Virginia – Workforce Investment Act

**Fund 8749 FY 2014 Org 0323**

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### 373 - Department of Commerce

**Office of the Secretary – Office of Economic Opportunity – Community Services**

**Fund 8781 FY 2014 Org 0327**

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### 374 - Division of Health – Maternal and Child Health

**Fund 8750 FY 2014 Org 0506**

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### 375 - Division of Health – Preventive Health

**Fund 8753 FY 2014 Org 0506**

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### 376 - Division of Health – Substance Abuse Prevention and Treatment

**Fund 8793 FY 2014 Org 0506**

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<td>Personal Services</td>
<td>001</td>
<td>$541,808</td>
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<td>Employee Benefits</td>
<td>010</td>
<td>280,958</td>
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<tr>
<td>Unclassified</td>
<td>099</td>
<td>115,924</td>
</tr>
<tr>
<td>Line</td>
<td>Description</td>
<td>Code</td>
</tr>
<tr>
<td>------</td>
<td>--------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses</td>
<td>130</td>
</tr>
<tr>
<td>5</td>
<td>Total</td>
<td></td>
</tr>
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</table>

377 - Division of Health –
Community Mental Health Services

Fund 8794 FY 2014 Org 0506

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$ 690,485</td>
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<td>Employee Benefits</td>
<td>010</td>
<td>246,072</td>
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<td>3</td>
<td>Unclassified</td>
<td>099</td>
<td>33,533</td>
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<td>Current Expenses</td>
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<td>5</td>
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<td>3,353,397</td>
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</tbody>
</table>

378 - Division of Health –
Abstinence Education Program

Fund 8825 FY 2014 Org 0506

<table>
<thead>
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<th>Line</th>
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<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$ 25,900</td>
</tr>
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<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>13,747</td>
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<td>3</td>
<td>Unclassified</td>
<td>099</td>
<td>5,000</td>
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<td>4</td>
<td>Current Expenses</td>
<td>130</td>
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<tr>
<td>5</td>
<td>Total</td>
<td></td>
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</table>

379 - Division of Human Services –
Energy Assistance

Fund 8755 FY 2014 Org 0511

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$ 1,100,000</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>375,000</td>
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<td>3</td>
<td>Unclassified</td>
<td>099</td>
<td>400,000</td>
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<td>4</td>
<td>Current Expenses</td>
<td>130</td>
<td>38,125,000</td>
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<td>5</td>
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<td></td>
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</table>
### 380 - Division of Human Services – Social Services

<table>
<thead>
<tr>
<th>#</th>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$ 10,257,500</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>3,974,184</td>
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<td>3</td>
<td>Unclassified</td>
<td>099</td>
<td>171,982</td>
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<td>$ 17,274,174</td>
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</tbody>
</table>

### 381 - Division of Human Services – Temporary Assistance for Needy Families

<table>
<thead>
<tr>
<th>#</th>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$ 13,015,000</td>
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<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>4,949,349</td>
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<td>Unclassified</td>
<td>099</td>
<td>1,304,191</td>
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<td>$ 130,476,386</td>
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</table>

### 382 - Division of Human Services – Child Care and Development

<table>
<thead>
<tr>
<th>#</th>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$ 3,120,000</td>
</tr>
<tr>
<td>2</td>
<td>Employee Benefits</td>
<td>010</td>
<td>1,300,000</td>
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<tr>
<td>3</td>
<td>Unclassified</td>
<td>099</td>
<td>350,000</td>
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<tr>
<td>4</td>
<td>Current Expenses</td>
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<td>5</td>
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<td></td>
<td>$ 35,000,000</td>
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</table>

### 383 - Division of Justice and Community Services – Juvenile Accountability Incentive

<table>
<thead>
<tr>
<th>#</th>
<th>Item</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
<td>001</td>
<td>$ 10,514</td>
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</table>
### Div. of Human Services

(WV Code Chapters 9, 48 and 49)

**Fund 5365 FY 2014 Org 0511**

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Code</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical Services – Lottery Surplus.</td>
<td>681</td>
<td>$50,000,000</td>
</tr>
</tbody>
</table>
Sec. 10. Special revenue appropriations. — There are hereby appropriated for expenditure during the fiscal year 2014 appropriations made by general law from special revenues which are not paid into the state fund as general revenue under the provisions of W.Va. Code §12-2-2: Provided, That none of the money so appropriated by this section shall be available for expenditure except in compliance with the provisions of W.Va. Code §12-2 and 3, and W.Va. Code §11B-2, unless the spending unit has filed with the director of the budget and the legislative auditor prior to the beginning of each fiscal year:

(a) An estimate of the amount and sources of all revenues accruing to such fund; and

(b) A detailed expenditure schedule showing for what purposes the fund is to be expended.

In addition to the preceding provisions, any unencumbered balance in the Courtesy Patrol Fund (fund 3078), established by W.Va. Code §5B-2-12, which exceeds $500,000 at the close of the fiscal year 2013, shall be transferred to the Tourism Promotion Fund (fund 3072).

Sec. 11. State improvement fund appropriations. — Bequests or donations of nonpublic funds, received by the governor on behalf of the state during the fiscal year 2014, for the purpose of making studies and recommendations relative to improvements of the administration and management of spending units in the executive branch of state government, shall be deposited in the state treasury in a separate account therein designated state improvement fund.

There are hereby appropriated all moneys so deposited during the fiscal year 2014 to be expended as authorized by the governor, for such studies and recommendations which may
encompass any problems of organization, procedures, systems, functions, powers or duties of a state spending unit in the executive branch, or the betterment of the economic, social, educational, health and general welfare of the state or its citizens.

Sec. 12. Specific funds and collection accounts. — A fund or collection account which by law is dedicated to a specific use is hereby appropriated in sufficient amount to meet all lawful demands upon the fund or collection account and shall be expended according to the provisions of Article 3, Chapter 12 of the Code.

Sec. 13. Appropriations for refunding erroneous payment. — Money that has been erroneously paid into the state treasury is hereby appropriated out of the fund into which it was paid, for refund to the proper person.

When the officer authorized by law to collect money for the state finds that a sum has been erroneously paid, he or she shall issue his or her requisition upon the auditor for the refunding of the proper amount. The auditor shall issue his or her warrant to the treasurer and the treasurer shall pay the warrant out of the fund into which the amount was originally paid.

Sec. 14. Sinking fund deficiencies. — There is hereby appropriated to the governor a sufficient amount to meet any deficiencies that may arise in the mortgage finance bond insurance fund of the West Virginia housing development fund which is under the supervision and control of the municipal bond commission as provided by W.Va. Code §31-18-20b, or in the funds of the municipal bond commission because of the failure of any state agency for either general obligation or revenue bonds or any local taxing district for general obligation bonds to remit funds necessary for the payment of interest and sinking fund requirements. The governor is authorized to transfer from time to time such amounts to the municipal bond commission as 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.

Sec. 15. Appropriations for local governments. — There
1 are hereby appropriated for payment to counties, districts and
2 municipal corporations such amounts as will be necessary to pay
3 taxes due counties, districts and municipal corporations and
4 which have been paid into the treasury:
5
6 (a) For redemption of lands;
7
8 (b) By public service corporations;
9
10 (c) For tax forfeitures.

Sec. 16. Total appropriations. — Where only a total sum
1 is appropriated to a spending unit, the total sum shall include
2 personal services, annual increment, employee benefits, current
3 expenses, repairs and alterations, buildings, equipment, other
4 assets, land, and capital outlay, where not otherwise specifically
5 provided and except as otherwise provided in TITLE I –
6 GENERAL PROVISIONS, Sec. 3.

Sec. 17. General school fund. — The balance of the
1 proceeds of the general school fund remaining after the payment
2 of the appropriations made by this act is appropriated for

TITLE III – ADMINISTRATION.

Sec. 1. Appropriations conditional. — The expenditure of
1 the appropriations made by this act, except those appropriations
2 made to the legislative and judicial branches of the state
3 government, are conditioned upon the compliance by the
spending unit with the requirements of Article 2, Chapter 11B of the Code.

Where spending units or parts of spending units have been absorbed by or combined with other spending units, it is the intent of this act that appropriations and reappropriations shall be to the succeeding or later spending unit created, unless otherwise indicated.

Sec. 2. Constitutionality. — If any part of this act is declared unconstitutional by a court of competent jurisdiction, its decision shall not affect any portion of this act which remains, but the remaining portion shall be in full force and effect as if the portion declared unconstitutional had never been a part of the 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
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:
TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

EXECUTIVE

7-Governor's Office -
Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2013 Org 0100

<table>
<thead>
<tr>
<th>Activity</th>
<th>Surplus (R)</th>
<th>$ 2,000,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Activity</td>
<td>135</td>
<td>135</td>
</tr>
</tbody>
</table>

Any federal reimbursements received to remunerate disbursements from this activity or funds transferred from this activity shall be credited back to this activity.

Any unexpended balance remaining in the appropriation for 2012 Natural Disasters - Surplus (fund 0105, activity 135) at the close of fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0203, fiscal year 2013, organization 0209, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF ADMINISTRATION

20-Division of Finance
The above appropriation for Enterprise Resource Planning System - Surplus (activity 872), shall be transferred to the West Virginia Enterprise Resource Planning Board, fund 9080, organization 0947.

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0256, fiscal year 2013, organization 0307, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF COMMERCE

36-West Virginia Development Office

(WV Code Chapter 5B)

Fund 0256 FY 2013 Org 0307

Any unexpended balance remaining in the above appropriation for Unclassified - Surplus (fund 0256, activity
097) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0265, fiscal year 2013, organization 0310, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF COMMERCE

39-Division of Natural Resources

(WV Code Chapter 20)

Fund 0265 FY 2013 Org 0310

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>12a Operating Expenses - Surplus (R)</td>
<td>779 $ 1,000,000</td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the above appropriation for Operating Expenses - Surplus (fund 0265, activity 779) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0294, fiscal year 2013, organization 0431, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II—APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF EDUCATION AND THE ARTS
54-Department of Education and the Arts -  
Office of the Secretary  
(WV Code Chapter 5F)  
Fund 0294 FY 2013 Org 0431  

General Revenue Fund  
Activity  

14a Educational Enhancements - Surplus .......... 927 $ 500,000  

Any unexpended balance remaining in the above appropriation for Educational Enhancements- Surplus (fund 0294, activity 927) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.  

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0525, fiscal year 2013, organization 0506, be supplemented and amended by increasing an existing item of appropriation as follows:  

TITLE II - APPROPRIATIONS.  
Section 1. Appropriations from general revenue.  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES  
64–Consolidated Medical Service Fund  
(WV Code Chapter 16)  
Fund 0525 FY 2013 Org 0506  

General Revenue Fund  
Activity  

6 Behavioral Health Program - Surplus (R) . . . . . . . . . . . . . 631 $ 3,662,312
Any unexpended balance remaining in the above appropriation for Behavioral Health Program - Surplus (fund 0525, activity 631) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0403, fiscal year 2013, organization 0511, be supplemented and amended by increasing existing items of appropriation as follows:

**TITLE II - APPROPRIATIONS.**

### Section 1. Appropriations from general revenue.

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

67-Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2013 Org 0511

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
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</thead>
<tbody>
<tr>
<td>633</td>
<td>$34,384,273</td>
</tr>
<tr>
<td>082</td>
<td>4,717,147</td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the above appropriation for Medical Services - Surplus (R). . . 633 at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0430, fiscal year 2013, organization 0601, be supplemented and amended by adding new items of appropriation as follows:
TITLE II - APPROPRIATIONS.

Section 1. Appropriations from general revenue.

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 2013 Org 0601

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
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<tbody>
<tr>
<td>9a Substance Abuse</td>
<td>$ 3,000,000</td>
</tr>
<tr>
<td>9b Program - Surplus (R). 696</td>
<td></td>
</tr>
<tr>
<td>9c Justice Reinvestment</td>
<td></td>
</tr>
<tr>
<td>9d Training - Surplus (R). 699</td>
<td>500,000</td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the above appropriations for Substance Abuse Program - Surplus (fund 0430, activity 696) and Justice Reinvestment Training - Surplus (fund 0430, activity 699) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

The above appropriations for Substance Abuse Program - Surplus (fund 0430, activity 696) and Justice Reinvestment Training - Surplus (fund 0430, activity 699) shall be used for substance abuse and training initiatives designed to increase public safety and decrease the recidivism rate in West Virginia.

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0450, fiscal year 2013, organization 0608,
be supplemented and amended by adding new items of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from general revenue.

DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY

74-Division of Corrections -
Correctional Units

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

Fund 0450 FY 2013 Org 0608

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>14a Capital Improvements - Surplus (R)</td>
<td>$ 6,000,000</td>
</tr>
<tr>
<td>15a Capital Outlay, Repairs and Equipment - Surplus (R)</td>
<td>$ 4,900,000</td>
</tr>
<tr>
<td>18a Operating Expenses - Surplus (R)</td>
<td>$ 2,000,000</td>
</tr>
</tbody>
</table>

Any unexpended balances remaining in the above appropriations for Capital Improvements - Surplus (fund 0450, activity 661), Capital Outlay, Repairs and Equipment - Surplus (fund 0450, activity 677), and Operating Expenses - Surplus (fund 0450, activity 779) at the close of the fiscal year 2013 are hereby reappropriated for expenditure during the fiscal year 2014.

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0596, fiscal year 2013, organization 0420, be supplemented and amended by adding a new item of appropriation as follows:
TITLE II - APPROPRIATIONS.

Section 1. Appropriations from general revenue.

HIGHER EDUCATION

92-West Virginia Council for Community and Technical College Education-
Control Account

(WV Code Chapter 18B)

Fund 0596 FY 2013 Org 0420

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>2a</td>
<td>Unclassified - Surplus (R)</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0586, fiscal year 2013, organization 0442, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from general revenue.

HIGHER EDUCATION

94-Higher Education Policy Commission - System - Control Account

(WV Code Chapter 18B)

Fund 0586 FY 2013 Org 0442

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>2a</td>
<td>Unclassified - Surplus</td>
</tr>
</tbody>
</table>
From the above appropriation for Unclassified-Surplus (fund 0586, activity 097) no less than $4,000,000 is to be used for Glenville State College for capital improvements.

The purpose of this supplemental appropriation bill is to expire, supplement, amend, increase, and add items of appropriation in the aforesaid accounts for the designated 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 30, 2013, to fund 5365, fiscal year 2013, organization 0511, be supplemented and amended by increasing an existing item of appropriation as follows:

```
<table>
<thead>
<tr>
<th>Activity</th>
<th>Excess Lottery Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Medical Services</td>
<td>$67,432,506</td>
</tr>
</tbody>
</table>
```

---

**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
Ch. 7] APPROPRIATIONS 265

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 fiscal year ending June 30, 2013, to the Department of
Administration - Office of the Secretary, fund 0186, fiscal year 2008, organization 0201, activity 635, be decreased by expiring the amount of $23,972,984, and to the Department of Commerce, Division of Natural Resources, fund 0265, fiscal year 2008, organization 0310, activity 761, be decreased by expiring the amount of $5,000,000, 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 0226, fiscal year 2013, organization 0221, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II – APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF ADMINISTRATION

27-Public Defender Services

(WV Code Chapter 29)

Fund 0226 FY 2013 Org 0221

<table>
<thead>
<tr>
<th>Activity</th>
<th>Surplus (R)</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>435</td>
<td>$11,500,000</td>
</tr>
</tbody>
</table>

Any unexpended balance remaining in the above appropriation for Appointed Counsel Fees - Surplus (fund 0226, activity 435) at the close of the fiscal year 2013 is hereby reappropriated for expenditure during the fiscal year 2014.

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0403, fiscal year 2013, organization 0511,
be supplemented and amended by adding a new item of appropriation as follows:

**TITLE II – APPROPRIATIONS.**

**Section 1. Appropriations from General Revenue.**

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

67—Division of Human Services

(WV Code Chapter 9, 48 and 49)

Fund 0403 FY 2013 Org 0511

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>3a Child Care - Surplus</td>
<td>$17,468,806</td>
</tr>
</tbody>
</table>

The purpose of this bill is to expire funds into the unappropriated surplus balance in the State Fund, General Revenue, and to supplement, amend, increase an existing item and add a new item of appropriation in the aforesaid accounts for the designated spending units for expenditure during the fiscal 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.]
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:

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 Current Expenses.</td>
<td>$100,000</td>
</tr>
</tbody>
</table>
And, 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 adding a new item of appropriation as follows:

**TITLE II - APPROPRIATIONS.**

**Section 1. Appropriations from General Revenue.**

**DEPARTMENT OF COMMERCE**

37–Division of Labor

(WV Code Chapters 21 and 47)

Fund 0260 FY 2013 Org 0308

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>6a Equipment</td>
<td>070</td>
</tr>
<tr>
<td></td>
<td>$ 100,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2012, to fund 0403, fiscal year 2013, organization 0511, be supplemented and amended by increasing an existing item of appropriation as follows:

**TITLE II - APPROPRIATIONS.**

**Section 1. Appropriations from General Revenue.**

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

67–Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 0403 FY 2013 Org 0511

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>9 Medical Services (R)</td>
<td>189</td>
</tr>
<tr>
<td></td>
<td>$ 1,800,000</td>
</tr>
</tbody>
</table>
The purpose of this supplemental appropriation bill is to supplement, amend, decrease, increase existing items and add a new item of appropriation in the aforesaid accounts for the designated spending units for expenditure during the fiscal year 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.

Sec. 3. Appropriations from other funds.

EXECUTIVE

100-Governor’s Office
Minority Affairs Fund
(WV Code Chapter 5)

Fund 1058 FY 2013 Org 0100

<table>
<thead>
<tr>
<th>Activity</th>
<th>Other Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>001 Personal Services</td>
<td>$125,000</td>
</tr>
<tr>
<td>004 Annual Increment</td>
<td>1,000</td>
</tr>
<tr>
<td>010 Employee Benefits</td>
<td>46,800</td>
</tr>
<tr>
<td>130 Current Expense</td>
<td>503,200</td>
</tr>
<tr>
<td>Total</td>
<td>$676,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 8664, fiscal year 2013, organization 0932, be supplemented and amended to read as follows:

1 TITLE II — APPROPRIATIONS.

Sec. 3. Appropriations from other funds.

DEPARTMENT OF EDUCATION AND THE ARTS

155-State Board of Rehabilitation -
Division of Rehabilitation Services -
West Virginia Rehabilitation Center -
Special Account
8 (WV Code Chapter 18)

Fund 8664 FY 2013 Org 0932

10 Activity Other 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 ................. 690 150,000
18 7 Total....................... $ 2,905,360

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 5156, fiscal year 2013, organization 0506, be supplemented and amended by increasing existing items of appropriation as follows:

TITLE II — APPROPRIATIONS.

Sec. 3. Appropriations from other funds.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

175-Division of Health - Hospital Services Revenue Account Special Fund Capital Improvement, Renovation and Operations

(WV Code Chapter 16)

Fund 5156 FY 2013 Org 0506

11 Activity Other Funds
13 1 Institutional Facilities
14 2 Operations (R)............. 335 $ 5,000,000
And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 5204, fiscal year 2013, organization 0506, be supplemented and amended by increasing existing items of appropriation as follows:

**TITLE II — APPROPRIATIONS.**

**Sec. 3. Appropriations from other funds.**

**DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

179-Division of Health - Lead Abatement Account (WV Code Chapter 16)

Fund 5204 FY 2013 Org 0506

<table>
<thead>
<tr>
<th>Activity</th>
<th>Other Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$ 3,000</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>2,076</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 6501, fiscal year 2013, organization 0612, be supplemented and amended by adding a new item of appropriation as follows:

**TITLE II — APPROPRIATIONS.**

**Sec. 3. Appropriations from other funds.**

**DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY**

196-West Virginia State Police -
Ch. 9] APPROPRIATIONS

Motor Vehicle Inspection Fund

(WV Code Chapter 17C)

Fund 6501 FY 2013 Org 0612

<table>
<thead>
<tr>
<th>Activity</th>
<th>Other Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>6a. Buildings</td>
<td>$534,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 7253, fiscal year 2013, organization 0706, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II — APPROPRIATIONS.

Sec. 3. Appropriations from other funds.

DEPARTMENT OF REVENUE

223-Municipal Bond Commission

(WV Code Chapter 13)

Fund 7253 FY 2013 Org 0706

<table>
<thead>
<tr>
<th>Activity</th>
<th>Other Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>4a. Equipment</td>
<td>$247,500</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 8254, fiscal year 2013, organization 0806, be supplemented and amended to read as follows:

TITLE II — APPROPRIATIONS.

Sec. 3. Appropriations from other funds.

DEPARTMENT OF TRANSPORTATION

233-Public Port Authority - Special Railroad and Intermodal Enhancement Fund
6 (WV Code Chapter 17)

Fund 8254 FY 2013 Org 0806

<table>
<thead>
<tr>
<th>Activity</th>
<th>Other Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Current Expenses</td>
<td>130 $ 250,000</td>
</tr>
<tr>
<td>2 Other Assets</td>
<td>690 $ 7,750,000</td>
</tr>
<tr>
<td>3 Total</td>
<td>$ 8,000,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 8520, fiscal year 2013, organization 0907, be supplemented and amended by increasing an existing item of appropriation and by adding a new item of appropriation as follows:

TITLE II — APPROPRIATIONS.

Sec. 3. Appropriations from other funds.

MISCELLANEOUS BOARDS AND COMMISSIONS

248-WV Board of Examiners for Registered Professional Nurses

(WV Code Chapter 30)

Fund 8520 FY 2013 Org 0907

<table>
<thead>
<tr>
<th>Activity</th>
<th>Other Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 Equipment</td>
<td>070 $ 5,000</td>
</tr>
<tr>
<td>6a Other Assets</td>
<td>690 $ 5,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 8680, fiscal year 2013, organization 0936, be supplemented and amended by increasing existing items of appropriation as follows:
TITLE II — APPROPRIATIONS.

Sec. 3. Appropriations from other funds.

MISCELLANEOUS BOARDS AND COMMISSIONS

256-WV Board of Licensed Dietitians
(WV Code Chapter 30)

Fund 8680 FY 2013 Org 0936

<table>
<thead>
<tr>
<th>Activity</th>
<th>Other Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>001 Personal Services</td>
<td>$ 2,500</td>
</tr>
<tr>
<td>010 Employee Benefits</td>
<td>382</td>
</tr>
</tbody>
</table>

The purpose of this supplemental appropriation bill is to supplement, amend, increase, decrease and add items of appropriations in the aforesaid accounts for the designated 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
2
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11
12
13

TITLE II - APPROPRIATIONS.

Sec. 2. Appropriations from State Road Fund.

DEPARTMENT OF TRANSPORTATION

96–Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2013 Org 0803

State

Activity

Road

Fund

Appalachian Programs........... 280 $ 10,000,000

And, 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 increasing existing items of appropriation as follows:

TITLE II - APPROPRIATIONS.

Sec. 2. Appropriations from State Road Fund.

DEPARTMENT OF TRANSPORTATION

96–Division of Highways

(WV Code Chapters 17 and 17C)

Fund 9017 FY 2013 Org 0803

<table>
<thead>
<tr>
<th>Activity</th>
<th>State Road Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>Maintenance, Contract Paving and Secondary Road Maintenance... 272 $ 4,000,000</td>
</tr>
<tr>
<td>12</td>
<td>Nonfederal Aid Construction. ... 281 5,000,000</td>
</tr>
<tr>
<td>14</td>
<td>Federal Economic Stimulus...... 891 2,000,000</td>
</tr>
</tbody>
</table>

The purpose of this supplemental appropriation bill is to supplement, amend, decrease and increase items of appropriation in the aforesaid account for the designated spending unit for 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:
TITLE II–APPROPRIATIONS.

Sec. 6. Appropriations of federal funds.

DEPARTMENT OF ADMINISTRATION

302-Children's Health Insurance Agency

(WV Code Chapter 5)

Fund 8838 FY 2013 Org 0230

<table>
<thead>
<tr>
<th>Activity</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>$15,000,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 8709, fiscal year 2013, organization 0314, be supplemented and amended by adding a new item of appropriation as follows:

TITLE II–APPROPRIATIONS.

Sec. 6. Appropriations of federal funds.

DEPARTMENT OF COMMERCE

309-Division of Miners' Health, Safety and Training

(WV Code Chapter 22)

Fund 8709 FY 2013 Org 0314

<table>
<thead>
<tr>
<th>Activity</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>3a</td>
<td>$150,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 8712, fiscal year 2013, organization 0402,
be supplemented and amended by increasing existing items of appropriation as follows:

TITLE II–APPROPRIATIONS.

Sec. 6. Appropriations of federal funds.

DEPARTMENT OF EDUCATION

312-State Department of Education

(WV Code Chapter 18 and 18A)

Fund 8712 FY 2013 Org 0402

<table>
<thead>
<tr>
<th>Activity</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>001 Personal Services</td>
<td>$490,000</td>
</tr>
<tr>
<td>004 Annual Increment</td>
<td>$10,000</td>
</tr>
<tr>
<td>010 Employee Benefits</td>
<td>$100,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 8718, fiscal year 2013, organization 0432, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II–APPROPRIATIONS.

Sec. 6. Appropriations of federal funds.

DEPARTMENT OF EDUCATION AND THE ARTS

318-Division of Culture and History

(WV Code Chapter 29)

Fund 8718 FY 2013 Org 0432

<table>
<thead>
<tr>
<th>Activity</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>130 Current Expenses</td>
<td>$450,000</td>
</tr>
</tbody>
</table>
And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 8802, fiscal year 2013, organization 0506, be supplemented and amended by increasing an existing item of appropriation as follows:

**TITLE II—APPROPRIATIONS.**

Sec. 6. Appropriations of federal funds.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

325-Division of Health - Central Office

(WV Code Chapter 16)

Fund 8802 FY 2013 Org 0506

<table>
<thead>
<tr>
<th>Activity</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>$4,050,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 8722, fiscal year 2013, organization 0511, be supplemented and amended by increasing existing items of appropriation as follows:

**TITLE II—APPROPRIATIONS.**

Sec. 6. Appropriations of federal funds.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

329-Division of Human Services

(WV Code Chapters 9, 48 and 49)

Fund 8722 FY 2013 Org 0511
8 Activity  Federal Funds
9
10 7 Medical Services
11 8 Administrative Costs ........... 789 $ 18,262,124
12 9 Federal Economic Stimulus ...... 891 11,966,060

And, That the total appropriation for the fiscal year ending
June 30, 2013, to fund 8741, fiscal year 2013, organization 0612,
be supplemented and amended by adding a new item of
appropriation as follows:

TITLE II—APPROPRIATIONS.

Sec. 6. Appropriations of federal funds.

DEPARTMENT OF MILITARY
AFFAIRS AND PUBLIC SAFETY

334-West Virginia State Police
(WV Code Chapter 15)
Fund 8741 FY 2013 Org 0612

8 Activity  Federal Funds
9
10 5a Buildings ....................... 258 $ 750,000

And, That the total appropriation for the fiscal year ending
June 30, 2013, to fund 8883, fiscal year 2013, organization 0704,
be supplemented and amended by decreasing an existing item of
appropriation as follows:

TITLE II—APPROPRIATIONS.

Sec. 6. Appropriations of federal funds.

DEPARTMENT OF REVENUE

338-Insurance Commissioner
5 (WV Code Chapter 33)

Fund 8883 FY 2013 Org 0704

<table>
<thead>
<tr>
<th>Activity</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>$632,270</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 8883, fiscal year 2013, organization 0704, be supplemented and amended by increasing existing items of appropriation as follows:

TITLE II–APPROPRIATIONS.

Sec. 6. Appropriations of federal funds.

DEPARTMENT OF REVENUE

338-Insurance Commissioner

(WV Code Chapter 33)

Fund 8883 FY 2013 Org 0704

<table>
<thead>
<tr>
<th>Activity</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>$459,588</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>$172,682</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 8861, fiscal year 2013, organization 0942, be supplemented and amended by increasing existing items of appropriation as follows:

TITLE II–APPROPRIATIONS.

Sec. 6. Appropriations of federal funds.

MISCELLANEOUS BOARDS AND COMMISSIONS
The purpose of this supplementary appropriation bill is to supplement, amend, decrease, increase existing items and add new items of appropriation in the aforesaid accounts for the designated spending units for expenditure during the fiscal year 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**

<table>
<thead>
<tr>
<th>Activity</th>
<th>Federal Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>001</td>
<td>$8,750,000</td>
</tr>
<tr>
<td>010</td>
<td>$1,800,000</td>
</tr>
</tbody>
</table>

The purpose of this supplementary appropriation bill is to supplement and amend by increasing existing items of appropriation in the aforesaid account for the designated 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,
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:
### TITLE II - APPROPRIATIONS.

#### Section 1. Appropriations from General Revenue.

**EXECUTIVE**

5-Governor's Office

(WV Code Chapter 5)

Fund 0101 FY 2013 Org 0100

<table>
<thead>
<tr>
<th>Activity Fund</th>
<th>General Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services 001</td>
<td>$175,000</td>
</tr>
<tr>
<td>4 Employee Benefits 010</td>
<td>$40,000</td>
</tr>
<tr>
<td>9 GO HELP(R) 116</td>
<td>$250,000</td>
</tr>
<tr>
<td>16 P20 Jobs Cabinet 954</td>
<td>$38,000</td>
</tr>
</tbody>
</table>

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 decreasing an existing item of appropriation as follows:

### TITLE II - APPROPRIATIONS.

#### Section 1. Appropriations from General Revenue.

**EXECUTIVE**

7-Governor's Office - Civil Contingent Fund

(WV Code Chapter 5)

Fund 0105 FY 2013 Org 0100

<table>
<thead>
<tr>
<th>Activity Fund</th>
<th>General Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Civil Contingent Fund - Total 114</td>
<td>$525,000</td>
</tr>
</tbody>
</table>
And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0132, fiscal year 2013, organization 1400, be supplemented and amended by decreasing existing items of appropriation as follows:

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Soil Conservation Projects (R)</td>
<td>$ 1,500,000</td>
</tr>
<tr>
<td>Marlinton Flood Wall (R)</td>
<td>$ 750,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0186, fiscal year 2013, organization 0201, be supplemented and amended by decreasing existing items of appropriation as follows:

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office of the Secretary</td>
<td></td>
</tr>
</tbody>
</table>
### Title II - Appropriations

**Section 1. Appropriations from General Revenue.**

#### Department of Administration

20-Division of Finance

(WV Code Chapter 5A)

Fund 0203 FY 2013 Org 0209

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 1 Personal Services</td>
<td>$40,000</td>
</tr>
<tr>
<td>11 3 Employee Benefits</td>
<td>$20,000</td>
</tr>
<tr>
<td>12 8 GAAP Project (R)</td>
<td>$60,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0230, fiscal year 2013, organization 0211, be supplemented and amended by decreasing existing items of appropriation as follows:

1 And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0203, fiscal year 2013, organization 0209, be supplemented and amended by decreasing existing items of appropriation as follows:

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>11 8 Financial Advisor (R)</td>
<td>$125,000</td>
</tr>
<tr>
<td>12 9 Lease Rental Payments</td>
<td>$1,100,000</td>
</tr>
</tbody>
</table>
### DEPARTMENT OF ADMINISTRATION

#### 21-Division of General Services

(WV Code Chapter 5A)

Fund 0230 FY 2013 Org 0211

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$230,000</td>
</tr>
<tr>
<td>3 Employee Benefits</td>
<td>$200,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0210, fiscal year 2013, organization 0213, be supplemented and amended by decreasing existing items of appropriation as follows:

---

### DEPARTMENT OF ADMINISTRATION

#### 22-Division of Purchasing

(WV Code Chapter 5A)

Fund 0210 FY 2013 Org 0213

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$90,000</td>
</tr>
<tr>
<td>3 Employee Benefits</td>
<td>$10,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0615, fiscal year 2013, organization 0215, be supplemented and amended by decreasing existing items of appropriation as follows:
TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF ADMINISTRATION

23-Travel Management

(WV Code Chapter 5A)

Fund 0615 FY 2013 Org 0215

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>001 Personal Services</td>
<td>$90,000</td>
</tr>
<tr>
<td>010 Employee Benefits</td>
<td>$150,000</td>
</tr>
<tr>
<td>130 Current Expenses</td>
<td>$80,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0200, fiscal year 2013, organization 0225, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF ADMINISTRATION

29-Public Employees Insurance Agency

(WV Code Chapter 5)

Fund 0200 FY 2013 Org 0225

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>801 PEIA Subsidy</td>
<td>$3,500,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0610, fiscal year 2013, organization 0233,
be supplemented and amended by decreasing existing items of appropriation as follows:

**Title II - Appropriations.**

Section 1. Appropriations from General Revenue.

**Department of Administration**

32-Real Estate Division

(WV Code Chapter 5A)

Fund 0610 FY 2013 Org 0233

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services... 001</td>
<td>$ 75,000</td>
</tr>
<tr>
<td>Employee Benefits... 010</td>
<td>40,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0256, fiscal year 2013, organization 0307, be supplemented and amended by decreasing existing items of appropriation as follows:

**Title II - Appropriations.**

Section 1. Appropriations from General Revenue.

**Department of Commerce**

36-West Virginia Development Office

(WV Code Chapter 5B)

Fund 0256 FY 2013 Org 0307

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services... 001</td>
<td>$ 600,000</td>
</tr>
</tbody>
</table>
### TITLE II - APPROPRIATIONS.

**Section 1. Appropriations from General Revenue.**

**DEPARTMENT OF COMMERCE**

39-Division of Natural Resources  
(WV Code Chapter 20)

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$600,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0265, fiscal year 2013, organization 0310, be supplemented and amended by decreasing an existing item of appropriation as follows:

### TITLE II - APPROPRIATIONS.

**Section 1. Appropriations from General Revenue.**

**DEPARTMENT OF EDUCATION**

48-State Department of Education

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>$600,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0313, fiscal year 2013, organization 0402, be supplemented and amended by decreasing existing items of appropriation as follows:
<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current Expenses</td>
<td>130 $ 200,000</td>
</tr>
<tr>
<td>Teacher Mentor (R)</td>
<td>158 $ 500,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0320, fiscal year 2013, organization 0403, be supplemented and amended by decreasing existing items of appropriation as follows:

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services</td>
<td>1 $ 200,000</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>3 $ 40,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0294, fiscal year 2013, organization 0431, be supplemented and amended by decreasing existing items of appropriation as follows:
TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF EDUCATION AND THE ARTS

54-Department of Education and the Arts -
Office of the Secretary

(WV Code Chapter 5F)

Fund 0294 FY 2013 Org 0431

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>001</td>
<td>$ 50,000</td>
</tr>
<tr>
<td>010</td>
<td>$ 5,000</td>
</tr>
<tr>
<td>115</td>
<td>$125,000</td>
</tr>
<tr>
<td>427</td>
<td>$ 55,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0293, fiscal year 2013, organization 0432, be supplemented and amended by decreasing existing items of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF EDUCATION AND THE ARTS

55-Division of Culture and History

(WV Code Chapter 29)

Fund 0293 FY 2013 Org 0432
And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0296, fiscal year 2013, organization 0433, be supplemented and amended by decreasing existing items of appropriation as follows:

### TITLE II - APPROPRIATIONS.

#### Section 1. Appropriations from General Revenue.

**DEPARTMENT OF EDUCATION AND THE ARTS**

56-Library Commission

(WV Code Chapter 10)

Fund 0296 FY 2013 Org 0433

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0300, fiscal year 2013, organization 0439, be supplemented and amended by decreasing existing items of appropriation as follows:
TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF EDUCATION AND THE ARTS

57-Educational Broadcasting Authority
(WV Code Chapter 10)

Fund 0300 FY 2013 Org 0439

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
</tr>
<tr>
<td>3</td>
<td>Employee Benefits</td>
</tr>
<tr>
<td>4</td>
<td>Current Expenses</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0273, fiscal year 2013, organization 0313, be supplemented and amended by decreasing existing items of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

60-Division of Environmental Protection
(WV Code Chapter 22)

Fund 0273 FY 2013 Org 0313

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Personal Services</td>
</tr>
<tr>
<td>3</td>
<td>Employee Benefits</td>
</tr>
</tbody>
</table>
And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0400, fiscal year 2013, organization 0501, be supplemented and amended by decreasing existing items of appropriation as follows:

**TITLE II - APPROPRIATIONS.**

Section 1. Appropriations from General Revenue.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

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

(WV Code Chapter 5F)

Fund 0400 FY 2013 Org 0501

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services 001</td>
<td>$100,000</td>
</tr>
<tr>
<td>2 Employee Benefits 010</td>
<td>$20,000</td>
</tr>
<tr>
<td>4 Women's Commission (R) 191</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0407, fiscal year 2013, organization 0506, be supplemented and amended by decreasing an existing item of appropriation as follows:

**TITLE II - APPROPRIATIONS.**

Section 1. Appropriations from General Revenue.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

63-Division of Health -
Central Office
TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

64-Consolidated Medical Service Fund

(WV Code Chapter 16)

Fund 0525 FY 2013 Org 0506

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0525, fiscal year 2013, organization 0506, be supplemented and amended by decreasing an existing item of appropriation as follows:

Activity

General Revenu

Fund

36 Emergency Response Entities - 822 $ 360,000

37 Special Projects (R) ................

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0416, fiscal year 2013, organization 0510, be supplemented and amended by decreasing existing items of appropriation as follows:

Activity

General Revenue

Fund

Colin Anderson Community Placement (R) ................ 803 $ 304,000
TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

66—Human Rights Commission
(WV Code Chapter 5)

Fund 0416 FY 2013 Org 0510

<table>
<thead>
<tr>
<th>General Activity</th>
<th>Revenu e Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>001 $ 100,000</td>
</tr>
<tr>
<td>3 Employee Benefits</td>
<td>010 40,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0430, fiscal year 2013, organization 0601, be supplemented and amended by decreasing existing items of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

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 2013 Org 0601

<table>
<thead>
<tr>
<th>General Activity</th>
<th>Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>001 $ 120,000</td>
</tr>
<tr>
<td>3 Employee Benefits</td>
<td>010 80,000</td>
</tr>
</tbody>
</table>
And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0433, fiscal year 2013, organization 0603, be supplemented and amended by decreasing an existing item of appropriation as follows:

<table>
<thead>
<tr>
<th>TITLE II - APPROPRIATIONS.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 1. Appropriations from General Revenue.</td>
</tr>
<tr>
<td>DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY</td>
</tr>
<tr>
<td>69-Adjutant General - State Militia</td>
</tr>
<tr>
<td>(WV Code Chapter 15)</td>
</tr>
<tr>
<td>Fund 0433 FY 2013 Org 0603</td>
</tr>
<tr>
<td>General Revenue Fund</td>
</tr>
<tr>
<td>Activity</td>
</tr>
<tr>
<td>1 Unclassified (R)................. 099 $ 50,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0605, fiscal year 2013, organization 0603, be supplemented and amended by decreasing an existing item of appropriation as follows:

<table>
<thead>
<tr>
<th>TITLE II - APPROPRIATIONS.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 1. Appropriations from General Revenue.</td>
</tr>
<tr>
<td>DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY</td>
</tr>
<tr>
<td>70-Adjutant General - Military Fund</td>
</tr>
<tr>
<td>(WV Code Chapter 15)</td>
</tr>
</tbody>
</table>
And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0443, fiscal year 2013, organization 0606, be supplemented and amended by decreasing existing items of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY

72-Division of Homeland Security and Emergency Management

(WV Code Chapter 15)

Fund 0443 FY 2013 Org 0606

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0446, fiscal year 2013, organization 0608, be supplemented and amended by decreasing existing items of appropriation as follows:
TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY

73-Division of Corrections -
    Central Office

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

Fund 0446 FY 2013 Org 0608

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>001 $80,000</td>
</tr>
<tr>
<td>3 Employee Benefits</td>
<td>010 $20,000</td>
</tr>
</tbody>
</table>

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:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY

75-West Virginia State Police

(WV Code Chapter 15)

Fund 0453 FY 2013 Org 0612

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>001 $809,445</td>
</tr>
</tbody>
</table>
And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0546, fiscal year 2013, organization 0620, be supplemented and amended by decreasing existing items of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY

77-Division of Justice and Community Services

(WV Code Chapter 15)

Fund 0546 FY 2013 Org 0620

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue</th>
</tr>
</thead>
<tbody>
<tr>
<td>001 Personal Services</td>
<td>$ 90,000</td>
</tr>
<tr>
<td>010 Employee Benefits</td>
<td>$ 20,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0585, fiscal year 2013, organization 0622, be supplemented and amended by decreasing existing items of appropriation as follows:
TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF MILITARY AFFAIRS
AND PUBLIC SAFETY

79-Division of Protective Services

(WV Code Chapter 5F)

Fund 0585 FY 2013 Org 0622

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services (R) .......... 001 $     100,000</td>
<td></td>
</tr>
<tr>
<td>Employee Benefits ............ 010 $     30,000</td>
<td></td>
</tr>
<tr>
<td>Current Expenses .............. 130 $     100,000</td>
<td></td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0465, fiscal year 2013, organization 0701, be supplemented and amended by decreasing existing items of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF REVENUE

80-Office of the Secretary

(WV Code Chapter 11)

Fund 0465 FY 2013 Org 0701

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personal Services .............. 001 $     70,000</td>
<td></td>
</tr>
</tbody>
</table>
And, That the total appropriation for the fiscal year ending
June 30, 2013, to fund 0470, fiscal year 2013, organization 0702,
be supplemented and amended by decreasing existing items of
appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF REVENUE

81-Tax Division

(WV Code Chapter 11)

Fund 0470 FY 2013 Org 0702

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services (R) 001</td>
<td>$ 2,000,000</td>
</tr>
<tr>
<td>3 Employee Benefits (R) 010</td>
<td>500,000</td>
</tr>
<tr>
<td>8 GIS Development Project (R) 562</td>
<td>150,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending
June 30, 2013, to fund 0595, fiscal year 2013, organization 0703,
be supplemented and amended by decreasing existing items of
appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF REVENUE

82-State Budget Office

(WV Code Chapter 11B)

Fund 0595 FY 2013 Org 0703
And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0593, fiscal year 2013, organization 0709, be supplemented and amended by decreasing existing items of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF REVENUE

83-West Virginia Office of Tax Appeals

(WV Code Chapter 11)

Fund 0593 FY 2013 Org 0709

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0506, fiscal year 2013, organization 0804, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF TRANSPORTATION
And, That the total appropriation for the fiscal year ending
June 30, 2013, to fund 0510, fiscal year 2013, organization 0805,
be supplemented and amended by decreasing an existing item of
appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF TRANSPORTATION

86-Division of Public Transit

(WV Code Chapter 17)

Fund 0510 FY 2013 Org 0805

And, That the total appropriation for the fiscal year ending
June 30, 2013, to fund 0581, fiscal year 2013, organization 0806,
be supplemented and amended by decreasing existing items of
appropriation as follows:
TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF TRANSPORTATION

87-Public Port Authority

(WV Code Chapter 17)

Fund 0581 FY 2013 Org 0806

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Current Expenses</td>
<td>$34,000</td>
</tr>
<tr>
<td>5 Equipment</td>
<td>$3,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0582, fiscal year 2013, organization 0807, be supplemented and amended by decreasing an existing item of appropriation as follows:

TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

DEPARTMENT OF TRANSPORTATION

88-Aeronautics Commission

(WV Code Chapter 29)

Fund 0582 FY 2013 Org 0807

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>4 Current Expenses</td>
<td>$250,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0456, fiscal year 2013, organization 0613,
be supplemented and amended by decreasing existing items of appropriation as follows:

### TITLE II - APPROPRIATIONS.

**Section 1. Appropriations from General Revenue.**

**DEPARTMENT OF VETERANS’ ASSISTANCE**

*89-Department of Veterans’ Assistance*

(WV Code Chapter 9A)

**Fund 0456 FY 2013 Org 0613**

<table>
<thead>
<tr>
<th>Activity</th>
<th>General Activity</th>
<th>Revenue Fund</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Personal Services</td>
<td>001</td>
<td>$ 100,000</td>
</tr>
<tr>
<td>2 Annual Increment</td>
<td>004</td>
<td>20,000</td>
</tr>
<tr>
<td>3 Employee Benefits</td>
<td>010</td>
<td>80,000</td>
</tr>
<tr>
<td>18 Veterans Cemetery</td>
<td>808</td>
<td>30,000</td>
</tr>
</tbody>
</table>

And, That the total appropriation for the fiscal year ending June 30, 2013, to fund 0460, fiscal year 2013, organization 0618, be supplemented and amended by decreasing existing items of appropriation as follows:

### TITLE II - APPROPRIATIONS.

**Section 1. Appropriations from General Revenue.**

**DEPARTMENT OF VETERANS’ ASSISTANCE**

*90-Department of Veterans’ Assistance - Veterans’ Home*

(WV Code Chapter 9A)

**Fund 0460 FY 2013 Org 0618**
TITLE II - APPROPRIATIONS.

Section 1. Appropriations from General Revenue.

HIGHER EDUCATION

92-West Virginia Council for Community and Technical College Education - Control Account (WV Code Chapter 18B)

Fund 0596 FY 2013 Org 0420

The purpose of this supplementary appropriation bill is to amend and decrease existing items of appropriation in the aforesaid accounts for the designated spending units for expenditure during the fiscal year 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, the chief inspector shall establish a one time audit cost amnesty 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 recent audits completed or in progress as of July 1, 2013.
(c) The chief inspector shall establish procedures and forms for processing applications to the program.

(d) An entity is not eligible to participate in the amnesty program unless fees related to its two most recent audits completed or in progress as of July 1, 2013, have been paid in 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.

For every state-chartered banking institution there shall be a board of not less than five nor more than twenty-five directors, 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
done by the banking institution; and a majority of whom shall at
all times be United States citizens: Provided, That the Commiss-
ioner of Banking, upon application from banking institutions
with deposits greater than $500 million, may issue a waiver from
the minimum number of meeting requirements established by
this section and allow no fewer than four quarterly meetings for
such institutions: Provided, however, That at least four of the
board of directors meetings of any state-chartered banking
institution shall be held within the State of West Virginia. Every
such director shall own capital stock in the banking institution of
which he or she is a director in the aggregate par value of not
less than $500: Provided, That if a bank holding company has
control of that banking institution, shares owned by a director of
the subsidiary bank in the controlling bank holding company will
satisfy the requirements of this section: Provided, however, That
the director owns, in his or her own right, common or preferred
stock of the controlling bank holding company in an amount
equal to or greater than any one of the following: (i) Aggregate
par value of $500; (ii) aggregate shareholders' equity of $500; or
(iii) aggregate fair market value of $500. Determination of the
fair market value of the controlling bank holding company's
stock shall be based upon the value of that stock on the date it
was purchased or on the date the person became a director,
whichever is greater. If a bank holding company controls more
than one bank subsidiary, a director owning at least $500 of the
shares of a bank holding company is qualified, if otherwise
permitted by applicable law, to serve as a director of every bank
subsidiary controlled by that bank holding company. Before
entering on the discharge of his or her duties as such director, he
or she shall take an oath that he or she will, so far as the duty
devolves upon him or her, diligently and honestly administer the
affairs of the banking institution, and that he or she will not
knowingly or willingly permit to be violated any of the provi-
sions of the laws of this state relative to banking and banking
institutions, and that the stock standing in his or her name upon
the books of the banking institution is not hypothecated or
pledged in any way as security for loans obtained from or debts
owing to the banking institution of which he or she is a director,
and that the number of shares necessary to qualify a stockholder
to be a director are not now, and shall not at any time while he
or she serves as a director be pledged or hypothecated in any
manner for any debt or obligation of the director, or any other
person; which oath subscribed by him or her and certified by the
officer before whom it was taken shall be filed and preserved in
the office of the Commissioner of Banking. Should a director fail
to subscribe to or renew the oath herein provided within sixty
days after notice of his or her election or reelection, or at any
time after qualifying as such, sell or dispose of, or in any manner
hypothecate or pledge as security for a debt or obligation, such
qualifying shares, or any number thereof, necessary for his or her
qualification, thereupon the remaining directors shall elect
another director in his or her stead. No person shall serve as a
director of any banking institution who has evidenced personal
dishonesty and unfitness to serve as such director by his or her
conduct or practice with another financial institution which
resulted in a substantial financial loss or damage thereto or who
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.

(a) Subject to the prior approval of the Commissioner of Financial Institutions, any West Virginia state-chartered banking institution or any bank holding company headquartered in this state may, either through equity investment in other entities or through a wholly owned subsidiary or subsidiaries, or by contract or agreement with others to provide such products or services, engage in any activity, exercise any power or offer any product or service that is financially related. A state-chartered banking institution may engage in a financially related activity directly and not through an operating subsidiary, financial subsidiary or affiliate if it is permissible for a national or state bank, federal or state thrift, federal credit union, or other financial service provider operating pursuant to federal law or regulation or the laws of other states to engage in the financially related activity directly. The commissioner shall grant or deny any request under this section within sixty days of receipt unless additional information is required.

(b) In determining whether an activity is financially related, the commissioner shall consider:
(1) The ability of financial institutions to exercise any additional powers in a safe and sound manner;

(2) The authority of national or state banks, federal or state thrifts, federal credit unions and other financial service providers operating pursuant to federal law or regulation or the laws of other states to provide the financially related service; and

(3) Any specific limitations on financial institution operations or powers contained in this chapter.

(c) If a state-chartered banking institution or bank holding company must make prior application to a federal bank regulatory agency for approval to engage in a financially related activity, the banking institution or bank holding company shall file with the commissioner a copy of the application submitted to the federal agency.

(d) The commissioner shall include a list of every financially related activity authorized pursuant to this section during the previous twelve months in his or her annual report to the 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 into a body of water for the purpose of mooring a boat or for other water-related recreation, including boat liveries, and that is connected to an electrical power source in any manner: Provided, That "boat dock" does not include structures that are privately owned and used exclusively by the owner or the owner's guests for non-commercial purposes;

4 (3) "Boat dock or marina owner or operator" means any person who:

5 (A) Has an ownership interest in a boat dock or marina, other than a lienholder; or

6 (B) Operates a boat dock or marina;
(4) "Ground fault circuit interrupter" means a device that functions to de-energize a circuit, or a portion thereof, within an established period of time when current to ground exceeds a predetermined value that is less than required to operate the over current protective device of the supply circuit;

(5) "Marina" means a dock including a boat dock or basin providing moorings for motorboats and offering supply, repair or other services, including electrical power supply, for remuneration: Provided, That "marina" does not include docks that are privately owned and used exclusively by the owner or the owner's guests for non-commercial purposes;

(6) "Motorboat" means any vessel propelled by an electrical, steam, gas, diesel or other propelled or driven motor, whether or not the motor is the principal source of propulsion, but does not include a vessel with a valid marine document issued by the United States Bureau of Customs or any federal agency that is the successor to the Bureau of Customs;

(7) "Person" means an individual, partnership, firm, corporation, association or other entity; and

(8) "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on the water.


All boat dock or marina owners or operators shall install permanent safety signage with print legible at eighty feet of distance and placed to give adequate notice, to persons using the boat dock or marina or swimming near the boat dock or marina, of the electric shock hazard risks of the waters around the boat dock or marina. The signage shall state: "ELECTRIC SHOCK
HAZARD RISK: NO SWIMMING WITHIN 100 YARDS OF THE BOAT DOCK”.


All boat dock or marina owners or operators shall comply with the following requirements to prevent electrical shock, electrocution or injury to users of their facilities and the surrounding areas:

(1) All electrical wiring involving 110 AC or 220 AC shall be installed by and maintained by a holder of a valid West Virginia journeyman electrician license or master electrician license in accordance with the most recently adopted versions of the National Fire Protection Association’s Standards for Marinas and Boatyards (NFPA 303) and the National Electric Code (NFPA 70);

(2) Install ground fault circuit interrupters on all boat dock and marina electrical wiring circuits; and

(3) Cause an inspection before August 1, 2014 and at least once every three years thereafter by a West Virginia licensed electrical inspector of all sources of electrical supply, including ship-to-shore power pedestals, submersible pumps, and sewage pump-out facilities, that could result in unsafe electrical current in the water.

§20-9-4. Compliance date and enforcement.

Each boat dock and marina shall be in full compliance with this article by August 1, 2014. The penalties contained in section seven of this article apply only to conduct on or after August 1, 2014. Enforcement of sections three and four of this article
§20-9-5. Rule-making Authority.

The State Fire Marshal may promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code and shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to implement the provisions of this article and incorporate boat dock and marina safety standards for electricians, including but not limited to the National Fire Protection Association’s Standards for Marinas and Boatyards (NFPA 303), Article 555 of the National Electric Code and ABYC Standards Projects E-2, E-10 and E-11, as appropriate to the West Virginia waterways.

§20-9-6. Penalties.

(a) A boat dock or marina owner or operator who violates sections two or three of this article and the violation does not result in the injury or death of a person, shall, for the first offense, be issued a warning citation with no court appearance or penalty, and for a second or subsequent offense, be fined $100. After a boat dock or marina owner or operator is put on notice of a violation of sections two or three of this article and is directed to cure the violation within a certain amount of time, each and every day that the violation continues after the time given to cure shall constitute a separate offense.

(b) A boat dock or marina owner or operator who violates sections two or three of this article, and the violation results in the injury of a person, shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than $500, and for a second offense or subsequent offense shall be fined not more than $1,000 or confined in jail for not more than six months, or both fined and confined.
(c) A boat dock or marina owner who violates sections two or three of this article, and the violation results in the death of a person, shall be guilty of a misdemeanor and upon conviction, shall fined not more than $1,000 or confined in jail for not more than one year, or both fined and confined.

CHAPTER 18


[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.

For the purposes of this article:

(1) "Broadband" or "broadband service" means any service providing advanced telecommunications capability with the same downstream data rate and upstream data rate as is specified by the Federal Communications Commission and that does not require the end-user to dial up a connection that has the capacity to always be on, and for which the transmission speeds are based on regular available bandwidth rates, not sporadic or burstable rates, with latency suitable for real-time applications and services such as VoIP and video conferencing, and with monthly usage capacity reasonably comparable to that of residential terrestrial fixed broadband offerings in urban areas: Provided, That as the Federal Communications Commission updates the downstream data rate and the upstream data rate the Council will publish the revised data rates in the State Register within sixty days of the federal update.

(2) "Broadband demand promotion project" means a statewide or regional project to undertake activities to promote demand for broadband services and broadband applications.

(3) "Broadband deployment project" means a project to provide broadband services in a type 2 and/or type 3 unserved area, as defined in section six of this article.

(4) "Council" means the Broadband Deployment Council.

(5) "Downstream data rate" means the transmission speed from the service provider source to the end-user.

(6) "Upstream data rate" means the transmission speed from the end-user to the service provider source.
§31-15C-4. Powers and duties of the council generally.

(a) The council shall:

(1) Explore the potential for increased use of broadband service for the purposes of education, career readiness, workforce preparation and alternative career training;

(2) Explore ways for encouraging state and municipal agencies to expand the development and use of broadband services for the purpose of better serving the public, including audio and video streaming, voice-over Internet protocol, teleconferencing and wireless networking; and

(3) Cooperate and assist in the expansion of electronic instruction and distance education services by July 2014.

(b) In addition to the powers set forth elsewhere in this article, the council is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purpose and intent of this article. The council shall have the power and capacity to:

(1) Provide consultation services to project sponsors in connection with the planning, acquisition, improvement, construction or development of any broadband deployment project;

(2) Promote awareness of public facilities that have community broadband access that can be used for distance education and workforce development;

(3) Advise on deployment of e-government portals such that all public bodies and political subdivisions have homepages,
encourage one-stop government access and that all public entities stream audio and video of all public meetings;

(4) To make and execute contracts, commitments and other agreements necessary or convenient for the exercise of its powers, including, but not limited to, the hiring of consultants to assist in the mapping of the state, categorization of areas within the state and evaluation of project applications: Provided, That the provisions of article three, chapter five-a of this code do not apply to the agreements and contracts executed under the provisions of this article;

(5) Acquire by gift or purchase, hold or dispose of real property and personal property in the exercise of its powers and performance of its duties as set forth in this article;

(6) Receive and dispense funds appropriated for its use by the Legislature or other funding sources or solicit, apply for and receive any funds, property or services from any person, governmental agency or organization to carry out its statutory duties; and

(7) Perform any and all other activities in furtherance of its purpose.

(c) The council shall exercise its powers and authority to bring broadband service to unserved areas. The council may not duplicate or displace broadband service in areas already served or where private industry feasibly can be expected to offer services in the reasonably foreseeable future.

In providing governmental funding for broadband deployment projects, the council shall give priority to funding for projects in areas without access to broadband service of any type or any speed before providing governmental funding for projects in areas with existing broadband service below the minimum speeds specified in section two of this article.
(d) The council shall report to the Joint Committee on Government and Finance on or before January 1 of each year. The report shall include the action that was taken by the council during the previous year in carrying out the provisions of this article. The council shall also make any other reports as may be required by the Legislature or the Governor.

§31-15C-8. Stimulation of demand through public outreach and education.

In order to implement and carry out the intent of this article, the council may take such actions as it deems necessary or advisable in order to stimulate demand through public outreach and education. The council shall consider the views, if offered, of affected members of the public, including private industry.

§31-15C-9. Development of guidelines and application for funding assistance; emergency rule-making authority.

(a) In order to implement and carry out the intent of this article in type 2 and type 3 unserved areas, the council shall propose rules for legislative approval, pursuant to the provisions of article three, chapter twenty-nine-a of this code, to develop comprehensive, uniform guidelines for use by the council in evaluating any request by a project sponsor for funding assistance to plan, acquire, construct, improve or otherwise develop and execute a broadband deployment project in a type 2 or type 3 unserved area. The council may promulgate emergency rules pending authorization of the legislative rules.

(b) The guidelines shall include the following:

(1) The cost-effectiveness of the project;

(2) The economic development benefits of the project;

(3) The availability of alternative sources of funding that could help finance the project, including, but not limited to,
private grants or federal funding and the efforts undertaken to obtain such funding;

(4) If the project requires the construction of a network, the applicant's ability to operate and maintain such network;

(5) The degree to which the project advances statewide broadband access and other state broadband planning goals;

(6) If the project involves the construction of a network, the proposed technologies, bandwidths, upstream data rates and downstream data rates;

(7) The estimated dates the project would commence and be completed;

(8) How the proposed project compares to alternative proposals for the same unserved area with regard to the number of people served, the amount of financial assistance sought, and the long-term viability of the proposed project; and

(9) Any other consideration the council deems pertinent in evaluating requests for funding assistance.

(c) Under no circumstances may the council's guidelines allow for the approval of any project for broadband service involving the construction of a network that does not meet the minimum specifications for broadband service as set by the Federal Communications Commission.

(d) The council shall create an application form that shall be used by all project sponsors requesting funding assistance from the council to plan, acquire, construct, improve or otherwise develop and execute broadband deployment projects in type 2 or type 3 unserved areas or broadband demand promotion projects. The application form shall advise applicants of information required by state agencies that will issue permits and certificates regarding the project.
(e) The application form shall require the project sponsor to set forth:

(1) The proposed location of the project;

(2) If the project involves the construction of a network, the type(s) of unserved area(s) the project proposes to address;

(3) The estimated total cost of the project;

(4) The amount of funding assistance required and the specific uses of the funding;

(5) Other sources of funding available or potentially available for the project;

(6) Information demonstrating the need for the project;

(7) That the proposed funding of the project is the most economically feasible and viable alternative to completing the project; and

(8) Such other information as the council considers necessary.

§31-15C-10. Requirements for project funding assistance; review of project application by council; competitive applications.

(a) As determined by the council, project sponsors may submit applications for funding assistance.

(b) Broadband deployment projects, including projects involving the construction of a network, may be submitted for type 2 and/or type 3 unserved areas as those areas are categorized pursuant to section six of this article. Broadband demand promotion projects may be submitted on a statewide or regional basis.
(c) When a completed application is received for a project area, the council shall post notice with the Secretary of State of the first completed application received for that project area. The notice shall be published in the State Register for sixty days to allow for competing applications to be submitted to the council.

(d) Within thirty days of the close of the sixty-day notice period, the council shall review all applications timely received during the sixty-day period and either:

(1) Approve funding for one or more projects after determining that the funding would constitute an appropriate investment of public funds; or

(2) Deny the project funding request if the council determines that:

(A) The application does not contain all of the required information;

(B) Is incomplete;

(C) A proposed project is not eligible for funding assistance; or

(D) The proposed project is otherwise not an appropriate or prudent investment of state funds.

(e) Prior to approving or denying any funding request, the council may seek the advice of any expert consultant retained pursuant to section seven of this article, but the council is not bound by that advice. The council shall also consider the views, if offered, of affected members of the public, including private industry.

(f) To apply for or receive any funding assistance for a broadband deployment project or a broadband demand promo-
tion project from the council pursuant to this section, the project
sponsor seeking the funding assistance shall submit a completed
application to the council on the form prepared for such purpose
by the council pursuant to section nine of this article.

(g) In reviewing each application, the council may use the
ing engineering, financial and technical expertise of outside consul-
tants in addition to the respective staffs of the government
agencies and private-sector entities represented on the council or
other government agencies.

(h) Notwithstanding any provision of article fifteen-a,
chapter thirty-one or any other provision of this code, broadband
deployment project proposals and broadband demand promotion
project proposals submitted to the council for its consideration
pursuant to this article and the council’s decisions with regard to
such projects shall not be subject to review by the West Virginia
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.


(a) All state, county and municipal agencies’ offices and employers, including profit, nonprofit and governmental employers, receiving a request for information and assistance from the Bureau for Child Support Enforcement or any out-of-state agency administering a program under Title IV-D of the Social Security Act shall cooperate with the bureau or with the out-of-state agency in the location of parents who have abandoned and deserted children and shall provide the bureau or the out-of-state agency with all available pertinent information concerning the location, income and property of those parents.

(b) Notwithstanding any other provision of law to the contrary, any entity conducting business in this state or incorporated under the laws of this state shall, upon certification by the bureau or any out-of-state agency administering a program under Title IV-D of the Social Security Act that the information is needed to locate a parent for the purpose of collecting or distributing child support, provide the bureau or the out-of-state agency with the following information about the parent: Full name, Social Security number, date of birth, home address, wages and number of dependents listed for income tax purposes: Provided, That no entity may provide any information obtained
in the course of providing legal services, medical treatment or
medical services.

(c) (1) The Bureau for Child Support Enforcement shall have
access, subject to safeguards on privacy and information
security, and to the nonliability of entities that afford such access
under this subdivision, to information contained in the following
records, including automated access, in the case of records
maintained in automated databases:

(A) Records of other state and local government agencies,
including, but not limited to:

(i) Vital statistics, including records of marriage, birth and
divorce;

(ii) State and local tax and revenue records, including
information on residence address, employer, income and assets;

(iii) Records concerning real and titled personal property;

(iv) Records of occupational and professional licenses and
records concerning the ownership and control of corporations,
partnerships and other business entities;

(v) Employment security records;

(vi) Records of agencies administering public assistance
programs;

(vii) Records of the Division of Motor Vehicles; and

(viii) Corrections records.

(B) Certain records held by private entities with respect to
individuals who owe or are owed support or certain individuals
against, or with respect to, whom a support obligation is sought,
consisting of:
(i) The names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in the customer records of public utilities, cable television companies, telephone companies and cellular telephone companies, pursuant to an administrative subpoena authorized by section one hundred twenty-three, article eighteen of this chapter; and

(ii) Information, including information on assets and liabilities, on such individuals held by financial institutions.

(2) Out-of-state agencies administering programs under Title IV-D of the Social Security Act shall, without the need for any court order, have the authority to access records in this state by making a request through the Bureau for Child Support Enforcement.

(d) All federal and state agencies conducting activities under Title IV-D of the Social Security Act shall have access to any system used by this state to locate an individual for purposes relating to motor vehicles or law enforcement.

(e) Out-of-state agencies administering programs under Title IV-D of the Social Security Act shall have the authority and right to access and use, for the purpose of establishing or enforcing a support order, the state law-enforcement and motor vehicle databases.

(f) The Bureau for Child Support Enforcement and out-of-state agencies administering programs under Title IV-D of the Social Security Act shall have the authority and right to access and use, for the purpose of establishing or enforcing a support order, interstate networks that state law-enforcement agencies and motor vehicle agencies subscribe to or participate in, such as the National Law-Enforcement Telecommunications System.
(g) No state, county or municipal agency or licensing board required to release information pursuant to the provisions of this section to the Bureau for Child Support Enforcement or to any out-of-state agency administering programs under Title IV-D of the Social Security Act may require the Bureau for Child Support Enforcement or any out-of-state agency to obtain a court order prior to the release of the information.

(h) Any information received pursuant to the provisions of this section is subject to the confidentiality provisions set forth 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.

(a) The circuit court has original jurisdiction of proceedings brought under this article.

(b) If during a criminal proceeding in any court it is ascertained or appears that the defendant is under the age of nineteen years and was under the age of eighteen years at the time of the alleged offense, the matter shall be immediately certified to the juvenile jurisdiction of the circuit court. The circuit court shall assume jurisdiction of the case in the same manner as cases which are originally instituted in the circuit court by petition.

(c) Notwithstanding any other provision of this article, magistrate courts have concurrent juvenile jurisdiction with the circuit court for a violation of a traffic law of West Virginia, for a violation of section nine, article six, chapter sixty, section three or section four, article nine-a, chapter sixteen, or section nineteen, article sixteen, chapter eleven of this code, or for any violation of chapter twenty of this code. Juveniles are liable for punishment for violations of these laws in the same manner as adults except that magistrate courts have no jurisdiction to impose a sentence of incarceration for the violation of these laws.

(d) Notwithstanding any other provision of this article, municipal courts have concurrent juvenile jurisdiction with the circuit court for a violation of any municipal ordinance regulat-
ing traffic, for any municipal curfew ordinance which is enforce-
able or for any municipal ordinance regulating or prohibiting
public intoxication, drinking or possessing alcoholic liquor or
nonintoxicating beer in public places, any other act prohibited by
section nine, article six, chapter sixty or section nineteen, article
sixteen, chapter eleven of this code or underage possession or
use of tobacco or tobacco products, as provided in article nine-a,
chapter sixteen of this code. Municipal courts may impose the
same punishment for these violations as a circuit court exercis-
ing its juvenile jurisdiction could properly impose, except that
municipal courts have no jurisdiction to impose a sentence of
incarceration for the violation of these laws.

(e) A juvenile may be brought before the circuit court for
proceedings under this article only by the following means:

(1) By a juvenile petition requesting that the juvenile be
adjudicated as a status offender or a juvenile delinquent; or

(2) By certification or transfer to the juvenile jurisdiction of
the circuit court from the criminal jurisdiction of the circuit
court, from any foreign court, or from any magistrate court or
municipal court in West Virginia.

(f) (1) If a juvenile commits an act which would be a crime
if committed by an adult, and the juvenile is adjudicated
delinquent for that act, the jurisdiction of the court which
adjudged the juvenile delinquent continues until the juvenile
becomes twenty-one years of age. The court has the same power
over that person that it had before he or she became an adult, and
has the further power to sentence that person to a term of
incarceration: Provided, That any such term of incarceration may
not exceed six months. This authority does not preclude the court
from exercising criminal jurisdiction over that person if he or she
violates the law after becoming an adult or if the proceedings
have been transferred to the court’s criminal jurisdiction
pursuant to section ten of this article.
(2) If a juvenile is adjudicated as a status offender because he or she is habitually absent from school without good cause, the jurisdiction of the court which adjudged the juvenile a status offender continues until either the juvenile becomes twenty-one years of age, completes high school, completes a high school equivalent or other education plan approved by the court, or the court otherwise voluntarily relinquishes jurisdiction, whichever occurs first. If the jurisdiction of the court is extended pursuant to this subdivision, the court has the same power over that person that it had before he or she became an adult: Provided, That no person so adjudicated who has attained the age of nineteen may be ordered to attend school in a regular, nonalternating setting.

(g) A juvenile is entitled to be admitted to bail or recognizance in the same manner as an adult and shall be afforded the protection guaranteed by Article III of the West Virginia Constitution.

(h) A juvenile has the right to be effectively represented by counsel at all stages of proceedings under the provisions of this article. If the juvenile or the juvenile’s parent or custodian executes an affidavit showing that the juvenile cannot afford an attorney, the court shall appoint an attorney, who shall be paid in accordance with article twenty-one, chapter twenty-nine of this code.

(i) In all proceedings under this article, the juvenile shall be afforded a meaningful opportunity to be heard. This includes the opportunity to testify and to present and cross-examine witnesses. The general public shall be excluded from all proceedings under this article except that persons whose presence is requested by the parties and other persons whom the circuit court determines have a legitimate interest in the proceedings may attend: Provided, That in cases in which a juvenile is accused of committing what would be a felony if the juvenile were an adult,
an alleged victim or his or her representative may attend any
related juvenile proceedings, at the discretion of the presiding
judicial officer: *Provided, however, That in any case in which
the alleged victim is a juvenile, he or she may be accompanied
by his or her parents or representative, at the discretion of the
presiding judicial officer.

(j) At all adjudicatory hearings held under this article, all
procedural rights afforded to adults in criminal proceedings shall
be afforded the juvenile unless specifically provided otherwise
in this chapter.

(k) At all adjudicatory hearings held under this article, the
rules of evidence applicable in criminal cases apply, including
the rule against written reports based upon hearsay.

(l) Except for res gestae, extrajudicial statements made by a
juvenile who has not attained fourteen years of age to
law-enforcement officials or while in custody are not admissible
unless those statements were made in the presence of the
juvenile’s counsel. Except for res gestae, extrajudicial statements
made by a juvenile who has not attained sixteen years of age but
who is at least fourteen years of age to law-enforcement officers
or while in custody, are not admissible unless made in the
presence of the juvenile’s counsel or made in the presence of,
and with the consent of, the juvenile’s parent or custodian, and
the parent or custodian has been fully informed regarding the
juvenile’s right to a prompt detention hearing, the juvenile’s
right to counsel, including appointed counsel if the juvenile
cannot afford counsel, and the juvenile’s privilege against
self-incrimination.

(m) A transcript or recording shall be made of all transfer,
adjudicatory and dispositional hearings held in circuit court. At
the conclusion of each of these hearings, the circuit court shall
make findings of fact and conclusions of law, both of which shall
appear on the record. The court reporter shall furnish a transcript of the proceedings at no charge to any indigent juvenile who seeks review of any proceeding under this article if an affidavit is filed stating that neither the juvenile nor the juvenile’s parents or custodian have the ability to pay for the transcript.

§49-5-18. Confidentiality of juvenile records.

(a) One year after the juvenile’s eighteenth birthday, or one year after personal or juvenile jurisdiction has terminated, whichever is later, the records of a juvenile proceeding conducted under this chapter, including, but not limited to, law-enforcement files and records, may be kept in a separate secure confidential place and the records may not be inspected except by order of the circuit court.

(b) The records of a juvenile proceeding in which a juvenile was transferred to criminal jurisdiction pursuant to the provisions of section ten of this article shall be kept in a separate secure confidential place and the records may not be inspected except by order of the circuit court if the juvenile is subsequently acquitted or found guilty only of an offense other than an offense upon which the waiver or order of transfer was based, or if the offense upon which the waiver or order of transfer was based is subsequently dismissed.

(c) To keep the confidentiality of juvenile records, they shall be returned to the circuit court in which the case was pending and be kept in a separate confidential file. The records shall be physically marked to show that they are to remain confidential and shall be securely kept and filed in a manner so that no one can have access to determine the identity of the juvenile, except upon order of the circuit court.

(d) Marking the juvenile records to show they are to remain confidential has the legal effect of extinguishing the offense as if it never occurred.
(e) The records of a juvenile convicted under the criminal jurisdiction of the circuit court pursuant to subdivision (1), subsection (d), section ten of this article may not be marked and kept as confidential.

(f) Any person who willfully violates this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000, or confined in jail for not more than six months, or both so fined and confined, and is liable for damages 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.

(a) (1) A multidisciplinary treatment planning process for cases initiated pursuant to articles five and six of this chapter shall be established within each county of the state, either separately or in conjunction with a contiguous county, by the secretary of the department with advice and assistance from the prosecutor's advisory council as set forth in section four, article four, chapter seven of this code. The Division of Juvenile Services shall establish a similar treatment planning process for delinquency cases in which the juvenile has been committed to its custody, including those cases in which the juvenile has been committed for examination and diagnosis.

(2) The provisions of this section do not require a multidisciplinary team meeting to be held prior to temporarily placing a child or juvenile out-of-home under exigent circumstances or upon a court order placing a juvenile in a facility operated by the Division of Juvenile Services.

(b) The case manager in the Department of Health and Human Resources for the child, family or juvenile or the case manager in the Division of Juvenile Services for a juvenile shall convene a treatment team in each case when it is required pursuant to this article.

Prior to disposition, in each case in which a treatment planning team has been convened, the team shall advise the court as to the types of services the team has determined are needed and the type of placement, if any, which will best serve the needs
of the child. If the team determines that an out-of-home placement will best serve the needs of the child, the team shall first consider placement with appropriate relatives then with foster care homes, facilities or programs located within the state. The team may only recommend placement in an out-of-state facility if it concludes, after considering the best interests and overall needs of the child, that there are no available and suitable in-state facilities which can satisfactorily meet the specific needs of the child.

Any person authorized by the provisions of this chapter to convene a multidisciplinary team meeting may seek and receive an order of the circuit court setting such meeting and directing attendance. Members of the multidisciplinary team may participate in team meetings by telephone or video conferencing: Provided, That the provisions of this subsection do not prevent the respective agencies from designating a person other than the case manager as a facilitator for treatment team meetings: Provided however, That written notice shall be provided to all team members of the availability to participate by videoconferencing.

(c) The treatment team shall coordinate its activities and membership with local family resource networks and coordinate with other local and regional child and family service planning committees to assure the efficient planning and delivery of child and family services on a local and regional level.

d) The multidisciplinary treatment team shall be afforded access to information in the possession of the Department of Health and Human Resources, Division of Juvenile Services, law-enforcement agencies and other state, county and local agencies; and the agencies shall cooperate in the sharing of information, as may be provided in sections three(d) and six, article five-d and section one, article seven, all of chapter forty-nine, and any other relevant provision of law. Any multidisciplinary team member who acquires confidential
§49-5D-3c. Multidisciplinary treatment process for status offenders or delinquents.

1 (1) When a juvenile is adjudicated as a status offender pursuant to section eleven-d, article five of this chapter, the Department of Health and Human Resources shall promptly convene a multidisciplinary treatment team and conduct an assessment, utilizing a standard uniform comprehensive assessment instrument or protocol, to determine the juvenile’s mental and physical condition, maturity and education level, home and family environment, rehabilitative needs and recommended service plan, which shall be provided in writing to the court and team members. Upon completion of the assessment, the treatment team shall prepare and implement a comprehensive, individualized service plan for the juvenile.

2 (2) When a juvenile is adjudicated as a delinquent or has been granted an improvement period pursuant to section nine, article five of this chapter, the court, either upon its own motion or motion of a party, may require the Department of Health and Human Resources to convene a multidisciplinary treatment team and conduct an assessment, utilizing a standard uniform comprehensive assessment instrument or protocol, to determine the juvenile’s mental and physical condition, maturity and education level, home and family environment, rehabilitative needs and recommended service plan, which shall be provided in writing to the court and team members. A referral to the Department of Health and Human Resources to convene a multidisciplinary treatment team and to conduct such an assessment shall be made when the court is considering placing the juvenile in the department’s custody or placing the juvenile out-of-home at the department’s expense pursuant to section thirteen, article five of this chapter. In any delinquency proceeding in which the court
requires the Department of Health and Human Resources to convene a multidisciplinary treatment team, the probation officer shall notify the department at least fifteen working days before the court proceeding in order to allow the department sufficient time to convene and develop an individualized service plan for the juvenile.

(3) When a juvenile has been adjudicated and committed to the custody of the Director of the Division of Juvenile Services, including those cases in which the juvenile has been committed for examination and diagnosis, the Division of Juvenile Services shall promptly convene a multidisciplinary treatment team and conduct an assessment, utilizing a standard uniform comprehensive assessment instrument or protocol, to determine the juvenile's mental and physical condition, maturity and education level, home and family environment, rehabilitative needs and recommended service plan. Upon completion of the assessment, the treatment team shall prepare and implement a comprehensive, individualized service plan for the juvenile, which shall be provided in writing to the court and team members. In cases where the juvenile is committed as a post-sentence disposition to the custody of the Division of Juvenile Services, the plan shall be reviewed quarterly by the multidisciplinary treatment team. Where a juvenile has been detained in a facility operated by the Division of Juvenile Services without an active service plan for more than sixty days, the director of the facility may call a multidisciplinary team meeting to review the case and discuss the status of the service plan.

(4) (A) The rules of juvenile procedure shall govern the procedure for obtaining an assessment of a juvenile, preparing an individualized service plan and submitting the plan and assessment to the court.

(B) In juvenile proceedings conducted pursuant to article five of this chapter, the treatment team shall consist of the
juvenile, the juvenile’s case manager in the Department of Health and Human Resources or the Division of Juvenile Services, the juvenile’s parent or parents, guardian or guardians or custodial relatives, the juvenile’s attorney, any attorney representing a member of the treatment team, the prosecuting attorney or his or her designee, an appropriate school official and any other person or agency representative who may assist in providing recommendations for the particular needs of the juvenile and family, including domestic violence service providers. In delinquency proceedings, the probation officer shall be a member of a treatment team. When appropriate, the juvenile case manager in the Department of Health and Human Resources and the Division of Juvenile Services shall cooperate in conducting multidisciplinary treatment team meetings when it is in the juvenile’s best interest.

(C) Prior to disposition, in each case in which a treatment planning team has been convened, the team shall advise the court as to the types of services the team has determined are needed and type of placement, if any, which will best serve the needs of the child. If the team determines that an out-of-home placement will best serve the needs of the child, the team shall first consider placement at facilities or programs located within the state. The team may only recommend placement in an out-of-state facility if it concludes, after considering the best interests and overall needs of the child, that there are no available and suitable in-state facilities which can satisfactorily meet the specific needs of the child.

(D) The multidisciplinary treatment team shall submit written reports to the court as required by applicable law or by the court, shall meet with the court at least every three months, as long as the juvenile remains in the legal or physical custody of the state, and shall be available for status conferences and hearings as required by the court.
(E) In any case in which a juvenile has been placed out of his or her home except for a temporary placement in a shelter or detention center, the multidisciplinary treatment team shall cooperate with the state agency in whose custody the juvenile is placed to develop an after-care plan. The rules of juvenile procedure and section twenty, article five, chapter forty-nine of the code shall govern the development of an after-care plan for a juvenile, the submission of the plan to the court and any objection to the after-care plan.

(F) If a juvenile respondent admits the underlying allegations of the case initiated pursuant to article five, chapter forty-nine of this code in the multidisciplinary treatment planning process, his or her statements shall not be used in any juvenile or criminal proceedings against the juvenile, except for perjury or false 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.


For the purposes of this article, the words or terms defined in this section, and any variation of those words or terms required by the context, have the meanings ascribed to them in this section. These definitions are applicable unless a different meaning clearly appears from the context.

(1) "Child witness" means a person under the age of sixteen years of age who is or will be called to testify in a criminal matter concerning an alleged violation of the provisions of sections three, four, five and seven, article eight-b, chapter sixty-one of this code in which the child is the alleged victim.

(2) "Live, closed-circuit television" means a simultaneous transmission, by closed-circuit television or other electronic means, between the courtroom and the testimonial room.

(3) "Operator" means the individual authorized by the court to operate the closed-circuit television equipment used in accordance with the provisions of this article.

(4) "Testimonial room" means a room within the courthouse other than the courtroom from which the testimony of a child
witness or the defendant is transmitted to the courtroom by means of live, closed-circuit television.


(a) Upon a written motion filed by the prosecuting attorney, the child's attorney or the child's guardian ad litem, and upon findings of fact determined pursuant to subsection (b) of this section, a circuit court may order that the testimony of a child witness may be taken at a pretrial proceeding or at trial through the use of live, closed-circuit television.

(b) Prior to ordering that the testimony of a child witness may be taken through the use of live, closed-circuit television, the circuit court must find by clear and convincing evidence, after conducting an evidentiary hearing on this issue, that:

(1) The child is an otherwise competent witness;

(2) That, absent the use of live, closed-circuit television the child witness will be unable to testify due solely to being required to be in the physical presence of the defendant while testifying;

(3) The child witness can only testify if live, two-way closed-circuit television is used in the trial; and

(4) That the state's ability to proceed against the defendant without the child witness' live testimony would be substantially impaired or precluded.

(c) The court shall consider the following factors in determining the necessity of allowing a child witness to testify by the use of live, closed-circuit television:

(1) The age and maturity of the child witness;
(2) The facts and circumstances of the alleged offense;

(3) The necessity of the child’s live testimony to the prosecution’s ability to proceed as well as any prejudice to the defendant by allowing testimony through closed-circuit television;

(4) Whether or not the facts of the case involve the alleged infliction of bodily injury to the child witness or the threat of bodily injury to the child or another; and

(5) Any mental or physical handicap of the child witness.

(d) In determining whether to allow a child witness to testify through live, closed-circuit television the court shall appoint a psychiatrist or a licensed psychologist with at least five years clinical experience who shall serve as an advisor or friend of the court to provide the court with an expert opinion as to whether, to a reasonable degree of professional certainty, the child witness will suffer severe emotional harm, be unable to testify based solely on being in the physical presence of the defendant while testifying and that the child witness does not evidence signs of being subjected to undue influence or coercion. The opinion of the psychiatrist or licensed psychologist shall be filed with the circuit court at least thirty days prior to the final hearing on the use of live, closed-circuit television and the defendant shall be allowed to review the opinion and present evidence on the issue 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.

(a) If the court determines that the use of live, two-way closed-circuit testimony is necessary and orders its use the
defendant may, at any time prior to the child witness being called, elect to absent himself from the courtroom during the child witness' testimony. If the defendant so elects the child shall be required to testify in the courtroom.

(b)(1) If live, closed-circuit television is used in the testimony of the child witness, he or she shall be taken into the testimonial room and be televised live, by closed-circuit equipment to the view of the defendant, counsel, the court and, if applicable, the jury. The projected image of the defendant shall be visible for child witness to view if he or she chooses to do so and the view of the child witness available to those persons in the courtroom shall include a full body view. Only the prosecuting attorney, the attorney for the defendant, and the operator of the equipment may be present in the room with the child witness during testimony. Only the court, the prosecuting attorney and the attorney for the defendant may question the child. In pro se proceedings, the court may modify the provisions of this subdivision relating to the role of the attorney for the defendant to allow the pro se defendant to question the child witness in such a manner as to cause as little psychological trauma as possible under the circumstances. The court shall permit the defendant to observe and hear the testimony of the child witness contemporaneous with the taking of the testimony. The court shall provide electronic means for the defendant and the attorney for the defendant to confer confidentially during the taking of the testimony.

(2) If the defendant elects to not be physically present in the courtroom during the testimony of the child witness, the defendant shall be taken into the testimonial room and be televised live, by two-way closed-circuit equipment to the view of the finder of fact and others present in the courtroom. The defendant shall be taken to the testimonial room prior to the
appearance of the child witness in the courtroom. There shall be
made and maintained a recording of the images and sounds of all
proceedings which were televised pursuant to this article. While
the defendant is in the testimonial room, the defendant shall be
permitted to view the live, televised image of the child witness
and the image of those other persons in the courtroom whom the
court determines the defendant is entitled to view. Only the
court, the prosecuting attorney and the attorney for the defendant
may question the child. In pro se proceedings, the court may
modify the provisions of this subdivision relating to the role of
the attorney for the defendant to allow the pro se defendant to
question the child witness in such a manner as to cause as little
emotional distress as possible under the circumstances. The
transmission from the courtroom to the testimonial room shall be
sufficient to permit the defendant to observe and hear the
testimony of the child witness contemporaneous with the taking
of the testimony. No proceedings other than the taking of the
testimony of the child witness shall occur while the defendant is
outside the courtroom. In the event that the defendant elects that
the attorney for the defendant remain in the courtroom while the
defendant is in the testimonial room, the court shall provide
electronic means for the defendant and the attorney for the
defendant to confer confidentially during the taking of the
testimony.

(c) In every case where the provisions of the article are used,
the jury, at a minimum, shall be instructed, unless such instruc-
tion is waived by the defendant, that the use of live, closed-
circuit television is being used solely for the child's conve-
nience, that the use of the medium cannot as a matter of law and
fact be considered as anything other than being for the conven-
nience of the child witness and that to infer anything else would
constitute a violation of the oath taken by the jurors.
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 section two of this article, either knowing or having reason to know he or she is doing so is guilty of a felony and, upon conviction thereof, shall be fined not more than $5,000, or imprisoned in a state correctional facility not more than five years, or both fined and imprisoned.

§60-9-6. Unfair trade practices.

1 A violation of section two of this article constitutes an unlawful trade practice as provided in article eleven-a, chapter
forty-seven of this code and, in addition to any remedies or penalties set forth in this article, is subject to any remedies or penalties for a violation of that article.

The Alcohol Beverage Control Commissioner shall enforce each and every provision of the Unfair Trade Practices Act in article eleven-a, chapter forty-seven of this code with respect to packages of cigarettes with like effect as if that article were set 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.

(a) The classified-exempt service includes all positions included in the classified-exempt service on the effective date of this article.
(b) Except for the period commencing on July 1, 1992, and ending on the first Monday after the second Wednesday of the following January and except for the same periods commencing in the year 1996, and in each fourth year thereafter, the Governor may, by executive order, with the written consent of the State Personnel Board and the appointing authority concerned, add to the list of positions in the classified service, but the additions may not include any positions specifically exempted from coverage as provided in this section.

(c) The following offices and positions are exempt from coverage under the classified service:

(1) All judges, officers and employees of the judiciary;
(2) All members, officers and employees of the Legislature;
(3) All officers elected by popular vote and employees of the officer;
(4) All secretaries of departments and employees within the office of a secretary;
(5) Members of boards and commissions and heads of departments appointed by the Governor or heads of departments selected by commissions or boards when expressly exempt by law or board order;
(6) Excluding the policy-making positions in an agency, one principal assistant or deputy and one private secretary for each board or commission or head of a department elected or appointed by the Governor or Legislature;
(7) All policy-making positions;
(8) Patients or inmates employed in state institutions;
(9) Persons employed in a professional or scientific capacity to make or conduct a temporary and special inquiry, investiga-
tion or examination on behalf of the Legislature or a *committee thereof*, an executive department or by authority of the Governor;

(10) All employees of the office of the Governor, including all employees assigned to the *executive mansion*;

(11) Part-time professional personnel engaged in professional services without administrative duties and personnel employed for one thousand hours or less during a working year;

(12) Members and employees of the board of trustees and board of directors or their successor agencies;

(13) Uniformed personnel of the State Police; and

(14) Seasonal employees in the state forests, parks, and recreational areas working less than 1,733 hours per calendar year. Notwithstanding any provision of law to the contrary, seasonal employees are *not considered* full-time employees.

(d) The Legislature finds that the holding of political beliefs and party commitments consistent or compatible with those of the Governor contributes in an essential way to the *effective performance of* and is an appropriate requirement for occupying certain offices or positions in state government, such as the secretaries of departments and the employees within their offices, the heads of agencies appointed by the Governor and, for each such head of agency, a *private secretary* and one principal assistant or deputy, all employees of the office of the Governor including all employees assigned to the executive mansion, as well as any persons appointed by the Governor to fill policy-making positions, in that those offices or positions are confidential in character and require their holders to act as advisors to the Governor or the Governor’s appointees, to formulate and implement the policies and goals of the Governor or the Governor’s appointees, or to help the Governor or the
Governor's appointees communicate with and explain their policies and views to the public, the Legislature and the press.

(e) All county road supervisor positions are covered under the classified service effective July 1, 1999. A person employed as a county road supervisor on the effective date of this section, is not required to take or pass a qualifying or competitive examination upon or as a condition of becoming a classified service employee. All county road supervisors who become classified service employees pursuant to this subsection who are severed, removed or terminated in his or her employment must be severed, removed or terminated as if the person was a classified service employee.

CHAPTER 25


[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.

The Legislature has considered the findings of fact and recommendations reported to it by the Court of Claims concerning various claims against the state and agencies thereof and in respect to each of the following claims, the Legislature adopts those findings of fact as its own and in respect of certain claims herein, the Legislature has independently made findings of fact and determinations of award and hereby declares it to be the moral obligation of the state to pay each such claim in the amount specified below and directs the Auditor to issue warrants for the payment thereof out of any fund appropriated and available for the purpose.

(a) Claim against the Board of Veterinary Medicine:
(TO BE PAID FROM SPECIAL REVENUE FUND)
(1) Wanda Goodwin ....................$6,564.00

(b) Claim against the Consolidated Public Retirement Board:
(TO BE PAID FROM GENERAL REVENUE FUND)
(1) Regina H. Williams.................$1,505.13

(c) Claims against the Department of Administration:
(TO BE PAID FROM GENERAL REVENUE FUND)
(1) Design & Production Inc. .......... $80,296.00
(2) Discount Industrial Supply Corporation... $5,000.00

(d) Claim against the Department of Administration/Division of Real Estate:
(TO BE PAID FROM SPECIAL REVENUE FUND)
(1) Vicky L. Means .....................$11,534.04

(e) Claim against the Department of Education:
(TO BE PAID FROM GENERAL REVENUE FUND)

(1) Winchester Speech Pathologists PC. ................... $12,480.00
(f) Claims against the Division of Corrections:
(TO BE PAID FROM GENERAL REVENUE FUND)

(1) Robert Blake. ........................................... $331.47
(2) Allen Carr. ............................................. $15.60
(3) Kenneth Chance ........................................ $39.65
(4) Kevin Felder. .......................................... $320.00
(5) Justin E. Marcum ........................................ $39.50
(6) Brian C. Morgan ......................................... $155.86
(7) Joseph Pettaway ......................................... $15.00
(8) Lawrence Stuckey ...................................... $25.00
(g) Claims against the Division of Highways:
(TO BE PAID FROM STATE ROAD FUND)

(1) James Adkins .......................................... $279.00
(2) Sally J. Adkins ........................................ $500.00
(3) Timothy W. Adkins .................................... $500.00
(4) Deborah A. Allen ..................................... $500.00
(5) Dustin Allen ........................................... $224.61
(6) Lisa Anderson .......................................... $500.00
(7) Sheila D. Anderson ................................... $387.74
(8) Jason R. Ashworth .................................... $207.53
(9) Kelly Ayers ............................................. $108.38
(10) Johnna Bailey ......................................... $50.00
(11) Doloris A. Baker ...................................... $180.00
(12) Jeremy Ball ........................................... $658.66
(13) Dennis E. Ballard and Whitney K. Ballard .... $806.52
(14) Kenneth Bambic ....................................... $1,271.96
(15) Norma Barnett ........................................ $9,000.00
(16) Grant Barnette ........................................ $500.00
(17) Sonja S. Bass ......................................... $553.45
(18) Beverly Bell and Lee Bell ......................... $500.00
(19) Christy Beveridge ................................... $201.74
(20) Richard Bills ......................................... $210.79
(21) John W. Bittinger .................................... $81,000.00
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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 Lambert............... $500.00
167 (122) Rickey Dean Lambert and
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(159) O. Kermit Null $572.50
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(162) Philip Padon $500.00
(163) Kristina Painter $250.00
(164) Mark D. Panepinto $6,123.34
(165) Wesley Parmer $125,000.00
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(167) Emmitt C. Patterson $230.00
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(170) Richard F. Pierce $308.00
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(172) Charles P. Puglisi $250.00
(173) Patty L. Pulliam $1,179.51
(174) Martha Jo Queen $162.18
(175) Susan Quick and John Quick $137.53
(176) John Rairden $500.00
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(188) Evelyn Robertson $500.00
(189) Audrey Robinette and Phillip Robinette $1,000.00
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<td>(h) Claims against the Division of Motor Vehicles:</td>
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<td>305</td>
<td>(TO BE PAID FROM STATE ROAD FUND)</td>
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(3) Tri-Star Motors Inc....................... $2,509.00
(i) Claim against the Division of Veterans Affairs:
(TO BE PAID FROM FEDERAL REVENUE FUND)
(1) G.A. Brown & Son Inc................ $582,677.32
(j) Claim against the Public Defender Services:
(TO BE PAID FROM GENERAL REVENUE FUND)
(1) David R. Karr Jr........................ $9,888.50
(k) Claims against the Regional Jail Authority:
(TO BE PAID FROM SPECIAL REVENUE FUND)
(1) James Angel.............................. $27.03
(2) Jack M. Bowles Jr..................... $280.00
(3) Kevin Boxley............................ $70.00
(4) Cheryl D. Gray.......................... $117.00
(5) Robert W. Moats........................ $380.00
(6) MS Consultants Inc........................ $200,000.00
(7) Adam Ruthers............................ $61.00
(8) Don Taylor............................... $123.80
(l) Claims against the State Fire Commission:
(TO BE PAID FROM SPECIAL REVENUE FUND)
(1) Hospitality Ventures LLC............... $846.00
(m) Claims against the State of West Virginia:
(TO BE PAID FROM GENERAL REVENUE FUND)
(1) Daniel Carter Matzdorff................. $92,300.00

The Legislature finds that the above moral obligations and
the appropriations made in satisfaction thereof shall be the full
compensation for all claimants and that prior to the payments to
any claimant provided in this bill, the Court of Claims shall
receive a release from said claimant releasing any and all claims
for moral obligations arising from the matters considered by the
Legislature in the finding of the moral obligations and the
making of the appropriations for said claimant. The Court of
Claims shall deliver all releases obtained from claimants to the
department against which the claim was allowed.
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.

The Legislature has heretofore made findings of fact that the state has received the benefit of the commodities received and/or services rendered by certain claimants herein and has considered these claims against the state, and agencies thereof, which have arisen due to overexpenditures of the departmental appropriations by officers of the state spending units, the claims having been previously considered by the Court of Claims which also found that the state has received the benefit of the commodities received and/or services rendered by the claimants, but were denied by the Court of Claims on the purely statutory grounds that to allow the claims would be condoning illegal acts contrary to the laws of the state. The Legislature, pursuant to its findings
of fact and also by the adoption of the findings of fact by the
Court of Claims as its own, while not condoning such illegal
acts, hereby declares it to be the moral obligation of the state to
pay these claims in the amounts specified below and directs the
Auditor to issue warrants upon receipt of properly executed
requisitions supported by itemized invoices, statements or other
satisfactory documents as required by section ten, article three,
chapter twelve of the Code of West Virginia, 1931, as amended,
for the payments thereof out of any fund appropriated and
available for the purpose.

(a) *Claim against the Department of Education:*

(1) Winchester Speech Pathologists PC. . . . . . . $2643.75

(b) *Claims against the West Virginia Racing Commission:*

(1) Duane Barber. . . . . . . . . . . . . . . . . . . . . . . . . . $720.00
(2) Ronney Brown. . . . . . . . . . . . . . . . . . . . . . . . . $5,820.00
(3) Nancy Camp. . . . . . . . . . . . . . . . . . . . . . . . . . $660.00
(4) James W. Casey. . . . . . . . . . . . . . . . . . . . . . . . $15,180.00
(5) Diana Lee Chinn. . . . . . . . . . . . . . . . . . . . . . . . $660.00
(6) Kari L. Conner. . . . . . . . . . . . . . . . . . . . . . . . . $6,477.00
(7) Robin Figgins. . . . . . . . . . . . . . . . . . . . . . . . . . $1,320.00
(8) Janet Hoke. . . . . . . . . . . . . . . . . . . . . . . . . . . . $12,784.40
(9) Jennifer A. Johnson. . . . . . . . . . . . . . . . . . . . . . $1,235.40
(10) Bonnie A. Kempe. . . . . . . . . . . . . . . . . . . . . . . $660.00
(11) Carrol Langley. . . . . . . . . . . . . . . . . . . . . . . . . $4,796.60
(12) Wilson Langley. . . . . . . . . . . . . . . . . . . . . . . . . $5,507.50
(13) Thomas Lee. . . . . . . . . . . . . . . . . . . . . . . . . . . $568.40
(14) Farah Mahar for Amir Associates. . . . . . . . . . . . $5,718.00
(15) Gloria McCormick. . . . . . . . . . . . . . . . . . . . . . . $960.00
(16) Theresa A. McPherson. . . . . . . . . . . . . . . . . . . . $1,577.60
(17) Rene Moore. . . . . . . . . . . . . . . . . . . . . . . . . . . $5,104.20
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, is hereby repealed.
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.

§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, are hereby repealed.

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.

§48-2-604 of the Code of West Virginia, 1931, as amended, 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.

(a) Prior to the issuance of assessment bonds or pledging any amounts to payment of tax increment financing obligation debt service, the board shall cause a report to be prepared describing each lot or parcel of land located within the community enhancement district and setting forth the total cost of the project based on the contract with the governmental agency, the accepted bid or bids, or a cost estimate certified by a professional engineer, and all other costs incurred prior to the commencement of construction and the future administrative costs, and the respective amounts chargeable upon each lot or parcel of land and the proper amount to be assessed against the respective lots or parcels of land with a description of the lots and parcels of land as to ownership and location. If two or more different kinds of projects are involved, the report shall set forth the portion of the assessment attributable to each respective project. The board shall thereupon give notice to the owners of real property to be assessed that on or after a date specified in the notice an assessment will be deemed granted against the property. The notice shall state that the owner of assessed property, or other interested party, may on said date appear before the board to move the revision or correction of the proposed assessment and shall show the total cost of the project, whether the assessments will pay for all or part of the total cost of the project and the lots or parcels of property to be assessed and the respective amounts to be assessed against such lots or parcels, with a description of the respective lots and parcels of land as to ownership and location. The notice shall also be published as a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of the code, and the publication area for such publication is the assessment district. On or after the date so advertised,
the board may revise, amend, correct and verify the report and proceed by resolution to establish the assessments as corrected and verified and shall certify the same to the governing body which created the district.

(b) During the pendency of the project, the board may decrease the amount of the assessments certified to the county sheriff for collection following the June 7 certification of those assessments by the community enhancement district to the sheriff as provided by subdivision (6), subsection (b), section six of this article, upon a finding or determination by the community enhancement board that the decrease is necessary or appropriate as the total cost of the project is less than projected or that the need for the assessment amount has decreased under the circumstances, and so certify to the sheriff of the county where the property is located. The modified assessment shall be granted against all property in the district for inclusion in the tax ticket or the preparation of modified tax tickets by that sheriff for the affected parcels.

(c) Upon completion of a project, the board shall prepare a final report certifying the completion of the project and showing the total cost of the project and whether the cost is greater or less than the cost originally estimated. If the total cost of the project is less or greater than the cost shown in the report prepared prior to construction, the board may revise the assessment charged on each lot or parcel of land pursuant to subsection (a) of this section to reflect the total cost of the project as completed, and in so doing shall, in the case of an assessment increase only, follow the same procedure with regard to notice and providing each owner of assessed property the right to appear before the board to move for the revision or correction of such proposed reassessment as required for the original assessment. If an assessment is decreased, the board shall, by resolution and written notice to the sheriff of the county in which the community enhancement district is located, cause the next installment
nity enhancement district is located, cause the next installment
or installments of assessments then due and payable by each
affected property owner to be reduced pro rata, and shall provide
written notice to such property owners of the amount of such
decrease by the deposit of such notice in the United States mail,
postage prepaid.

(d) The value of the projects financed with the assessments
shall be treated as a credit toward any impact fees related to the
service or services provided levied under article twenty, chapter
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.


As used in this article unless the context clearly requires a different meaning:

(1) “Authority” means the West Virginia State Rail Authority created by this article, the duties, powers, responsibilities and functions of which are specified in this article.

(2) “Bond” or “state rail authority bond” means a revenue bond or rate issued by the State Rail Authority to effectuate the intents and purposes of this article.

(3) “Commuter rail” means a transit mode that is an electric or diesel propelled railway for urban passenger train service consisting of local short distance travel operating between a central city and adjacent suburbs. Service must be operated on a regular basis by or under contract with a transit operator for the purpose of transporting passengers within urbanized areas or between urbanized areas and outlying areas. The rail service, using either locomotive-hauled or self-propelled railroad passenger cars, is generally characterized by multirip tickets, specific station-to-station fares or railroad employment practices and usually has only one or two stations in the central business district. It does not include heavy rail rapid transit or light rail/streetcar transit service. Intercity rail service is excluded except for that portion of service operated by or under contract with a public transit agency for predominantly commuter
services. Only the predominantly commuter service portion of an
intercity route is eligible for inclusion when determining
commuter rail route miles.

(4) "Heavy rail" means a transit mode that is an electric
railway with the capacity for a heavy volume of traffic. It is
characterized by high speed and rapid acceleration passenger rail
cars operating singly or in multicar trains on fixed rails, separate
rights-of-way from which all other vehicular and foot traffic are
excluded, sophisticated signaling and high platform loading.

(5) "Income" means and includes all money accruing to the
authority from any source.

(6) "Light rail" means a transit mode that typically is an
electric railway with a light volume traffic capacity compared to
heavy rail. It is characterized by passenger rail cars operating
singly or in short, usually two-car, trains, on fixed rails in shared
or exclusive rights-of-way, low- or high-platform loading and
vehicle power drawn from an overhead electric line via a trolley
or a pantograph.

(7) "Owner" means and includes all individuals,
copartnerships, associations, corporations, companies, transpor-
tation companies, public service corporations, the United States
or any agency or instrumentality thereof, common carriers by
rail and railroad companies having any title or interest in any rail
properties authorized to be acquired, leased or used by this
article.

(8) "Person" means individuals, corporations, partnerships
or foreign and domestic associations, including railroads.

(9) "Predominantly commuter services" means that for any
given trip segment (i.e., distance between two stations), more
than fifty percent of the average daily ridership travels on the
train at least three times a week.
(10) "Rail properties" means assets or rights owned, leased or otherwise controlled by a railroad or other person which are used, or useful, in rail transportation service: Provided, That rail properties does not include any properties owned, leased, or otherwise controlled by a railroad not in reorganization, unless it consents to such properties’ inclusion in the particular transaction.

(11) "Rail service" means both freight and passenger service.

(12) "Railroad" means a common carrier by railroad as defined in section 1(3) of Part I of the Interstate Commerce Act (49 U. S. C. (1) 3).

(13) "Railroad project" means the initiation, acquisition, construction, maintenance, repair, equipping or operation of rail properties or rail service, or the provisions of loans or grants to or with government agencies, or to persons for such purposes, by the authority.


The West Virginia State Rail Authority is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate its corporate purpose.

(a) The authority may:

(1) Adopt and, from time to time, amend and repeal bylaws necessary and proper for the regulation of its affairs and the conduct of its business and propose rules for legislative approval in accordance with the provisions of article three of this chapter to implement and make effective its powers and duties.

(2) Adopt an official seal.

(3) Maintain a principal office and, if necessary, regional suboffices at locations properly designated or provided.
(4) Sue and be sued in its own name and plead and be impleaded in its own name and particularly to enforce the obligations and covenants made under sections ten, eleven and sixteen of this article. Any actions against the authority shall be brought in the circuit court of Kanawha County. The location of the principal office of the authority shall be determined by the Governor.

(5) Make loans and grants to governmental agencies and persons for carrying out railroad projects by any governmental agency or person and, in accordance with chapter twenty-nine-a of this code, propose rules for legislative approval and procedures for making such loans and grants.

(6) Acquire, construct, reconstruct, enlarge, improve, furnish, equip, maintain, repair, operate, lease or rent to or contract for operation by a governmental agency or person, railroad projects and, in accordance with chapter twenty-nine-a of this code, propose legislative rules for the use of these projects.

(7) Make available the use or services of any railroad project to one or more persons, one or more governmental agencies or any combination thereof.

(8) Issue State Rail Authority bonds and notes and refunding bonds of the state, payable solely from revenues as provided in section ten of this article unless the bonds are refunded by refunding bonds for the purpose of paying any part of the cost of one or more railroad projects or parts thereof.

(9) Acquire, by gift or purchase, hold and dispose of real and personal property in the exercise of its powers and the performance of its duties as set forth in this article.

(10) Acquire in the name of the state, by purchase or otherwise, on terms and in the manner it considers proper, or by
the exercise of the right of eminent domain in the manner provided in chapter fifty-four of this code, rail properties and appurtenant rights and interests necessary for carrying out railroad projects.

(11) (A) Make and enter into all contracts and agreements and execute all instruments necessary or incidental to the performance of its duties and the execution of its powers including, but not limited to, the power to make contracts and agreements in accordance with the provisions set forth in paragraph (B) of this subdivision.

(B) Make and enter into contracts and agreements to acquire rolling stock or equipment with a value of $500,000 or less exempt from the provisions of article three, chapter five-a of this code.

The authority shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code which set forth the methods for determining value of rolling stock or equipment to be purchased in accordance with the provisions of paragraph (B) of this subdivision.

(C) Where rolling stock, equipment or trackage of the authority is in need of immediate maintenance, repair or reconstruction in order to avoid a cessation of its operations, economic loss, the inability to provide essential service to customers or danger to authority personnel or the public, the following requirements and procedures for entering into the contract or agreement to remedy the condition shall be in lieu of those provided in article three, chapter five-a of this code or any legislative rule promulgated pursuant thereto:

(i) If the cost under the contract or agreement involves an expenditure of more than $1,000, but $10,000 or less, the
authority shall award the contract to or enter into the agreement with the lowest responsible bidder based upon at least three oral bids made pursuant to the requirements of the contract or agreement.

(ii) If the cost under the contract or agreement, other than one for compensation for personal services, involves an expenditure of more than $10,000, but $100,000 or less, the authority shall award the contract to or enter into the agreement with the lowest responsible bidder based upon at least three bids, submitted to the authority in writing on letterhead stationery, made pursuant to the requirements of the contract or agreement.

(D) Notwithstanding any other provision of this code to the contrary, a contract or lease for the operation of a railroad project constructed and owned by the authority or an agreement for cooperation in the acquisition or construction of a railroad project pursuant to section sixteen of this article is not subject to the provisions of article three, chapter five-a of this code or any legislative rule promulgated pursuant thereto and the authority may enter into the contract or lease or the agreement pursuant to negotiation and upon such terms and conditions and for a period of time as it finds to be reasonable and proper under the circumstances and in the best interests of proper operation or of efficient acquisition or construction of the railroad project.

(E) The authority may reject any and all bids. A bond with good and sufficient surety, approved by the authority, is required of all contractors in an amount equal to at least fifty percent of the contract price, conditioned upon the faithful performance of the contract.

(12) Appoint a director and employ managers, superintendents and other employees and retain or contract with consulting engineers, financial consultants, accountants, attorneys and other consultants and independent contractors as are necessary in its
judgment to carry out the provisions of this article and fix the compensation or fees thereof. All expenses thereof are payable from the proceeds of State Rail Authority revenue bonds or notes issued by the authority, from revenues and funds appropriated for this purpose by the Legislature or from grants from the federal government which may be used for such purpose.

(13) Receive and accept from any state or federal agency grants for or in aid of the construction of any railroad project or for research and development with respect to railroads and receive and accept aid or contributions from any source of money, property, labor or other things of value, to be held, used and applied only for the purposes for which the grants and contributions are made.

(14) Engage in research and development with respect to railroads.

(15) Purchase fire and extended coverage and liability insurance for any railroad project and for the principal office and suboffices of the authority, insurance protecting the authority and its officers and employees against liability, if any, for damage to property or injury to or death of persons arising from its operations and be a member of, and to participate in, the state workers’ compensation program.

(16) Charge, alter and collect rates, rentals and other charges for the use or services of any railroad project as provided in this article.

(17) Do all acts necessary and proper to carry out the powers expressly granted to the authority in this article.

(b) In addition, the authority has the power to:

(1) Acquire rail properties both within and not within the jurisdiction of the Interstate Commerce Commission and rail
(2) Enter into agreements with owners of rail properties for the acquisition of rail properties or use, or both, of rail properties upon the terms, conditions, rates or rentals that can best effectuate the purposes of this article.

(3) Acquire rail properties and other property of a railroad in concert with another state or states as is necessary to ensure continued rail service in this state.

(4) Administer and coordinate the state plan.

(5) Provide in the state plan for the equitable distribution of federal rail service continuation subsidies among state, local and regional transportation authorities.

(6) Promote, supervise and support safe, adequate and efficient rail services.

(7) Employ sufficiently trained and qualified personnel for these purposes.

(8) Maintain adequate programs of investigation, research, promotion and development in connection with the purposes and to provide for public participation therein.

(9) Provide satisfactory assurances on behalf of the state that fiscal control and fund accounting procedures will be adopted by the state necessary to assure proper disbursement of and accounting for federal funds paid to the state as rail service continuation subsidies.

(10) Comply with the regulations of the Secretary of Transportation of the United States Department of Transportation affecting federal rail service continuation programs.
(11) Do all things otherwise necessary to maximize federal assistance to the state under Title IV of the federal Regional Rail Reorganization Act of 1973 and to qualify for rail service continuation subsidies pursuant to the federal Regional Rail Reorganization Act of 1973.

(c) Additional authority in regard to the Maryland Area Regional Commuter.

(1) The Rail Authority is hereby granted, has and may exercise all aforementioned powers necessary or appropriate to coordinate all activities with the Maryland Transit Administration to assure the continued operation of the Maryland Area Regional Commuter into the eastern panhandle of the state.

(2) In addition to the authority provided in subdivision (1) of this subsection, the Rail Authority shall negotiate agreements with the State of Maryland or the Maryland Transit Administration for the continued operation of the commuter rail operation between Maryland and the Washington D. C. metropolitan area and West Virginia. A commuter rail operation agreement shall provide for quantity and quality of commuter rail service, including certain minimum daily service at least equivalent to the level service on the effective date of the amendments to this subsection enacted in the Regular Session of the Legislature, 2013, unless daily ridership diminishes significantly from said date. The agreement may provide for the payment of track access fees attributed to commuter rail operation within the boundaries of the state. Any payments of track access fees pursuant to the agreement shall be paid from the special fund created in section twenty-four of this article as provided by appropriation of the Legislature.


There is hereby established a special fund in the State Treasury known as the West Virginia Commuter Rail Access Fund.
Fund. The fund shall be administered by the director and shall consist of appropriations by the Legislature. Subject to legislative appropriation, the director shall administer the fund to pay track access fees pursuant to the agreement required by section six of this article. Balances in the fund at the end of any fiscal year shall not expire, but shall be expended for those purposes in ensuing fiscal years.

CHAPTER 32


[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 referred to as the West Virginia Fairness In Competitive Bidding Act.

4 (b) As used in this section:

5 (1) "Lowest qualified responsible bidder" means the bidder that bids the lowest price and that meets, as a minimum, all the following requirements in connection with the bidder's response to the bid solicitation. The bidder must certify that it:

9 (A) Is ready, able and willing to timely furnish the labor and materials required to complete the contract;

11 (B) Is in compliance with all applicable laws of the State of West Virginia; and

13 (C) Has supplied a valid bid bond or other surety authorized or approved by the contracting public entity.

15 (2) "The state and its subdivisions" means the State of West Virginia, every political subdivision thereof, every administrative entity that includes such a subdivision, all municipalities and all county boards of education.

19 (3) "State spending unit" means a department, agency or institution of the state government for which an appropriation is requested, or to which an appropriation is made by the Legislature.
(c) The state and its subdivisions shall, except as provided in this section, solicit competitive bids for every construction project exceeding $25,000 in total cost. A vendor who has been debarred pursuant to the provisions of sections thirty-three-b through thirty-three-f, inclusive, article three, chapter five-a of this code may not bid on or be awarded a contract under this section. All bids submitted pursuant to this chapter shall include a valid bid bond or other surety as approved by the State of West Virginia or its subdivisions.

(d) Following the solicitation of bids, the construction contract shall be awarded to the lowest qualified responsible bidder who shall furnish a sufficient performance and payment bond. The state and its subdivisions may reject all bids and solicit new bids on the project.

(e) The apparent low bidder on a contract valued at more than $250,000 for the construction, alteration, decoration, painting or improvement of a new or existing building or structure with a state spending unit shall submit a list of all subcontractors who will perform more than $25,000 of work on the project including labor and materials. This section does not apply to other construction projects such as highway, mine reclamation, water or sewer projects. The list shall include the names of the bidders and the license numbers as required by article eleven, chapter twenty-one of this code. This information shall be provided to the state spending unit within one business day of the opening of bids for review prior to the awarding of a construction contract. If no subcontractors who will perform more than $25,000 of work are to be used to complete the project it will be noted on the subcontractor list. Failure to submit the subcontractor list within one business day after the deadline for 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
section twenty-nine, article three, chapter five-a of the Code of West Virginia.

(i) No officer or employee of this state or of a public agency, public authority, public corporation or other public entity and no person acting or purporting to act on behalf of an officer or employee or public entity shall require that a performance bond, payment bond or surety bond required or permitted by this section be obtained from a particular surety company, agent, broker or producer.

(j) All bids shall be open in accordance with the provisions of section two of this article, except design-build projects which are governed by article twenty-two-a of this chapter and are exempt from these provisions.

(k) Nothing in this section applies to:

(1) Work performed on construction or repair projects by regular full-time employees of the state or its subdivisions;

(2) Prevent students enrolled in vocational educational schools from being utilized in construction or repair projects when the use is a part of the student’s training program;

(3) Emergency repairs to building components and systems. For the purpose of this subdivision, the term emergency repairs means repairs that if not made immediately will seriously impair the use of building components and systems or cause danger to persons using the building components and systems; and

(4) A situation where the state or subdivision thereof reaches an agreement with volunteers, or a volunteer group, in which the governmental body will provide construction or repair materials, architectural, engineering, technical or other professional services and the volunteers will provide the necessary labor without charge to, or liability upon, the governmental body.
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.


(a) Vehicular, public transportation, bicycle and pedestrian modes are integral to the transportation system of this state. The Division of Highways may view all transportation improvements as opportunities to improve safety, access and mobility for all travelers.
(b) All transportation projects receiving federal or state funds should strive to improve safety, access and mobility for users of all ages and abilities, defined to include pedestrians, bicyclists, public transportation vehicles and their passengers, motorists, movers of commercial goods, persons with disabilities, older adults and children.

(c) Accommodation of all users should be considered in the planning, design, construction, reconstruction, rehabilitation, maintenance and operations of any state, county or local transportation facilities receiving funds from the Division of Highways. The Division of Highways is encouraged to create a safe, comprehensive, integrated and connected network to accommodate all users in a manner that is suitable to the rural, suburban or urban context.

(d) The Division of Highways is encouraged to use the latest and best design standards as they apply to bicycle, pedestrian, transit and highway facilities, which may include, but are not limited to, the latest editions of:

(1) A Policy on Geometric Design of Highways and Streets, from the American Association of State Highway and Transportation Officials;

(2) Designing Walkable Urban Thoroughfares: A Context Sensitive Approach: An ITE Recommended Practice, from the Institute of Transportation Engineers;

(3) Guide for the Development of Bicycle Facilities, from the American Association of State Highway and Transportation Officials;

(4) Guide for the Planning, Design and Operation of Pedestrian Facilities, from the American Association of State Highway and Transportation Officials;
(5) Public Rights-of-Way Accessibility Guidelines, from the U. S. Access Board; and

(6) Other relevant federal, state or local guidance as appropriate.

(e) The Division of Highways may provide assistance to and coordinate with regional and local agencies in developing and implementing complementary complete streets policies. In the development of projects within municipal boundaries, the Division of Highways and municipality may share expertise in multimodal transportation planning.

(f) The Division of Highways is encouraged to modify its procedures, documents, training systems and performance measures in a timely manner to ensure the needs of all users of the transportation system are included in all phases of the projects. The Division of Highways is encouraged to create an implementation plan, including a schedule and a regional and local government and public outreach plan, in consultation with the advisory board as outlined in section three of this article.

§17-4A-2. Exceptions.

(a) Accommodation of all users of a transportation facility need not be considered in the planning, designing, construction, reconstruction, rehabilitation, maintenance or operations of any state, county or local transportation facilities receiving funds from the Division of Highways if the commissioner determines that:

(1) Use of a transportation facility by pedestrians, bicyclists or other users is prohibited by law;

(2) The cost of new accommodation would be disproportionate to the need or probable use;
(3) There is a demonstrated absence of future need as determined by factors such as current and future land use, current and projected user volumes, population density and crash data;

(4) The time-sensitive or expedited nature of the project would be adversely affected; or

(5) The project has already moved beyond the initial planning stage at the time this article goes into effect.

(b) The commissioner is encouraged to consult local and regional plans and leaders, as appropriate, in assessing exceptions.

(c) Documentation of any granted exceptions may be made publicly available and shared with the advisory board as established in section three of this article.

§17-4A-3. Complete Streets Advisory Board.

(a) A Complete Streets Advisory Board to the Division of Highways is established to:

(1) Provide and facilitate communication, education and advice between the Division of Highways, counties, municipalities, interest groups and the public;

(2) Make recommendations to the Division of Highways, counties and municipalities for restructuring procedures, updating design guidance, providing educational opportunities to employees and creating new measures to track the success of multimodal planning and design; and

(3) Submit to the Joint Committee on Government and Finance, through the Division of Highways, an annual report as outlined herein.
(b) The advisory board shall consist of sixteen members, designated as follows:

(1) The Commissioner of Highways or his or her designee;

(2) The Secretary of the Department of Transportation or his or her designee;

(3) The Secretary of the Department of Health and Human Resources or his or her designee; and

(4) Thirteen members that serve at the will and pleasure of the Governor and appointed by the Governor as follows:

(A) One member who is a licensed engineer with expertise in transportation or civil engineering;

(B) One member representing the American Planning Association;

(C) One member representing a state association of counties;

(D) One member representing state association of municipalities;

(E) One member representing a major regional or local public transportation agency;

(F) One member representing a national association of retired persons;

(G) One member representing an organization interested in the promotion of bicycling;

(H) One member representing an organization interested in the promotion of walking and health;

(I) One member representing an organization representing persons with disabilities;
(J) One member representing an automobile and/or trucking organization; and

(K) Three members of the general public interested in promoting complete streets policies, one representing each congressional district, as determined by the Governor.

(c) The Commissioner of Highways shall serve as the first chair of the board. The board shall meet at least twice a year and at the call of the chair or a majority of the members. The members of the board shall annually elect one of its members to serve as chair after the first year.

(d) The initial terms of appointment for members appointed by the Governor shall be as follows: Three members appointed to a term of one year, three members appointed to a term of two years, three members appointed to a term of three years and four members appointed to a term of four years. Thereafter each member shall be appointed for four years. A member shall serve until his or her successor is appointed. In the case of a vacancy the appointee shall serve the remainder of the unexpired term. Members of the board may succeed themselves and shall serve without compensation. The members appointed by the Governor are entitled to be reimbursed in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration for actual and necessary mileage expenses incurred while attending official meetings of the board.

(e) On December 1, 2013, and on December 1 every year thereafter, the board shall submit an annual report to the Governor, the Commissioner of Highways and the Joint Committee on Government and Finance on the status of implementation of section one of this article.

(1) The annual report shall include the following information:
(A) A summary of actions taken by the Division of Highways in the preceding year to improve the safety, access and mobility of roadways pursuant to section one of this article;

(B) Modifications made to or recommended for protocols, guidance, standards or other requirements to facilitate complete streets implementation;

(C) Status of the development of multimodal performance indicators;

(D) Any information obtained on the use made of bicycle, pedestrian, transit and highway facilities together with the existing target level of use for these modes, if any;

(E) Available crash statistics by mode, age, road type and location and other relevant factors; and

(F) Other related information that may be requested by the Governor or Legislature.

(2) The Division of Highways may assist the board in the preparation of the board’s annual report.

CHAPTER 34


[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.

(a) Except as provided in subsection (h) of this section, any person desiring to obtain a state license to carry a concealed deadly weapon shall apply to the sheriff of his or her county for the license, and shall pay to the sheriff, at the time of application, a fee of $75, of which $15 of that amount shall be deposited in the Courthouse Facilities Improvement Fund created by section six, article twenty-six, chapter twenty-nine of this code. Concealed weapons permits may only be issued for pistols or revolvers. Each applicant shall file with the sheriff a complete application, as prepared by the Superintendent of the West Virginia State Police, in writing, duly verified, which sets forth only the following licensing requirements:

(1) The applicant’s full name, date of birth, Social Security number, a description of the applicant’s physical features, the applicant’s place of birth, the applicant’s country of citizenship and, if the applicant is not a United States citizen, any alien or admission number issued by the United States Bureau of Immigration and Customs enforcement, and any basis, if applicable, for an exception to the prohibitions of 18 U. S. C. §922(g)(5)(B);
(2) That, on the date the application is made, the applicant is a bona fide resident of this state and of the county in which the application is made and has a valid driver’s license or other state-issued photo identification showing the residence;

(3) That the applicant is twenty-one years of age or older: Provided, That any individual who is less than twenty-one years of age and possesses a properly issued concealed weapons license as of the effective date of this article shall be licensed to maintain his or her concealed weapons license notwithstanding the provisions of this section requiring new applicants to be at least twenty-one years of age: Provided, however, That upon a showing of any applicant who is eighteen years of age or older that he or she is required to carry a concealed weapon as a condition for employment, and presents satisfactory proof to the sheriff thereof, then he or she shall be issued a license upon meeting all other conditions of this section. Upon discontinuance of employment that requires the concealed weapons license, if the individual issued the license is not yet twenty-one years of age, then the individual issued the license is no longer eligible and must return his or her license to the issuing sheriff;

(4) That the applicant is not addicted to alcohol, a controlled substance or a drug and is not an unlawful user thereof as evidenced by either of the following within the three years immediately prior to the application:

(A) Residential or court-ordered treatment for alcoholism or alcohol detoxification or drug treatment; or

(B) Two or more convictions for driving while under the influence or driving while impaired;

(5) That the applicant has not been convicted of a felony unless the conviction has been expunged or set aside or the applicant’s civil rights have been restored or the applicant has been unconditionally pardoned for the offense;
(6) That the applicant has not been convicted of a misdemeanor crime of violence other than an offense set forth in subsection (7) of this section in the five years immediately preceding the application.

(7) That the applicant has not been convicted of a misdemeanor crime of domestic violence as defined in 18 U.S.C. §921(a)(33), or a misdemeanor offense of assault or battery either under the provisions of section twenty-eight, article two of this chapter or the provisions of subsection (b) or (c), section nine, article two of this chapter in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant’s child or ward or a member of the defendant’s household at the time of the offense, or a misdemeanor offense with similar essential elements in a jurisdiction other than this state;

(8) That the applicant is not under indictment for a felony offense or is not currently serving a sentence of confinement, parole, probation or other court-ordered supervision imposed by a court of any jurisdiction or is the subject of an emergency or temporary domestic violence protective order or is the subject of a final domestic violence protective order entered by a court of any jurisdiction;

(9) That the applicant has not been adjudicated to be mentally incompetent or involuntarily committed to a mental institution. If the applicant has been adjudicated mentally incompetent or involuntarily committed the applicant must provide a court order reflecting that the applicant is no longer under such disability and the applicant’s right to possess or receive a firearm has been restored.

(10) That the applicant has qualified under the minimum requirements set forth in subsection (d) of this section for
handling and firing the weapon: Provided, That this requirement
shall be waived in the case of a renewal applicant who has
previously qualified; and

(11) That the applicant authorizes the sheriff of the county,
or his or her designee, to conduct an investigation relative to the
information contained in the application.

(b) For both initial and renewal applications, the sheriff shall
conduct an investigation including a nationwide criminal
background check consisting of inquiries of the National Instant
Criminal Background Check System, the West Virginia criminal
history record responses and the National Interstate Identifica-
tion Index and shall review the information received in order to
verify that the information required in subsection (a) of this
section is true and correct.

(c) Sixty dollars of the application fee and any fees for
replacement of lost or stolen licenses received by the sheriff
shall be deposited by the sheriff into a Concealed Weapons
License Administration Fund. The fund shall be administered by
the sheriff and shall take the form of an interest-bearing account
with any interest earned to be compounded to the fund. Any
funds deposited in this Concealed Weapon License Administra-
tion Fund are to be expended by the sheriff to pay for the costs
associated with issuing concealed weapons licenses. Any surplus
in the fund on hand at the end of each fiscal year may be
expended for other law-enforcement purposes or operating needs
of the sheriff’s office, as the sheriff may consider appropriate.

(d) All persons applying for a license must complete a
training course in handling and firing a handgun. The successful
completion of any of the following courses fulfills this training
requirement:

(1) Any official National Rifle Association handgun safety
or training course;
(2) Any handgun safety or training course or class available to the general public offered by an official law-enforcement organization, community college, junior college, college or private or public institution or organization or handgun training school utilizing instructors duly certified by the institution;

(3) Any handgun training or safety course or class conducted by a handgun instructor certified as such by the state or by the National Rifle Association;

(4) Any handgun training or safety course or class conducted by any branch of the United States Military, Reserve or National Guard or proof of other handgun qualification received while serving in any branch of the United States Military, Reserve or National Guard.

A photocopy of a certificate of completion of any of the courses or classes or an affidavit from the instructor, school, club, organization or group that conducted or taught said course or class attesting to the successful completion of the course or class by the applicant or a copy of any document which shows successful completion of the course or class shall constitute evidence of qualification under this section.

(e) All concealed weapons license applications must be notarized by a notary public duly licensed under article four, chapter twenty-nine of this code. Falsification of any portion of the application constitutes false swearing and is punishable under the provisions of section two, article five, chapter sixty-one of this code.

(f) The sheriff shall issue a license unless he or she determines that the application is incomplete, that it contains statements that are materially false or incorrect or that applicant otherwise does not meet the requirements set forth in this section. The sheriff shall issue, reissue or deny the license within
forty-five days after the application is filed if all required
background checks authorized by this section are completed.

(g) Before any approved license shall be issued or become
effective, the applicant shall pay to the sheriff a fee in the
amount of $25 which the sheriff shall forward to the Superinten-
dent of the West Virginia State Police within thirty days of
receipt. The license shall be valid for five years throughout the
state, unless sooner revoked.

(h) Each license shall contain the full name and address of
the licensee and a space upon which the signature of the licensee
shall be signed with pen and ink. The issuing sheriff shall sign
and attach his or her seal to all license cards. The sheriff shall
provide to each new licensee a duplicate license card, in size
similar to other state identification cards and licenses, suitable
for carrying in a wallet, and the license card is considered a
license for the purposes of this section.

(i) The Superintendent of the West Virginia State Police
shall prepare uniform applications for licenses and license cards
showing that the license has been granted and shall do any other
act required to be done to protect the state and see to the
enforcement of this section.

(j) If an application is denied, the specific reasons for the
denial shall be stated by the sheriff denying the application. Any
person denied a license may file, in the circuit court of the
county in which the application was made, a petition seeking
review of the denial. The petition shall be filed within thirty days
of the denial. The court shall then determine whether the
applicant is entitled to the issuance of a license under the criteria
set forth in this section. The applicant may be represented by
counsel, but in no case may the court be required to appoint
counsel for an applicant. The final order of the court shall
include the court’s findings of fact and conclusions of law. If the
final order upholds the denial, the applicant may file an appeal in accordance with the Rules of Appellate Procedure of the Supreme Court of Appeals.

(k) If a license is lost or destroyed, the person to whom the license was issued may obtain a duplicate or substitute license for a fee of $5 by filing a notarized statement with the sheriff indicating that the license has been lost or destroyed.

(l) Whenever any person after applying for and receiving a concealed handgun license moves from the address named in the application to another county within the state, the license remains valid for the remainder of the five years: Provided, That the licensee within twenty days thereafter notifies the sheriff in the new county of residence in writing of the old and new addresses.

(m) The sheriff shall, immediately after the license is granted as aforesaid, furnish the Superintendent of the West Virginia State Police a certified copy of the approved application. The sheriff shall furnish to the Superintendent of the West Virginia State Police at any time so requested a certified list of all licenses issued in the county. The Superintendent of the West Virginia State Police shall maintain a registry of all persons who have been issued concealed weapons licenses.

(n) Except when subject to an exception under section six, article seven of this chapter, all licensees must carry with them a state-issued photo identification card with the concealed weapons license whenever the licensee is carrying a concealed weapon. Any licensee who, in violation of this subsection, fails to have in his or her possession a state-issued photo identification card and a current concealed weapons license while carrying a concealed weapon is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $50 or more than $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-
1 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;
(2) Is habitually addicted to alcohol;

(3) Is an unlawful user of or habitually addicted to any controlled substance;

(4) Has been adjudicated to be mentally incompetent or who has been involuntarily committed to a mental institution pursuant to the provisions of chapter twenty-seven of this code or in similar law of another jurisdiction: Provided, That once an individual has been adjudicated as a mental defective or involuntarily committed to a mental institution, he or she shall be duly notified that they are to immediately surrender any firearms in their ownership or possession: Provided, however, That the mental hygiene commissioner or circuit judge shall first make a determination of the appropriate public or private individual or entity to act as conservator for the surrendered property;

(5) Is an alien illegally or unlawfully in the United States;

(6) Has been discharged from the armed forces under dishonorable conditions;

(7) Is subject to a domestic violence protective order that:

(A) Was issued after a hearing of which such person received actual notice and at which such person had an opportunity to participate;

(B) Restrains such person from harassing, stalking or threatening an intimate partner of such person or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and

(C)(i) Includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child; or
(ii) By its terms explicitly prohibits the use, attempted use or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury;

or

(8) Has been convicted of a misdemeanor offense of assault or battery either under the provisions of section twenty-eight, article two of this chapter or the provisions of subsection (b) or (c), section nine of said article or a federal or state statute with the same essential elements in which the victim was a current or former spouse, current or former sexual or intimate partner, person with whom the defendant has a child in common, person with whom the defendant cohabits or has cohabited, a parent or guardian, the defendant’s child or ward or a member of the defendant’s household at the time of the offense or has been convicted in any court of any jurisdiction of a comparable misdemeanor crime of domestic violence.

Any person who violates the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $100 nor more than $1,000 or confined in the county jail for not less than ninety days nor more than one year, or both.

(b) Notwithstanding the provisions of subsection (a) of this section, any person:

(1) Who has been convicted in this state or any other jurisdiction of a felony crime of violence against the person of another or of a felony sexual offense; or

(2) Who has been convicted in this state or any other jurisdiction of a felony controlled substance offense involving a Schedule I controlled substance other than marijuana, a Schedule
II or a Schedule III controlled substance as such are defined in sections two hundred four, two hundred five and two hundred six, article two, chapter sixty-a of this code and who possesses a firearm as such is defined in section two of this article shall be guilty of a felony and, upon conviction thereof, shall be confined in a state correctional facility for not more than five years or fined not more than $5,000, or both. The provisions of subsection (c) of this section shall not apply to persons convicted of offenses referred to in this subsection or to persons convicted of a violation of this subsection.

(c) Any person prohibited from possessing a firearm by the provisions of subsection (a) of this section may petition the circuit court of the county in which he or she resides to regain the ability to possess a firearm and if the court finds by clear and convincing evidence that the person is competent and capable of exercising the responsibility concomitant with the possession of a firearm, the court may enter an order allowing the person to possess a firearm if such possession would not violate any federal law: Provided, That a person prohibited from possessing a firearm by the provisions of subdivision (4), subsection (a) of this section may petition to regain the ability to possess a firearm in accordance with the provisions of section five, article seven-a of this chapter.

(d) Any person who has been convicted of an offense which disqualifies him or her from possessing a firearm by virtue of a criminal conviction whose conviction was expunged or set aside or who subsequent thereto receives an unconditional pardon for said offense shall not be prohibited from possessing a firearm by the provisions of the section.
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.

(a) The licensure provisions set forth in this article do not apply to:

(1) Any person:

(A) Carrying a deadly weapon upon his or her own premises;

(B) Carrying a firearm, unloaded, from the place of purchase to his or her home, residence or place of business or to a place of repair and back to his or her home, residence or place of business; or

(C) Possessing a firearm while hunting in a lawful manner or while traveling from his or her home, residence or place of business to a hunting site and returning to his or her home, residence or place of business;

(2) Any person who is a member of a properly organized target-shooting club authorized by law to obtain firearms by purchase or requisition from this state or from the United States for the purpose of target practice from carrying any pistol, as defined in this article, unloaded, from his or her home, residence or place of business to a place of target practice and from any place of target practice back to his or her home, residence or place of business, for using any such weapon at a place of target practice in training and improving his or her skill in the use of the weapons;
(3) Any law-enforcement officer or law-enforcement official as defined in section one, article twenty-nine, chapter thirty of this code;

(4) Any employee of the West Virginia Division of Corrections duly appointed pursuant to the provisions of section eleven-c, article one, chapter twenty-five of this code while the employee is on duty;

(5) Any member of the armed forces of the United States or the militia of this state while the member is on duty;

(6) Any resident of another state who holds a valid permit or license to possess or carry a handgun issued by a state or a political subdivision subject to the provisions and limitations set forth in section six-a of this article;

(7) Any federal law-enforcement officer or federal police officer authorized to carry a weapon in the performance of the officer’s duty;

(8) Any Hatfield-McCoy Regional Recreation Authority Ranger while the ranger is on duty; and

(9) Any parole officer appointed pursuant to section fourteen, article twelve, chapter sixty-two of this code in the performance of their duties.

(b) On and after July 1, 2013, the following judicial officers and prosecutors and staff shall be exempted from paying any application fees or licensure fees required under this article. However, on and after that same date, they shall be required to make application and satisfy all licensure and handgun safety and training requirements set forth in section four of this article before carrying a concealed handgun in this state:

(1) Any justice of the Supreme Court of Appeals of West Virginia;
(2) Any circuit judge;

(3) Any retired justice or retired circuit judge designated senior status by the Supreme Court of Appeals of West Virginia;

(4) Any family court judge;

(5) Any magistrate;

(6) Any prosecuting attorney;

(7) Any assistant prosecuting attorney; or

(8) Any duly appointed investigator employed by a prosecuting attorney.

§61-7-6a. Reciprocity and recognition; out-of-state concealed handgun permits.

(a) A valid out-of-state permit or license to possess or carry a handgun is valid in this state for the carrying of a concealed handgun, if the following conditions are met:

(1) The permit or license holder is twenty-one years of age or older;

(2) The permit or license is in his or her immediate possession;

(3) The permit or license holder is not a resident of the State of West Virginia; and

(4) The Attorney General has been notified by the Governor of the other state that the other state allows residents of West Virginia who are licensed in West Virginia to carry a concealed handgun to carry a concealed handgun in that state or the Attorney General has entered into a written reciprocity agreement with the appropriate official of the other state whereby the state agrees to honor West Virginia concealed handgun licenses in return for same treatment in this state.
(b) A holder of a valid permit or license from another state who is authorized to carry a concealed handgun in this state pursuant to provisions of this section is subject to the same laws and restrictions with respect to carrying a concealed handgun as a resident of West Virginia who is so permitted and must carry the concealed handgun in compliance with the laws of this state.

(c) A license or permit from another state is not valid in this state if the holder is or becomes prohibited by law from possessing a firearm.

(d) The West Virginia Attorney General shall seek to obtain recognition of West Virginia concealed handgun licenses and enter into and execute reciprocity agreements on behalf of the State of West Virginia with states for the recognition of concealed handgun permits issued pursuant to this article.

(e) The West Virginia State Police shall maintain a registry of states with which the State of West Virginia has entered into reciprocity agreements or which recognize West Virginia concealed handgun licenses on the criminal information network and make the registry available to law-enforcement officers for investigative purposes.

(f) Every twelve months after the effective date of this section, the West Virginia Attorney General shall make written inquiry of the concealed handgun licensing or permitting authorities in each other state as to: (i) Whether a West Virginia resident may carry a concealed handgun in their state based upon having a valid West Virginia concealed handgun permit; and (ii) whether a West Virginia resident may carry a concealed handgun in that state based upon having a valid West Virginia concealed handgun permit, pursuant to the laws of that state or by the execution of a valid reciprocity agreement between the states.

(g) The West Virginia State Police shall make available to the public a list of states which have entered into reciprocity
agreements with the State of West Virginia or that allow residents of West Virginia who are licensed in West Virginia to carry a concealed handgun to carry a concealed handgun in that 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.

(a) Each county in a district shall elect two nonpartisan supervisors: Provided, That any county with a population of one hundred thousand based on the most recent decennial census shall elect one additional supervisor and any county with a
population over one hundred thousand based on the most recent decennial census shall elect one additional supervisor for each fifty thousand residents over one hundred thousand.

(b) A candidate for supervisor must be a landowner and an active farmer with a minimum of five years' experience or a retired farmer who has had a minimum of five years' experience and must have the education, training and experience necessary to carry out the duties required by this article. The State Conservation Committee shall propose for promulgation in accordance with the requirements of article three-a, chapter twenty-nine of this code legislative rules to establish criteria for the necessary education, training and experience.

(c) All registered voters in the district are eligible to vote in the election for candidates from the county within the boundaries of the district in which the voter resides. The candidates in each county who receive the largest number of votes cast in the election shall be elected supervisors for that county.

(d) Supervisors shall be elected in the primary election and serve a term of four years. The provisions of chapter three of this code apply to election of supervisors.

(e) Persons holding the position of supervisor, regardless of the expiration of the designated term of office, continue to serve until the election and qualification of his or her successor.

(f) Any vacancy occurring in the office of supervisor shall be filled by the committee by appointment of a person from the county in which the vacancy occurs. Within fifteen days after the vacancy occurs, the district shall submit a list of names of persons qualified to be a supervisor. If the unexpired term is for less than two years and six months, the appointed person holds office until the expiration of the term. If the unexpired term is for more than two years and six months, the appointed person
§19-21A-7. Supervisors to constitute governing body of district; qualifications and terms of supervisors; powers and duties; removal.

(a) The governing body of the district consists of the supervisors, appointed or elected, as provided in this article. The supervisors shall be persons who are by training and experience qualified to perform the specialized skilled services which are required of them in the performance of their duties under this section and shall be legal residents and landowners in the district.

(b) The supervisors shall designate a chairperson and may, from time to time, change the designation. On and after the election of supervisors in 2008, the term of office of each elected supervisor is four years. A supervisor holds office until his or her successor has been elected or appointed. In case a new county is added to a district, the committee may appoint two supervisors to represent the county until the next regular election of supervisors for the district takes place.

(c) A supervisor is entitled to reasonable and necessary expenses and a per diem of not more than $150 nor less than $30 when engaged in the performance of his or her duties. The expense and per diem rate shall be established by the state committee based on availability of funds.

(d) The supervisors may, with the approval of the State Conservation Committee, employ a secretary, dam monitors, technical experts and any other officers, agents and employees, permanent and temporary, either with or without compensation, as they may require and shall determine their qualifications, duties and compensation, if any. Dam monitors, as specified in
any emergency action plan or monitoring plan approved by the 
Department of Environmental Protection pursuant to its dam 
safety rules, pertaining to a flood control structure operated or 
maintained by a soil conservation district and any other employ-
ees, agents or officers employed pursuant to this section are 
“employees” of the district within the meaning of subsection (a), 
section three, article twelve-a, chapter twenty-nine of this code.

(e) The supervisors may delegate to their chairperson, to one 
or more supervisors or to one or more agents, or employees, 
those administrative powers and duties they consider proper. The 
supervisors shall furnish to the State Conservation Committee, 
upon request, copies of the ordinances, rules, orders, contracts, 
forms and other documents they adopt or employ and any other 
information concerning their activities required in the perfor-
manee of State Conservation Committee’s duties under this 
article.

(f) The supervisors shall:

(1) Require the execution of surety bonds for all employees 
and officers who are entrusted with funds or property;

(2) Provide for the keeping of a full and accurate record of 
all proceedings and of all resolutions, rules and orders issued or 
adopted; and

(3) Provide for an annual audit of the accounts of receipts 
and disbursements.

(g) Any supervisor may be removed from office pursuant to 
section seven, article six, chapter six of this code.

(h) The supervisors may invite the legislative body of any 
municipality or county located near the territory comprised 
within the district to designate a representative to advise and 
consult with the supervisors of a district on all questions of
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 Notwithstanding the provisions of section seven hundred five of this article, forfeitable moneys are subject to administrative forfeiture by the prosecuting attorney of a county or duly appointed special prosecutor.
(b) An administrative forfeiture notice shall be provided by the prosecuting attorney after the seizure of the money in question. The notice shall contain the following:

1. A description of the money seized;
2. A statement as to who is responsible for the seizure;
3. A statement of the time and place of seizure;
4. The identity of the owner or owners of the money, if known; and
5. The identity of the person or persons in possession of the money at the time seized.

(c) At the time of filing or as soon as practicable thereafter, a copy of the petition for forfeiture shall be served upon the owner or owners of the seized money. Should diligent efforts fail to disclose the lawful owner or owners of the seized money, a copy of the petition for forfeiture shall be served upon any person who was in possession or alleged to be in possession of the money at the time of seizure, where such person's identity is known. The above service shall be made pursuant to the provisions of the West Virginia Rules of Civil Procedure.

(d) The administrative forfeiture notice shall include a statement substantially as follows: To any claimant: “The confiscated money is subject to administrative forfeiture unless you provide a written notice, within thirty days of receipt of this notice, that you wish to contest this forfeiture. If you fail to provide a notice to the prosecuting attorney, you will immediately and forever lose all right, claim, title and interest to the confiscated money, and it will be disposed of according to law.”

(e) If, after thirty days of the delivery of notice from the prosecuting attorney as provided in subsections (c) and (d) of
this section, no notice is received from any person indicating a
desire to contest the administrative forfeiture, all right, title and
interest to the confiscated money shall immediately vest in the
state, and shall be disposed of in the same manner as in a civil
forfeiture.

(f) If notice is received from any person, within the required
period of time, indicating a desire to contest the administrative
forfeiture, then no forfeiture may be obtained except through a
civil forfeiture proceeding under section seven hundred five of
this article.

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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 corpora-
tion 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-
ARTICLE 21. WEST VIRGINIA LAND STEWARDSHIP CORPORATION.

PART I. SHORT TITLE, DECLARATION OF POLICY, PURPOSE OF ARTICLE AND DEFINITIONS.

§31-21-1. Short title.

This article shall be known and may be cited as The West Virginia Land Stewardship Corporation Act.

§31-21-2. Definitions.

The following words used in this article, unless the context clearly indicates a different meaning, are defined as follows:

1. "Agreement" means any agreement being entered into between the nonprofit corporation and a business, corporation, private party or local or state government.

2. "All appropriate inquiries" or "AAI" means the process of evaluating a property's environmental conditions and assessing the likelihood of any contamination. Every Phase I environmental assessment must be conducted in compliance with the All Appropriate Inquiries Final Rule at 40 CFR Part 312.

3. "Board of directors" or "board" means the board of directors of the corporation to be appointed under the provisions of section six of this article.

4. "Certified sites" means those sites that are developable properties that have been prequalified as having proper land use designation, utilities, transportation improvements, availability,
and pricing. Criteria for prequalification include, but are not limited to, *established* pricing terms and conditions so that property acquisition can be negotiated quickly and without time-consuming delays.

(5) "Charitable purposes" means the 501(c)(3) subclasses of "lessening the burden of the government" where the government identifies a need for the nonprofit entity to assist with a governmental service and the nonprofit collaborates with the government entity, and "environmental protection for the benefit of the public" where the services of the corporation benefit the general public by protecting public health and the environment as well as assisting with state and local economic development initiatives.

(6) "Contaminants" has the same meaning as defined in the environmental acts referenced in subdivision (13) of this section.

(7) "Corporation" means the West Virginia Land Stewardship Corporation, a nonstock, nonprofit *corporation* to be established under the West Virginia Nonprofit Corporation Act, article two, chapter thirty-one-e of this code, and with nonprofit status under one or more charitable purposes under 501(c) of the Internal Revenue Code of 1986, as amended.

(8) "Corporate directors" means the members of the board of directors of the corporation.

(9) "Department of Environmental Protection" or the "DEP" means the *West Virginia* Department of Environmental Protection or any successor agency.

(10) "Enforcement tools" means any order, permit, consent decree or environmental covenant or similar mechanisms which restrict or control certain land uses implemented at IEC Sites.

(11) "Engineering controls" or "ECs" means physical controls or measures designed to eliminate the potential for
human exposure to contamination by limiting direct contact with
contaminated areas, or controlling contaminants from migrating
through environmental media into soil, groundwater or off-site.

(12) "Enrolled sites" means properties enrolled and accepted
for participation in the voluntary Land Stewardship Program.

(13) "Environmental acts" means the Surface Coal Mining
and Reclamation Act set forth in article three, chapter twenty-
two of this code; the Air Pollution Control Act set forth in article
five, chapter twenty-two of this code; the Water Pollution
Control Act set forth in article eleven, chapter twenty-two of this
code; the Groundwater Protection Act set forth in article twelve,
chapter twenty-two of this code; the Solid Waste Management
Act set forth in article fifteen, chapter twenty-two of this code;
the Solid Waste Landfill Closure Assistance Program set forth
in article sixteen, chapter twenty-two of this code; the Under-
ground Storage Tank Act set forth in article seventeen, chapter
twenty-two of this code; the Hazardous Waste Management Act
set forth in article eighteen, chapter twenty-two of this code;
section 103(a) of the Comprehensive Environmental Response,
Compensation and Liability Act of 1980 (42 U. S. C. §9603(a));
section 304 of the Emergency Planning and Community Right-
To-Know Act of 1986 (42 U. S. C. §§11001 to 11050); the
Occupational Safety and Health Act set forth in 29 U. S. C.
§§651 to 678; the Hazardous and Solid Waste Amendments of
1984, as amended, set forth in 42 U. S. C. §§6901, et seq.; and
§§2601, et seq.; and any applicable regulations promulgated
under the foregoing environmental statutes.

(14) "Governmental controls" means any state laws,
ordinances, orders, permits, consent decrees and similar mecha-
isms which restrict or control certain land uses implemented at
IEC Sites in this state.
(15) "Institutional and Engineering Control Sites" or "IEC Sites" means sites in this state that have been remediated or closed under a federal or state environmental program, including, but not limited to, brownfields, underground storage tanks, closed landfills, open dumps, hazardous waste sites, and former mining sites with ongoing water treatment as part of mine reclamation efforts.

(16) "Informational devices" means deed notices or other written documents that describe the remediation that was conducted on an IEC Site, the constituents of concern, and the remediation standards that were achieved. Informational devices shall be filed with property records in the office of the county clerk of the county in which the property is located as an advisory to provide environmental information to future buyers or users of the IEC Site.

(17) "Institutional Controls" or "ICs" means administrative and legal controls that do not involve construction or physically changing the site and are generally divided into four categories: 1) Government controls, 2) Proprietary controls, 3) Enforcement tools, and 4) Informational devices. ICs are nonengineering measures that help minimize the potential for human exposure to contamination and/or protect the integrity of the remedy by limiting land or resource use.

(18) "Nonprofit corporation" means a corporation established under the West Virginia Nonprofit Corporation Act, article two, chapter thirty-one-e of this code, to fulfill the purposes of this article.

(19) "Pollutants" has the same meaning as defined in the environmental acts referenced in subdivision (13) of this section.

(20) "Proprietary controls" mean legal property interests created under real property laws that rely on legal documents
recorded in the chain of title for the site, and "run with the land" to bind future landowners. Examples of proprietary controls include, but are not limited to, environmental covenants, deed land use restrictions, water withdrawal prohibitions and continuing right-of-entry easements for former owners or regulators to inspect, monitor and maintain the IECs.

(21) "Regulated substances" has the same meaning as defined in the environmental acts referenced in subdivision (13) of this section.

(22) "Releases" has the same meaning as defined in the environmental acts referenced in subdivision (13) of this section.

§31-21-3. Declaration of policy.

(a) The Legislature finds and declares that developable land is one of West Virginia's most valuable resources in terms of net contributions to the state's economy and tax base.

(b) The Legislature further finds that:

(1) Due to topography, the state has somewhat limited amounts of developable land and that promoting the productive reuse of idled and underutilized commercial, industrial and mining properties will maximize this valuable resource and foster reuse of sites with existing public infrastructure;

(2) An entity that specializes in promoting the productive reuse of idled or underutilized commercial, industrial and mining properties will help the state and its citizenry to plan more wisely for sustainable property reuse and economic development efforts;

(3) An entity created to address and reduce regulatory and economic uncertainty by being a repository of site history and remediation information about formerly used properties can be
(4) An entity that assists the Department of Environmental Protection with a voluntary land stewardship program for the long-term safeguarding of remediated sites using institutional controls and engineering controls can ensure that the remedy remains protective of human health and the environment;

(5) An entity that also assists in identifying formerly used properties that are ready for redevelopment and construction within twelve months or less from acquisition and certifies these properties as “project-ready” for specific industry profiles can increase economic development efforts within the state;

(6) An entity that also acts as a land bank to accept title to formerly used properties as an intermediary step to help seek a purchaser, and ready the properties for reuse through environmental assessment, remediation, building demolition or other efforts, can be a useful ally to the state, local governments, real estate developers and businesses for transacting property conveyances, redevelopment and creating or retaining jobs; and

(7) The promotion of private investment in our developable land and West Virginia businesses will reduce unemployment by creating new or maintaining existing opportunities for the citizens of this state.

§31-21-4. Purpose of article.

The purpose of this article is to provide for the creation of a special purpose nonprofit corporation with a comprehensive mission to:

(1) Assist the DEP in utilizing a voluntary land stewardship program for the long-term safeguarding of IEC Sites to ensure that the remedy remains protective of human health and the
(2) Provide the DEP and other parties with a reliable source of oversight, monitoring and information about IEC Sites under the voluntary land stewardship program;

(3) Establish a land bank as a legal and financial mechanism to accept title to properties and assist in transforming idled and underutilized properties back to productive reuse;

(4) Facilitate reuse and redevelopment by authorizing the conveyance of certain properties to a land bank under a voluntary land bank program and assist the state and local governments with the assembly and clearance of title to property in a coordinated manner;

(5) Promote economic growth by implementing a state certified sites program to identify sites that are ready for construction within twelve months or less and that are certified “project-ready” for specific industry profiles as well as other categories of sites identified for economic development opportunities;

(6) Provide voluntary programs on a fee or subscription basis with the nonprofit corporation to protect human health and the environment as well as assist with a variety of economic development efforts throughout the state; and

(7) Prescribe the powers and duties of the nonprofit corporation; provide for the creation and appointment of a board to govern the nonprofit corporation and to prescribe its powers and duties; and to extend protections against certain environmental liabilities to the nonprofit corporation in order to protect it from 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.

(a) The corporation shall be organized as a nonprofit, nonstock corporation under the West Virginia Nonprofit Corporation Act, article two, chapter thirty-one-e of this code. The property thereof is deemed to be held for an area economic development purpose under subdivision fourteen, subsection (a), section nine, article three, chapter eleven of this code.

(b) The corporation shall apply for recognition of nonprofit exempt status by the United States Internal Revenue Service under one or more charitable purposes within the meaning of section 501(c) of the Internal Revenue Code of 1986, as amended.

(c) The corporate name for the corporation shall be the “West Virginia Land Stewardship Corporation”.

(d) The corporation shall have all of the powers of a nonprofit corporation as set forth in chapter thirty-one-e of this code.

(e) Except as otherwise provided in chapter thirty-one-e of this code or in this article, the corporation may do all things necessary or convenient to implement the purposes, objectives and provisions of this article and the purposes, objectives and powers delegated to the board of directors of a nonprofit corporation by other laws or executive orders, including, but not limited to, all of the following:

(1) Adopt, amend and repeal bylaws for the regulation of its affairs and the conduct of its business;

(2) Establish the service offerings and related fees for such services under each of the voluntary programs described herein;
(3) Sue and be sued in its own name and plead and be impleaded, including, but not limited to, defending the corporation in an action arising or resulting from the services, programs and responsibilities arising under this article;

(4) Solicit and accept gifts, grants, labor, loans, services and other aid from any person, or the federal government, this state or a political subdivision of this state or any agency of the federal government or a state institution of higher education or nonprofit affiliates or an intergovernmental entity created under the laws of this state, or participate in any other way in a program of the federal government;

(5) Procure insurance against risk and loss in connection with the programs, property, assets or activities of the corporation;

(6) Invest money of the corporation, at the discretion of the board of directors, in instruments, obligations, securities or property determined proper by the board of directors of the corporation and name and use depositories for its money;

(7) Employ legal and technical experts, contractors, consultants, agents or employees, permanent or temporary, paid from the funds of the corporation. The corporation shall determine the qualifications, duties and compensation of those it employs;

(8) Contract for goods and services and engage personnel as necessary, contract with Regional Brownfield Assistance Centers as set out in section seven, article eleven, chapter eighteen-b of this code, and engage the services of private consultants, managers, legal counsel, engineers, accountants and auditors for rendering professional environmental, legal and financial assistance and advice payable from funds of the corporation;

(9) Create limited liability companies or other sole purpose entities or devices to accept and hold real property as part of administering its programs;
(10) Study, develop and prepare the reports or plans the corporation considers necessary to assist it in the exercise of its powers under this article and to monitor and evaluate progress under this article; and

(11) Enter into contracts for the management of, the collection of rent from, or the sale of real property held by the corporation.

(f) The enumeration of a power in this article may not be construed as a limitation upon the general powers of the corporation. The powers granted under this article are in addition to those powers granted by any other statute or as provided in articles of incorporation filed with the Secretary of State.

(g) The property of the corporation and its income and operations are exempt from all taxation by this state or any of its political subdivisions. Property owned and leased by the corporation as lessor to a commercial lessee or an industrial lessee is hereby declared to be tax exempt and held by the corporation for a public purpose. A payment in lieu of taxes, payable by the lessee, shall be established for any property so leased, in an amount not less than the property tax otherwise payable on the property. The lessee’s leasehold interest therein is hereby declared to be a tax exempt leasehold interest held for a public purpose so long as the payment in lieu of taxes is timely paid. Payments made to any county commission, county school board or municipality in lieu of tax pursuant to such agreement shall be distributed as if the payments resulted from ad valorem property taxation.

(h) The corporation may not issue tax-exempt financing or issue bonds.

(i) The corporation does not have the power of eminent domain or the ability to condemn property.
(j) The exercise by the corporation of powers and duties under this article and its activities under the programs described herein shall be considered a necessary public purpose and for the benefit of the public.

(k) The corporation is not liable under the environmental acts or common law equivalents to the state or to any other person by virtue of the fact that the corporation is fulfilling the purposes of this article including, but not limited to, providing land stewardship services or accepting title to property under any program established under this article unless:

(1) The corporation, its employees or agents directly cause an immediate release or directly exacerbate a release of regulated substances on or from a property that is an enrolled site or accepted into the land bank program; or

(2) The corporation, its employees or agents knowingly and willfully do an action which causes an immediate release of regulated substances or violates an environmental act. Liability pursuant to this article is limited to the cost for a response action which may be directly attributable to the corporation’s activities, and only if these activities are the proximate and efficient cause of the release or violation. Ownership or control of the property after accepting title in the land bank program does not by itself trigger liability.

(l) The corporation shall adopt a code of ethics for its directors, officers and employees.

(m) The corporation shall establish policies and procedures requiring the disclosure of relationships that may give rise to a conflict of interest. The board of directors of the corporation shall require that any member of the board with a direct or indirect interest in any matter before the corporation disclose the member’s interest to the governing body before the board takes any action on the matter.
(n) The programs that are established under this article and administered by the corporation are voluntary programs. Parties can participate in the land stewardship program, certified sites program and land bank program at their option.

(o) In the event of a conveyance of property to the corporation, at the discretion of the corporation, the prior owner may be required to post a bond or other type of financial assurance for any potential future remediation, in order to ensure the original owner’s liability is maintained.

(p) The state may contract with the corporation for services for properties for which the state is responsible and may enter into long-term contracts for services that are funded under a trust agreement or provided in an escrow account.

§31-21-6. Board of directors.

(a) The purposes, powers and duties of the corporation shall be exercised by its board of directors. Board meetings shall be chaired by the Governor or his or her designee. The corporation’s board shall also consist of the following thirteen members:

(1) The Governor shall appoint three residents of this state;

(2) The West Virginia Chamber of Commerce shall nominate three residents of this state for the Governor’s consideration, one of whom the Governor shall appoint;

(3) The West Virginia Manufacturers’ Association shall nominate three residents of this state for the Governor’s consideration, one of whom the Governor shall appoint;

(4) The West Virginia Coal Association shall nominate three residents of this state for the Governor’s consideration, one of whom the Governor shall appoint;
(5) The United Mine Workers Association shall nominate three residents of this state for the Governor's consideration, one of whom the Governor shall appoint;

(6) The West Virginia Environmental Council shall nominate three residents of this state for the Governor's consideration, one of whom the Governor shall appoint;

(7) The AFL-CIO shall nominate three residents of this state for the Governor's consideration, one of whom the Governor shall appoint;

(8) The Secretary of the DEP or his or her designee;

(9) The Secretary of the Department of Commerce or his or her designee;

(10) One member of the Senate appointed by the Senate President who shall serve as an ex officio nonvoting member; and

(11) One member of the House of Delegates appointed by the Speaker who shall serve as an ex officio nonvoting member.

(b) The members appointed by the Governor shall serve terms of four years: Provided, That for the initial appointments the Governor shall designate five to serve for four years each, three to serve for three years each and one to serve for two years. When an appointee resigns, dies or is removed during that person's term, his or her successor shall be appointed for the remaining portion of the unexpired term. Once appointed, a person may be reappointed to successive four-year terms.

(c) Corporate directors shall serve without compensation, but shall be reimbursed for actual and necessary expenses in accordance with the regulations of the board.
(d) The corporate directors shall appoint a person to serve as the executive director of the corporation and at the will and pleasure of the board. A member of the board is not eligible to hold the position of executive director.

(e) Subject to the approval of the board, the executive director shall supervise, and be responsible for, the performance of the functions and programs of the corporation under this article. The executive director shall attend the meetings of the board and shall provide the board of directors with a regular report describing the activities and financial condition of the corporation. The executive director shall furnish the board of directors with information or reports governing the operation of the corporation as the board requires.

(f) The board may do all other things necessary or convenient to achieve the objectives and purposes of the corporation or other laws that relate to the purposes and responsibilities of the corporation.

PART III. VOLUNTARY LAND STEWARDSHIP PROGRAM.

§31-21-7. Voluntary land stewardship program.

(a) When the voluntary land stewardship program is implemented, remediation parties and site owners of IEC Sites will have the option, for a fee, to participate in this program. The fee shall be established by the corporation for services provided for an enrolled site as that term is defined in section four of this article. The fees once established may be revised from time to time in the discretion of the board.

(b) The universe of sites or properties covered under this section of this article includes, but is not limited to, those IEC Sites remediated or closed under a federal or state environmental program, including brownfields, underground storage tanks,
closed landfills, open dumps, hazardous waste sites, and former mining sites with ongoing water treatment as part of mine reclamation efforts.

(c) The corporation is further authorized to provide at a minimum the following voluntary land stewardship services for enrolled sites:

1. Establish or maintain any ICs by filing the appropriate documents or updating such documents when the site is leased, conveyed, subdivided or when remediation occurs: Provided, That the corporation's responsibilities for those activities are expressly identified in agreements for the IEC Site that will be negotiated when a site is enrolled in the voluntary land stewardship program;

2. Conduct physical inspections of the enrolled sites, including inspecting or monitoring any ECs (e.g., media treatment systems, fences, caps and other mechanisms used as part of the remedy at the IEC Site) and site activities to assure that the enrolled sites continue to comply with the IECs, such as maintenance of ECs and inspecting for compliance with restrictions of specific land uses;

3. Monitor and operate any required media treatment systems and/or conduct routine surface water, groundwater and or gas monitoring and prepare any monitoring or inspection reports that may be part of the corporation's responsibilities under site enrollment agreements;

4. Conduct periodic reviews of the county land records to monitor transfers or deed filings to assure that the records are consistent with the required IECs for the enrolled sites, and provide notices to the clerk of the county commission about the results of monitoring or tracking of such records;
(5) Develop administrative records concerning the remediation at enrolled sites in an electronic database, respond to inquiries and coordinate the sharing of such data among various stakeholders, including the DEP, current owners, the remediating parties if not the owners, other state or local agencies (such as county and regional economic development authorities), assessors, potential purchasers, landowners and tenants;

(6) Develop and maintain records and information about enrolled sites for posting on the DEP environmental registry, or any other registry that is used for tracking IECs for IEC Sites in West Virginia and provide for public access to such information; and

(7) Coordinate and share data with West Virginia Miss Utility, the “One-Call” System, including verifying the location of ECs on enrolled sites, providing information about remediation, and sharing any health and safety plans or soil management plans that may be associated with an enrolled site in order to assist any planned excavation at the enrolled site.

§31-21-8. Underwriting.

The enrollment and acceptance process to participate in the land stewardship program shall be developed to include an underwriting review that focuses on: (1) The nature and extent of contamination; (2) the selected remedy; (3) the type of services selected and duration thereof; and (4) the financial costs and risks associated with fulfilling the services.

PART IV. STATE CERTIFIED SITES PROGRAM.

§31-21-9. State certified sites program.

(a) This article hereby authorizes the establishment of a statewide certified sites program. The program shall consist of
the development and preparation of certain site specific decision ready documentation or reports that will enable the expedited property transaction for sites that participate in the certified sites program.

(b) The objectives of the certified sites program include, but are not limited to:

(1) Establishing an inventory of identified sites that are ready for development or redevelopment and construction within twelve months or less from the date of acquisition and certify these properties as “project-ready” for specific industry profiles and other categories of developable properties available that can increase economic development efforts within the state;

(2) Improving the state’s competitive edge by giving more certainty in time, steps and costs to businesses expanding or locating within the state;

(3) Developing standard criteria that most real estate developers or businesses need when selecting a site for development;

(4) Developing a central source of certified sites and assisting local governments in identifying potential redevelopment properties; and

(5) Demonstrating that the state is committed to promoting and expediting economic development projects for the benefit of its citizenry.

c) The corporation shall issue a site certification if it determines that the decision ready document has been prepared and completed in accordance with the requirements set forth by the corporation. The corporation may require some or all of the following information set forth in section ten of this article based on the site specific circumstances of the property to be certified.
(d) The issuance of a site certification shall be based on the review and approval of the information submitted to the corporation in an application for the site certification.

§31-21-10. Minimum standards for certified sites.

(a) The corporation shall establish minimum standards that a site must meet to be considered for certification. Minimum standards include, but are not limited to:

(1) Letter of support from a mayor, county commissioner, or county, regional, or municipal economic development official;

(2) Site ownership/control:

(A) Preliminary fifty-year title report and description of liens and encumbrances, unless the corporation determines a shorter period is adequate, or a longer period is necessary, to protect the corporation and a subsequent purchaser of the site;

(B) Letter from the property owner/option holder stating that the site is for sale/lease. If possible, proposed pricing or transactional requirements with a description of any on-site improvements, the current level of investment, and whether the property can be parceled;

(C) Acreage; and

(D) Full legal property description.

(3) Maps:

(A) ALTA map;

(B) Site map showing lot layout, transportation access, roads and likely access points;

(C) USGS topographical map; and
(D) Aerial map.

(4) Phase I environmental site assessment performed by a certified professional within the prior six months, and, if appropriate, any additional environmental site assessments performed by a certified professional within the prior six months. For any properties being remediated, documentation shall be provided about the status and cleanup objectives. For remediated sites, documentation shall be provided about liability protection.

(5) Wetland delineation demonstrating that impacts to waters of the state will be avoided or a mitigation plan approved by the DEP.

(6) Water and wastewater infrastructure to the property line with capacity clearly defined, or a demonstration of the ability to construct and pay for the infrastructure up to the property line.

(7) Transportation infrastructure to the property line, including, but not limited to, the type of roads near the site and whether the roads are local, state or U. S. roads.

(8) Electric infrastructure to the property line with its capacity clearly identified.

(9) Natural gas infrastructure to the property line with its capacity clearly identified.

(10) Water infrastructure to the property line with its capacity clearly identified.

(11) Sewer infrastructure to the property line with its capacity clearly identified.

(12) Telecommunications and/or high speed communications infrastructure to the property line with its capacity clearly identified.
(b) The complete list of certified sites criteria shall be developed into a program application along with appropriate fees for participation as the certified sites program is implemented, and may be revised from time to time as warranted.

PART V. LAND BANK PROGRAM.

§31-21-11. Land bank program.

(a) This article hereby authorizes the establishment of a voluntary state land bank program. Under this program, the corporation is authorized to acquire properties, hold title and prepare them for future use. Prior to acquiring any properties, the corporation shall conduct all appropriate inquiries to determine the environmental conditions or issues associated with a particular property. The corporation shall not acquire title to any property unless all pending liens have been satisfied and released. Liabilities, including, but not limited to, environmental liabilities, shall not pass to the corporation by its acquisition of title. Participation in the land bank program under this article shall not relieve an entity of any of its liabilities.

(b) The objective of the land bank program is to assist state and local government efforts for economic development by accepting formerly used or developable properties and preparing the properties so they can be conveyed to other parties to locate or expand businesses and create or retain jobs in this state.

(c) The corporation may acquire by gift, devise, transfer, exchange, foreclosure, purchase or otherwise on terms and conditions and in a manner the corporation considers proper, real or personal property or rights or interests in real or personal property. The corporation may not accept by any conveyance or other action, any liability for prior pollution or contamination liabilities that occurred on the property prior to its conveyance to the corporation.
(d) Real property acquired by the corporation may be by purchase and sale agreement, lease purchase agreement, installment sales contract, land contract or otherwise as may be negotiated or structured. The corporation may acquire real property or rights or interests in real property for any purpose the corporation considers necessary to carry out the purposes of this article including, but not limited to, one or more of the following purposes:

(1) Use or development of property the corporation has otherwise acquired;

(2) To facilitate the assembly of property for sale or lease to any other public or private person, including, but not limited to, a nonprofit or for profit corporation;

(3) To conduct environmental remediation and monitoring activities.

(e) The corporation may also acquire by purchase, on terms and conditions and in a manner the corporation considers proper, property or rights or interests in property.

(f) The corporation may hold and own in its name any property acquired by it or conveyed to it by this state, a foreclosing governmental unit, a local unit of government, an intergovernmental entity created under the laws of this state or any other public or private person.

(g) All deeds, mortgages, contracts, leases, purchases or other agreements regarding property of the corporation, including agreements to acquire or dispose of real property, shall be approved by the board of directors and executed in the name of the corporation or any single purpose entity created by the board for the transaction.

(h) All property held by the corporation or a single purpose entity created by the board for a transaction shall be inventoried
and classified by the corporation according to title status and suitability for use.

(i) A document including, but not limited to, a deed evidencing the transfer under this article of one or more parcels of property to the corporation by this state or a political subdivision of this state may be recorded within the office of the county clerk of the county in which the property is located without the payment of a fee.

(j) The corporation shall notify the county commission and county assessor in the affected county or counties upon receipt of an application for participation in the land bank program.

§31-21-12. Preserve property value.

(a) The corporation may, without the approval of a local unit of government in which property held by the corporation is located, control, hold, manage, maintain, operate, repair, lease as lessor, secure, prevent the waste or deterioration of, demolish and take all other actions necessary to preserve the value of the property held or owned directly by the corporation or by a single purpose entity created by the board for that purpose.

(b) The corporation may take or perform the following with respect to property held or owned by the corporation or by any special purpose entity created by the board:

(1) Grant or acquire a license, easement, or option with respect to property as the corporation determines is reasonably necessary to achieve the purposes of this article;

(2) Fix, charge, and collect rents, fees and charges for use of property under the direct or indirect control of the corporation or for services provided by the corporation;

(3) Take any action, provide any notice or institute any proceeding required to clear or quiet title to property held by the
corporation in order to establish ownership by and vest title to
property in the corporation or a special purpose entity created by
the board; and

(4) Remediate environmental contamination on any property
held by the corporation.

(c) Except as the corporation otherwise agrees by agreement
or otherwise, on terms and conditions, and in a manner and for
an amount of consideration the corporation considers proper, fair
and valuable, including for no monetary consideration, the
corporation may convey, sell, transfer, exchange, lease as lessor
or otherwise dispose of property or rights or interests in property
in which the corporation directly or indirectly holds a legal
interest to any public or private person for value determined by
the corporation.

(d) The corporation shall be made a party to and shall defend
any action or proceeding concerning title claims against property
held directly or indirectly by the corporation.


(a) If the DEP determines that conditions on a property
transferred to the corporation under this article present an
immediate threat to public health, safety and welfare, or to the
environment, the corporation may not convey, sell, transfer,
exchange, lease or otherwise dispose of the property until after
a determination by the DEP that the threat has been remediated
and/or eliminated and that conveyance, sale, transfer, exchange,
lease or other disposal of the property by the corporation will not
interfere with any of the DEP’s response activities and will
coordinate with the DEP regarding the corporation’s activities at
the property.

(b) If the corporation has reason to believe that property held
by the corporation may be the site of environmental contamina-
tion, the corporation shall provide the DEP with any information in the possession of the corporation that suggests that the property may be the site of environmental contamination.

(c) If property held directly or indirectly by the corporation is a site impacted by contamination, pollution, hazardous substances, hazardous or other wastes as defined in the environmental acts described in section four of this article, prior to the sale or transfer of the property under this section, the property is subject to all of the following:

(1) Upon reasonable written notice from the DEP, the corporation shall provide access to the DEP, its employees, its contractors and any other person expressly authorized by the DEP to conduct an investigation and/or response activities at the property. Reasonable written notice may include, but is not limited to, notice by electronic mail or facsimile, in advance of access as the DEP and corporation may agree.

(2) If the DEP determines it is necessary to protect public health, safety and welfare or the environment, the corporation shall place and record deed restrictions on the property as authorized under state environmental statutes.

§31-21-14. Liberal construction.

This article shall be construed liberally to effectuate the legislative intent and the purposes as complete and independent authorization for the performance of every act and thing authorized by this article. All powers granted shall be broadly interpreted to effectuate the intent and purposes of this article and not as a limitation thereof. The corporation has complete control as if it is a private property owner.


The property of the corporation shall be exempt from ad valorem property taxation. Property owned and leased by the
corporation as lessor to a commercial lessee or an industrial lessee is hereby declared to be tax exempt and held by the corporation for a public purpose. A payment in lieu of taxes, payable by the lessee, shall be established for any property so leased, in an amount not less than the property tax otherwise payable on the property. The lessee’s leasehold interest therein is hereby declared to be a tax exempt leasehold interest held for a public purpose so long as the payment in lieu of taxes is timely paid. Payments made to any county commission, county school board or municipality in lieu of tax pursuant to such agreement shall be distributed as if the payments resulted from ad valorem property taxation. The corporation shall be exempt from the taxes imposed by chapter eleven of this code, except that the corporation shall comply with the employer withholding of tax requirements in sections seventy-one through seventy-six, article twenty-one of said chapter eleven. The corporation shall be exempt from sales and use taxes, business and occupation taxes and all other taxes imposed by a county commission, a municipal corporation or other unit of local government, whether now or hereinafter in effect.

§31-21-16. Audits and reports.

(a) As soon as possible after the close of each year, the corporation shall cause an annual audit to be made by an independent certified public accountant of its books, records, accounts and operations. The person performing this audit shall furnish copies of the audit report to the Governor, the secretary of the DEP and the Joint Committee on Government and Finance of the Legislature.

(b) The corporation shall report biannually to the Joint Committee on Government and Finance of the Legislature on the activities of the corporation. The first report shall be filed on or before the second Wednesday in January, 2016.
§31-21-17. Completed purpose.

1 If the corporation has completed the purposes for which the corporation was organized, the board of directors, by vote of at least a majority of a quorum of the directors and with the written consent of the Governor, may provide for the dissolution of the corporation and may provide for the transfer of any property held by the corporation as required by agreement or, if there are no related agreements, then to the DEP or another state agency 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 contrary, officers and employees of the corporation and its board of directors may hold appointments to offices of any other corporations or businesses and be corporate directors or officers or employees of other entities but are prohibited to be a party or otherwise participate in the transfer of real property and funds from the corporation to the corporations or businesses for which they serve.

§31-21-19. No waiver of sovereign immunity.

1 Nothing contained in this article may be determined or construed to waive or abrogate in any way the sovereign immunity of the state or to deprive the nonprofit corporation created pursuant to this article, its board of directors, or any 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 the DEP or the state.
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.

(a) The Commissioner of Corrections shall manage, direct, control and govern the following penal or correctional institutions and any others placed under his or her jurisdiction or control:

- Mount Olive Correctional Complex;
- Huttonsville Correctional Center;
- Anthony Correctional Center;
- Denmar Correctional Center;
- Pruntytown Correctional Center;
- Northern West Virginia Correctional Center;
- St. Marys Correctional Center;
- Lakin Correctional Center;
- Ohio County Correctional Center;
- Beckley Correctional Center;
- Martinsburg Correctional Center;
- Salem Correctional Center; and
- Parkersburg Correctional Center.

(b) The Commissioner of Corrections may contract with the County Commission of McDowell County to house and incarcer-
ate inmates at the Stevens Correctional Center consistent with all
requirements and standards governing the Division of Correc-
tions.

(c) Jurisdiction of and title to the West Virginia Children’s
Home at Elkins are hereby transferred to the Department of
Health and Human Resources, which is the custodian of all
deeds and other muniments of title to the property and shall
record those that are susceptible of recordation to be recorded in
the proper offices. Notwithstanding any provision of this code to
the contrary, the West Virginia Children’s Home shall be
managed and controlled by a superintendent appointed by the
Commissioner of the Division of Human Services.

(d) The Commissioner of Corrections may establish work
and study release units as extensions and subsidiaries of those
state institutions under his or her control and authority. The work
and study release units may be coeducational and shall be
managed, directed and controlled as provided in this article.

(e) (1) The commissioner may contract with nonprofit or
charitable entities including, but not limited to, nonprofit
community mental health clinics, operating half-way houses or
transitional housing facilities for the placement of persons in the
commissioner’s custody, whether confined or under parole
supervision, as long as such facilities meet standards and criteria
established by the commissioner.

(2) (A) The Commissioner of Corrections may direct that a
person who is placed in a half-way house or transitional housing
facility under this section make reimbursement to the state in the
amount of a reasonable sum calculated to offset all or part of the
costs of the placement.

(B) Prior to ordering the person to make the reimbursement,
the commissioner, or his or her designee, shall consider the
following:
(i) The person's ability to pay;

(ii) The nature and extent of the person's responsibilities to his or her dependents, if any;

(iii) The length of probable incarceration under the court's sentence; and

(iv) The effect, if any, that reimbursement might have on the person's rehabilitation.

(f) The Division of Corrections shall provide the number of persons placed in a half-way house or a transitional housing facility pursuant to subsection (e) of this section in its report made pursuant to section twenty, article one, chapter five of this code, and shall describe its plans to use the authority provided under the provisions of subsection (e) of this section in furtherance of the duties and responsibilities imposed by this article.

(g) Any person employed by the Office of Public Institutions is a classified civil service employee within the limits contained 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.

(a) Effective July 1, 2013, the West Virginia Industrial Home for Youth shall be known as the Salem Correctional Center. The Salem Correctional Center is hereby transferred to the Division of Corrections.
(b) Commencing July 1, 2013, wherever the "West Virginia Industrial Home for Youth" is referred to in this code, it shall mean the "Salem Correctional Center".

CHAPTER 40

(Com. Sub. for H. B. 2806 - By Delegates Perry, Moore, Barill, Campbell, Pino, Staggers, 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.

(a) As used in this section, an “ordinary administrative
remedy” is a formal administrative process by which an inmate
submits a grievance seeking redress or presenting concerns
regarding any general or particular aspect of prison life which
does not involve violence, sexual assault or sexual abuse against
an inmate. An ordinary administrative remedy includes, but is
not limited to, complaints concerning food quality, health care,
appeals of prison discipline, physical plant, classification, staff
treatment or some other alleged wrong.

(b) The Commissioner of the Division of Corrections and the
Executive Director of the Regional Jail Authority are authorized
to establish procedures for ordinary administrative remedies
according to their respective authority for issuance of policies
governing the conduct of inmates.

(c) An inmate may not bring a civil action regarding an
ordinary administrative remedy until the procedures promulgated
by the agency have been exhausted.

(d) An ordinary administrative remedy is considered
exhausted when the inmate’s grievance complies with duly
promulgated rules and regulations regarding inmate grievance procedures, has been accepted, fully appealed and has received a final decision from the Commissioner of Corrections or the Commissioner's designee, or the Executive Director of the Regional Jail Authority, or the director's designee.

(e) The agency shall issue a final decision regarding an ordinary administrative remedy no later than sixty days from the date the inmate filed his or her initial grievance. Computation of the sixty-day time period shall not include time consumed by inmates in preparing any administrative appeal. The agency may claim an extension of time to issue a final decision regarding an ordinary administrative remedy of up to thirty days if the sixty day final decision time frame is insufficient to make an appropriate decision, except in cases involving a threat to health, life or safety of the prisoner. The agency shall notify the inmate in writing of any such extension and provide a date by which the final decision regarding an ordinary administrative remedy will be made.

§25-1A-2a. Exhaustion of administrative remedies which address sexual assault and sexual abuse.

(a) The agency shall not require an inmate to use any informal grievance process, or to otherwise attempt to resolve with staff, an alleged incident involving sexual assault or sexual abuse against an inmate. For purposes of this article, "sexual assault" or "sexual abuse" means any offense which would constitute a violation of article eight-b, chapter sixty-one of this code. The agency shall ensure that:

(1) An inmate who alleges an incident involving sexual assault or sexual abuse may submit a grievance without submitting it to a staff member who is the subject of the complaint; and,

(2) Such grievance may not be referred to a staff member who is the subject of the complaint.
(b) The agency shall issue a final agency decision on the merits of any portion of a grievance within sixty days of the initial filing of the grievance. Computation of the sixty-day time period shall not include time consumed by inmates in preparing any administrative appeal. The agency may claim an extension of time to respond, of up to thirty days, if the normal time period for response is insufficient to make an appropriate decision, except in cases involving threat to health, life or safety of the prisoner. The agency shall notify the inmate in writing of any such extension and provide a date by which a decision will be made.

(c) At any level of the administrative process, including the final level, if the inmate does not receive a response within the time allotted for reply, including any properly noticed extension, the inmate may consider the absence of a response to be a denial at that level.

(d) Third parties, including fellow inmates, staff members, family members, attorneys and outside advocates, shall be permitted to assist inmates in filing requests for administrative remedies relating to incidents involving sexual assault or sexual abuse, and shall also be permitted to file such requests on behalf of inmates. If a third party files such a request on behalf of an inmate, the facility may require as a condition of processing the request that the alleged victim agree to have the request filed on his or her behalf, and may also require the alleged victim to personally pursue any subsequent steps in the administrative remedy process. If the inmate declines to have the request processed on his or her behalf, the agency shall document the inmate’s decision.

(e) After receiving an emergency grievance alleging an inmate is subject to a substantial risk of sexual assault or sexual abuse, the agency shall immediately forward the grievance, or any portion thereof that alleges the substantial risk of sexual
assault or sexual abuse, to a level of review at which immediate corrective action may be taken, shall provide an initial response within forty-eight hours, and shall issue a final agency decision within five calendar days. The initial response and final agency decision shall document the agency’s determination whether the inmate is in substantial risk of sexual assault or sexual abuse and the action taken in response to the emergency grievance.

(f) The agency shall establish procedures for processing an inmate grievance which alleges imminent violence. The commissioner and the executive director shall, by December 31, 2013, propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code to meet the requirements of this subsection.

(g) An administrative remedy for an allegation of violence, sexual assault or sexual abuse against an inmate is considered exhausted when the inmate’s grievance has complied with duly promulgated rules and regulations regarding inmate grievance procedures for imminent violence, sexual assault or sexual abuse, has been accepted, fully appealed and has received a final decision from the Commissioner of Corrections or the Commissioner’s designee, or the Executive Director of the Regional Jail Authority, or the director’s designee.

(h) The agency may discipline an inmate for filing a grievance related to sexual assault or sexual abuse only where the agency demonstrates that the inmate filed the grievance in bad faith.

(i) Notwithstanding any other provision of this code, no inmate shall be prevented from filing an appeal of his or her conviction or from bringing a civil or criminal action alleging violence, sexual assault or sexual abuse, after exhaustion of administrative remedies. If such a civil or criminal action is ultimately dismissed by a judge as frivolous, then the inmate
shall pay the filing costs associated with the civil or criminal 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 sentenced to confinement in a regional jail is to be granted reduction of his or her sentence for good conduct in accordance with this section.
(b) The reduction of sentence or good time is to be deducted from the fixed term of determinate sentences. An inmate under two or more consecutive sentences is allowed good time as if the several sentences, when the maximum terms thereof are added together, were all one sentence.

(c) Every inmate sentenced to a regional jail for a term of confinement exceeding six months who, in the judgment of the administrator of the regional jail facility, faithfully complies with all rules of the regional jail during his or her term of confinement is entitled to a deduction of five days from each month of his or her sentence. No inmate may be granted any good time under the provisions of this section for time spent on bond or for time served on parole or in any other status in which he or she is not physically incarcerated.

(d) Each inmate sentenced to a term of confinement in a regional jail facility who participates in a general equivalency diploma program is to be granted three days of good time for the completion of each educational literacy level, as demonstrated by achieving a passing score on standardized tests required by the Department of Education, and ten days of good time for completion of the requirements for a general equivalency diploma or high school diploma.

(e) An inmate sentenced to a term of confinement in a regional jail for a period of six months or more, shall be granted five days of good time for the successful completion of any of the following rehabilitation programs: Domestic violence, parenting, substance abuse, life skills, alcohol abuse, anger management or any special rehabilitation or educational program designated by the executive director. Good time credit pursuant to this subsection is cumulative, however an inmate is eligible for a maximum of thirty days good time credit for the successful
completion of rehabilitation programs authorized by this subsection. The fee for each class is $25 which is due upon enrollment. If an inmate is unable to pay a fee or fees in full at the time of enrollment, it may be paid by deductions from his or her inmate trust account, subject to the provisions of subsection (f), section thirty-one of this article. No more than one half of the amount in the inmate trust account during any one-week period may be so deducted.

(f) The administrator of a regional jail facility may, with the approval of the Governor, allow extra good time for inmates who perform exceptional work or service.

(g) The Regional Jail and Correctional Facility Authority shall promulgate disciplinary rules for the regional jail facilities. The rules are to describe prohibited acts, procedures for charging individual inmates for violations of the rules and for determining the guilt or innocence of inmates charged with the violations and sanctions that may be imposed for the violations. For each violation by an inmate, any part or all of the good time that has been granted to the inmate may be forfeited and revoked by the administrator of the regional jail facility. The administrator, when appropriate and with approval of the executive director, may restore any good time forfeited for a violation of the rules promulgated or adopted pursuant to this subsection.

(h) Each inmate sentenced to a term of confinement in a regional jail in excess of six months shall, within seventy-two hours of being received into a regional jail, be given a copy of the disciplinary rules, a statement setting forth the term or length of his or her sentence or sentences and the time of his or her minimum discharge.
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.

(a) Notwithstanding the jurisdictional limitations contained in section two, article two-A, chapter fifty-one of this code,
family court judges are authorized to order the department to take emergency custody of a child who is in the physical custody of a party to an action or proceeding before the family court, if the family court judge finds that there is clear and convincing evidence that:

(1) There exists an imminent danger to the physical well-being of the child as defined in subsection (g), section three, article one of this chapter;

(2) The child is not the subject of a pending action before the circuit court alleging abuse and neglect of the child; and

(3) There are no reasonable available alternatives to the emergency custody order.

(b) An order entered pursuant to subsection (a) must include specific written findings.

(c) A copy of the order issued pursuant to subsection (a) shall be transmitted forthwith to the department, the circuit court and the prosecuting attorney.

(d) Upon receipt of an order issued pursuant to subsection (a), the department shall immediately respond and assist the family court judge in emergency placement of the child.

(e) (1) Upon receipt of an order issued pursuant to subsection (a), the circuit court shall forthwith cause to be entered and served, an administrative order in the name of and regarding the affected child, directing the department to submit, within ninety-six hours from the time the child was taken into custody, an investigative report to both the circuit and family court.
(2) The investigative report shall include a statement of whether the department intends to file a petition under section three of this article.

(f) (1) An order issued pursuant to subsection (a) terminates by operation of law upon expiration of ninety-six hours from the time the child is initially taken into protective custody unless a petition is filed with the circuit court under section three of this article within ninety-six hours from the time the child is initially taken into protective custody.

(2) The filing of a petition within ninety-six hours from the time the child is initially taken into protective custody extends the emergency custody order issued pursuant to subsection (a) until a preliminary hearing is held before the circuit court, unless the circuit court orders otherwise.

(g) (1) Any worker for the department assuming custody of a child pursuant to the provisions of this section shall immediately notify the parents, parent, grandparents, grandparent, guardian or custodian of the child of the taking of the custody and the reasons therefor if the whereabouts of the parents, parent, grandparents, grandparent, guardian or custodian are known or can be discovered with due diligence and, if not, a notice and explanation shall be given to the child’s closest relative if his or her whereabouts are known or can be discovered with due diligence within a reasonable time. An inquiry shall be made of relatives and neighbors and, if an appropriate relative or neighbor is willing to assume custody of the child, the child shall temporarily be placed in that person’s custody.

(2) In the event no other reasonable alternative is available for temporary placement of a child pursuant to subdivision (1), the child may be housed by the department in an authorized child shelter facility.
CHAPTER 43


[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.

(a) If any person commits an assault as defined in subsection (b), section nine of this article, to the person of an athletic official during the time the official is acting as an athletic official, the offender is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $500, or confined in jail not more than six months, or both fined and confined.

(b) If any person commits a battery, as defined in subsection (c), section nine of this article, against an athletic official during the time the official is acting as an athletic official, the offender is guilty of a misdemeanor and, upon conviction thereof, shall
be fined not more than $1,000, or confined in jail not more than twelve months, or both fined and confined.

(c) For the purpose of this section, "athletic official" means a person at a sports event who enforces the rules of that event, such as an umpire or referee, or a person who supervises the 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.

(a) Following the sentencing of a person who has been convicted of murder, aggravated robbery, sexual assault in the first or second degree, kidnapping, child abuse resulting in
injury, child neglect resulting in injury, arson or a sexual offense against a minor, the prosecuting attorney who prosecuted the offender shall prepare a Parole Hearing Notification Form. This form shall contain the following information:

1. The name of the county in which the offender was prosecuted and sentenced;

2. The name of the court in which the offender was prosecuted and sentenced;

3. The name of the prosecuting attorney or assistant prosecuting attorney who prosecuted the offender;

4. The name of the judge who presided over the criminal case and who sentenced the offender;

5. The names of the law-enforcement agencies and officers who were primarily involved with the investigation of the crime for which the offender was sentenced; and

6. The names, addresses and telephone numbers of the victims of the crime for which the offender was sentenced or the names, addresses and telephone numbers of the immediate family members of each victim of the crime, including, but not limited to, each victim’s spouse, father, mother, brothers, sisters and any adult household member residing with the victim.

(b) The prosecuting attorney shall retain the original of the Parole Hearing Notification Form and shall provide copies of it to the circuit court which sentenced the offender, the Parole Board, the Commissioner of Corrections and to all persons whose names and addresses are listed on the form.
(c) At least forty-five days prior to the date of a parole hearing, the Parole Board shall notify all persons who are listed on the Parole Hearing Notification Form, including the circuit court which sentenced the offender and office of the prosecuting attorney that prosecuted the offender, of the date, time and place of the hearing. Such notice shall be sent by certified mail, return receipt requested. The notice shall state that the victims of the crime have the right to submit a written statement to the Parole Board and to attend the parole hearing to be heard regarding the propriety of granting parole to the prisoner. The notice shall also state that only the victims may submit written statements and speak at the parole hearing unless a victim is deceased, is a minor or is otherwise incapacitated.

(d) The panel considering the parole shall inquire during the parole hearing as to whether the victims of the crime or their representatives, as provided in this section, are present. If so, the panel shall permit those persons to speak at the hearing regarding the propriety of granting parole for the prisoner.

(e) If the panel grants parole, it shall immediately set a date on which the prisoner will be released. Such date shall be no earlier than thirty days after the date on which parole is granted. On the date on which parole is granted, the Parole Board shall notify all persons listed on the Parole Hearing Notification Form, including the circuit court which sentenced the offender and office of the prosecuting attorney that prosecuted the offender, that parole has been granted and the date of release. This notice shall be sent by certified mail, return receipt requested. A written statement of reasons for releasing the prisoner, prepared pursuant to subsection (b), section thirteen of this article, shall be provided upon request to all persons listed on the Parole Hearing Notification Form, including the circuit court which sentenced the offender and office of the prosecuting attorney that prosecuted the offender.
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:
(a) "Accrued benefit" means on behalf of any member two and one-quarter percent of the member's final average salary multiplied by the member's years of credited service. A member's accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions of section nine-a of this article.

(b) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member, or paid on his or her behalf pursuant to article ten-c, chapter five of this code, either pursuant to section seven of this article or section twenty-nine, article ten, chapter five of this code as a result of covered employment together with regular interest on the deducted amounts.

(c) "Active member" means a member who is active and contributing to the plan.

(d) "Active military duty" means full-time active duty with any branch of the armed forces of the United States, including service with the National Guard or reserve military forces when the member has been called to active full-time duty and has received no compensation during the period of that duty from any board or employer other than the armed forces.

(e) "Actuarial equivalent" means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: Provided, That when used in the context of compliance with the federal maximum benefit requirements of Section 415 of the Internal Revenue Code, "actuarial equivalent" shall be computed using the mortality tables and interest rates required to comply with those requirements.

(f) "Annual compensation" means the wages paid to the member during covered employment within the meaning of
Section 3401(a) of the Internal Revenue Code, but determined without regard to any rules that limit the remuneration included in wages based upon the nature or location of employment or services performed during the plan year plus amounts excluded under Section 414(h)(2) of the Internal Revenue Code and less reimbursements or other expense allowances, cash or noncash fringe benefits or both, deferred compensation and welfare benefits. Annual compensation for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with section seven, article ten-d, chapter five of this code and Section 401(a)(17) of the Internal Revenue Code.

(g) "Annual leave service" means accrued annual leave.

(h) "Annuity starting date" means the first day of the first calendar month following receipt of the retirement application by the board or the required beginning date, if earlier: Provided, That the member has ceased covered employment and reached early or normal retirement age.

(i) "Base salary" means a member's cash compensation exclusive of overtime from covered employment during the last twelve months of employment. Until a member has worked twelve months, annualized base salary is used as base salary.

(j) "Board" means the Consolidated Public Retirement Board created pursuant to article ten-d, chapter five of this code.

(k) "County commission" has the meaning ascribed to it in section one, article one, chapter seven of this code.

(l) "Covered employment" means either: (1) Employment as a deputy sheriff and the active performance of the duties required of a deputy sheriff; or (2) the period of time which active duties are not performed but disability benefits are received under section fourteen or fifteen of this article; or (3)
concurrent employment by a deputy sheriff in a job or jobs in
addition to his or her employment as a deputy sheriff where the
secondary employment requires the deputy sheriff to be a
member of another retirement system which is administered by
the Consolidated Public Retirement Board pursuant to article
ten-d, chapter five of this code: Provided, That the deputy sheriff
contributes to the fund created in section six of this article the
amount specified as the deputy sheriff's contribution in section
seven of this article.

(m) "Credited service" means the sum of a member's years
of service, active military duty, disability service and annual
leave service.

(n) "Deputy sheriff" means an individual employed as a
county law-enforcement deputy sheriff in this state and as
defined by section two, article fourteen of this chapter.

(o) "Dependent child" means either:

(1) An unmarried person under age eighteen who is:

(A) A natural child of the member;

(B) A legally adopted child of the member;

(C) A child who at the time of the member's death was
living with the member while the member was an adopting
parent during any period of probation; or

(D) A stepchild of the member residing in the member's
household at the time of the member's death; or

(2) Any unmarried child under age twenty-three:

(A) Who is enrolled as a full-time student in an accredited
college or university;
(B) Who was claimed as a dependent by the member for federal income tax purposes at the time of the member’s death; and

(C) Whose relationship with the member is described in subparagraph (A), (B) or (C), paragraph (1) of this subdivision.

(p) “Dependent parent” means the father or mother of the member who was claimed as a dependent by the member for federal income tax purposes at the time of the member’s death.

(q) “Disability service” means service credit received by a member, expressed in whole years, fractions thereof or both, equal to one half of the whole years, fractions thereof or both, during which time a member receives disability benefits under section fourteen or fifteen of this article.

(r) “Early retirement age” means age forty or over and completion of twenty years of service.

(s) “Employer error” means an omission, misrepresentation, or violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required. A deliberate act contrary to the provisions of this section by a participating public employer does not constitute employer error.

(t) “Effective date” means July 1, 1998.

(u) “Final average salary” means the average of the highest annual compensation received for covered employment by the member during any five consecutive plan years within the member’s last ten years of service. If the member did not have annual compensation for the five full plan years preceding the
member's attainment of normal retirement age and during that period the member received disability benefits under section fourteen or fifteen of this article then "final average salary" means the average of the monthly salary determined paid to the member during that period as determined under section seventeen of this article multiplied by twelve.

(v) "Fund" means the West Virginia Deputy Sheriff Retirement Fund created pursuant to section six of this article.

(w) "Hour of service" means:

(1) Each hour for which a member is paid or entitled to payment for covered employment during which time active duties are performed. These hours shall be credited to the member for the plan year in which the duties are performed; and

(2) Each hour for which a member is paid or entitled to payment for covered employment during a plan year but where no duties are performed due to vacation, holiday, illness, incapacity including disability, layoff, jury duty, military duty, leave of absence or any combination thereof and without regard to whether the employment relationship has terminated. Hours under this paragraph shall be calculated and credited pursuant to West Virginia Division of Labor rules. A member will not be credited with any hours of service for any period of time he or she is receiving benefits under section fourteen or fifteen of this article; and

(3) Each hour for which back pay is either awarded or agreed to be paid by the employing county commission, irrespective of mitigation of damages. The same hours of service shall not be credited both under this paragraph and paragraph (1) or (2) of this subdivision. Hours under this paragraph shall be credited to the member for the plan year or years to which the award or
agreement pertains rather than the plan year in which the award, agreement or payment is made.

(x) "Member" means a person first hired as a deputy sheriff after the effective date of this article, as defined in subsection (t) of this section, or a deputy sheriff first hired prior to the effective date and who elects to become a member pursuant to section five or seventeen of this article. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited or until cessation of membership pursuant to section five of this article.

(y) "Monthly salary" means the portion of a member’s annual compensation which is paid to him or her per month.

(z) "Normal form" means a monthly annuity which is one twelfth of the amount of the member’s accrued benefit which is payable for the member’s life. If the member dies before the sum of the payments he or she receives equals his or her accumulated contributions on the annuity starting date, the named beneficiary shall receive in one lump sum the difference between the accumulated contributions at the annuity starting date and the total of the retirement income payments made to the member.

(aa) "Normal retirement age" means the first to occur of the following: (1) Attainment of age fifty years and the completion of twenty or more years of service; (2) while still in covered employment, attainment of at least age fifty years and when the sum of current age plus years of service equals or exceeds seventy years; (3) while still in covered employment, attainment of at least age sixty years and completion of five years of service; or (4) attainment of age sixty-two years and completion of five or more years of service.

(bb) "Partially disabled" means a member’s inability to engage in the duties of deputy sheriff by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for
a continuous period of not less than twelve months. A member may be determined partially disabled for the purposes of this article and maintain the ability to engage in other gainful employment which exists within the state but which ability would not enable him or her to earn an amount at least equal to two thirds of the average annual compensation earned by all active members of this plan during the plan year ending as of the most recent June 30, as of which plan data has been assembled and used for the actuarial valuation of the plan.

(cc) "Public Employees Retirement System" means the West Virginia Public Employees Retirement System created by article ten, chapter five of this code.

(dd) "Plan" means the West Virginia Deputy Sheriff Death, Disability and Retirement Plan established by this article.

(ee) "Plan year" means the twelve-month period commencing on July 1 of any designated year and ending the following June 30.

(ff) "Qualified public safety employee" means any employee of a participating state or political subdivision who provides police protection, fire-fighting services or emergency medical services for any area within the jurisdiction of the state or political subdivision, or such other meaning given to the term by Section 72(t)(10)(B) of the Internal Revenue Code or by Treasury Regulation §1.401(a)-1(b)(2)(v) as they may be amended from time to time.

(gg) "Regular interest" means the rate or rates of interest per annum, compounded annually, as the board adopts in accordance with the provisions of this article.

(hh) "Required beginning date" means April 1 of the calendar year following the later of: (i) The calendar year in which the member attains age seventy and one-half; or (ii) the
calendar year in which he or she retires or otherwise separates from covered employment.

(ii) “Retire” or “retirement” means a member’s withdrawal from the employ of a participating public employer and the commencement of an annuity by the plan.

(jj) “Retirement income payments” means the annual retirement income payments payable under the plan.

(kk) “Spouse” means the person to whom the member is legally married on the annuity starting date.

(II) “Surviving spouse” means the person to whom the member was legally married at the time of the member’s death and who survived the member.

(mm) “Totally disabled” means a member’s inability to engage in substantial gainful activity by reason of any medically determined physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve months. For purposes of this subdivision:

(1) A member is totally disabled only if his or her physical or mental impairment or impairments are so severe that he or she is not only unable to perform his or her previous work as a deputy sheriff but also cannot, considering his or her age, education and work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she applied for work.

(2) “Physical or mental impairment” is an impairment that results from an anatomical, physiological or psychological abnormality that is demonstrated by medically accepted clinical
and laboratory diagnostic techniques. A member’s receipt of Social Security disability benefits creates a rebuttable presumption that the member is totally disabled for purposes of this plan. Substantial gainful employment rebuts the presumption of total disability.

(nn) “Year of service”. — A member shall, except in his or her first and last years of covered employment, be credited with year of service credit based upon the hours of service performed as covered employment and credited to the member during the plan year based upon the following schedule:

<table>
<thead>
<tr>
<th>Hours of Service</th>
<th>Years of Service Credited</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 500</td>
<td>0</td>
</tr>
<tr>
<td>500 to 999</td>
<td>1/3</td>
</tr>
<tr>
<td>1,000 to 1,499</td>
<td>2/3</td>
</tr>
<tr>
<td>1,500 or more</td>
<td>1</td>
</tr>
</tbody>
</table>

During a member’s first and last years of covered employment, the member shall be credited with one twelfth of a year of service for each month during the plan year in which the member is credited with an hour of service. A member is not entitled to credit for years of service for any time period during which he or she received disability payments under section fourteen or fifteen of this article. Except as specifically excluded, years of service include covered employment prior to the effective date. Years of service which are credited to a member prior to his or her receipt of accumulated contributions upon termination of employment pursuant to section thirteen of this article or section thirty, article ten, chapter five of this code, shall be disregarded for all purposes under this plan unless the member repays the accumulated contributions with interest pursuant to section thirteen of this article or had prior to the effective date made the repayment pursuant to section eighteen, article ten, chapter five of this code.
§7-14D-7. Members' contributions; employer contributions.

(a) There shall be deducted from the monthly salary of each member and paid into the fund an amount equal to eight and one-half percent of his or her monthly salary. An additional amount shall be paid to the fund by the county commission of the county in which the member is employed in covered employment in an amount determined by the board: Provided, That in any year preceding July 1, 2011, the total of the contributions provided in this section, to be paid by the county commission, may not exceed ten and one-half percent of the total payroll for the members in the employ of the county commission; Provided, however, That on or after July 1, 2011, the total of the contributions provided in this section, to be paid by the county commission, may not exceed thirteen percent of the total payroll for the members in the employ of the county commission. If the board finds that the benefits provided by this article can be actually funded with a lesser contribution, then the board shall reduce the required member or employer contributions or both. The sums withheld each calendar month shall be paid to the fund no later than fifteen days following the end of the calendar month.

(b) Any active member who has concurrent employment in an additional job or jobs and the additional employment requires the deputy sheriff to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to article ten-d, chapter five of this code shall make an additional contribution to the fund of eight and one-half percent of his or her monthly salary earned from any additional employment which requires the deputy sheriff to be a member of another retirement which is administered by the Consolidated Public Retirement Board pursuant to article ten-d, chapter five of this code. An additional amount shall be paid to the fund by the concurrent employer for which the member is employed in an amount determined by the board: Provided, That in any year preceding July 1, 2011, the total of the contributions provided in
this section, to be paid by the concurrent employer, may not exceed ten and one-half percent of the monthly salary of the employee: *Provided, however,* That on or after July 1, 2011, the total of the contributions provided in this section, to be paid by the concurrent employer, may not exceed thirteen percent of the monthly salary of the employee. If the board finds that the benefits provided by this article can be funded with a lesser contribution, then the board shall reduce the required member or employer contributions or both. The sums withheld each calendar month shall be paid to the fund no later than fifteen days following the end of the calendar month.

§7-14D-7a. Correction of errors; underpayments; overpayments.

(a) General rule: If any change or employer error in the records of any participating public employer or the plan results in any member, retirant or beneficiary receiving from the plan more or less than he or she would have been entitled to receive had the records been correct, the board shall correct the error. If correction of the error occurs after the effective retirement date of a retirant, and as far as is practicable, the board shall adjust the payment of the benefit in a manner that the actuarial equivalent of the benefit to which the retirant was correctly entitled shall be paid.

(b) Underpayments: Any error resulting in an underpayment to the retirement system of required contributions may be corrected by the member or retirant remitting the required employee contribution and the participating public employer remitting the required employer contribution. Interest shall accumulate in accordance with the Legislative Rule 162 CSR 7 concerning retirement board refund, reinstatement, retroactive service, loan and employer error interest factors and any accumulating interest owed on the employee and employer contributions resulting from an employer error shall be the responsibility of the participating public employer. The participating public employer may remit total payment and the
employee reimburse the participating public employer through payroll deduction over a period equivalent to the time period during which the employer error occurred. If the correction of an error involving an underpayment of required contributions to the retirement system will result in increased payments to a retirant, including increases to payments already made, any adjustments shall be made only after the board receives full payment of all required employee and employer contributions, including interest.

(c) Overpayments: (1) When mistaken or excess employer contributions, including any overpayments, have been made to the retirement system by a participating public employer, due to error or other reason, the board shall credit the participating public employer with an amount equal to the erroneous contributions, to be offset against the participating public employer’s future liability for employer contributions to the system. Earnings or interest shall not be credited to the employer.

(2) When mistaken or excess employee contributions, including any overpayments, have been made to the retirement system, due to error or other reason, the board shall have sole authority for determining the means of return, offset or credit to or for the benefit of the employee of the amounts, and may use any means authorized or permitted under the provisions of Section 401(a), et seq. of the Internal Revenue Code and guidance issued thereunder applicable to governmental plans. Alternatively, in its full and complete discretion, the board may require the participating public employer to pay the employee the amounts as wages, with the board crediting the participating public employer with a corresponding amount to offset against its future contributions to the plan: Provided, That the wages paid to the employee shall not be considered compensation for any purposes under this article. Earnings or interest shall not be returned, offset, or credited under any of the means utilized by the board for returning mistaken or excess employee contributions, including any overpayments, to an employee.
§7-14D-9. Retirement; commencement of benefits.

A member may retire and commence to receive retirement income payments on the first day of the calendar month following the board’s receipt of the member’s voluntary written application for retirement or the required beginning date, if earlier. Before receiving retirement income payments, the member shall have ceased covered employment and reached early or normal retirement age. The retirement income payments shall be in an amount as provided under section eleven of this article: Provided, That retirement income payments under this plan shall be subject to the provisions of this article. Upon receipt of a request for estimation of benefits, the board shall promptly provide the member with an explanation of his or her optional forms of retirement benefits and the estimated gross monthly annuity. Upon receipt of properly executed retirement application forms from the member, the board shall process the member’s request and commence payments as soon as administratively feasible.

§7-14D-16. Awards and benefits for disability — Physical examinations; termination of disability.

(a) The board may require any member who has applied for or is receiving disability benefits under this article to submit to a physical examination, mental examination or both, by a physician or physicians selected or approved by the board and may cause all costs incident to the examination and approved by the board to be paid from the fund. The costs may include hospital, laboratory, X ray, medical and physicians’ fees. A report of the findings of any physician shall be submitted in writing to the board for its consideration. If, from the report, independent information, or from the report and any hearing on the report, the board is of the opinion and finds that: (1) The member has become reemployed as a law-enforcement officer; (2) two physicians who have examined the member have found
that considering the opportunities for law enforcement in West Virginia, the member could be so employed as a deputy sheriff; or (3) other facts exist to demonstrate that the member is no longer totally disabled or partially disabled as the case may be, then the disability benefits shall cease. If the member was totally disabled and is found to have recovered, the board shall determine whether the member continues to be partially disabled. If the board finds that the member is no longer totally disabled but is partially disabled, then the member shall continue to receive partial disability benefits in accordance with this article. Benefits shall cease once the member has been found to be no longer either totally or partially disabled: Provided, That the board shall require recertification for each partial or total disability at regular intervals as specified by the guidelines adopted by the Deputy Sheriff Retirement System.

(b) If a retirant refuses to submit to a medical examination or submit a statement by his or her physician certifying continued disability in any period, his or her disability annuity may be discontinued by the board until the retirant complies. If the refusal continues for one year, all the retirants rights in and to the annuity may be revoked by the board.

§7-14D-19. Awards and benefits to surviving spouse — When member dies from nonservice-connected causes.

(a) In any case where a member who has been a member for at least ten years, while in covered employment after the effective date of this article, has died or dies from any cause other than those specified in section eighteen of this article and not due to vicious habits, intemperance or willful misconduct on his or her part, the fund shall pay annually in equal monthly installments to the surviving spouse during his or her lifetime, a sum equal to the greater of: (i) One half of the annual compensation received in the preceding twelve-month employment period by the deceased member; or (ii) if the member dies after his or
her early or normal retirement age, the monthly amount which
the spouse would have received had the member retired the day
before his or her death, elected a one hundred percent joint and
survivor annuity with the spouse as the joint annuitant, and then
died. Where the member is receiving disability benefits under
section fifteen of this article at the time of his or her death, the
most recent monthly compensation determined under section
seventeen of this article shall be substituted for the annual
compensation in (i) of this section.

(b) Benefits for a surviving spouse received under this
section, section twenty and section twenty-one of this article are
in lieu of receipt of any other benefits under this article for the
spouse or any other person or under the provisions of any other
state retirement system based upon the member’s covered
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 construc-
tion 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.

(a)(1) The sheriff of each county shall provide an item of personal body armor commonly known as a ballistic resistant vest to each of his or her deputy sheriffs, subject to the following:

(A) Each of his or her deputy sheriffs who is so employed on July 1, 2013 and who holds a valid law enforcement certification issued under article twenty-nine, chapter thirty of this code on that date, shall receive the vest on or within a reasonable time after July 1, 2013;

(B) Each of his or her deputy sheriffs who is so employed on July 1, 2013 and who is certifiable under the provisions of section five, article twenty-nine, chapter thirty of this code on that date, but who subsequently meets the requirements for certification under that section, shall receive the vest on or within a reasonable time after the date he or she is issued a valid law enforcement certification;

(C) Each of his or her deputy sheriffs who is so employed on a conditional basis on July 1, 2013 and who is not certified or certifiable under the provisions of section five, article twenty-nine, chapter thirty of this code on that date, but who subsequently meets the requirements for certification under that
section, shall receive the vest on or within a reasonable time after the date he or she is issued a valid law enforcement certification;

(D) Each of his or her deputy sheriffs who is so employed after July 1, 2013 and who holds a valid law enforcement certification issued under article twenty-nine, chapter thirty of this code on the date of his or her employment, shall receive the vest on or within a reasonable time after July 1, 2013; or

(E) Each of his or her deputy sheriffs who is so employed after July 1, 2013, and who is certifiable as described in paragraph (B) of this subdivision on the date of employment, or who is not certified or certifiable on the date of employment as described in paragraph (C) of this subdivision on the date of conditional employment, but who subsequently meets the requirements for certification under section five, article twenty-nine, chapter thirty of this code, shall receive the vest on or within a reasonable time after the date he or she is issued a valid law enforcement certification.

(2)(A) A ballistic resistant vest or other personal body armor provided under this section or otherwise shall meet the minimum performance standards for the ballistic resistance of personal body armor established by Standards and Testing Program sponsored by the Office of Science and Technology of the National Institute of Justice (NIJ), Office of Justice Programs, U.S. Department of Justice on the date the personal body armor is provided.

(B) Notwithstanding any other provision of this section to the contrary, no body armor model determined to be unsuitable by the National Institute of Justice may be provided to any deputy sheriff under the provisions of this section.
(3) A sheriff is not required to provide a ballistic resistant vest or other model of personal body armor under this section to a deputy sheriff where:

(A) The sheriff had provided personal body armor meeting the standards established by this section prior to the date upon which the sheriff would otherwise be required to provide it under this section; or

(B) The deputy sheriff owns personal body armor meeting the standards established by this section on the date upon which the sheriff would otherwise be required to provide personal body armor under this section and and elects in writing to decline acceptance of the personal body armor that would be provided under this section.

(b) The county commission of each county shall expend from the general county fund, upon request and requisition by the sheriff of the county, the necessary and proper expenses of providing the personal body armor described in subsection (a) of this section.

(c) No provision of this section may be construed to prevent a county commission, in its discretion, from expending such funds as may be necessary and proper to provide additional ballistic resistant vests, ballistic resistance jackets or other models of personal body armor equipment for the use of the sheriff and his or her deputies, nor to in any manner limit a sheriff from incurring actual and necessary expenses in the discharge of his or her duties for any purpose specified under section thirteen of this article.

(d) Each county commission and sheriff is encouraged to seek available federal and other lawful funds or assistance to defray the expenses incurred under this section.
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.


1 (a) As used in this section:
(1) “Advertisement” means any media used to promote the sale of dogs including, but not limited to, the Internet, newspapers, flyers, magazines, radio, television, bulletins and signs.

(2) “Commercial dog breeder” means any person who:

(A) Maintains eleven or more unsterilized dogs over the age of one year for the exclusive purpose of actively breeding;

(B) Is engaged in the business of breeding dogs as household pets for direct or indirect sale or for exchange in return for consideration; and

(C) Commercial dog breeder shall not include:

(i) Any person who keeps or breeds dogs exclusively for the purpose of herding or guarding livestock or farm animals, hunting, tracking or exhibiting in dog shows, performance events or field and obedience trials; and

(ii) With respect to greyhound dogs only, any person who holds an occupational permit from, and has registered a greyhound kennel name with, the West Virginia Racing Commission.

(3) “Class I Commercial Dog Breeder” means a commercial dog breeder that possesses eleven to thirty unsterilized dogs over the age of one year at any one time for the exclusive purpose of actively breeding.

(4) “Class II Commercial Dog Breeder” means a commercial dog breeder that possesses more than thirty unsterilized dogs over the age of one year at any time.

(5) “Housing facility” means a structure in which dogs are kept that provides them with shelter, protection from the elements and protection from temperature extremes.
(6) "Primary enclosure" means a structure that restricts a dog's ability to move in a limited amount of space, such as a room, cage or compartment.

(b) No commercial dog breeder may breed dogs without a business registration certificate in accordance with section three, article twelve, chapter eleven of this code and a valid business license issued by the locality in which the dog breeding operation is located, if the locality so requires.

(c) A commercial dog breeder shall:

(1) Obtain a permit annually to operate, as required by the county commission in which the commercial dog breeding operation is located. County commissions are authorized to charge a fee to commercial dog breeders and shall deposit the fees collected in a specially designated account to be used for animal shelters, animal rescue and spay neuter programs administered by county animal shelters or other humane organizations. The fee for a Class I commercial dog-breeding permit shall be an amount determined by the county commission, not to exceed $250 per year. The fee for a Class II commercial dog breeding permit shall be an amount determined by the county commission, not to exceed $500 per year;

(2) Breed female dogs only after the breeder has obtained an annual certification by a licensed veterinarian that the dog is in suitable health for breeding;

(3) Dispose of dogs only by gift, sale, transfer, barter or euthanasia by a licensed veterinarian;

(4) Maintain current, valid rabies certificates for every dog pursuant to article twenty-a of this chapter;

(5) Include the breeder's annual permit number on any advertisement for the sale of a dog;
(6) If selling directly to the public, post a conspicuous notice containing the breeder's name, address and annual permit number on each cage;

(7) Provide for the humane treatment of dogs in accordance with section nineteen, article eight, chapter sixty-one of this code;

(8) Provide dogs with easy and convenient access to adequate amounts of clean food and water. Food and water receptacles must be regularly cleaned and sanitized. All enclosures must contain potable water that is not frozen, is substantially free from debris and is readily accessible to all dogs in the enclosure at all times unless otherwise directed by a veterinarian for the health of the dog;

(9) Provide veterinary care without delay when necessary;

(10) Maintain adequate staffing levels to ensure compliance with this section; and

(11) Maintain adequate housing facilities and primary enclosures that meet the following minimum requirements:

(A) Housing facilities and primary enclosures must be kept in a sanitary condition and in good repair; must be sufficiently ventilated at all times to minimize odors, drafts, ammonia levels and to prevent moisture condensation; must have a means of fire suppression, such as functioning fire extinguishers or a sprinkler system on the premises; and must have sufficient lighting to allow for observation of the dogs at any time of day or night;

(B) Housing facilities and primary enclosures must enable all dogs to remain dry and clean;

(C) Housing facilities must provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to the dogs;
(D) Housing facilities must provide sufficient shade to simultaneously shelter all of the dogs housed therein;

(E) A primary enclosure must have solid floors that are constructed in a manner that protects the dogs' feet and legs from injury;

(F) Primary enclosures must be placed no higher than forty-two inches above the floor and may not be placed over or stacked on top of another cage or primary enclosure;

(G) Feces, hair, dirt, debris and food waste must be removed from primary enclosures and housing facilities at least daily or more often if necessary to prevent accumulation and to reduce disease hazards, insects, pests and odors;

(H) All dogs in the same enclosure at the same time must be compatible, as determined by observation. Breeding females in heat may not be in the same enclosure at the same time with sexually mature males, except for breeding purposes. Breeding females and their litters may not be in the same enclosure at the same time with other adult dogs. Puppies under twelve weeks may not be in the same enclosure at the same time with other adult dogs, other than the dam or foster dam unless under immediate supervision; and

(I) Sick dogs shall be isolated sufficiently so as not to endanger the health of other dogs.

(d) To ensure compliance with state animal care laws and regulations, commercial dog breeding locations are subject to biannual inspections by animal control officers or law-enforcement officers.

(e) It is unlawful for a commercial dog breeder to operate if he or she has been convicted of animal cruelty in any local, state or federal jurisdiction.
(f) Any commercial dog breeder who violates any provision of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 per violation. In any proceeding brought pursuant to the provisions of this section, a circuit judge or magistrate may grant a person accused of violating this section an improvement period not to exceed one year upon such terms and conditions as the judge or magistrate may determine. Upon successful completion of the improvement period the judge or magistrate shall dismiss the charges.

(g) Nothing in this section exempts a facility licensed by the United States Department of Agriculture from compliance.

(h) Nothing in this section prevents any local, state or federal law-enforcement agency from investigating animal cruelty in 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.

(a) A person desiring a change of his or her own name, or that of his or her child, may apply to the circuit court or family court of the county in which he or she resides by a verified petition setting forth and affirming the following:

(1) That he or she has been a bona fide resident of the county for at least one year prior to the filing of the petition or that he or she is a nonresident of the county who was born in the county, was married in the county and was previously a resident of the county for a period of at least fifteen years;

(2) The cause for which the change of name is sought;

(3) The new name desired;

(4) The name change is not for purposes of avoiding debt or creditors;

(5) The petitioner seeking the name change is not a registered sex offender pursuant to any state or federal law;

(6) The name change sought is not for purposes of avoiding any state or federal law regarding identity;

(7) The name change sought is not for any improper or illegal purpose;

(8) The petitioner is not a convicted felon in any jurisdiction;
(9) The name change sought is not for any purpose of evading detection, identification or arrest by any local, state or federal law-enforcement agency; and

(10) Whether or not the petitioner desires to protect his or her identity for personal safety reasons.

(b) After filing the petition and at least ten days before the hearing to consider the application, the person shall cause a notice of the time and place that the application will be made to be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The petitioner shall in the notice set forth the name to which his or her name will be changed, unless as shown in the petition to the court, the name change is being requested because the petitioner desires to protect his or her identity for personal safety reasons: Provided, That upon good cause shown, there may be a closed hearing. The publication area for the publication is the county. The publication shall contain a provision that the hearing 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.

(a) Upon entry of an order pursuant to section 27-403 or part 27-501, et seq., or an order entered pursuant to part 5-501, et seq., granting relief provided for by this article, a copy of the order shall be immediately transmitted electronically by the court or the clerk of the court to the domestic violence database established pursuant to the provisions of section twenty-one, article one, chapter fifty-one of this code. No later than the close of the next business day the court or the clerk of the court shall transmit the order to a local office of the municipal police, the county sheriff and the West Virginia State Police for service upon the respondent named in the order. The law-enforcement agency or agencies to which a copy of the order is supplied are not required to maintain a copy of the order after the respondent is served.

(b) A sworn affidavit may be executed by a party who has been awarded exclusive possession of the residence or household, pursuant to an order entered pursuant to section 27-503, and shall be delivered to law-enforcement agencies simultaneously with any order giving the party’s consent for a law-enforcement officer to enter the residence or household, without a warrant, to enforce the protective order or temporary order.

(c) Orders shall be promptly served upon the respondent. Failure to serve a protective order on the respondent does not
stay the effect of a valid order if the respondent has actual notice
of the existence and contents of the order.

(d) Any law-enforcement agency in this state in possession
of or with notice of the existence of an order issued pursuant to
the provisions of sections 27-403 or 27-501 of this article or the
provisions of section 5-509 of this chapter which is in effect or
has been expired for thirty days or less that receives a report that
a person protected by an order has been reported to be missing
shall immediately follow its procedures for investigating missing
persons. No agency or department policy delaying the beginning
of an investigation has any force or effect.

(e) The provisions of subsection (d) of this section shall be
applied where a report of a missing person is made which is
accompanied by a sworn affidavit that the person alleged to be
missing was, at the time of his or her alleged disappearance,
being subjected to treatment which meets the definition of
domestic battery or assault set forth in section twenty-eight,
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.

(a) Whenever any person is arrested for any violation of this chapter punishable as a misdemeanor, the arrested person shall be immediately taken before a magistrate or court within the county in which the offense charged is alleged to have been committed and who has jurisdiction of the offense and is nearest or most accessible with reference to the place where the arrest is made, in any of the following cases:

(1) When a person arrested demands an immediate appearance before a magistrate or court;

(2) When the person is arrested upon a charge of negligent homicide;

(3) When the person is arrested upon a charge of driving while under the influence of alcohol, or under the influence of any controlled substance, or under the influence of any other drug, or under the combined influence of alcohol and any controlled substance or any other drug;

(4) When the person is arrested upon a charge of failure to stop in the event of an accident causing death, personal injury or damage to property;

(5) When the person is arrested upon a charge of violating section fourteen, article seventeen of this chapter relating to weight violations, except as otherwise provided in that section;
(6) When the person arrested is a resident of a state that has not entered into a nonresident violator compact with this state;

(7) In any other event when the person arrested refuses to accept the written notice to appear in court as his or her promise to appear in court or to comply with the terms of the written notice to appear in court as provided in section four of this article; and

(8) When a person is arrested for driving with a suspended or revoked driver's license for miscellaneous reasons. Provided, That when a person is arrested for driving with a suspended or revoked driver's license for miscellaneous reasons, the arresting officer may issue a charge by citation if a magistrate or judge is not on duty or reasonably available.

(b) When the person arrested is a resident of a state that has entered into a nonresident violator compact with this state, the arresting officer shall issue the person a written notice as provided for in section four of this article and may not take the person immediately before a magistrate or court, except under the terms of the compact or under the circumstances set forth in 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
ARTICLE 1. WORDS AND PHRASES DEFINED.

§17C-1-67. Drug.

"Drug" has the same meaning as set forth in section one hundred one, article one, chapter sixty-a of this code, the Uniform Controlled Substances Act, that when taken into the human body can impair the ability of a person to operate a vehicle safely and in compliance with traffic regulations and the laws of the road.

§17C-1-68. Controlled substance.

"Controlled substance" means any substance classified under the provisions of chapter sixty-a of this code, the Uniform Controlled Substances Act, and includes all substances listed on Schedules I through V, inclusive, of article two of said chapter, 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.

(a) Any person who drives a motor vehicle in this state is considered to have given his or her consent by the operation of the motor vehicle to a preliminary breath analysis and a secondary chemical test of either his or her blood or breath to determine the alcohol concentration in his or her blood, or the concentration in the person's body of a controlled substance, drug, or any combination thereof.

(b) A preliminary breath analysis may be administered in accordance with the provisions of section five of this article
whenever a law-enforcement officer has reasonable cause to believe a person has committed an offense prohibited by section two of this article or by an ordinance of a municipality of this state which has the same elements as an offense described in section two of this article.

(c) A secondary test of blood or breath is incidental to a lawful arrest and is to be administered at the direction of the arresting law-enforcement officer having probable cause to believe the person has committed an offense prohibited by section two of this article or by an ordinance of a municipality of this state which has the same elements as an offense described in section two of this article.

(d) The law-enforcement agency that employs the arresting law-enforcement officer shall designate the secondary tests to be administered: Notwithstanding the provisions of section seven of this article, the refusal to submit to a blood test only may not result in the revocation of the arrested person’s license to operate a motor vehicle in this state.

(e) Any person to whom a preliminary breath test is administered who is arrested shall be given a written statement advising him or her that his or her refusal to submit to the secondary chemical test pursuant to subsection (d) of this section will result in the revocation of his or her license to operate a motor vehicle in this state for a period of at least forty-five days and up to life.

(f) Any law-enforcement officer who has been properly trained in the administration of any secondary chemical test authorized by this article, including, but not limited to, certification by the Bureau for Public Health in the operation of any equipment required for the collection and analysis of a breath sample, may conduct the test at any location in the county wherein the arrest is made: Provided, That the law-enforcement officer may conduct the test at the nearest available properly
functioning secondary chemical testing device located outside
the county in which the arrest was made, if: (i) There is no
properly functioning secondary chemical testing device located
within the county the arrest was made; or (ii) there is no magis-
trate available within the county the arrest was made for the
arraignment of the person arrested. A law-enforcement officer
who is directing that a secondary chemical test be conducted has
the authority to transport the person arrested to where the
secondary chemical testing device is located.

(g) If the arresting officer lacks proper training in the
administration of a secondary chemical test, then any other
law-enforcement officer who has received training in the
administration of the secondary chemical test to be administered
may, upon the request of the arresting law-enforcement officer
and in his or her presence, conduct the secondary test. The
results of a test conducted pursuant to this subsection may be
used in evidence to the same extent and in the same manner as
if the test had been conducted by the arresting law-enforcement
officer.

(h) Only the person actually administering or conducting a
test conducted pursuant to this article is competent to testify as
to the results and the veracity of the test.

(i) (1) For the purpose of this article, the term
"law-enforcement officer" or "police officer" means: (1) Any
member of the West Virginia State Police; (2) any sheriff and
any deputy sheriff of any county; (3) any member of a police
department in any municipality as defined in section two, article
one, chapter eight of this code; (4) any natural resources police
officer of the Division of Natural Resources; and (5) any special
police officer appointed by the Governor pursuant to the
provisions of section forty-one, article three, chapter sixty-one
of this code who has completed the course of instruction at a
law-enforcement training academy as provided for under the
provisions of section nine, article twenty-nine, chapter thirty of
this code.

(2) In addition to standards promulgated by the Governor’s
Committee on Crime, Delinquency and Correction, pursuant to
section three, article twenty-nine, chapter thirty of this code,
governing the qualification of law-enforcement officers and the
entry-level law-enforcement training curricula, the Governor’s
Committee on Crime, Delinquency and Correction shall require
the satisfactory completion of a minimum of not less than six
hours of training in the recognition of impairment in drivers who
are under the influence of controlled substances or drugs other
than alcohol.

(3) In addition to standards promulgated by the Governor’s
Committee on Crime, Delinquency and Correction, pursuant to
section three, article twenty-nine, chapter thirty of this code,
establishing standards governing in-service law-enforcement
officer training curricula and in-service supervisory level
training curricula, the Governor’s Committee on Crime, Delin-
quency and Correction shall require the satisfactory completion
of a minimum of not less than six hours of training in the
recognition of impairment in drivers who are under the influence
of controlled substances or drugs other than alcohol.

(4) That after December 31, 2014, a law-enforcement officer
who has not satisfactorily completed the minimum number of
hours of training in the recognition of impairment in drivers who
are under the influence of controlled substances or drugs other
than alcohol, required by subdivisions (2) or (3), may no longer
require any person to submit to secondary chemical test of his or
her blood for the purposes of determining the concentration in
the person’s body of a controlled substance, drug, or any
combination thereof.

(j) A law-enforcement officer who has reasonable cause to
believe that person has committed an offense prohibited by
section eighteen, article seven, chapter twenty of this code, relating to the operation of a motorboat, jet ski or other motorized vessel, shall follow the provisions of this section in administering, or causing to be administered, a preliminary breath analysis and incidental to a lawful arrest, a secondary chemical test of the accused person’s blood or breath to determine the alcohol concentration in his or her blood, or the concentration in the person’s body of a controlled substance, drug, or any 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.

Only a doctor of medicine or osteopathy, or registered nurse, or trained medical technician at the place of his or her employment, acting at the request and direction of the law-enforcement officer, may withdraw blood to determine the alcohol concentration in the blood, or the concentration in the blood of a controlled substance, drug, or any combination thereof. These limitations shall not apply to the taking of a breath test. In withdrawing blood to determine the alcohol concentration in the blood, or the presence in the blood of a controlled substance, drug, or any combination thereof, only a previously unused and sterile needle and sterile vessel may be utilized and the withdrawal shall otherwise be in strict accord with accepted medical practices. A nonalcoholic antiseptic shall be used for cleansing the skin prior to venapuncture. The person tested may, at his or her own expense, have a doctor of medicine or osteopathy, or registered nurse, or trained medical technician at the place of his or her employment, of his or her own choosing, administer a chemical test in addition to the test administered at the direction of the law-enforcement officer. Upon the request of the person who is tested, full information concerning the test taken at the direction of the law-enforcement officer shall be made available to him or her. No person who administers any such test upon the
request of a law-enforcement officer as herein defined, no
hospital in or with which such person is employed or is other-
wise associated or in which such test is administered, and no
other person, firm or corporation by whom or with which such
person is employed or is in any way associated, shall be in any
way criminally liable for the administration of such test, or
civilly liable in damages to the person tested unless for gross
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.

(a) If any person under arrest as specified in section four of
this article refuses to submit to any secondary chemical test, the
tests shall not be given: Provided, That prior to the refusal, the
person is given an oral warning and a written statement advising
him or her that his or her refusal to submit to the secondary test
finally designated will result in the revocation of his or her
license to operate a motor vehicle in this state for a period of at
least forty-five days and up to life; and that after fifteen minutes
following the warnings the refusal is considered final. The
arresting officer after that period of time expires has no further
duty to provide the person with an opportunity to take the
secondary test. The officer shall, within forty-eight hours of the
refusal, sign and submit to the Commissioner of Motor Vehicles
a written statement of the officer that: (1) He or she had probable
cause to believe the person had been driving a motor vehicle in
this state while under the influence of alcohol, controlled
substances or drugs; (2) the person was lawfully placed under
arrest for an offense relating to driving a motor vehicle in this
state while under the influence of alcohol, controlled substances
or drugs; (3) the person refused to submit to the secondary
chemical test finally designated in the manner provided in
section four of this article; and (4) the person was given a written
statement advising him or her that his or her license to operate
a motor vehicle in this state would be revoked for a period of at
least forty-five days and up to life if he or she refused to submit
to the secondary test finally designated in the manner provided
in section four of this article. The signing of the statement
required to be signed by this section constitutes an oath or
affirmation by the person signing the statement that the state-
ments contained in the statement are true and that any copy filed
is a true copy. The statement shall contain upon its face a
warning to the officer signing that to willfully sign a statement
containing false information concerning any matter or thing,
material or not material, is false swearing and is a misdemeanor.
Upon receiving the statement the commissioner shall make and
enter an order revoking the person’s license to operate a motor
vehicle in this state for the period prescribed by this section.

For the first refusal to submit to the designated secondary
chemical test, the commissioner shall make and enter an order
revoking the person’s license to operate a motor vehicle in this
state for a period of one year or forty-five days, with an addi-
tional one year of participation in the Motor Vehicle Alcohol
Test and Lock Program in accordance with the provisions of
section three-a, article five-a of this chapter: Provided, That a
person revoked for driving while under the influence of drugs is
not eligible to participate in the Motor Vehicle Test and Lock
Program. The application for participation in the Motor Vehicle
Alcohol Test and Lock Program shall be considered to be a
waiver of the hearing provided in section two of said article. If
the person’s license has previously been revoked under the
provisions of this section, the commissioner shall, for the refusal
to submit to the designated secondary chemical test, make and
enter an order revoking the person’s license to operate a motor
vehicle in this state for a period of ten years: Provided, however,
That the license may be reissued in five years in accordance with
the provisions of section three, article five-a of this chapter. If
the person’s license has previously been revoked more than once
under the provisions of this section, the commissioner shall, for
the refusal to submit to the designated secondary chemical test, make and enter an order revoking the person’s license to operate a motor vehicle in this state for a period of life. A copy of each order shall be forwarded to the person by registered or certified mail, return receipt requested, and shall contain the reasons for the revocation and shall specify the revocation period imposed pursuant to this section. A revocation shall not become effective until ten days after receipt of the copy of the order. Any person who is unconscious or who is otherwise in a condition rendering him or her incapable of refusal shall be considered not to have withdrawn his or her consent for a test of his or her blood or breath as provided in section four of this article and the test may be administered although the person is not informed that his or her failure to submit to the test will result in the revocation of his or her license to operate a motor vehicle in this state for the period provided for in this section. A revocation under this section shall run concurrently with the period of any suspension or revocation imposed in accordance with other provisions of this code and growing out of the same incident which gave rise to the arrest for driving a motor vehicle while under the influence of alcohol, controlled substances or drugs and the subsequent refusal to undergo the test finally designated in accordance with the provisions of section four of this article.

(b) For the purposes of this section, where reference is made to previous suspensions or revocations under this section, the following types of suspensions or revocations shall also be regarded as suspensions or revocations under this section:

(1) Any suspension or revocation on the basis of a conviction under a municipal ordinance of another state or a statute of the United States or of any other state of an offense which has the same elements as an offense described in section two of this article for conduct which occurred on or after June 10, 1983; and

(2) Any revocation under the provisions of section one or two, article five-a of this chapter for conduct which occurred on or after June 10, 1983.
(c) A person whose license to operate a motor vehicle in this state has been revoked shall be afforded an opportunity to be heard, in accordance with the provisions of section two, article five-a of this chapter.

(d) The refusal to submit to a blood test may be admissible at the court’s discretion in a trial for the offense of driving a motor vehicle in this state while under the influence of alcohol a controlled substance or drug or the combination of alcohol and drugs.

§17C-5-8. Interpretation and use of chemical test.

(a) Upon trial for the offense of driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs, or upon the trial of any civil or criminal action arising out of acts alleged to have been committed by any person driving a motor vehicle while under the influence of alcohol, controlled substances or drugs, evidence of the amount of alcohol in the person’s blood at the time of the arrest or of the acts alleged, as shown by a chemical analysis of his or her blood or breath, is admissible, if the sample or specimen was taken within the time period provided in subsection (g).

(b) The evidence of the concentration of alcohol in the person’s blood at the time of the arrest or the acts alleged gives rise to the following presumptions or has the following effect:

(1) Evidence that there was, at that time, five hundredths of one percent or less, by weight, of alcohol in his or her blood, is prima facie evidence that the person was not under the influence of alcohol;

(2) Evidence that there was, at that time, more than five hundredths of one percent and less than eight hundredths of one percent, by weight, of alcohol in the person’s blood is relevant
Evidence, but it is not to be given prima facie effect in indicating whether the person was under the influence of alcohol;

(3) Evidence that there was, at that time, eight hundredths of one percent or more, by weight, of alcohol in his or her blood, shall be admitted as prima facie evidence that the person was under the influence of alcohol.

(c) A determination of the percent, by weight, of alcohol in the blood shall be based upon a formula of:

(1) The number of grams of alcohol per one hundred cubic centimeters of blood;

(2) The number of grams of alcohol per two hundred ten liters of breath; or

(3) The number of grams of alcohol per eighty-six milliliters of serum.

(d) A chemical analysis of blood for the purpose of determining the controlled substance or drug concentration of a person’s blood, must include, but is not limited to, the following drugs or classes of drugs:

(1) Marijuana metabolites;

(2) Cocaine metabolites;

(3) Amphetamines;

(4) Opiate metabolites;

(5) Phencyclidine (PCP);

(6) Benzodiazepines;

(7) Propoxyphene;
(8) Methadone; 
(9) Barbiturates; and 
(10) Synthetic narcotics.

e) (1) A chemical analysis of a person’s blood or breath, in order to give rise to the presumptions or to have the effect provided for in this section, must be performed in accordance with methods and standards approved by the state Bureau for Public Health. 

(A) The Bureau for Public Health shall prescribe, by legislative rules promulgated pursuant to article three, chapter twenty-nine-a of this code, methods and standards for the chemical analysis of a person’s blood or breath. 

(B) Legislative rules proposed by the Bureau for Public Health must specify the test or tests that are approved for reliability of result and ease of administration using scientific methods and instrumentation generally accepted in the forensic community, and must provide an approved method of administration which must be followed in all such tests given under this section.

(C) The bureau shall review prescribed standards and methods at least every two years to ensure that the methods and standards are approved for reliability of result and ease of administration using scientific methods and instrumentation generally accepted in the forensic community.

(2) A chemical analysis of blood to determine the alcohol content or the controlled substance or drug content of blood shall be conducted by a qualified laboratory or by the State Police scientific laboratory of the West Virginia State Police Forensic Laboratory.
(f) The provisions of this article do not limit the introduction in any administrative or judicial proceeding of any other competent evidence bearing on the question of whether the person was under the influence of alcohol, controlled substances or drugs.

(g) For the purposes of the admissibility of a chemical test under subsection (a):

(1) A sample or specimen taken to determine the alcohol concentration of a person's blood, must be taken within two hours from the time of the person's arrest; or

(2) For a sample or specimen to determine the controlled substance or drug content of a person's blood, must be taken within four hours of the person's arrest.

(h) The results of any test administered pursuant to this section for the purpose of detecting the concentration of any controlled substance shall not be admissible as evidence in a criminal prosecution for the possession of a controlled substance.

§17C-5-9. Right to demand test.

Any person lawfully arrested for driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs shall have the right to demand that a sample or specimen of his or her blood or breath to determine the alcohol concentration of his or her blood be taken within two hours from and after the time of arrest and a sample or specimen of his or her blood or breath to determine the controlled substance or drug content of his or her blood, be taken within four hours from and after the time of arrest, and that a chemical test thereof be made. The analysis disclosed by such chemical test shall be made available to such arrested person forthwith upon demand.
§17C-5-12. Report to the Legislature.

On or before December 31, 2013, the Bureau for Public Health shall submit to the Joint Committee on Government and Finance a report that includes the following:

1. Recommendations for the minimum levels of those drugs or controlled substances contained in subsection (d), section eight of this article, that must be present in a person's blood in order for the test to be admitted as prima facie evidence that the person was under the influence of a controlled substance or drug in a prosecution for the offense of driving a motor vehicle in this state; and

2. Recommendations for the minimum levels of those drugs or controlled substances contained in subsection (d), section eight of this article, that laboratories approved to test blood for drug or controlled substance content can reliably identify and measure for the concentrations of drugs, controlled substances and their metabolites, in blood.

CHAPTER 52


[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.

(a) Written objections to an order of revocation or suspension under the provisions of section one of this article or section seven, article five of this chapter shall be filed with the Office of Administrative Hearings. Upon the receipt of an objection, the Office of Administrative Hearings shall notify the Commissioner of the Division of Motor Vehicles, who shall stay the imposition of the period of revocation or suspension and afford the person an opportunity to be heard by the Office of Administrative Hearings. The written objection must be filed with Office of Administrative Hearings in person, by registered or certified mail, return receipt requested, or by facsimile transmission or
electronic mail within thirty calendar days after receipt of a copy of the order of revocation or suspension or no hearing will be granted: Provided, That a successful transmittal sheet shall be necessary for proof of written objection in the case of filing by fax. The hearing shall be before a hearing examiner employed by the Office of Administrative Hearings who shall rule on evidentiary issues. Upon consideration of the designated record, the hearing examiner shall, based on the determination of the facts of the case and applicable law, render a decision affirming, reversing or modifying the action protested. The decision shall contain findings of fact and conclusions of law and shall be provided to all parties by registered or certified mail, return receipt requested, or with a party’s written consent, by facsimile or electronic mail.

(b) The hearing shall be held at an office of the Division of Motor Vehicles suitable for hearing purposes located in or near the county in which the arrest was made in this state or at some other suitable place in the county in which the arrest was made if an office of the division is not available. At the discretion of the Office of Administrative Hearings, the hearing may also be held at an office of the Office of Administrative Hearings located in or near the county in which the arrest was made in this state. The Office of Administrative Hearings shall send a notice of hearing to the person whose driving privileges are at issue and the person’s legal counsel if the person is represented by legal counsel, by regular mail, or with the written consent of the person whose driving privileges are at issue or their legal counsel, by facsimile or electronic mail. The Office of Administrative Hearings shall also send a notice of hearing by regular mail, facsimile or electronic mail to the Division of Motor Vehicles, and the Attorney General’s Office, if the Attorney General has filed a notice of appearance of counsel on behalf of the Division of Motor Vehicles.
(c) (1) Any hearing shall be held within one hundred eighty days after the date upon which the Office of Administrative Hearings received the timely written objection unless there is a postponement or continuance.

(2) The Office of Administrative Hearings may postpone or continue any hearing on its own motion or upon application by the party whose license is at issue in that hearing or by the commissioner for good cause shown.

(3) The Office of Administrative Hearings may issue subpoenas commanding the appearance of witnesses and subpoenas duces tecum commanding the submission of documents, items or other things. Subpoenas duces tecum shall be returnable on the date of the next scheduled hearing unless otherwise specified. The Office of Administrative Hearings shall issue subpoenas and subpoenas duces tecum at the request of a party or the party’s legal representative. The party requesting the subpoena shall be responsible for service of the subpoena upon the appropriate individual. Every subpoena or subpoena duces tecum shall be served at least five days before the return date thereof, either by personal service made by a person over eighteen years of age or by registered or certified mail, return receipt requested, and received by the party responsible for serving the subpoena or subpoena duces tecum: Provided, That the Division of Motor Vehicles may serve subpoenas to law-enforcement officers through electronic mail to the department of his or her employer. If a person does not obey the subpoena or fails to appear, the party who issued the subpoena to the person may petition the circuit court wherein the action lies for enforcement of the subpoena.

(d) Law-enforcement officers shall be compensated for the time expended in their travel and appearance before the Office of Administrative Hearings by the law-enforcement agency by whom they are employed at their regular rate if they are sched-
uled to be on duty during said time or at their regular overtime rate if they are scheduled to be off duty during said time.

(e) The principal question at the hearing shall be whether the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person’s blood of eight hundredths of one percent or more, by weight, or did refuse to submit to the designated secondary chemical test, or did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight.

(f) In the case of a hearing in which a person is accused of driving a motor vehicle while under the influence of alcohol, controlled substances or drugs, or accused of driving a motor vehicle while having an alcohol concentration in the person’s blood of eight hundredths of one percent or more, by weight, or accused of driving a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings shall make specific findings as to: (1) Whether the investigating law-enforcement officer had reasonable grounds to believe the person to have been driving while under the influence of alcohol, controlled substances or drugs, or while having an alcohol concentration in the person’s blood of eight hundredths of one percent or more, by weight, or to have been driving a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the
purpose of administering a secondary test: Provided, That this
element shall be waived in cases where no arrest occurred due to
driver incapacitation; (3) whether the person committed an
offense involving driving under the influence of alcohol,
controlled substances or drugs and (4) whether the tests, if any,
were administered in accordance with the provisions of this
article and article five of this chapter.

(g) If, in addition to a finding that the person did drive a
motor vehicle while under the influence of alcohol, controlled
substances or drugs, or did drive a motor vehicle while having an
alcohol concentration in the person’s blood of eight hundredths
of one percent or more, by weight, or did drive a motor vehicle
while under the age of twenty-one years with an alcohol concen-
tration in his or her blood of two hundredths of one percent or
more, by weight, the Office of Administrative Hearings also finds by
a preponderance of the evidence that the person when driving did
an act forbidden by law or failed to perform a duty imposed by
law, which act or failure proximately caused the death of a
person and was committed in reckless disregard of the safety of
others and if the Office of Administrative Hearings further finds
that the influence of alcohol, controlled substances or drugs or
the alcohol concentration in the blood was a contributing cause
to the death, the commissioner shall revoke the person’s license
for a period of ten years: Provided, That if the person’s license
has previously been suspended or revoked under the provisions
of this section or section one of this article within the ten years
immediately preceding the date of arrest, the period of revoca-
tion shall be for the life of the person.

(h) If, in addition to a finding that the person did drive a
motor vehicle while under the influence of alcohol, controlled
substances or drugs, or did drive a motor vehicle while having an
alcohol concentration in the person’s blood of eight hundredths
of one percent or more, by weight, the Office of Administrative
Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused the death of a person, the commissioner shall revoke the person’s license for a period of five years: Provided, That if the person’s license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(i) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person’s blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did an act forbidden by law or failed to perform a duty imposed by law, which act or failure proximately caused bodily injury to a person other than himself or herself, the commissioner shall revoke the person’s license for a period of two years: Provided, That if the license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: Provided, however, That if the person’s license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(j) If the Office of Administrative Hearings finds by a preponderance of the evidence that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person’s blood of eight hundredths of one percent or more, by weight, but less than fifteen hun-
dredths of one percent or more, by weight, or finds that the
person knowingly permitted the person's vehicle to be driven by
another person who was under the influence of alcohol, con-
trolled substances or drugs, or knowingly permitted the person's
vehicle to be driven by another person who had an alcohol
concentration in his or her blood of eight hundredths of one
percent or more, by weight, the commissioner shall revoke the
person's license for a period of six months or a period of fifteen
days with an additional one hundred and twenty days of partici-
pation in the Motor Vehicle Alcohol Test and Lock Program in
accordance with the provisions of section three-a of this article:
Provided, That any period of participation in the Motor Vehicle
Alcohol Test and Lock Program that has been imposed by a
court pursuant to section two-b, article five of this chapter shall
be credited against any period of participation imposed by the
commissioner: Provided, however, That a person whose license
is revoked for driving while under the influence of drugs is not
eligible to participate in the Motor Vehicle Alcohol Test and
Lock Program: Provided further, That if the person's license has
previously been suspended or revoked under the provisions of
this section or section one of this article within the ten years
immediately preceding the date of arrest, the period of revoca-
tion shall be ten years: And provided further, That if the person's
license has previously been suspended or revoked more than
once under the provisions of this section or section one of this
article within the ten years immediately preceding the date of
arrest, the period of revocation shall be for the life of the person.

(k) (1) If in addition to finding by a preponderance of the
evidence that the person did drive a motor vehicle while under
the influence of alcohol, controlled substance or drugs, the
Office of Administrative Hearings also finds by a preponderance
of the evidence that the person did drive a motor vehicle while
having an alcohol concentration in the person's blood of fifteen
hundredths of one percent or more, by weight, the commissioner
shall revoke the person's license for a period of forty-five days
with an additional two hundred and seventy days of participation in the Motor Vehicle Alcohol Test and Lock Program in accordance with the provisions of section three-a, article five-a, chapter seventeen-c of this code: Provided, That if the person’s license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: Provided, however, That if the person’s license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(2) If a person whose license is revoked pursuant to subdivision (1) of this subsection proves by clear and convincing evidence that they do not own a motor vehicle upon which the alcohol test and lock device may be installed or is otherwise incapable of participating in the Motor Vehicle Alcohol Test and Lock Program, the period of revocation shall be one hundred eighty days: Provided, That if the person’s license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: Provided, however, That if the person’s license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(l) If, in addition to a finding that the person did drive a motor vehicle while under the age of twenty-one years with an alcohol concentration in his or her blood of two hundredths of one percent or more, by weight, but less than eight hundredths of one percent, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person
when driving did an act forbidden by law or failed to perform a
duty imposed by law, which act or failure proximately caused
the death of a person, and if the Office of Administrative
Hearings further finds that the alcohol concentration in the blood
was a contributing cause to the death, the commissioner shall
revoke the person's license for a period of five years: Provided,
That if the person's license has previously been suspended or
revoked under the provisions of this section or section one of this
article within the ten years immediately preceding the date of
arrest, the period of revocation shall be for the life of the person.

(m) If, in addition to a finding that the person did drive a
motor vehicle while under the age of twenty-one years with an
alcohol concentration in his or her blood of two hundredths of
one percent or more, by weight, but less than eight hundredths of
one percent, by weight, the Office of Administrative Hearings
also finds by a preponderance of the evidence that the person
when driving did an act forbidden by law or failed to perform a
duty imposed by law, which act or failure proximately caused
bodily injury to a person other than himself or herself, and if the
Office of Administrative Hearings further finds that the alcohol
concentration in the blood was a contributing cause to the bodily
injury, the commissioner shall revoke the person's license for a
period of two years: Provided, That if the person's license has
previously been suspended or revoked under the provisions of
this section or section one of this article within the ten years
immediately preceding the date of arrest, the period of revoca-
tion shall be ten years: Provided, however, That if the person's
license has previously been suspended or revoked more than
once under the provisions of this section or section one of this
article within the ten years immediately preceding the date of
arrest, the period of revocation shall be for the life of the person.

(n) If the Office of Administrative Hearings finds by a
preponderance of the evidence that the person did drive a motor
vehicle while under the age of twenty-one years with an alcohol
concentration in his or her blood of two hundredths of one
percent or more, by weight, but less than eight hundredths of one percent, by weight, the commissioner shall suspend the person’s license for a period of sixty days: Provided, That if the person’s license has previously been suspended or revoked under the provisions of this section or section one of this article, the period of revocation shall be for one year, or until the person’s twenty-first birthday, whichever period is longer.

(o) If, in addition to a finding that the person did drive a motor vehicle while under the influence of alcohol, controlled substances or drugs, or did drive a motor vehicle while having an alcohol concentration in the person’s blood of eight hundredths of one percent or more, by weight, the Office of Administrative Hearings also finds by a preponderance of the evidence that the person when driving did have on or within the Motor vehicle another person who has not reached his or her sixteenth birthday, the commissioner shall revoke the person’s license for a period of one year: Provided, That if the person’s license has previously been suspended or revoked under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be ten years: Provided, however, That if the person’s license has previously been suspended or revoked more than once under the provisions of this section or section one of this article within the ten years immediately preceding the date of arrest, the period of revocation shall be for the life of the person.

(p) For purposes of this section, where reference is made to previous suspensions or revocations under this section, the following types of criminal convictions or administrative suspensions or revocations shall also be regarded as suspensions or revocations under this section or section one of this article:

(1) Any administrative revocation under the provisions of the prior enactment of this section for conduct which occurred within the ten years immediately preceding the date of arrest;
(2) Any suspension or revocation on the basis of a conviction under a municipal ordinance of another state or a statute of the United States or of any other state of an offense which has the same elements as an offense described in section two, article five of this chapter for conduct which occurred within the ten years immediately preceding the date of arrest; or

(3) Any revocation under the provisions of section seven, article five of this chapter for conduct which occurred within the ten years immediately preceding the date of arrest.

(q) In the case of a hearing in which a person is accused of refusing to submit to a designated secondary test, the Office of Administrative Hearings shall make specific findings as to: (1) Whether the arresting law-enforcement officer had reasonable grounds to believe the person had been driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (2) whether the person was lawfully placed under arrest for an offense involving driving under the influence of alcohol, controlled substances or drugs, or was lawfully taken into custody for the purpose of administering a secondary test: Provided, That this element shall be waived in cases where no arrest occurred due to driver incapacitation; (3) whether the person committed an offense relating to driving a motor vehicle in this state while under the influence of alcohol, controlled substances or drugs; (4) whether the person refused to submit to the secondary test finally designated in the manner provided in section four, article five of this chapter; and (5) whether the person had been given a written statement advising the person that the person’s license to operate a motor vehicle in this state would be revoked for at least forty-five days and up to life if the person refused to submit to the test finally designated in the manner provided in said section.

(r) If the Office of Administrative Hearings finds by a 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 subsec-
370 tion 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
or upon the person’s legal counsel if the person is represented by legal counsel by registered or certified mail, return receipt requested, or by facsimile or by electronic mail if available. The final order shall be served upon the commissioner by electronic mail. During the pendency of any hearing, the revocation of the person’s license to operate a motor vehicle in this state shall be stayed.

A person whose license is at issue and the commissioner shall be entitled to judicial review as set forth in chapter twenty-nine-a of this code. Neither the commissioner nor the Office of Administrative Hearings may stay enforcement of the order. The court may grant a stay or supersede as of the order only upon motion and hearing, and a finding by the court upon the evidence presented, that there is a substantial probability that the appellant shall prevail upon the merits and the appellant will suffer irreparable harm if the order is not stayed: Provided, That in no event shall the stay or supersede as of the order exceed one hundred fifty days. The Office of Administrative Hearings may not be made a party to an appeal. The party filing the appeal shall pay the Office of Administrative Hearings for the production and transmission of the certified file copy and the hearing transcript to the court. Notwithstanding the provisions of section four, article five of said chapter, the Office of Administrative Hearings may not be compelled to transmit a certified copy of the file or the transcript of the hearing to the circuit court in less than sixty days. Circuit Clerk shall provide a copy of the circuit court’s final order on the appeal to the Office of Administrative Hearings by regular mail, by facsimile, or by electronic mail if available.

(t) In any revocation or suspension pursuant to this section, if the driver whose license is revoked or suspended had not reached the driver’s eighteenth birthday at the time of the conduct for which the license is revoked or suspended, the driver’s license shall be revoked or suspended until the driver’s
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.

(a) Any deed or instrument that initially grants or reserves an easement or right-of-way shall describe the easement or right-of-way by any of the following:

1. Metes and bounds;

2. Specification of centerline: Provided, That any deed or instrument, executed on or after September 1, 2013, that initially grants or reserves an easement or right-of-way using the centerline method must also include the width;

3. Station and offset; or

4. Reference to an attached drawing or plat which may not require a survey or instrument based on the use of the global positioning system which may not require a survey.

(b) Oil and gas, gas storage and mineral leases shall not be required to describe the easement, but shall describe the land on which the easement or right-of-way will be situate by source of title or reference to a tax map and parcel, recorded deed, recorded lease, plat or survey sufficient to reasonably identify and locate the property on which the easement or right-of-way is situate: Provided, That the easement or right-of-way is not invalid because of the failure of the easement or right-of-way to meet the requirements of this subsection or subsection (a) above.

(c) This section does not apply to the construction of a service extension from a main distribution system of a public utility when the service extension is located entirely on, below or above the property to which the utility service is to be provided.
(d) The clerk of the county commission of any county in which an easement or right-of-way is recorded pursuant to this section may only accept for recordation a document that complies with this section and that otherwise complies with the requirements of article one, chapter thirty-nine of this code, without need for a survey or certification under section two-a, 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.

(a) General. — The Development Office shall receive and act on applications filed with it by county commissions pursuant to section six of this article. Each application must include:

(1) A true copy of the notice described in section six of this article;

(2) The total cost of the project;

(3) A reasonable estimate of the number of months needed to complete the project;

(4) A general description of the capital improvements, additional or extended services and other proposed development expenditures to be made in the district as part of the project;

(5) A description of the proposed method of financing the development expenditures, together with a description of the reserves to be established for financing ongoing development expenditures necessary to permanently maintain the optimum economic viability of the district following its inception: Provided, That the amounts of the reserves may not exceed the amounts that would be required by prevailing commercial capital market considerations;
(6) A description of the sources and anticipated amounts of all financing, including, but not limited to, proceeds from the issuance of any bonds or other instruments, revenues from the special district excise tax and enhanced revenues from property taxes and fees;

(7) A description of the financial contribution of the county commission to the funding of development expenditures;

(8) Identification of any businesses that the county commission expects to relocate their business locations from the district to another place in the state in connection with the establishment of the district or from another place in this state to the district: Provided, That for purposes of this article, any entities shall be designated "relocated entities";

(9) Identification of any businesses currently conducting business in the proposed economic opportunity development district that the county commission expects to continue doing business there after the district is created;

(10) A good faith estimate of the aggregate amount of consumers sales and service tax that was actually remitted to the Tax Commissioner by all business locations identified as provided in subdivisions (8) and (9) of this subsection with respect to their sales made and services rendered from their then current business locations that will be relocated from, or to, or remain in the district, for the twelve full calendar months next preceding the date of the application: Provided, That for purposes of this article, the aggregate amount is designated as "the base tax revenue amount";

(11) A good faith estimate of the gross annual district tax revenue amount;

(12) The proposed application of any surplus from all funding sources to further the objectives of this article;
(13) The Tax Commissioner's certification of: (i) The amount of consumers sales and service taxes collected from businesses located in the economic opportunity district during the twelve calendar months preceding the calendar quarter during which the application will be submitted to the Development Office; (ii) the estimated amount of economic opportunity district excise tax that will be collected during the first twelve months after the month in which the Tax Commissioner would first begin to collect that tax; and (iii) the estimated amount of economic opportunity district excise tax that will be collected during the first thirty-six months after the month in which the Tax Commissioner would first begin to collect that tax; and

(14) Any additional information the Development Office may require.

(b) Review of applications.—The Development Office shall review all project proposals for conformance to statutory and regulatory requirements, the reasonableness of the project's budget and timetable for completion and the following criteria:

(1) The quality of the proposed project and how it addresses economic problems in the area in which the project will be located;

(2) The merits of the project determined by a cost-benefit analysis that incorporates all costs and benefits, both public and private;

(3) Whether the project is supported by significant private sector investment and substantial credible evidence that, but for the existence of sales tax increment financing, the project would not be feasible;

(4) Whether the economic opportunity district excise tax dollars will leverage or be the catalyst for the effective use of
private, other local government, state or federal funding that is available;

(5) Whether there is substantial and credible evidence that the project is likely to be started and completed in a timely fashion;

(6) Whether the project will, directly or indirectly, improve the opportunities in the area where the project will be located for the successful establishment or expansion of other industrial or commercial businesses;

(7) Whether the project will, directly or indirectly, assist in the creation of additional long-term employment opportunities in the area and the quality of jobs created in all phases of the project, to include, but not be limited to, wages and benefits;

(8) Whether the project will fulfill a pressing need for the area, or part of the area, in which the economic opportunity district is located;

(9) Whether the county commission has a strategy for economic development in the county and whether the project is consistent with that strategy;

(10) Whether the project helps to diversify the local economy;

(11) Whether the project is consistent with the goals of this article;

(12) Whether the project is economically and fiscally sound using recognized business standards of finance and accounting; and

(13) (A) The ability of the county commission and the project developer or project team to carry out the project:
Provided, That no project may be approved by the Development Office unless the amount of all development expenditures proposed to be made in the first twenty-four months following the creation of the district results in capital investment of more than $75 million in the district and the county submits clear and convincing information, to the satisfaction of the Development Office, that the investment will be made if the Development Office approves the project and the Legislature authorizes the county commission to levy an excise tax on sales of goods and services made within the economic opportunity district as provided in this article.

(B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, no project involving remediation may be approved by the Development Office unless the amount of all development expenditures proposed to be made in the first forty-eight months following the creation of the district results in capital investment of more than $75 million in the district. In addition to the remaining provisions of paragraph (A) of this subdivision the Development Office may not approve a project involving remediation authorized under section five of this article unless the county commission submits clear and convincing information, to the satisfaction of the Development Office, that the proposed remediation expenditures to be financed by the issuance of bonds or notes pursuant to section sixteen of this article do not constitute more than twenty-five percent of the total development expenditures associated with the project.

(c) Additional criteria. — The Development Office may establish other criteria for consideration when approving the applications.

(d) Action on the application. — The Executive Director of the Development Office shall act to approve or not approve any application within thirty days following the receipt of the application or the receipt of any additional information requested by the Development Office, whichever is the later.
(e) Certification of project. — If the Executive Director of the Development Office approves a county’s economic opportunity district project application, he or she shall issue to the county commission a written certificate evidencing the approval. The certificate shall expressly state a base tax revenue amount, the gross annual district tax revenue amount and the estimated net annual district tax revenue amount which, for purposes of this article, is the difference between the gross annual district tax revenue amount and the base tax revenue amount, all of which the Development Office has determined with respect to the district’s application based on any investigation it considers reasonable and necessary, including, but not limited to, any relevant information the Development Office requests from the Tax Commissioner and the Tax Commissioner provides to the Development Office: Provided, That in determining the net annual district tax revenue amount, the Development Office may not use a base tax revenue amount less than that amount certified by the Tax Commissioner but, in lieu of confirmation from the Tax Commissioner of the gross annual district tax revenue amount, the Development Office may use the estimate of the gross annual district tax revenue amount provided by the county commission pursuant to subsection (a) of this section.

(f) Certification of enlargement of geographic boundaries of previously certified district. — If the Executive Director of the Development Office approves a county’s economic opportunity district project application to expand the geographic boundaries of a previously certified district, he or she shall issue to the county commission a written certificate evidencing the approval. The certificate shall expressly state a base tax revenue amount, the gross annual district tax revenue amount and the estimated net annual district tax revenue amount which, for purposes of this article, is the difference between the gross
annual district tax revenue amount and the base tax revenue amount, all of which the Development Office has determined with respect to the district’s application based on any investigation it considers reasonable and necessary, including, but not limited to, any relevant information the Development Office requests from the Tax Commissioner and the Tax Commissioner provides to the Development Office: Provided, That in determining the net annual district tax revenue amount, the Development Office may not use a base tax revenue amount less than that amount certified by the Tax Commissioner but, in lieu of confirmation from the Tax Commissioner of the gross annual district tax revenue amount, the Development Office may use the estimate of the gross annual district tax revenue amount provided by the county commission pursuant to subsection (a) of this section.

(g) Promulgation of rules. — The Executive Director of the Development Office may promulgate rules to implement the economic opportunity development district project application approval process and to describe the criteria and procedures it has established in connection therewith. These rules are not subject to the provisions of chapter twenty-nine-a of this code 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.

(a) General. — The Development Office shall receive and act on applications filed with it by municipalities pursuant to section six of this article. Each application must include:
(1) A true copy of the notice described in section six of this article;

(2) The total cost of the project;

(3) A reasonable estimate of the number of months needed to complete the project;

(4) A general description of the capital improvements, additional or extended services and other proposed development expenditures to be made in the district as part of the project;

(5) A description of the proposed method of financing the development expenditures, together with a description of the reserves to be established for financing ongoing development expenditures necessary to permanently maintain the optimum economic viability of the district following its inception: \textit{Provided,} That the amounts of the reserves may not exceed the amounts that would be required by prevailing commercial capital market considerations;

(6) A description of the sources and anticipated amounts of all financing, including, but not limited to, proceeds from the issuance of any bonds or other instruments, revenues from the special district excise tax and enhanced revenues from property taxes and fees;

(7) A description of the financial contribution of the municipality to the funding of development expenditures;

(8) Identification of any businesses that the municipality expects to relocate their business locations from the district to another place in the state in connection with the establishment of the district or from another place in this state to the district: \textit{Provided,} That for purposes of this article, any entities shall be designated "relocated entities";
(9) Identification of any businesses currently conducting business in the proposed economic opportunity development district that the municipality expects to continue doing business there after the district is created;

(10) A good faith estimate of the aggregate amount of consumers sales and service tax that was actually remitted to the Tax Commissioner by all business locations identified as provided in subdivisions (8) and (9) of this subsection with respect to their sales made and services rendered from their then current business locations that will be relocated from, or to, or remain in the district for the twelve full calendar months next preceding the date of the application: Provided, That for purposes of this article, the aggregate amount is designated as “the base tax revenue amount”;

(11) A good faith estimate of the gross annual district tax revenue amount;

(12) The proposed application of any surplus from all funding sources to further the objectives of this article;

(13) The Tax Commissioner’s certification of: (i) The amount of consumers sales and service taxes collected from businesses located in the economic opportunity district during the twelve calendar months preceding the calendar quarter during which the application will be submitted to the Development Office; (ii) the estimated amount of economic opportunity district excise tax that will be collected during the first twelve months after the month in which the Tax Commissioner would first begin to collect that tax; and (iii) the estimated amount of economic opportunity district excise tax that will be collected during the first thirty-six months after the month in which the Tax Commissioner would first begin to collect that tax; and

(14) Any additional information the Development Office may require.
(b) **Review of applications.** — The Development Office shall review all project proposals for conformance to statutory and regulatory requirements, the reasonableness of the project’s budget and timetable for completion and the following criteria:

1. The quality of the proposed project and how it addresses economic problems in the area in which the project will be located;

2. The merits of the project determined by a cost-benefit analysis that incorporates all costs and benefits, both public and private;

3. Whether the project is supported by significant private sector investment and substantial credible evidence that, but for the existence of sales tax increment financing, the project would not be feasible;

4. Whether the economic opportunity development district excise tax dollars will leverage or be the catalyst for the effective use of private, other local government, state or federal funding that is available;

5. Whether there is substantial and credible evidence that the project is likely to be started and completed in a timely fashion;

6. Whether the project will, directly or indirectly, improve the opportunities in the area where the project will be located for the successful establishment or expansion of other industrial or commercial businesses;

7. Whether the project will, directly or indirectly, assist in the creation of additional long-term employment opportunities in the area and the quality of jobs created in all phases of the project, to include, but not be limited to, wages and benefits;
(8) Whether the project will fulfill a pressing need for the area, or part of the area, in which the economic opportunity district is located: Provided, That the Development Office should consider whether the economic development project is large enough to require that it contain a mixed use development provision consisting of a housing component with at least ten percent of housing units in the district allocated for affordable housing;

(9) Whether the municipality has a strategy for economic development in the municipality and whether the project is consistent with that strategy;

(10) Whether the project helps to diversify the local economy;

(11) Whether the project is consistent with the goals of this article;

(12) Whether the project is economically and fiscally sound using recognized business standards of finance and accounting; and

(13) (A) The ability of the municipality and the project developer or project team to carry out the project: Provided, That no project may be approved by the Development Office unless the amount of all development expenditures proposed to be made in the first twenty-four months following the creation of the district results in capital investment of more than $75 million in the district and the municipality submits clear and convincing information, to the satisfaction of the Development Office, that the investment will be made if the Development Office approves the project and the Legislature authorizes the municipality to levy an excise tax on sales of goods and services made within the economic opportunity development district as provided in this article.
(B) Notwithstanding any provision of paragraph (A) of this subdivision to the contrary, no project involving remediation may be approved by the Development Office unless the amount of all development expenditures proposed to be made in the first forty-eight months following the creation of the district results in capital investment of more than $75 million in the district. In addition to the remaining provisions of paragraph (A) of this subdivision the Development Office may not approve a project involving remediation authorized under section five of this article unless the municipality submits clear and convincing information, to the satisfaction of the Development Office, that the proposed remediation expenditures to be financed by the issuance of bonds or notes pursuant to section sixteen of this article do not constitute more than twenty-five percent of the total development expenditures associated with the project.

(c) Additional criteria. — The Development Office may establish other criteria for consideration when approving the applications.

(d) Action on the application. — The Executive Director of the Development Office shall act to approve or not approve any application within thirty days following the receipt of the application or the receipt of any additional information requested by the Development Office, whichever is the later.

(e) Certification of project. — If the Executive Director of the Development Office approves a municipality’s economic opportunity district project application, he or she shall issue to the municipality a written certificate evidencing the approval.

The certificate shall expressly state a base tax revenue amount, the gross annual district tax revenue amount and the estimated net annual district tax revenue amount which, for purposes of this article, is the difference between the gross annual district tax revenue amount and the base tax revenue
amount, all of which the Development Office has determined
with respect to the district’s application based on any investiga-
tion it considers reasonable and necessary, including, but not
limited to, any relevant information the Development Office
requests from the Tax Commissioner and the Tax Commissioner
provides to the Development Office: Provided, That in determin-
ing the net annual district tax revenue amount, the Development
Office may not use a base tax revenue amount less than that
amount certified by the Tax Commissioner but, in lieu of
confirmation from the Tax Commissioner of the gross annual
district tax revenue amount, the Development Office may use the
estimate of the gross annual district tax revenue amount provided
by the municipality pursuant to subsection (a) of this section.

(f) Certification of enlargement of geographic boundaries of
previously certified district. — If the Executive Director of the
Development Office approves a municipality’s economic
opportunity district project application to expand the geographic
boundaries of a previously certified district, he or she shall issue
to the municipality a written certificate evidencing the approval.

The certificate shall expressly state a base tax revenue
amount, the gross annual district tax revenue amount and the
estimated net annual district tax revenue amount which, for
purposes of this article, is the difference between the gross
annual district tax revenue amount and the base tax revenue
amount, all of which the Development Office has determined
with respect to the district’s application based on any investiga-
tion it considers reasonable and necessary, including, but not
limited to, any relevant information the Development Office
requests from the Tax Commissioner and the Tax Commissioner
provides to the Development Office: Provided, That in determin-
ing the net annual district tax revenue amount, the Development
Office may not use a base tax revenue amount less than that
amount certified by the Tax Commissioner, but, in lieu of
confirmation from the Tax Commissioner of the gross annual
district tax revenue amount, the Development Office may use the estimate of the gross annual district tax revenue amount provided by the municipality pursuant to subsection (a) of this section.

(g) **Promulgation of rules.** — The Executive Director of the Development Office may promulgate rules to implement the economic opportunity development district project application approval process and to describe the criteria and procedures it has established in connection therewith. These rules are not subject to the provisions of chapter twenty-nine-a of this code but shall be filed with the Secretary of State.

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**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.

(a) This section, together with section one-a, article one, chapter eighteen-b of this code and article one-d of said chapter, shall be known as and may be cited as Vision 2020: An Education Blueprint for Two Thousand Twenty.

(b) For the purposes of this section:

(1) “Goals” means those long-term public purposes which are the desired end result and only may include those items listed in subsection (e) of this section;

(2) “Objectives” means the ends to be accomplished or attained within a specified period of time for the purpose of meeting the established goals; and

(3) “Strategies” means specific activities carried out by the public education system which are directed toward accomplishing specific objectives.

(c) The Legislature finds that:

(1) The measure of a thorough and efficient system of education is whether students graduate prepared to meet the challenges of the future as contributing members of society and that these challenges change, becoming ever more complex and involving a global context more than at any other time in the history of our nation;

(2) The state recently has embraced and is implementing the Partnership for 21st Century Skills model for teaching and learning including six key elements (core subjects, 21st Century content, learning and thinking skills, information and communications technology literacy, life skills and 21st Century assessments) to help better prepare students for the challenges of the 21st Century;

(3) Published national studies by several organizations routinely examine various elements of state education systems
and selected underlying socioeconomic variables and rate and rank West Virginia and the other states, the District of Columbia and the territories based on the measurement systems and priorities established by the organizations, and these measure-
ment systems and priorities change;

(4) While the state should take pride in studies that show West Virginia is among the leaders in several of its efforts and is making progress, its students often outperforming expectations based on typical indicators of the likelihood for student success, such as the income and education levels of their parents, it should also recognize that the state must do even more to ensure that high school graduates are fully prepared for post-secondary education or gainful employment;

(5) Therefore, the purpose of this section is to provide for the establishment of a clear plan that includes goals, objectives, strategies, indicators and benchmarks to help guide the state’s policymakers on the continuous development of the state’s education system for the 21st Century.

(d) As part of Vision 2020: An Education Blueprint for Two Thousand Twenty, the state board shall establish a plan in accordance with the provisions of this section for submission to and consideration by the Legislative Oversight Commission on Education Accountability. The plan shall include only the goals, objectives, strategies, indicators and benchmarks for public education set forth in this section and that meet the requirements of this section. To add clarity and avoid confusion, the goals for public education set forth in the plan pursuant to this section are the exclusive goals for public education. The plan shall include:

(1) The goals set forth in this section and no other goals;

(2) At least the objectives set forth in this section and specified periods of time for achieving those objectives and any other objectives that may be included in the plan;
(3) Strategies for achieving the specific objectives;

(4) Indicators for measuring progress toward the goals and objectives established in this section; and

(5) Benchmarks for determining when the goals and objectives have been achieved.

(e) The plan shall include the following list of exclusive goals for the public education system in West Virginia:

(1) Academic achievement according to national and international measures will exceed national and international averages. These national and international measures should include scores on assessments such as the National Assessment of Educational Progress (NAEP), the ACT, the SAT and the Programme for International Assessment (PISA);

(2) The public education system will prepare fully all students for post-secondary education or gainful employment;

(3) All working-age adults will be functionally literate;

(4) The public education system will maintain and promote the health and safety of all students and will develop and promote responsibility, citizenship and strong character in all students; and

(5) The public education system will provide equitable education opportunity to all students.

(f) The plan also shall include at least the following policy-oriented objectives:

(1) Rigorous 21st Century curriculum and engaging instruction for all students. – All students in West Virginia public schools should have access to and benefit from a rigorous
21st Century curriculum that develops proficiency in core subjects, 21st Century content, learning skills and technology tools. These students also should have that curriculum delivered through engaging, research-based instructional strategies that develop deep understanding and the ability to apply content to real-world situations;

(2) A 21st Century accountability and accreditation system. The prekindergarten through twelve education system should have a public accrediting system that: (i) Holds local school districts accountable for the student outcomes the state values; and (ii) provides the public with understandable accountability data for judging the quality of local schools. The outcomes on which the system is based should be rigorous and should align with national and international standards such as the National Assessment of Educational Progress (NAEP), the ACT, the SAT and the Programme for International Assessment (PISA). The broad standards established for these outcomes should include a focus on: (A) Mastery of basic skills by all students; (B) closing the achievement gap among student subgroups; and (C) high levels of proficiency in a wide range of desired 21st Century measures and processes. The system for determining school and district accreditation should include school and district self analysis and generate appropriate research-based strategies for improvement. It also should allow opportunities to create innovative approaches to instructional delivery and design. Thus, the system will incorporate processes for encouraging innovation, including streamlined applications for waivers to state board policy, financial support for successful initiatives and recognition of those practices that can be brought to a district or statewide scale. The primary goal of the accreditation system is to drive school improvement. This 21st Century accountability and accreditation system also should include the methods of addressing capacity set forth in section five, article two-e of this chapter;
A statewide balanced assessment process. – State, district, school and classroom decisionmaking should be grounded in 21st Century balanced assessment processes that reflect national and international rigorous performance standards and examine student proficiency in 21st Century content, skills and technology tools. A balanced assessment system includes statewide summative assessments, local benchmark assessments and classroom assessments for learning;

A personnel allocation, licensure and funding process that aligns with the needs of 21st Century school systems and is supported by a quality coordinated professional development delivery system. – Increased accountability demands, as well as the focus on 21st Century learning, require a reexamination of traditional approaches to personnel allocation, licensure and funding. Creating schools of the 21st Century requires new staffing roles and staffing patterns. It also requires ongoing professional development activities focused on enhancing student achievement and achieving specific goals of the school and district strategic plans. Thus, schools should have the ability to access, organize and deliver high quality embedded professional development that provides staff with in-depth sustained and supported learning. Effective school improvement should allow opportunity for staff to collectively learn, plan and implement curricular and instructional improvements on behalf of the students they serve;

School environments that promote safe, healthy and responsible behavior and provide an integrated system of student support services. – Each school should create an environment focused on student learning and one where students know they are valued, respected and safe. Furthermore, the school should incorporate programs and processes that instill healthy, safe and responsible behaviors and prepare students for interactions with individuals of diverse racial, ethnic and social backgrounds. School and district processes should include a focus on develop-
ing ethical and responsible character, personal dispositions that
promote personal wellness through planned daily physical
activity and healthy eating habits consistent with high nutritional
guidelines and multicultural experiences that develop an
appreciation of and respect for diversity;

(6) A leadership recruitment, development and support
continuum. – Quality schools and school systems of the 21st
Century cannot be created without high-quality leaders. Thus,
West Virginia should have an aligned leadership professional
development continuum that attracts, develops and supports
educational leadership at the classroom, school and district level.
This leadership development continuum should focus on
creating: (i) Learning-centered schools and school systems; (ii)
collaborative processes for staff learning and continuous
improvement; and (iii) accountability measures for student
achievement;

(7) Equitable access to 21st Century technology and
education resources and school facilities conducive to 21st
Century teaching and learning. – A quality educational system
of the 21st Century should have access to technology tools and
processes that enhance effective and efficient operation. Admin-
istrators should have the digital resources to monitor student
performance, manage a variety of data and communicate
effectively. In the classroom, every teacher in every school
should be provided with the instructional resources and educa-
tional technology necessary to deliver the West Virginia content
standards and objectives. Schools of the 21st Century require
facilities that accommodate changing technologies, 21st Century
instructional processes and 21st Century staffing needs and
patterns. These school facilities should mirror the best in green
construction and be environmentally and educationally respon-
sive to the communities in which they are located;

(8) Aligned public school with post-secondary and work-
place readiness programs and standards. – An educational
system in the 21st Century should be seen as a continuum from the public school (prekindergarten through twelve) program through post-secondary education. In order to be successful in a global competitive marketplace, learning should be an ongoing, life-long experience. Thus, the public schools and the institutions of post-secondary education in West Virginia should create a system of common standards, expectations and accountability. Creating such an aligned system will enhance opportunities for success and assure a seamless educational process for West Virginia students; and

(9) A universal prekindergarten system. – A high-quality, universal prekindergarten system should be readily available to every eligible student. The system should promote oral language and preliteracy skills and reduce the deficit of these foundational skills through proactive, early intervention. Research indicates that universal prekindergarten systems improve graduation rates, reduce grade level retentions and reduce the number of special education placements. Therefore, local school systems should create the supports and provide the resources to assure a quality prekindergarten foundation is available to all eligible students.

(g) In addition to the policy-oriented objectives set forth in subsection (f) of this section, the plan established pursuant to this section also shall include at least the following performance-oriented objectives:

(1) All children entering the first grade will be ready for the first grade;

(2) The performance of students falling in the lowest quartile on national and international measures of student performance will improve by fifty percent;

(3) Ninety percent of ninth graders will graduate from high school;
(4) By 2012, the gap between the county with the lowest college-going rate and the state average as of the effective date of this act will decrease by fifty percent and the college-going rate of the state will equal the college-going rate of the member states of the Southern Regional Education Board; and

(5) By 2012, the gap between the county with the lowest college-going rate and the state average for school year 2012 will decrease by fifty percent and the college-going rate of the state will exceed the college-going rate of the member states of the Southern Regional Education Board by five percentage 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.

(a) For the purposes of this section, “teacher preparation institution” means a state institution of higher education with a teacher preparation program.

(b) The intent of this section is to establish a structure to enhance collaboration between the teacher preparation institutions, the Center for Professional Development, state board and the regional education service agencies in providing professional development.

(c) The Legislature finds that:

(1) There is insufficient collaboration of the teacher preparation institutions with the Center for Professional Development, state board and each of the regional education service agencies;

(2) More collaboration would prevent duplication of services and result in higher quality professional development;
(3) Creating a structure and assigning responsibility would promote more effective collaboration;

(4) The state's research and doctoral degree-granting public institutions of higher education, West Virginia University and Marshall University, have the most capacity to be important sources of research and expertise on professional development;

(5) West Virginia University and Marshall University are the only institutions in the state that offer course work leading to a doctoral degree in education administration;

(6) As the largest state institutions of higher education, West Virginia University and Marshall University have more capacity than any other institution in the state to handle the additional responsibilities assigned in this section;

(7) The coordination by West Virginia University and Marshall University of the efforts of other teacher preparation institutions to collaborate with the Center for Professional Development, state board and each of the regional education service agencies will provide points of accountability for the collaboration efforts of the other institutions; and

(8) The state board's authority over the regional education service agencies can be used to motivate the agencies to collaborate with the teacher preparation institutions in providing professional development and will serve as a point of accountability for the collaboration efforts of the agencies.

(d) West Virginia University and Marshall University shall collaborate with the Center for Professional Development in performing the center's duties. This collaboration shall include at least the following:

(1) Including the teacher preparation institutions in the proposed professional staff development program goals required
by section three, article two-i of this chapter to be included in the
master plan for professional development;

(2) Providing any available research-based expertise that
would be helpful in the design of the proposed professional staff
development program goals;

(3) Providing any available research-based expertise that
would be helpful in the implementation of professional develop-
ment programs; and

(4) Arranging for other state institutions of higher education
having a teacher preparation program to assist the center when
that assistance would be helpful.

(e) All teacher preparation institutions shall collaborate with
the regional education service agency of the service area in
which the institution is located at least to:

(1) Prevent unnecessary duplication of services;

(2) Assist in the implementation of the professional develop-
ment programs of the regional education service agency; and

(3) Assist the regional education service agency in obtaining
any available grants for professional development or to apply for
any available grant with the agency collaboratively.

(f) Since no teacher preparation institution exists in the
service area of Regional Education Service Agency IV, Marshall
University shall collaborate with that agency for the purposes set
forth in subdivision (e) of this section.

(g) In addition to the collaboration required by subsections
(e) and (f) of this section of all teacher preparation institutions,
West Virginia University and Marshall University shall:
(1) Coordinate the collaboration of each of the other teacher preparation institutions in their designated coordination area with the appropriate regional education service agency. This coordination at least includes ensuring that each of the other institutions are collaborating with the appropriate regional education service agency; and

(2) Collaborate with each of the other teacher preparation institutions in their designated coordination area. This collaboration at least includes providing assistance to the other institutions in providing professional development and in their collaboration with the appropriate regional education service agency.

(h) The designated coordination area of West Virginia University includes the service areas of Regional Education Service Agencies V, VI, VII and VIII. The designated coordination area of Marshall University includes the service areas of Regional Education Service Agencies I, II, III and IV.

(i) The state board shall ensure that each of the regional education service agencies is collaborating with the teacher preparation institution or institutions in its service area for the purposes set forth in subsection (e) of this section. Since Regional Education Service Agency IV does not have a teacher preparation institution in its service area, the state board shall ensure that it is collaborating with Marshall University for the purposes set forth in subsection (e) of this section.

(j) Before a regional education service agency, except for Regional Education Service Agency IV, obtains professional development related services or expertise from any teacher preparation institution outside of that agency’s service area, the agency shall inform the state board. Before Regional Education Service Agency IV obtains professional development related services or expertise from any teacher preparation institution other than Marshall University, the agency shall inform the state board.
(k) The collaboration and coordination requirements of this section include collaborating and coordinating to provide professional development for at least teachers, principals and paraprofessionals.


(a) The Legislature finds that:

(1) According to ACT, only twenty-five percent of ACT-tested high school graduates in the nation met college readiness benchmarks in English, reading, mathematics and science and only seventeen percent in West Virginia met the benchmarks in all four subjects;

(2) The post-secondary remediation rates of students entering post-secondary institutions directly out of high school indicate that a large percentage of students are not being adequately prepared at the elementary and secondary levels;

(3) This high level of post-secondary remediation is causing both students and the state to expend extra resources that would not have to be expended if the students were adequately prepared at the elementary and secondary levels;

(4) A strong foundation in English/language arts and math provides a basis for learning in all other subject areas and for on-the-job training; and

(5) A comparison of the percentages of students considered proficient in eighth grade reading and math by the state assessment and the National Assessment of Educational Progress indicate that the state assessment currently does not accurately reflect national standards.

(b) Before the 2014-2015 school year, the state board, the Higher Education Policy Commission and the Council for
Community and Technical College Education shall collaborate in formally adopting uniform and specific college- and career-readiness standards for English/language arts and math. The standards shall be clearly linked to state content standards and based on skills and competencies rather than high school course titles. The standards shall allow for a determination of whether a student needs to enroll in a post-secondary remedial course. The state board shall develop a plan for gradually bringing the standards for a high school diploma and college and career readiness into uniformity, and report this plan to the Legislative Oversight Commission on Education Accountability not later than December 31, 2013.

(c) The results on the comprehensive statewide student assessment program in grade eleven in English/language arts and mathematics shall be used to determine whether a student has met the college- and career-readiness standards adopted pursuant to subsection (b) of this section. Beginning with the 2015-2016 school year, instead of using the comprehensive statewide student assessment program, the state board may develop and implement end-of-course exams in English/language arts and math courses it determines appropriate. These exams are designed for determining whether a student has met the college- and career-readiness standards. In order to allow for the enrollment in transitional courses in the twelfth grade if necessary pursuant to subsection (e) of this section, the courses, assessments and exams, as applicable, shall be administered before the twelfth grade.

(d) Under its authority granted in section one, article three, chapter eighteen-a of this code, the state board shall require all teacher preparation programs in the state to include appropriate training for teachers seeking to teach in at least any of grades eight through twelve with respect to teaching the adopted college- and career-readiness standards. This training shall focus on teaching the standards directly, through embedding the standards in other courses or both, as appropriate.
(e) The state board shall develop a twelfth-grade transitional course for both English/language arts and math for those students who are not on track to be college and career ready based on the assessment or exam, as applicable, required pursuant to subsection (c) of this section. The transitional courses shall be aligned with the standards adopted pursuant to subsection (b) of this section. The state board in collaboration with the West Virginia Higher Education Policy Commission and the Council for Community and Technical College Education shall use the American College Testing Program’s Computerized Adaptive Placement Assessment and Support System (COMPASS) or other mutually agreed-upon assessment to determine whether a student has met the college- and career-readiness standards after completion of the transitional course.

(f) For all West Virginia public high school graduates who graduate during or after the 2016-2017 school year, all state institutions of higher education may use no factor other than the assessment, exam or test, as applicable, required pursuant to subsections (c) and (e) of this section to determine whether a student is to enroll in a remedial course or is to be placed in a college-level introductory course. Nothing in this subsection prohibits an institution from administering a diagnostic test to determine specific areas of weakness so that the specific weaknesses can be remediated rather than requiring a student to take an entire remedial course.

(g) The state board shall:

(1) Hold high schools and districts accountable for increasing the percentages of students who meet the college- and career-readiness standards as indicated by the assessments, exams or tests, as applicable, required pursuant to subsections (c) and (e) of this section. This accountability shall be achieved through the school and school system accreditation provisions set forth in section five, article two-e of this chapter;
(2) Align the comprehensive statewide student assessment for all grade levels in which the test is given with the college- and career-readiness standards adopted pursuant to subsection (b) of this section or develop other aligned tests at each grade level so that progress toward college and career readiness in English/language arts and math can be measured; and

(3) Hold all schools and districts accountable for helping students in earlier grade levels achieve scores on math and English/language arts tests that predict success in subsequent levels of related coursework. This accountability shall be achieved through the school and school system accreditation provisions set forth in section five, article two-e of this chapter;

(h) Except as otherwise specified, all provisions of this section become effective with the 2014-2015 school year.

(i) On or before December 31, 2013, the state board shall promulgate a legislative rule in accordance with article three-b, chapter twenty-nine-a of this code to implement the provisions 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.

(a) Legislative findings, purpose and intent. – The Legislature makes the following findings with respect to the process for improving education and its purpose and intent in the enactment of this section:

(1) The process for improving education includes four primary elements, these being:
(A) Standards which set forth the knowledge and skills that students should know and be able to perform as the result of a thorough and efficient education that prepares them for the twenty-first century, including measurable criteria to evaluate student performance and progress;

(B) Assessments of student performance and progress toward meeting the standards;

(C) A system of accountability for continuous improvement defined by high-quality standards for schools and school systems articulated by a rule promulgated by the state board and outlined in subsection (c) of this section that will build capacity in schools and districts to meet rigorous outcomes that assure student performance and progress toward obtaining the knowledge and skills intrinsic to a high-quality education rather than monitoring for compliance with specific laws and regulations; and

(D) A method for building the capacity and improving the efficiency of schools and school systems to improve student performance and progress;

(2) As the constitutional body charged with the general supervision of schools as provided by general law, the state board has the authority and the responsibility to establish the standards, assess the performance and progress of students against the standards, hold schools and school systems accountable and assist schools and school systems to build capacity and improve efficiency so that the standards are met, including, when necessary, seeking additional resources in consultation with the Legislature and the Governor;

(3) As the constitutional body charged with providing for a thorough and efficient system of schools, the Legislature has the 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
46 (4) In consideration of these findings, the purpose of this
47 section is to establish a process for improving education that
48 includes the four primary elements as set forth in subdivision (1)
49 of this subsection to provide assurances that the high-quality
50 standards are, at a minimum, being met and that a thorough and
51 efficient system of schools is being provided for all West
52 Virginia public school students on an equal education opportu-
53 nity basis; and
54
55 (5) The intent of the Legislature in enacting this section and
56 section five-c of this article is to establish a process through
57 which the Legislature, the Governor and the state board can
58 work in the spirit of cooperation and collaboration intended in
59 the process for improving education to consult and examine the
60 performance and progress of students, schools and school
61 systems and, when necessary, to consider alternative measures
62 to ensure that all students continue to receive the thorough and
63 efficient education to which they are entitled. However, nothing
64 in this section requires any specific level of funding by the
65 Legislature.
66
67 (b) Electronic county and school strategic improvement
68 plans. – The state board shall promulgate a rule consistent with
69 the provisions of this section and in accordance with article
70 three-b, chapter twenty-nine-a of this code establishing an
71 electronic county strategic improvement plan for each county
72 board and an electronic school strategic improvement plan for
73 each public school in this state. Each respective plan shall be a
five-year plan that includes the mission and goals of the school or school system to improve student, school or school system performance and progress, as applicable. The strategic plan shall be revised annually in each area in which the school or system is below the standard on the annual performance measures. The plan shall be revised when required pursuant to this section to include each annual performance measure upon which the school or school system fails to meet the standard for performance and progress, the action to be taken to meet each measure, a separate time line and a date certain for meeting each measure, a cost estimate and, when applicable, the assistance to be provided by the department and other education agencies to improve student, school or school system performance and progress to meet the annual performance measure.

The department shall make available to all public schools through its website or the West Virginia Education Information System an electronic school strategic improvement plan boilerplate designed for use by all schools to develop an electronic school strategic improvement plan which incorporates all required aspects and satisfies all improvement plan requirements of the No Child Left Behind Act.

(c) High-quality education standards and efficiency standards. – In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall adopt and periodically review and update high-quality education standards for student, school and school system performance and processes in the following areas:

(1) Curriculum;

(2) Workplace readiness skills;

(3) Finance;

(4) Transportation;
(5) Special education;
(6) Facilities;
(7) Administrative practices;
(8) Training of county board members and administrators;
(9) Personnel qualifications;
(10) Professional development and evaluation;
(11) Student performance, progress and attendance;
(12) Professional personnel, including principals and central office administrators, and service personnel attendance;
(13) School and school system performance and progress;
(14) A code of conduct for students and employees;
(15) Indicators of efficiency; and
(16) Any other areas determined by the state board.

(d) Comprehensive statewide student assessment program. – The state board shall establish a comprehensive statewide student assessment program to assess student performance and progress in grades three through twelve. The assessment program is subject to the following:

(1) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code establishing the comprehensive statewide student assessment program;

(2) Prior to the 2014-2015 school year, the state board shall align the comprehensive statewide student assessment for all
grade levels in which the test is given with the college-readiness standards adopted pursuant to section thirty-nine, article two of this chapter or develop other aligned tests to be required at each grade level so that progress toward college readiness in English/language arts and math can be measured;

(3) The state board may require that student proficiencies be measured through the ACT EXPLORE and the ACT PLAN assessments or other comparable assessments, which are approved by the state board and provided by future vendors;

(4) The state board may require that student proficiencies be measured through the West Virginia writing assessment at any grade levels determined by the state board to be appropriate; and

(5) The state board may provide through the statewide assessment program other optional testing or assessment instruments applicable to grade levels kindergarten through grade twelve which may be used by each school to promote student achievement. The state board annually shall publish and make available, electronically or otherwise, to school curriculum teams and teacher collaborative processes the optional testing and assessment instruments.

(e) State annual performance measures for school and school system accreditation. –

The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual performance measures for state accreditation of schools and school systems. The state board also may establish performance incentives for schools and school systems as part of the state accreditation system. On or before December 1, 2013, the state board shall report to the Governor and to the Legislative Oversight Commission on Education Accountability the pro-
posed rule for establishing the measures and incentives of accreditation and the estimated cost therefore, if any. Thereafter, the state board shall provide an annual report to the Governor and to the Legislative Oversight Commission on Education Accountability on the impact and effectiveness of the accreditation system. The rule for school and school system accreditation proposed by the board may include, but is not limited to, the following measures:

(1) Student proficiency in English and language arts, math, science and other subjects determined by the board;

(2) Graduation and attendance rate;

(3) Students taking and passing AP tests;

(4) Students completing a career and technical education class;

(5) Closing achievement gaps within subgroups of a school’s student population; and

(6) Students scoring at or above average attainment on SAT or ACT tests.

(f) Indicators of efficiency. – In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall adopt by rule and periodically review and update indicators of efficiency for use by the appropriate divisions within the department to ensure efficient management and use of resources in the public schools in the following areas:

(1) Curriculum delivery including, but not limited to, the use of distance learning;

(2) Transportation;

(3) Facilities;
(4) Administrative practices;

(5) Personnel;

(6) Use of regional educational service agency programs and services, including programs and services that may be established by their assigned regional educational service agency or other regional services that may be initiated between and among participating county boards; and

(7) Any other indicators as determined by the state board.

(g) Assessment and accountability of school and school system performance and processes. – In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall establish by rule a system of education performance audits which measures the quality of education and the preparation of students based on the annual measures of student, school and school system performance and progress. The system of education performance audits shall provide information to the state board, the Legislature and the Governor, upon which they may determine whether a thorough and efficient system of schools is being provided. The system of education performance audits shall include:

(1) The assessment of student, school and school system performance and progress based on the annual measures established pursuant to subsection (e) of this section;

(2) The evaluation of records, reports and other information collected by the Office of Education Performance Audits upon which the quality of education and compliance with statutes, policies and standards may be determined;

(3) The review of school and school system electronic strategic improvement plans; and
(4) The on-site review of the processes in place in schools and school systems to enable school and school system performance and progress and compliance with the standards.

(h) *Uses of school and school system assessment information.* The state board shall use information from the system of education performance audits to assist it in ensuring that a thorough and efficient system of schools is being provided and to improve student, school and school system performance and progress. Information from the system of education performance audits further shall be used by the state board for these purposes, including, but not limited to, the following:

1. Determining school accreditation and school system approval status;
2. Holding schools and school systems accountable for the efficient use of existing resources to meet or exceed the standards; and
3. Targeting additional resources when necessary to improve performance and progress.

The state board shall make accreditation information available to the Legislature, the Governor, the general public and to any individual who requests the information, subject to the provisions of any act or rule restricting the release of information.

(i) *Early detection and intervention programs.* Based on the assessment of student, school and school system performance and progress, the state board shall establish early detection and intervention programs using the available resources of the Department of Education, the regional educational service agencies, the Center for Professional Development and the Principals Academy, as appropriate, to assist underachieving schools and school systems to improve performance before
conditions become so grave as to warrant more substantive state intervention. Assistance shall include, but is not limited to, providing additional technical assistance and programmatic, professional staff development, providing monetary, staffing and other resources where appropriate.

(j) Office of Education Performance Audits. –

(1) To assist the state board in the operation of a system of education performance audits, the state board shall establish an Office of Education Performance Audits consistent with the provisions of this section. The Office of Education Performance Audits shall be operated under the direction of the state board independently of the functions and supervision of the State Department of Education and state superintendent. The Office of Education Performance Audits shall report directly to and be responsible to the state board in carrying out its duties under the provisions of this section.

(2) The office shall be headed by a director who shall be appointed by the state board and who serves at the will and pleasure of the state board. The annual salary of the director shall be set by the state board and may not exceed eighty percent of the salary cap of the State Superintendent of Schools.

(3) The state board shall organize and sufficiently staff the office to fulfill the duties assigned to it by law and by the state board. Employees of the State Department of Education who are transferred to the Office of Education Performance Audits shall retain their benefits and seniority status with the Department of Education.

(4) Under the direction of the state board, the Office of Education Performance Audits shall receive from the West Virginia education information system staff research and analysis data on the performance and progress of students, schools and school systems, and shall receive assistance, as
determined by the state board, from staff at the State Department of Education, the regional education service agencies, the Center for Professional Development, the Principals Academy and the School Building Authority to carry out the duties assigned to the office.

(5) In addition to other duties which may be assigned to it by the state board or by statute, the Office of Education Performance Audits also shall:

(A) Assure that all statewide assessments of student performance used as annual performance measures are secure as required in section one-a of this article;

(B) Administer all accountability measures as assigned by the state board, including, but not limited to, the following:

(i) Processes for the accreditation of schools and the approval of school systems; and

(ii) Recommendations to the state board on appropriate action, including, but not limited to, accreditation and approval action;

(C) Determine, in conjunction with the assessment and accountability processes, what capacity may be needed by schools and school systems to meet the standards established by the state board and recommend to the state board plans to establish those needed capacities;

(D) Determine, in conjunction with the assessment and accountability processes, whether statewide system deficiencies exist in the capacity of schools and school systems to meet the standards established by the state board, including the identification of trends and the need for continuing improvements in education, and report those deficiencies and trends to the state board;
(E) Determine, in conjunction with the assessment and accountability processes, staff development needs of schools and school systems to meet the standards established by the state board and make recommendations to the state board, the Center for Professional Development, the regional educational service agencies, the Higher Education Policy Commission and the county boards;

(F) Identify, in conjunction with the assessment and accountability processes, school systems and best practices that improve student, school and school system performance and communicate those to the state board for promoting the use of best practices. The state board shall provide information on best practices to county school systems; and

(G) Develop reporting formats, such as check lists, which shall be used by the appropriate administrative personnel in schools and school systems to document compliance with applicable laws, policies and process standards as considered appropriate and approved by the state board, which may include, but is not limited to, the following:

(i) The use of a policy for the evaluation of all school personnel that meets the requirements of sections twelve and twelve-a, article two, chapter eighteen-a of this code;

(ii) The participation of students in appropriate physical assessments as determined by the state board, which assessment may not be used as a part of the assessment and accountability system;

(iii) The appropriate licensure of school personnel; and

(iv) The appropriate provision of multicultural activities.

Information contained in the reporting formats is subject to examination during an on-site review to determine compliance
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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
policies or laws under which schools and county boards operate; and

(F) Determining and reporting whether required reviews and inspections have been conducted by the appropriate agencies, including, but not limited to, the State Fire Marshal, the Health Department, the School Building Authority and the responsible divisions within the Department of Education, and whether noted deficiencies have been or are in the process of being corrected.

(2) The Director of the Office of Education Performance Audits shall notify the county superintendent of schools five school days prior to commencing an on-site review of the county school system and shall notify both the county superintendent and the principal five school days before commencing an on-site review of an individual school: Provided, That the state board may direct the Office of Education Performance Audits to conduct an unannounced on-site review of a school or school system if the state board believes circumstances warrant an unannounced on-site review.

(3) The Office of Education Performance Audits shall conduct on-site reviews which are limited in scope to specific areas in which performance and progress are persistently below standard as determined by the state board unless specifically directed by the state board to conduct a review which covers additional areas.

(4) The Office of Education Performance Audits shall reimburse a county board for the costs of substitutes required to replace county board employees who serve on a review team.

(5) At the conclusion of an on-site review of a school system, the director and team leaders shall hold an exit conference with the superintendent and shall provide an opportunity for principals to be present for at least the portion of the conference
pertaining to their respective schools. In the case of an on-site review of a school, the exit conference shall be held with the principal and curriculum team of the school and the superintendent shall be provided the opportunity to be present. The purpose of the exit conference is to review the initial findings of the on-site review, clarify and correct any inaccuracies and allow the opportunity for dialogue between the reviewers and the school or school system to promote a better understanding of the findings.

(6) The Office of Education Performance Audits shall report the findings of an on-site review to the county superintendent and the principals whose schools were reviewed within thirty days following the conclusion of the on-site review. The Office of Education Performance Audits shall report the findings of the on-site review to the state board within forty-five days after the conclusion of the on-site review. A school or county that believes one or more findings of a review are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of education in the school or county or address issues unrelated to the health, safety and welfare of students and the quality of education, may appeal to the state board for removal of the findings. The state board shall establish a process for it to receive, review and act upon the appeals. The state board shall report to the Legislative Oversight Commission on Education Accountability during its July interim meetings, or as soon thereafter as practical, on each appeal during the preceding school year.

(7) The Legislature finds that the accountability and oversight of some activities and programmatic areas in the public schools are controlled through other mechanisms and agencies and that additional accountability and oversight may be unnecessary, counterproductive and impair necessary resources for teaching and learning. Therefore, the Office of Education
Performance Audits may rely on other agencies and mechanisms in its review of schools and school systems.

(I) School accreditation. –

(1) The state board shall establish levels of accreditation to be assigned to schools. The establishment of levels of accreditation and the levels shall be subject to the following:

(A) The levels will be designed to demonstrate school performance in all the areas outlined in this section and also those established by the state board;

(B) The state board shall promulgate legislative rules in accordance with the provisions of article three-b, chapter twenty-nine-a of this code to establish the performance and standards required for a school to be assigned a particular level of accreditation; and

(C) The state board will establish the levels of accreditation in such a manner as to minimize the number of systems of school recognition, both state and federal, that are employed to recognize and accredit schools.

(2) The state board annually shall review the information from the system of education performance audits submitted for each school and shall issue to every school a level of accreditation as designated and determined by the state board.

(3) The state board, in its exercise of general supervision of the schools and school systems of West Virginia, may exercise any or all of the following powers and actions:

(A) To require a school to revise its electronic strategic plan;

(B) To define extraordinary circumstances under which the state board may intervene directly or indirectly in the operation of a school;
(C) To appoint monitors to work with the principal and staff of a school where extraordinary circumstances are found to exist, and to appoint monitors to assist the school principal after intervention in the operation of a school is completed;

(D) To direct a county board to target resources to assist a school where extraordinary circumstances are found to exist;

(E) To intervene directly in the operation of a school and declare the position of principal vacant and assign a principal for the school who will serve at the will and pleasure of the state board. If the principal who was removed elects not to remain an employee of the county board, then the principal assigned by the state board shall be paid by the county board. If the principal who was removed elects to remain an employee of the county board, then the following procedure applies:

(i) The principal assigned by the state board shall be paid by the state board until the next school term, at which time the principal assigned by the state board shall be paid by the county board;

(ii) The principal who was removed is eligible for all positions in the county, including teaching positions, for which the principal is certified, by either being placed on the transfer list in accordance with section seven, article two, chapter eighteen-a of this code, or by being placed on the preferred recall list in accordance with section seven-a, article four, chapter eighteen-a of this code; and

(iii) The principal who was removed shall be paid by the county board and may be assigned to administrative duties, without the county board being required to post that position until the end of the school term; and

(F) Such other powers and actions the state board determines necessary to fulfill its duties of general supervision of the schools and school systems of West Virginia.
(4) The county board may take no action nor refuse any action if the effect would be to impair further the school in which the state board has intervened.

(m) School system approval. – The state board annually shall review the information submitted for each school system from the system of education performance audits and issue one of the following approval levels to each county board: Full approval, temporary approval, conditional approval or nonapproval.

(1) Full approval shall be given to a county board whose schools have all been given full, temporary or conditional accreditation status and which does not have any deficiencies which would endanger student health or safety or other extraordinary circumstances as defined by the state board. A fully approved school system in which other deficiencies are discovered shall remain on full accreditation status for the remainder of the approval period and shall have an opportunity to correct those deficiencies, notwithstanding other provisions of this subsection.

(2) Temporary approval shall be given to a county board whose education system is below the level required for full approval. Whenever a county board is given temporary approval status, the county board shall revise its electronic county strategic improvement plan in accordance with subsection (b) of this section to increase the performance and progress of the school system to a full approval status level. The revised plan shall be submitted to the state board for approval.

(3) Conditional approval shall be given to a county board whose education system is below the level required for full approval, but whose electronic county strategic improvement plan meets the following criteria:

(A) The plan has been revised in accordance with subsection (b) of this section;
(B) The plan has been approved by the state board; and

(C) The county board is meeting the objectives and time line specified in the revised plan.

(4) Nonapproval status shall be given to a county board which fails to submit and gain approval for its electronic county strategic improvement plan or revised electronic county strategic improvement plan within a reasonable time period as defined by the state board or which fails to meet the objectives and time line of its revised electronic county strategic improvement plan or fails to achieve full approval by the date specified in the revised plan.

(A) The state board shall establish and adopt additional standards to identify school systems in which the program may be nonapproved and the state board may issue nonapproval status whenever extraordinary circumstances exist as defined by the state board.

(B) Whenever a county board has more than a casual deficit, as defined in section one, article one of this chapter, the county board shall submit a plan to the state board specifying the county board’s strategy for eliminating the casual deficit. The state board either shall approve or reject the plan. If the plan is rejected, the state board shall communicate to the county board the reason or reasons for the rejection of the plan. The county board may resubmit the plan any number of times. However, any county board that fails to submit a plan and gain approval for the plan from the state board before the end of the fiscal year after a deficit greater than a casual deficit occurred or any county board which, in the opinion of the state board, fails to comply with an approved plan may be designated as having nonapproval status.

(C) Whenever nonapproval status is given to a school system, the state board shall declare a state of emergency in the
school system and shall appoint a team of improvement consultants to make recommendations within sixty days of appointment for correcting the emergency. When the state board approves the recommendations, they shall be communicated to the county board. If progress in correcting the emergency, as determined by the state board, is not made within six months from the time the county board receives the recommendations, the state board shall intervene in the operation of the school system to cause improvements to be made that will provide assurances that a thorough and efficient system of schools will be provided. This intervention may include, but is not limited to, the following:

(i) Limiting the authority of the county superintendent and county board as to the expenditure of funds, the employment and dismissal of personnel, the establishment and operation of the school calendar, the establishment of instructional programs and rules and any other areas designated by the state board by rule, which may include delegating decision-making authority regarding these matters to the state superintendent;

(ii) Declaring that the office of the county superintendent is vacant;

(iii) Delegating to the state superintendent both the authority to conduct hearings on personnel matters and school closure or consolidation matters and, subsequently, to render the resulting decisions and the authority to appoint a designee for the limited purpose of conducting hearings while reserving to the state superintendent the authority to render the resulting decisions;

(iv) Functioning in lieu of the county board of education in a transfer, sale, purchase or other transaction regarding real property; and

(v) Taking any direct action necessary to correct the emergency including, but not limited to, the following:
(I) Delegating to the state superintendent the authority to replace administrators and principals in low performing schools and to transfer them into alternate professional positions within the county at his or her discretion; and

(II) Delegating to the state superintendent the authority to fill positions of administrators and principals with individuals determined by the state superintendent to be the most qualified for the positions. Any authority related to intervention in the operation of a county board granted under this paragraph is not subject to the provisions of article four, chapter eighteen-a of this code;

(n) Notwithstanding any other provision of this section, the state board may intervene immediately in the operation of the county school system with all the powers, duties and responsibilities contained in subsection (m) of this section, if the state board finds the following:

(1) That the conditions precedent to intervention exist as provided in this section; and that delaying intervention for any period of time would not be in the best interests of the students of the county school system; or

(2) That the conditions precedent to intervention exist as provided in this section and that the state board had previously intervened in the operation of the same school system and had concluded that intervention within the preceding five years.

(o) Capacity. – The process for improving education includes a process for targeting resources strategically to improve the teaching and learning process. Development of electronic school and school system strategic improvement plans, pursuant to subsection (b) of this section, is intended, in part, to provide mechanisms to target resources strategically to the teaching and learning process to improve student, school and
school system performance. When deficiencies are detected through the assessment and accountability processes, the revision and approval of school and school system electronic strategic improvement plans shall ensure that schools and school systems are efficiently using existing resources to correct the deficiencies. When the state board determines that schools and school systems do not have the capacity to correct deficiencies, the state board shall work with the county board to develop or secure the resources necessary to increase the capacity of schools and school systems to meet the standards and, when necessary, seek additional resources in consultation with the Legislature and the Governor.

The state board shall recommend to the appropriate body including, but not limited to, the Legislature, county boards, schools and communities methods for targeting resources strategically to eliminate deficiencies identified in the assessment and accountability processes. When making determinations on recommendations, the state board shall include, but is not limited to, the following methods:

(1) Examining reports and electronic strategic improvement plans regarding the performance and progress of students, schools and school systems relative to the standards and identifying the areas in which improvement is needed;

(2) Determining the areas of weakness and of ineffectiveness that appear to have contributed to the substandard performance and progress of students or the deficiencies of the school or school system and requiring the school or school system to work collaboratively with the West Virginia Department of Education State System of Support to correct the deficiencies;

(3) Determining the areas of strength that appear to have contributed to exceptional student, school and school system performance and progress and promoting their emulation throughout the system;
(4) Requesting technical assistance from the School Building Authority in assessing or designing comprehensive educational facilities plans;

(5) Recommending priority funding from the School Building Authority based on identified needs;

(6) Requesting special staff development programs from the Center for Professional Development, the Principals Academy, higher education, regional educational service agencies and county boards based on identified needs;

(7) Submitting requests to the Legislature for appropriations to meet the identified needs for improving education;

(8) Directing county boards to target their funds strategically toward alleviating deficiencies;

(9) Ensuring that the need for facilities in counties with increased enrollment are appropriately reflected and recommended for funding;

(10) Ensuring that the appropriate person or entity is held accountable for eliminating deficiencies; and

(11) Ensuring that the needed capacity is available from the state and local level to assist the school or school system in achieving the standards and alleviating the deficiencies.

ARTICLE 21. PROFESSIONAL DEVELOPMENT.

§18-21-1. Legislative purpose.

The purpose of this article is to establish clear state-level leadership for professional development for all West Virginia public school educators and administrators. As the state institution charged with the general supervision of the state school
system, the state board shall institute a system for the coordination and delivery of high-quality professional development. The system shall clearly define the goals for professional development and delineate roles and responsibilities among the various state and regional professional development providers.

§18-2I-2. Legislative findings.

The Legislature finds:

(1) That high-quality professional development is critical in supporting improved practice, assuring teacher quality and raising student achievement;

(2) That professional development is vital in the state’s overall school improvement efforts;

(3) That the state board should assure the efficient delivery of high-quality professional development programs and assure that duplication of efforts be minimized and that all stakeholders are appropriately involved in the planning and implementing of programs to meet requisite needs and that high-quality professional development programs be provided to public school educators of West Virginia in the most efficient and cost effective manner; and

(4) It should be the goal that professional development occur outside of scheduled instructional time so student learning is not interrupted by the absence of their classroom teacher.

§18-2I-3. Annual professional development master plan established by state board.

(a) The state board annually shall establish a master plan for professional development in the public schools of the state. As a first priority, the state board shall require adequate and appropriate professional development to ensure high-quality
teaching that will support improved student achievement, enable students to meet the content standards established for the required curriculum in the public schools and to be prepared for college and careers.

(b) The state board annually shall submit the master plan to the State Department of Education, the Center for Professional Development, the regional educational service agencies, the Higher Education Policy Commission and the Legislative Oversight Commission on Education Accountability.

(c) The state board shall annually establish goals for professional development and include the goals in the master plan. In establishing the goals, the state board shall review reports that may indicate a need for professional staff development including, but not limited to, the report of the Center for Professional Development created in article three-a, chapter eighteen-a of this code, student test scores on the statewide student assessment program, the measures of student and school performance for accreditation purposes, school and school district report cards and the state board’s plans for the use of funds in the Strategic Staff Development Fund pursuant to section five of this article.

(d) Pursuant to section thirty-nine, article two of this chapter the state board shall include in its Master Plan for Professional Staff Development:

(1) Professional development for teachers teaching the transitional courses on how to teach the adopted college- and career-readiness standards for English/language arts and math; and

(2) Appropriate professional development for other teachers in at least grades eight through twelve on how to teach the adopted college- and career-readiness standards in
§18-21-4. Coordination, development and evaluation of professional development programs.

(a) On or before June 1, 2013, the state board shall promulgate an emergency rule in accordance with article three-b, chapter twenty-nine of this code to ensure the coordination, development and evaluation of high-quality professional development programs. On or before November 1, 2013, the state board shall promulgate a legislative rule for the same purpose. The rules shall include, but are not limited to, the following:

(1) Standards for quality professional development that all professional development providers shall use in designing, implementing and evaluating professional development that shall become part of the statewide professional development plan;

(2) Processes for assuring professional development resources are appropriately allocated to identified areas of need;

(3) Processes for approval by state board of all professional development plans/offerings;

(4) Processes for evaluating the effectiveness, efficiency, and impact of the professional development;

(5) Processes for ensuring all stakeholders, including affected classroom teachers, have a voice in the identification of needed professional development and various delivery models;

(6) Processes for collaboration among West Virginia Department of Education, Center for Professional Development, RESAs, county boards and classroom teachers; and
(7) Processes for ensuring that the expertise and experience of state institutions of higher education with teacher preparation programs are included in developing and implementing professional development programs.

(b) The state board approval of the proposed professional development plans/offerings shall establish a Master Plan for Professional Development which shall be submitted by the state board to the affected agencies and to the Legislative Oversight Commission on Education Accountability. The Master Plan shall include the state board-approved plans for professional development by the State Department of Education, the Center for Professional Development, the state institutions of higher education and the regional educational service agencies to meet the professional development goals of the state board.

(c) The state board shall submit a report on or before December 1 of each year on the effectiveness, efficiency and impact of the statewide professional development plan to the Legislative Oversight Commission on Education Accountability.

§18-2I-5. Strategic Staff Development Fund.

(a) There is created an account within the state board titled the Strategic Staff Development Fund. The allocation of balances which accrue in the General School Fund shall be transferred to the Strategic Staff Development Fund each year when the balances become available. Any remaining funds transferred to the Strategic Staff Development Fund during the fiscal year shall be carried over for use in the same manner the next fiscal year and shall be separate and apart from, and in addition to, the transfer of funds from the General School Fund for the next fiscal year.

(b) The money in the Strategic Staff Development Fund shall 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
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-
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
20 The state board annually shall evaluate the performance of
21 the state superintendent and publicly announce the results of the
22 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
expenditures related to employment by five percent in fiscal years 2014 and 2015. The reductions shall be taken department wide, excluding the school aid formula and institutionalized services to juveniles and adults, and other direct-service education expenditures.

§18-3-12. Special Community Development School Pilot Program.

(a) The state superintendent shall establish a Special Community Development School Pilot Program to be implemented in a neighborhood of at least five public schools, which shall include at least one elementary and middle school, for the duration of five years. The neighborhood of public schools designated by the state superintendent for the pilot shall have significant enrollments of disadvantaged, minority and underachieving students. The designated neighborhood of public schools under the direction of the county board and county superintendent shall work in collaboration with higher education, community organizations, Center for Professional Development, local community leaders, affected classroom teachers, affected parents and the state board to develop and implement strategies that could be replicated in other public schools with significant enrollments of disadvantaged, minority and underachieving students to improve academic achievement. For purposes of this section “neighborhood” means an area of no more than seven square miles.

(b) Beginning in January, 2014, on or before the first day of the regular session of the Legislature, and each year thereafter, the state superintendent, county superintendent for the county in which the schools are located and lead community-based organizations shall make a status report to the Legislative Oversight Commission on Education Accountability and to the state board. The report may include any recommendations based on the progress of the demonstration project that he or she
considers either necessary for improving the operations of the
demonstration project or prudent for improving student achieve-
ment in other public schools through replication of successful
demonstration school programs.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-18. Kindergarten programs.

(a) County boards shall provide kindergarten programs for all children who have attained the age of five prior to September 1, of the school year in which the pupil enters the kindergarten program and may, pursuant to the provisions of section forty-four, article five, chapter eighteen of this code, establish kindergarten programs designed for children below the age of five. The programs for children who shall have attained the age of five shall be full-day everyday programs.

(b) Persons employed as kindergarten teachers, as distinguished from paraprofessional personnel, shall be required to hold a certificate valid for teaching at the assigned level as prescribed by rules established by the state board. The state board shall establish the minimum requirements for all paraprofessional personnel employed in kindergarten programs established pursuant to the provisions of this section and no such paraprofessional personnel may be employed in any kindergarten program unless he or she meets the minimum requirements. Beginning July 1, 2014, any person previously employed as an aide in a kindergarten program and who is employed in the same capacity on and after that date and any new person employed in that capacity in a kindergarten program on and after that date shall hold the position of either Early Childhood Classroom Assistant Teacher - Temporary Authorization, Early Childhood Classroom Assistant Teacher - Permanent Authorization or Early Childhood Classroom Assistant Teacher - Paraprofessional
Certificate. Any person employed as an aide in a kindergarten program that is eligible for full retirement benefits before July 1, 2020, may remain employed as an aide in that position and may not be required to acquire licensure pursuant to this section.

(c) The state board with the advice of the state superintendent shall establish and prescribe guidelines and criteria relating to the establishment, operation and successful completion of kindergarten programs in accordance with the other provisions of this section. Guidelines and criteria so established and prescribed also are intended to serve for the establishment and operation of nonpublic kindergarten programs and shall be used for the evaluation and approval of those programs by the state superintendent, provided application for the evaluation and approval is made in writing by proper authorities in control of the programs. The state superintendent, annually, shall publish a list of nonpublic kindergarten programs, including Montessori kindergartens that have been approved in accordance with the provisions of this section. Montessori kindergartens established and operated in accordance with usual and customary practices for the use of the Montessori method which have teachers who have training or experience, regardless of additional certification, in the use of the Montessori method of instruction for kindergartens shall be considered to be approved.

(d) Pursuant to the guidelines and criteria, and only pursuant to the guidelines and criteria, the county boards may establish programs taking kindergarten to the homes of the children involved, using educational television, paraprofessional personnel in addition to and to supplement regularly certified teachers, mobile or permanent classrooms and other means developed to best carry kindergarten to the child in its home and enlist the aid and involvement of its parent or parents in presenting the program to the child; or may develop programs of a more formal kindergarten type, in existing school buildings, or both, as the county board may determine, taking into consideration the cost,
the terrain, the existing available facilities, the distances each
child may be required to travel, the time each child may be
required to be away from home, the child’s health, the involve-
ment of parents and other factors as each county board may find
pertinent. The determinations by any county board are final and
conclusive.

§18-5-44. Early childhood education programs.

(a) For the purposes of this section, “early childhood
education” means programs for children who have attained the
age of four prior to September 1 of the school year in which the
pupil enters the program created in this section.

(b) Findings.—

(1) Among other positive outcomes, early childhood
education programs have been determined to:

(A) Improve overall readiness when children enter school;

(B) Decrease behavioral problems;

(C) Improve student attendance;

(D) Increase scores on achievement tests;

(E) Decrease the percentage of students repeating a grade;

and

(F) Decrease the number of students placed in special
education programs;

(2) Quality early childhood education programs improve
school performance and low-quality early childhood education
programs may have negative effects, especially for at-risk
children;
(3) West Virginia has the lowest percentage of its adult population twenty-five years of age or older with a bachelor’s degree and the education level of parents is a strong indicator of how their children will perform in school;

(4) During the 2006-2007 school year, West Virginia ranked thirty-ninth among the fifty states in the percentage of school children eligible for free and reduced lunches and this percentage is a strong indicator of how the children will perform in school;

(5) For the school year 2008-2009, 13,135 students were enrolled in prekindergarten, a number equal to approximately sixty-three percent of the number of students enrolled in kindergarten;

(6) Excluding projected increases due to increases in enrollment in the early childhood education program, projections indicate that total student enrollment in West Virginia will decline by one percent, or by approximately 2704 students, by the school year 2012-2013;

(7) In part, because of the dynamics of the state aid formula, county boards will continue to enroll four-year old students to offset the declining enrollments;

(8) West Virginia has a comprehensive kindergarten program for five-year olds, but the program was established in a manner that resulted in unequal implementation among the counties which helped create deficit financial situations for several county boards;

(9) Expansion of current efforts to implement a comprehensive early childhood education program should avoid the problems encountered in kindergarten implementation;

(10) Because of the dynamics of the state aid formula, counties experiencing growth are at a disadvantage in imple-
menting comprehensive early childhood education programs;

and

(11) West Virginia citizens will benefit from the establishment of quality comprehensive early childhood education programs.

(c) Beginning no later than the school year 2012-2013, and continuing thereafter, county boards shall provide early childhood education programs for all children who have attained the age of four prior to September 1 of the school year in which the pupil enters the early childhood education program. Beginning no later than the school year 2016-2017, and continuing thereafter, early childhood education programs that are full day and five days per week shall be available to all children meeting the age requirement set forth in the subsection.

(d) The program shall meet the following criteria:

(1) It shall be voluntary, except, upon enrollment, the provisions of section one, article eight of this chapter apply to an enrolled student, subject to subdivision (3) of this subsection;

(2) All children meeting the age requirement set forth in this section shall have the opportunity to enroll in a program that is full day and five days per week. The program may be for fewer than five days per week and may be less than full day based on family need if a sufficient number of families request such programs and the county board finds that such programs are in the best interest of the requesting families and students: Provided, That the ability of families to request programs that are fewer than five days a week or less than a full day does not relieve the county of the obligation to provide all resident children with the opportunity to enroll in a full-day program; and

(3) A parent of a child enrolled in an early education program may withdraw a child from that program for good cause
by notifying the district. Good cause includes, but is not limited
to, enrollment of the child in another program or the immaturity
of the child. A child withdrawn under this section is not subject
to the attendance provisions of this chapter until that child again
enrolls in a public school in this state.

(e) Enrollment of students in Head Start, in any other
program approved by the state superintendent as provided in
subsection (k) of this section may be counted toward satisfying
the requirement of subsection (c) of this section.

(f) For the purposes of implementation financing, all
counties are encouraged to make use of funds from existing
sources, including:

(1) Federal funds provided under the Elementary and
Secondary Education Act pursuant to 20 U. S. C. §6301, et seq.;

(2) Federal funds provided for Head Start pursuant to 42 U.
S. C. §9831, et seq.;

(3) Federal funds for temporary assistance to needy families
pursuant to 42 U. S. C. §601, et seq.;

(4) Funds provided by the School Building Authority
pursuant to article nine-d of this chapter;

(5) In the case of counties with declining enrollments, funds
from the state aid formula above the amount indicated for the
number of students actually enrolled in any school year; and

(6) Any other public or private funds.

(g) Each county board shall develop a plan for implementing
the program required by this section. The plan shall include the
following elements:
(1) An analysis of the demographics of the county related to early childhood education program implementation;

(2) An analysis of facility and personnel needs;

(3) Financial requirements for implementation and potential sources of funding to assist implementation;

(4) Details of how the county board will cooperate and collaborate with other early childhood education programs including, but not limited to, Head Start, to maximize federal and other sources of revenue;

(5) Specific time lines for implementation; and

(6) Any other items the state board may require by policy.

(h) A county board shall submit its plan to the Secretary of the Department of Health and Human Resources. The secretary shall approve the plan if the following conditions are met:

(1) The county board has maximized the use of federal and other available funds for early childhood programs;

(2) The county board has provided for the maximum implementation of Head Start programs and other public and private programs approved by the state superintendent pursuant to the terms of subsection (k) of this section; and

(3) If the Secretary of the Department of Health and Human Resources finds that the county board has not met one or more of the requirements of this subsection, but that the county board has acted in good faith and the failure to comply was not the primary fault of the county board, then the secretary shall approve the plan. Any denial by the secretary may be appealed to the circuit court of the county in which the county board is located.
The county board shall submit its plan for approval to the state board. The state board shall approve the plan if the county board has complied substantially with the requirements of subsection (g) of this section and has obtained the approval required in subsection (h) of this section.

(j) Every county board shall submit its plan for reapproval by the Secretary of the Department of Health and Human Resources and by the state board at least every two years after the initial approval of the plan and until full implementation of the early childhood education program in the county. As part of the submission, the county board shall provide a detailed statement of the progress made in implementing its plan. The standards and procedures provided for the original approval of the plan apply to any reapproval.

(k) A county board may not increase the total number of students enrolled in the county in an early childhood program until its program is approved by the Secretary of the Department of Health and Human Resources and the state board.

(l) The state board annually may grant a county board a waiver for total or partial implementation if the state board finds that all of the following conditions exist:

(1) The county board is unable to comply either because:

(A) It does not have sufficient facilities available; or

(B) It does not and has not had available funds sufficient to implement the program;

(2) The county has not experienced a decline in enrollment at least equal to the total number of students to be enrolled; and

(3) Other agencies of government have not made sufficient funds or facilities available to assist in implementation.
Any county board seeking a waiver shall apply with the supporting data to meet the criteria for which they are eligible on or before March 25 for the following school year. The state superintendent shall grant or deny the requested waiver on or before April 15 of that same year.

(m) The provisions of subsections (b), (c) and (d), section eighteen of this article relating to kindergarten apply to early childhood education programs in the same manner in which they apply to kindergarten programs.

(n) Annually, the state board shall report to the Legislative Oversight Commission on Education Accountability on the progress of implementation of this section.

(o) Except as required by federal law or regulation, no county board may enroll students who will be less than four years of age prior to September 1 for the year they enter school.

(p) Neither the state board nor the state department may provide any funds to any county board for the purpose of implementing this section unless the county board has a plan approved pursuant to subsections (h), (i) and (j) of this section.

(q) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for the purposes of implementing the provisions of this section. The state board shall consult with the Secretary of the Department of Health and Human Resources in the preparation of the rule. The rule shall contain the following:

1. Standards for curriculum;
2. Standards for preparing students;
3. Attendance requirements;
4. Standards for personnel; and
(5) Any other terms necessary to implement the provisions of this section.

(r) The rule shall include the following elements relating to curriculum standards:

1. A requirement that the curriculum be designed to address the developmental needs of four-year old children, consistent with prevailing research on how children learn;

2. A requirement that the curriculum be designed to achieve long-range goals for the social, emotional, physical and academic development of young children;

3. A method for including a broad range of content that is relevant, engaging and meaningful to young children;

4. A requirement that the curriculum incorporate a wide variety of learning experiences, materials and equipment, and instructional strategies to respond to differences in prior experience, maturation rates and learning styles that young children bring to the classroom;

5. A requirement that the curriculum be designed to build on what children already know in order to consolidate their learning and foster their acquisition of new concepts and skills;

6. A requirement that the curriculum meet the recognized standards of the relevant subject matter disciplines;

7. A requirement that the curriculum engage children actively in the learning process and provide them with opportunities to make meaningful choices;

8. A requirement that the curriculum emphasize the development of thinking, reasoning, decisionmaking and problem-solving skills;
(9) A set of clear guidelines for communicating with parents and involving them in decisions about the instructional needs of their children; and

(10) A systematic plan for evaluating program success in meeting the needs of young children and for helping them to be ready to succeed in school.

(s) The secretary and the state superintendent shall submit a report to the Legislative Oversight Commission on Education Accountability and the Joint Committee on Government and Finance which addresses, at a minimum, the following issues:

(1) A summary of the approved county plans for providing the early childhood education programs pursuant to this section;

(2) An analysis of the total cost to the state and county boards of implementing the plans;

(3) A separate analysis of the impact of the plans on counties with increasing enrollment; and

(4) An analysis of the effect of the programs on the maximization of the use of federal funds for early childhood programs.

The intent of this subsection is to enable the Legislature to proceed in a fiscally responsible manner, make any necessary program improvements based on reported information prior to implementation of the early childhood education programs.

(t) After the school year 2012-2013, on or before July 1 of each year, each county board shall report the following information to the Secretary of the Department of Health and Human Resources and the state superintendent:

(1) Documentation indicating the extent to which county boards are maximizing resources by using the existing capacity
of community-based programs, including, but not limited to, Head Start and child care; and

(2) For those county boards that are including eligible children attending approved, contracted community-based programs in their net enrollment for the purposes of calculating state aid pursuant to article nine-a of this chapter, documentation that the county board is equitably distributing funding for all children regardless of setting.

§18-5-45. **School calendar.**

(a) As used in this section:

(1) “Instructional day” means a day within the instructional term which meets the following criteria:

(A) Instruction is offered to students for at least the minimum amount of hours provided by state board rule;

(B) Instructional time is used for instruction and cocurricular activities; and

(C) Other criteria as the state board determines appropriate.

(2) “Cocurricular activities” are activities that are closely related to identifiable academic programs or areas of study that serve to complement academic curricula as further defined by the state board.

(b) **Findings.** –

(1) The primary purpose of the school system is to provide instruction for students.

(2) The school calendar, as defined in this section, is designed to define the school term both for employees and for instruction.
(3) The school calendar shall provide for one hundred eighty separate instructional days.

(c) The county board shall provide a school term for its schools that contains the following:

(1) An employment term that excludes Saturdays and Sundays and consists of at least two hundred days, which need not be successive. The beginning and closing dates of the employment term may not exceed forty-eight weeks;

(2) Within the employment term, an instructional term for students of no less than one hundred eighty separate instructional days, which includes an inclement weather and emergencies plan designed to guarantee an instructional term for students of no less than one hundred eighty separate instructional days;

(3) Within the employment term, noninstructional days shall total twenty and shall be comprised of the following:

(A) Seven paid holidays;

(B) Election day as specified in section two, article five, chapter eighteen-a of this code;

(C) Six days to be designated by the county board to be used by the employees outside the school environment, with at least four outside the school environment days scheduled to occur after the one hundred and thirtieth instructional day of the school calendar; and

(D) The remaining days to be designated by the county board for purposes to include, but not be limited to:

(i) Curriculum development;

(ii) Preparation for opening and closing school;

(iii) Professional development;
(iv) Teacher-pupil-parent conferences;

(v) Professional meetings;

(vi) Making up days when instruction was scheduled but not conducted; and

(vii) At least four two-hour blocks of time for faculty senate meetings with each two-hour block of time scheduled once at least every forty-five instructional days; and

(4) Scheduled out-of-calendar days that are to be used for instructional days in the event school is canceled for any reason.

(d) A county board of education shall develop a policy that requires additional minutes of instruction in the school day or additional days of instruction to recover time lost due to late arrivals and early dismissals.

(e) If it is not possible to complete one hundred eighty separate instructional days with the current school calendar, the county board shall schedule instruction on any available noninstructional day, regardless of the purpose for which the day originally was scheduled, or an out-of-calendar day and the day will be used for instruction of students: Provided, That the provisions of this subsection do not apply to:

(A) Holidays;

(B) Election day;

(C) Saturdays and Sundays.

(f) The instructional term shall commence and terminate on a date selected by the county board.

(g) The state board may not schedule the primary statewide assessment program more than thirty days prior to the end of the
instructional year unless the state board determines that the
nature of the test mandates an earlier testing date.

(h) The following applies to cocurricular activities:

(1) The state board shall determine what activities may be
considered cocurricular;

(2) The state board shall determine the amount of instruc-
tional time that may be consumed by cocurricular activities; and

(3) Other requirements or restrictions the state board may
provide in the rule required to be promulgated by this section.

(i) Extracurricular activities may not be used for instruc-
tional time.

(j) Noninstructional interruptions to the instructional day
shall be minimized to allow the classroom teacher to teach.

(k) Prior to implementing the school calendar, the county
board shall secure approval of its proposed calendar from the
state board or, if so designated by the state board, from the state
superintendent.

(l) In formulation of a school’s calendar, a county school
board shall hold at least two public meetings that allow parents,
teachers, teacher organizations, businesses and other interested
parties within the county to discuss the school calendar. The
public notice of the date, time and place of the public hearing
must be published in a local newspaper of general circulation in
the area as a Class II legal advertisement, in accordance with the
provisions of article three, chapter fifty-nine of this code.

(m) The county board may contract with all or part of the
personnel for a longer term of employment.

(n) The minimum instructional term may be decreased by
order of the state superintendent in any county declared a federal
disaster area and where the event causing the declaration is substantially related to a reduction of instructional days.

(o) Notwithstanding any provision of this code to the contrary, the state board may grant a waiver to a county board for its noncompliance with provisions of chapter eighteen, eighteen-a, eighteen-b and eighteen-c of this code to maintain compliance in reaching the mandatory one hundred eighty separate instructional days established in this section.

(p) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for the purpose of implementing the provisions of this section.

(q) The amendments to this section during the 2013 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2013, and the provisions of this section immediately prior to those amendments remain in effect until July 1, 2013.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A.5. Public school faculty senates established; election of officers; powers and duties.

(a) There is established at every public school in this state a faculty senate which is comprised of all permanent, full-time professional educators employed at the school who shall all be voting members. Professional educators, as used in this section, means “professional educators” as defined in chapter eighteen-a of this code. A quorum of more than one half of the voting members of the faculty shall be present at any meeting of the faculty senate at which official business is conducted. Prior to the beginning of the instructional term each year, but within the employment term, the principal shall convene a meeting of the faculty senate to elect a chair, vice chair and secretary and
discuss matters relevant to the beginning of the school year. The vice chair shall preside at meetings when the chair is absent. Meetings of the faculty senate shall be held during the times provided in accordance with subdivision (12), subsection (b) of this section as determined by the faculty senate. Emergency meetings may be held during noninstructional time at the call of the chair or a majority of the voting members by petition submitted to the chair and vice chair. An agenda of matters to be considered at a scheduled meeting of the faculty senate shall be available to the members at least two employment days prior to the meeting. For emergency meetings the agenda shall be available as soon as possible prior to the meeting. The chair of the faculty senate may appoint such committees as may be desirable to study and submit recommendations to the full faculty senate, but the acts of the faculty senate shall be voted upon by the full body.

(b) In addition to any other powers and duties conferred by law, or authorized by policies adopted by the state or county board or bylaws which may be adopted by the faculty senate not inconsistent with law, the powers and duties listed in this subsection are specifically reserved for the faculty senate. The intent of these provisions is neither to restrict nor to require the activities of every faculty senate to the enumerated items except as otherwise stated. Each faculty senate shall organize its activities as it considers most effective and efficient based on school size, departmental structure and other relevant factors.

(1) Each faculty senate shall control funds allocated to the school from legislative appropriations pursuant to section nine, article nine-a of this chapter. From those funds, each classroom teacher and librarian shall be allotted $100 for expenditure during the instructional year for academic materials, supplies or equipment which, in the judgment of the teacher or librarian, will assist him or her in providing instruction in his or her assigned academic subjects or shall be returned to the faculty
Provided, That nothing contained herein prohibits the funds from being used for programs and materials that, in the opinion of the teacher, enhance student behavior, increase academic achievement, improve self esteem and address the problems of students at risk. The remainder of funds shall be expended for academic materials, supplies or equipment in accordance with a budget approved by the faculty senate. Notwithstanding any other provisions of the law to the contrary, funds not expended in one school year are available for expenditure in the next school year: Provided, however, That the amount of county funds budgeted in a fiscal year may not be reduced throughout the year as a result of the faculty appropriations in the same fiscal year for such materials, supplies and equipment. Accounts shall be maintained of the allocations and expenditures of such funds for the purpose of financial audit. Academic materials, supplies or equipment shall be interpreted broadly, but does not include materials, supplies or equipment which will be used in or connected with interscholastic athletic events.

(2) A faculty senate may establish a process for members to interview or otherwise obtain information regarding applicants for classroom teaching vacancies that will enable the faculty senate to submit recommendations regarding employment to the principal. To facilitate the establishment of a process that is timely, effective, consistent among schools and counties, and designed to avoid litigation or grievance, the state board shall promulgate a rule pursuant to article three-b, chapter twenty-nine-a of this code to implement the provisions of this subdivision. The rule may include the following:

(A) A process or alternative processes that a faculty senate may adopt;

(B) If determined necessary, a requirement and procedure for training for principals and faculty senate members or their designees who may participate in interviews and provisions that may provide for the compensation based on the appropriate daily
rate of a classroom teacher who directly participates in the training for periods beyond his or her individual contract;

(C) Time lines that will assure the timely completion of the recommendation or the forfeiture of the right to make a recommendation upon the failure to complete a recommendation within a reasonable time;

(D) The authorization of the faculty senate to delegate the process for making a recommendation to a committee of no less than three members of the faculty senate; and

(E) Such other provisions as the state board determines are necessary or beneficial for the process to be established by the faculty senate.

(3) A faculty senate may nominate teachers for recognition as outstanding teachers under state and local teacher recognition programs and other personnel at the school, including parents, for recognition under other appropriate recognition programs and may establish such programs for operation at the school.

(4) A faculty senate may submit recommendations to the principal regarding the assignment scheduling of secretaries, clerks, aides and paraprofessionals at the school.

(5) A faculty senate may submit recommendations to the principal regarding establishment of the master curriculum schedule for the next ensuing school year.

(6) A faculty senate may establish a process for the review and comment on sabbatical leave requests submitted by employees at the school pursuant to section eleven, article two of this chapter.

(7) Each faculty senate shall elect three faculty representatives to the local school improvement council established pursuant to section two of this article.
(8) Each faculty senate may nominate a member for election to the county staff development council pursuant to section eight, article three, chapter eighteen-a of this code.

(9) Each faculty senate shall have an opportunity to make recommendations on the selection of faculty to serve as mentors for beginning teachers under beginning teacher internship programs at the school.

(10) A faculty senate may solicit, accept and expend any grants, gifts, bequests, donations and any other funds made available to the faculty senate: Provided, That the faculty senate shall select a member who has the duty of maintaining a record of all funds received and expended by the faculty senate, which record shall be kept in the school office and is subject to normal auditing procedures.

(11) Any faculty senate may review the evaluation procedure as conducted in their school to ascertain whether the evaluations were conducted in accordance with the written system required pursuant to section twelve, article two, chapter eighteen-a of this code or pursuant to section two, article three-c, chapter eighteen-a of this code, as applicable, and the general intent of this Legislature regarding meaningful performance evaluations of school personnel. If a majority of members of the faculty senate determine that such evaluations were not so conducted, they shall submit a report in writing to the State Board of Education: Provided, That nothing herein creates any new right of access to or review of any individual’s evaluations.

(12) A local board shall provide to each faculty senate a two-hour block of time for a faculty senate meeting on a day scheduled for the opening of school prior to the beginning of the instructional term and at least four additional two-hour blocks of time during noninstructional days, with each two-hour block of time scheduled once at least every forty-five instructional days. A faculty senate may meet for an unlimited block of time during
noninstructional days to discuss and plan strategies to improve
student instruction and to conduct other faculty senate business.
A faculty senate meeting scheduled on a noninstructional day
shall be considered as part of the purpose for which the
noninstructional day is scheduled. This time may be used and
determined at the local school level and includes, but is not
limited to, faculty senate meetings.

(13) Each faculty senate shall develop a strategic plan to
manage the integration of special needs students into the regular
classroom at their respective schools and submit the strategic
plan to the superintendent of the county board periodically
pursuant to guidelines developed by the State Department of
Education. Each faculty senate shall encourage the participation
of local school improvement councils, parents and the commu-
nity at large in developing the strategic plan for each school.

Each strategic plan developed by the faculty senate shall
include at least: (A) A mission statement; (B) goals; (C) needs;
(D) objectives and activities to implement plans relating to each
goal; (E) work in progress to implement the strategic plan; (F)
guidelines for placing additional staff into integrated classrooms
to meet the needs of exceptional needs students without dimin-
ishing the services rendered to the other students in integrated
classrooms; (G) guidelines for implementation of collaborative
planning and instruction; and (H) training for all regular class-
room teachers who serve students with exceptional needs in
integrated classrooms.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-1. Employment in general.

(a) The employment of professional personnel shall be made
by the board only upon nomination and recommendation of the
superintendent, subject to the following:
(1) The superintendent shall provide the principal at the school at which the professional educator or paraprofessional employee is to be employed an opportunity to interview all qualified applicants and make recommendations to the county superintendent regarding their employment;

(2) The principal may not recommend for employment an individual who is related to him or her as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister;

(3) Nothing shall prohibit the timely employment of persons to perform necessary duties;

(4) In case the board refuses to employ any or all of the persons nominated, the superintendent shall nominate others and submit the same to the board at such time as the board may direct;

(5) All personnel so nominated and recommended for employment and for subsequent assignment shall meet the certification, licensing, training and other eligibility classifications as may be required by provisions of this chapter and by state board rule. In addition to any other information required, the application for any certification or licensing shall include the applicant’s Social Security number.

(b) Professional personnel employed as deputy, associate or assistant superintendents by the board in offices, departments or divisions at locations other than a school and who are directly answerable to the superintendent shall serve at the will and pleasure of the superintendent and may be removed by the 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
of this meeting. The list of those recommended for transfer shall be included in the minute record of the meeting and all those so listed shall be notified in writing, which notice shall be delivered in writing, by certified mail, return receipt requested, to the persons’ last known addresses within ten days following the board meeting, of their having been so recommended for transfer and subsequent assignment and the reasons therefor.

(c) The superintendent’s authority to suspend school personnel shall be temporary only pending a hearing upon charges filed by the superintendent with the county board and the period of suspension may not exceed thirty days unless extended by order of the board.

(d) The provisions of this section respecting hearing upon notice of transfer is not applicable in emergency situations where the school building becomes damaged or destroyed through an unforeseeable act and which act necessitates a transfer of the school personnel because of the aforementioned condition of the building.

(e) Notwithstanding this section or any provision of this code, when actual student enrollment in a grade level or program, unforeseen before March 1 of the preceding school year, permits the assignment of fewer teachers or service personnel to or within a school under any pupil-teacher ratio, class size or caseload standard established in section eighteen-a, article five, chapter eighteen of this code or any policy of the state board, the superintendent, with board approval, may reassign the surplus personnel to another school or to another grade level or program within the school if needed there to comply with any such pupil-teacher ratio, class size or caseload standard.

(1) Before any reassignment may occur pursuant to this subsection, notice shall be provided to the employee and the employee shall be provided an opportunity to appear before the
county board to state the reasons for his or her objections, if any, prior to the board voting on the reassignment.

(2) Except as otherwise provided in subdivision (1) of this subsection, the reassignment may be made without following the notice and hearing provisions of this section, and at any time during the school year when the conditions of this subsection are met: Provided, That the reassignment may not occur after the last day of the second school month.

(3) A professional employee reassigned under this subsection shall be the least senior of the surplus professional personnel who holds certification or licensure to perform the duties at the other school or at the grade level or program within the school.

(4) A service employee reassigned under this subsection shall be the least senior of the surplus personnel who holds the same classification or multiclassification needed to perform the duties at the other school or at the grade level or program within the same school.

(5) No school employee's annual contract term, compensation or benefits shall be changed as a result of a reassignment under this subsection.

ARTICLE 3. TRAINING; CERTIFICATION; LICENSING; PROFESSIONAL DEVELOPMENT.

§18A-3-1d. Study of alternative certification programs.

The state board shall conduct a study on alternative certification programs, including the effectiveness of the current methods of alternative certification, any improvements needed on current methods of alternative certification and potential additional methods of certification that would enhance the ability of the State of West Virginia to place effective teachers in areas of high need. "Areas of high need" means those subject areas, public
schools or geographic areas of the state in which the state board determines that critical teacher shortages exist. The board shall report its findings and recommendations to the Legislative Oversight Commission on Education Accountability no later 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.

(a) Teaching is a profession that directly correlates to the social and economic well being of a society and its citizens. Superior teaching is essential to a well-educated and productive populace. Strong academic leadership provided by principals and administrators skilled in modern management principles is also essential. The intent of this article is to recognize the value of professional involvement by experienced educators, principals and administrators in building and maintaining a superior force of professional educators and to establish avenues for applying this involvement.

(b) The general mission of the center is to advance the quality of teaching and management in the schools of West Virginia through: (1) The implementation primarily of statewide training, professional staff development, including professional staff development for at least teachers, principals and paraprofessionals and technical assistance programs and practices as recommended by the state board to assure the highest quality of teaching and management; and (2) the provision of technical and other assistance and support to regional and local education agencies in identifying and providing high-quality professional staff development, including professional staff development for at least teachers, principals
and paraprofessionals, and training programs and implementing
best practices to meet their locally identified needs. The center
also may implement local programs if the state board, in its
Master Plan for Professional Staff Development established
pursuant to article two-i, chapter eighteen-a of this code,
determines that there is a specific local need for the programs.
Additionally, the center shall perform other duties assigned to it
by law.

Nothing in this article requires any specific level of funding
by the Legislature.

(c) The Center for Professional Development Board is
reconstituted, and all terms of members elected or appointed
prior to the effective date of this section are expired. The center
board shall consist of thirteen persons as follows:

(1) The Secretary of Education and the Arts, ex officio, and
the state superintendent, ex officio, each of whom is:

(A) Entitled to vote; and
(B) A cochair of the board.

(2) Two members of the state board, elected by the state
board;

(3) One person employed by West Virginia University and
one person employed by Marshall University, both of whom are:

(A) Appointed by the president of the employing institution;
(B) Faculty in the teacher education section of the employing
institution; and
(C) Knowledgeable in matters relevant to the issues ad-
dressed by the center;
(4) One regional education service agency executive director, elected by all of the regional education service agency executive directors;

(5) Three experienced educators, of whom one is a working classroom teacher, one is a school principal and one is a county administrator. All such educators are:

(A) Appointed by the Governor by and with the advice and consent of the Senate;

(B) Experienced educators who have achieved recognition for their superior knowledge, ability and performance in teaching or management, as applicable; and

(C) Knowledgeable in matters relevant to the issues addressed by the center; and

(6) Three citizens of the state who are:

(A) Knowledgeable in matters relevant to the issues addressed by the center, including, but not limited to, professional development and management principles; and

(B) Appointed by the Governor by and with the advice and consent of the Senate.

(C) Not more than two such members may be residents within the same congressional district.

(d) Each appointment and election is for a two-year term. Such members may serve no more than two consecutive two-year terms.

(1) The state board shall elect another member to fill the unexpired term of any person who vacates state board membership.
(2) The regional education service agency executive directors shall elect an executive director to fill the unexpired term of any executive director who ceases to be employed in that capacity.

(3) Of the initial members appointed by the Governor, three are appointed for one-year terms and three are appointed for two-year terms. Each successive appointment by the Governor is for a two-year term. The Governor shall appoint a new member to fill the unexpired term of any vacancy in the appointed membership.

(4) The President of West Virginia University and Marshall University each appoints an employee to fill the unexpired term of any member who ceases to be employed by that institution.

(e) The Center for Professional Development Board shall meet at least quarterly and the appointed members shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of their official duties from funds appropriated or otherwise made available for those purposes upon submission of an itemized statement therefor.

(f) The position of executive director is abolished. The Governor shall appoint, by and with the advice and consent of the Senate, a chief executive officer with knowledge and experience in professional development and management principles. Any reference in this code to the Executive Director of the Center for Professional Development means the Chief Executive Officer. From appropriations to the Center for Professional Development, the center board sets the salary of the chief executive officer. The center board, upon the recommendation of the chief executive officer, may employ other staff necessary to carry out the mission and duties of the center. The chief executive officer serves at the will and pleasure of the Governor. Annually, the center board shall evaluate the chief
The duties of the chief executive officer include:

(1) Managing the daily operations of the center;

(2) Ensuring the implementation of the center’s mission;

(3) Ensuring collaboration of the center with other professional development providers;

(4) Requesting from the Governor and the Legislature any resources or statutory changes that would help in enhancing the collaboration of all professional development providers in the state, in advancing the quality of professional development through any other means or both;

(5) Serving as the Chair of the Principals Standards Advisory Council created in section two-c, article three of this chapter and convening regular meetings of this council to effectuate its purposes; and

(6) Other duties as assigned by the Governor or the center board.

(g) When practicable, personnel employed by state higher education agencies and state, regional and county public education agencies shall be made available to the center to assist in the operation of projects of limited duration, subject to the provisions of section twenty-four, article two, chapter eighteen of this code.

(h) The center shall assist in the delivery of programs and activities pursuant to this article to meet statewide, and if needed as determined by the goals and Master Plan for Professional Staff Development established by the state board pursuant to article two-i, chapter eighteen-a of this code, the local professional development needs of paraprofessionals, teachers,
principals and administrators and may contract with existing
agencies or agencies created after the effective date of this
section or others to provide training programs in the most
efficient manner. Existing programs currently based in agencies
of the state shall be continued in the agency of their origin unless
the center establishes a compelling need to transfer or cancel the
existing program. The center shall recommend to the Governor
the transfer of funds to the providing agency, if needed, to
provide programs approved by the center.

(i) The Center for Professional Development shall imple-
ment training and professional development programs for the
Principals Academy based upon the minimum qualities,
proficiencies and skills necessary for principals in accordance
with the standards established by the state board pursuant to the
terms of section two-c, article three of this chapter.

(j) In accordance with section two-c, article three of this
chapter, the center is responsible for paying reasonable and
necessary expenses for persons attending the Principals Acad-
emy: Provided, That nothing in this section requires any specific
level of funding by the Legislature.

(k) Persons attending the professional development offerings
of the center and other courses and services offered by the
Center for Professional Development, except the Principals
Academy shall be assessed fees which shall be less than the full
cost of attendance. There is hereby created in the State Treasury
a special revenue account known as the Center for Professional
Development Fund. All moneys collected by the center shall be
deposited in the fund for expenditure by the center board for the
purposes specified in this section. Moneys remaining in the fund
at the end of the fiscal year are subject to reappropriation by the
Legislature.

(l) The center board shall make collaboration with the state
board in providing professional development services in the
following areas a priority:
Services to those public schools selected by the state superintendent pursuant to section three-g, article two-e, chapter eighteen of this code; and

(2) Services in any specific subject matter area that the state board, the Legislature or both, determine is justified due to a need to increase student achievement in that area.

§18A-3A-2. Professional development project.

Subject to the provisions of article two-i, chapter eighteen-a of this code, through this project the Center for Professional Development shall:

(1) Identify, coordinate, arrange and otherwise assist in the delivery of professional development programs and activities that help professional educators acquire the knowledge, skills, attitudes, practices and other such pertinent complements considered essential for an individual to demonstrate appropriate performance as a professional person in the public schools of West Virginia. The basis for the performance shall be the laws, policies and regulations adopted for the public schools of West Virginia, and amendments thereto. The center also may permit and encourage school personnel such as classroom aides, higher education teacher education faculty and higher education faculty in programs such as articulated tech prep associate degree and other programs to participate in appropriate professional development programs and activities with public school professional educators;

(2) Identify, coordinate, arrange and otherwise assist in the delivery of professional development programs and activities that help principals and administrators acquire knowledge, skills, attitudes and practices in academic leadership and management principles for principals and administrators and such other pertinent complements considered essential for principals and administrators to demonstrate appropriate performance in the
public schools of West Virginia. The basis for the performance shall be the laws, policies and regulations adopted for the public schools of West Virginia, and amendments thereto;

(3) Serve in a coordinating capacity to assure that the knowledge, skills, attitude and other pertinent complements of appropriate professional performance which evolve over time in the public school environment are appropriately reflected in the programs approved for the education of professional personnel, including, but not limited to, advising the teacher education programs of major statutory and policy changes in the public schools which affect the job performance requirements of professional educators, including principals and administrators;

(4) Provide for the routine updating of professional skills of professional educators, including principals and administrators, through in-service and other programs. The routine updating may be provided by the center through statewide or regional institutes which may require a registration fee;

(5) Provide for the routine education of all professional educators, including principals and administrators, and those service personnel having direct contact with students on warning signs and resources to assist in suicide prevention under guidelines established by the state board. The education may be accomplished through self review of suicide prevention materials and resources approved by the state board. The provisions of this paragraph may be known and cited as the Jason Flatt Act of 2012;

(6) Provide consultation and assistance to county staff development councils established under the provisions of section eight, article three of this chapter in planning, designing, coordinating, arranging for and delivering professional development programs to meet the needs of the professional educators of their district. From legislative appropriations to the center,
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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-
dance with the provisions of section two-b, article three of this chapter.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-2a. State minimum salary bonus for classroom teachers with national board certification.

(a) The Legislature finds and declares that the rigorous standards and processes for certification by the National Board for Professional Teaching Standards (NBPTS) helps to promote the quality of teaching and learning. Therefore, classroom teachers in the public schools of West Virginia should be encouraged to achieve national board certification through a reimbursement of expenses and an additional salary bonus which reflects their additional certification, to be paid in accordance with the provisions of this section.

(b) (1) $3,500 shall be paid annually to each classroom teacher who holds a valid certificate issued by the National Board of Professional Teaching Standards for the life of the certification, but in no event more than ten years for any one certification.

(2) $3,500 shall be paid annually to each classroom teacher who holds a valid renewal certificate issued by the National Board of Professional Teaching Standards for the life of the renewal certificate, but in no event more than ten years for any one renewal certificate.

(c) The payments:

(1) Shall be in addition to any amounts prescribed in the applicable state minimum salary schedule;

(2) Shall be paid in equal monthly installments; and
(3) Shall be considered a part of the state minimum salaries for teachers.

(d) For initial certification, one half the certification fee shall be paid for reimbursement once to each teacher who enrolls in the program for the National Board for Professional Teaching Standards certification and one half the certification fee shall be paid for reimbursement once to each teacher who completes the National Board for Professional Teaching Standards certification. Completion shall be defined as the completion of ten scorable entries, as verified by the National Board for Professional Teaching Standards. Teachers who achieve National Board for Professional Teaching Standards certification may be reimbursed a maximum of $600 for expenses actually incurred while obtaining the National Board for Professional Teaching Standards certification.

(e) For renewal certification, each teacher who completes the National Board for Professional Teaching Standards certification renewal process shall be reimbursed for the renewal certification fee. Completion of the certification renewal process means the successful renewal of the ten-year certification as verified by the National Board for Professional Teaching Standards.

(f) The state board shall establish selection criteria for the teachers by the legislative rule required pursuant to subsection (h) of this section.

(g) Funding for reimbursement of the initial certification fee and expenses actually incurred while obtaining the National Board for Professional Teaching Standards certifications and funding for reimbursement of the renewal certification fee shall be administered by the State Department of Education from an appropriation established for that purpose by the Legislature. If funds appropriated by the Legislature to accomplish the purposes of this subsection are insufficient, the state department shall
prorate the reimbursements for expenses and shall request of the Legislature, at its next regular session, funds sufficient to accomplish the purposes of this subsection, including needed retroactive payments.

(h) The state board shall promulgate legislative rules pursuant to article three-b, chapter twenty-nine-a of this code to implement the provisions of this section.

§18A-4-7a. Employment, promotion and transfer of professional personnel; seniority.

(a) A county board of education shall make decisions affecting the filling of vacancies in professional positions of employment on the basis of the applicant with the highest qualifications: Provided, That the county superintendent shall be hired under separate criteria pursuant to section two, article four, chapter eighteen of this code.

(b) In judging qualifications for the filling of vacancies of professional positions of employment, consideration shall be given to each of the following:

(1) Appropriate certification, licensure or both;

(2) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(3) The amount of course work, degree level or both in the relevant field and degree level generally;

(4) Academic achievement;

(5) In the case of a classroom teaching position or the position of principal, certification by the National Board for Professional Teaching Standards;
(6) Specialized training relevant to the performance of the duties of the job;

(7) Past performance evaluations conducted pursuant to section twelve, article two of this chapter and section two, article three-c of this chapter or, in the case of a classroom teacher, past evaluations of the applicant’s performance in the teaching profession;

(8) Seniority;

(9) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(10) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(11) In the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of section five, article five-a, chapter eighteen of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties.

(c) In considering the filling of a vacancy pursuant to this section, a county board is entitled to determine the appropriate weight to apply to each of the criterion when assessing an applicant’s qualifications: Provided, That if one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, each criterion under subsection (b) of this section shall be given equal weight except that the criterion in subdivisions (10) and (11) shall each be double weighted.

(d) For a classroom teaching position, if the recommendations resulting from the operations of subdivisions (10) and (11), subsection (b) of this section are for the same applicant, and the
superintendent concurs with that recommendation, then the other provisions of subsections (b) and (c) of this section do not apply and the county board shall appoint that applicant notwithstanding any other provision of this code to the contrary.

(e) The state board shall promulgate a rule, including an emergency rule if necessary, in accordance with the provisions of article three-b, chapter twenty-nine-a of this code to implement and interpret the provisions of this section, including provisions that may provide for the compensation based on the appropriate daily rate of a classroom teacher who directly participates in making recommendations pursuant to this section for periods beyond his or her individual contract.

(f) Recommendations made pursuant to subdivisions (10) and (11), subsection (b) of this section shall be made based on a determination as to which of the applicants is the highest qualified for the position: Provided, That nothing in this subsection shall require principals or faculty senates to assign any amount of weight to any factor in making a recommendation.

(g) With the exception of guidance counselors, the seniority of classroom teachers, as defined in section one, article one of this chapter, shall be determined on the basis of the length of time the employee has been employed as a regular full-time certified and/or licensed professional educator by the county board of education and shall be granted in all areas that the employee is certified, licensed or both.

(h) Upon completion of one hundred thirty-three days of employment in any one school year, substitute teachers, except retired teachers and other retired professional educators employed as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a permanent, full-time 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
properly notified and released before a fully certified employee in such a position is subject to release;

(2) Notwithstanding any provision of this code to the contrary, all employees subject to release shall be considered applicants for any vacancy in an established, existing or newly created position that, on or before February 15, is known to exist for the ensuing school year, and for which they are qualified, and, upon recommendation of the superintendent, the board shall appoint the successful applicant from among them before posting such vacancies for application by other persons;

(3) An employee subject to release shall be employed in any other professional position where the employee is certified and was previously employed or to any lateral area for which the employee is certified, licensed or both, if the employee's seniority is greater than the seniority of any other employee in that area of certification, licensure or both;

(4) If an employee subject to release holds certification, licensure or both in more than one lateral area and if the employee's seniority is greater than the seniority of any other employee in one or more of those areas of certification, licensure or both, the employee subject to release shall be employed in the professional position held by the employee with the least seniority in any of those areas of certification, licensure or both; and

(5) If, prior to August 1 of the year a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released
employee shall notify the board, in writing, of his or her intent to resume his or her position of employment or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is another employee on the preferred recall list with proper certification and higher seniority, that person shall be placed in the position restored as a result of the reduction in force being rescinded.

(l) For the purpose of this article, all positions which meet the definition of "classroom teacher" as defined in section one, article one of this chapter shall be lateral positions. For all other professional positions, the county board of education shall adopt a policy by October 31, 1993, and may modify the policy thereafter as necessary, which defines which positions shall be lateral positions. The board shall submit a copy of its policy to the state board within thirty days of adoption or any modification, and the state board shall compile a report and submit the report to the Legislative Oversight Commission on Education Accountability by December 31, 1993, and by that date in any succeeding year in which any county board submits a modification of its policy relating to lateral positions. In adopting the policy, the board shall give consideration to the rank of each position in terms of title; nature of responsibilities; salary level; certification, licensure or both; and days in the period of employment.

(m) After the twentieth day prior to the beginning of the instructional term, no person employed and assigned to a professional position may transfer to another professional position in the county during that instructional term unless the person holding that position does not have valid certification. The provisions of this subsection are subject to the following:

(1) The person may apply for any posted, vacant positions with the successful applicant assuming the position at the beginning of the next instructional term;
(2) Professional personnel who have been on an approved leave of absence may fill these vacancies upon their return from the approved leave of absence;

(3) The county board, upon recommendation of the superintendent may fill a position before the next instructional term when it is determined to be in the best interest of the students. The county superintendent shall notify the state board of each transfer of a person employed in a professional position to another professional position after the twentieth day prior to the beginning of the instructional term;

(4) The provisions of this subsection do not apply to the filling of a position vacated because of resignation or retirement that became effective on or before the twentieth day prior to the beginning of the instructional term, but not posted until after that date; and

(5) The Legislature finds that it is not in the best interest of the students particularly in the elementary grades to have multiple teachers for any one grade level or course during the instructional term. It is the intent of the Legislature that the filling of positions through transfers of personnel from one professional position to another after the twentieth day prior to the beginning of the instructional term should be kept to a minimum.

(n) All professional personnel whose seniority with the county board is insufficient to allow their retention by the county board during a reduction in work force shall be placed upon a preferred recall list. As to any professional position opening within the area where they had previously been employed or to any lateral area for which they have certification, licensure or both, the employee shall be recalled on the basis of seniority if no regular, full-time professional personnel, or those returning
from leaves of absence with greater seniority, are qualified, apply for and accept the position.

(o) Before position openings that are known or expected to extend for twenty consecutive employment days or longer for professional personnel may be filled by the board, the board shall be required to notify all qualified professional personnel on the preferred list and give them an opportunity to apply, but failure to apply shall not cause the employee to forfeit any right to recall. The notice shall be sent by certified mail to the last known address of the employee, and it shall be the duty of each professional personnel to notify the board of continued availability annually, of any change in address or of any change in certification, licensure or both.

(p) Openings in established, existing or newly created positions shall be processed as follows:

(1) Boards shall be required to post and date notices of each opening at least once. At their discretion, boards may post an opening for a position other than classroom teacher more than once in order to attract more qualified applicants. At their discretion, boards may post an opening for a classroom teacher one additional time after the first posting in order to attract more qualified applicants only if fewer than three individuals apply during the first posting subject to the following:

(A) Each notice shall be posted in conspicuous working places for all professional personnel to observe for at least five working days;

(B) At least one notice shall be posted within twenty working days of the position openings and shall include the job description;

(C) Any special criteria or skills that are required by the position shall be specifically stated in the job description and directly related to the performance of the job;
(D) Postings for vacancies made pursuant to this section shall be written so as to ensure that the largest possible pool of qualified applicants may apply; and

(E) Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant;

(2) No vacancy shall be filled until after the five-day minimum posting period of the most recent posted notice of the vacancy;

(3) If one or more applicants under all the postings for a vacancy meets the qualifications listed in the job posting, the successful applicant to fill the vacancy shall be selected by the board within thirty working days of the end of the first posting period;

(4) A position held by a teacher who is certified, licensed or both, who has been issued a permit for full-time employment and is working toward certification in the permit area shall not be subject to posting if the certificate is awarded within five years; and

(5) Nothing provided herein shall prevent the county board of education from eliminating a position due to lack of need.

(q) Notwithstanding any other provision of the code to the contrary, where the total number of classroom teaching positions in an elementary school does not increase from one school year to the next, but there exists in that school a need to realign the number of teachers in one or more grade levels, kindergarten through six, teachers at the school may be reassigned to grade levels for which they are certified without that position being posted: Provided, That the employee and the county board mutually agree to the reassignment.
Reductions in classroom teaching positions in elementary schools shall be processed as follows:

(1) When the total number of classroom teaching positions in an elementary school needs to be reduced, the reduction shall be made on the basis of seniority with the least senior classroom teacher being recommended for transfer; and

(2) When a specified grade level needs to be reduced and the least senior employee in the school is not in that grade level, the least senior classroom teacher in the grade level that needs to be reduced shall be reassigned to the position made vacant by the transfer of the least senior classroom teacher in the school without that position being posted: Provided, That the employee is certified, licensed or both and agrees to the reassignment.

Any board failing to comply with the provisions of this article may be compelled to do so by mandamus and shall be liable to any party prevailing against the board for court costs and reasonable attorney fees as determined and established by the court. Further, employees denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactive to the date of the violation and payable entirely from local funds. Further, the board shall be liable to any party prevailing against the board for any court reporter costs including copies of transcripts.

The county board shall compile, update annually on July 1 and make available by electronic or other means to all employees a list of all professional personnel employed by the county, their areas of certification and their seniority.

Notwithstanding any other provision of this code to the contrary, upon recommendation of the principal and approval by the classroom teacher and county board, a classroom teacher assigned to the school may at any time be assigned to a new or
existing classroom teacher position at the school without the
position being posted.

(v) The amendments to this section during the 2013 regular
session of the Legislature shall be effective for school years
beginning on or after July 1, 2013, and the provisions of this
section immediately prior to those amendments remain in effect
until July 1, 2013.

§18A-4-8. Employment term and class titles of service personnel;
definitions.

(a) The purpose of this section is to establish an employment
term and class titles for service personnel. The employment term
for service personnel may not be less than ten months. A month
is defined as twenty employment days. The county board may
contract with all or part of these service personnel for a longer
term.

(b) Service personnel employed on a yearly or twelve-month
basis may be employed by calendar months. Whenever there is
a change in job assignment during the school year, the minimum
pay scale and any county supplement are applicable.

(c) Service personnel employed in the same classification for
more than the two hundred-day minimum employment term
shall be paid for additional employment at a daily rate of not less
than the daily rate paid for the two hundred-day minimum
employment term.

(d) A service person may not be required to report for work
more than five days per week without his or her agreement, and
no part of any working day may be accumulated by the employer
for future work assignments, unless the employee agrees thereto.

(e) If a service person whose regular work week is scheduled
from Monday through Friday agrees to perform any work
assignments on a Saturday or Sunday, the service person shall be paid for at least one-half day of work for each day he or she reports for work. If the service person works more than three and one-half hours on any Saturday or Sunday, he or she shall be paid for at least a full day of work for each day.

(f) A custodian, aide, maintenance, office and school lunch service person required to work a daily work schedule that is interrupted shall be paid additional compensation in accordance with this subsection.

(1) A “maintenance person” means a person who holds a classification title other than in a custodial, aide, school lunch, office or transportation category as provided in section one, article one of this chapter.

(2) A service person’s schedule is considered to be interrupted if he or she does not work a continuous period in one day. Aides are not regarded as working an interrupted schedule when engaged exclusively in the duties of transporting students;

(3) The additional compensation provided in this subsection:

(A) Is equal to at least one eighth of a service person’s total salary as provided by the state minimum pay scale and any county pay supplement; and

(B) Is payable entirely from county board funds.

(g) When there is a change in classification or when a service person meets the requirements of an advanced classification, his or her salary shall be made to comply with the requirements of this article and any county salary schedule in excess of the minimum requirements of this article, based upon the service person’s advanced classification and allowable years of employment.
(h) A service person's contract, as provided in section five, article two of this chapter, shall state the appropriate monthly salary the employee is to be paid, based on the class title as provided in this article and on any county salary schedule in excess of the minimum requirements of this article.

(i) The column heads of the state minimum pay scale and class titles, set forth in section eight-a of this article, are defined as follows:

(1) "Pay grade" means the monthly salary applicable to class titles of service personnel;

(2) "Years of employment" means the number of years which an employee classified as a service person has been employed by a county board in any position prior to or subsequent to the effective date of this section and includes service in the Armed Forces of the United States, if the employee was employed at the time of his or her induction. For the purpose of section eight-a of this article, years of employment is limited to the number of years shown and allowed under the state minimum pay scale as set forth in section eight-a of this article;

(3) "Class title" means the name of the position or job held by a service person;

(4) "Accountant I" means a person employed to maintain payroll records and reports and perform one or more operations relating to a phase of the total payroll;

(5) "Accountant II" means a person employed to maintain accounting records and to be responsible for the accounting process associated with billing, budgets, purchasing and related operations;

(6) "Accountant III" means a person employed in the county board office to manage and supervise accounts payable, payroll procedures, or both;
(7) "Accounts payable supervisor" means a person employed in the county board office who has primary responsibility for the accounts payable function and who either has completed twelve college hours of accounting courses from an accredited institution of higher education or has at least eight years of experience performing progressively difficult accounting tasks. Responsibilities of this class title may include supervision of other personnel;

(8) "Aide I" means a person selected and trained for a teacher-aide classification such as monitor aide, clerical aide, classroom aide or general aide;

(9) "Aide II" means a service person referred to in the "Aide I" classification who has completed a training program approved by the state board, or who holds a high school diploma or has received a general educational development certificate. Only a person classified in an Aide II class title may be employed as an aide in any special education program;

(10) "Aide III" means a service person referred to in the "Aide I" classification who holds a high school diploma or a general educational development certificate; and

(A) Has completed six semester hours of college credit at an institution of higher education; or

(B) Is employed as an aide in a special education program and has one year's experience as an aide in special education;

(11) "Aide IV" means a service person referred to in the "Aide I" classification who holds a high school diploma or a general educational development certificate; and

(A) Has completed eighteen hours of state board-approved college credit at a regionally accredited institution of higher education, or
(B) Has completed fifteen hours of state board-approved college credit at a regionally accredited institution of higher education; and has successfully completed an in-service training program determined by the state board to be the equivalent of three hours of college credit;

(12) "Audiovisual technician" means a person employed to perform minor maintenance on audiovisual equipment, films and supplies and who fills requests for equipment;

(13) "Auditor" means a person employed to examine and verify accounts of individual schools and to assist schools and school personnel in maintaining complete and accurate records of their accounts;

(14) "Autism mentor" means a person who works with autistic students and who meets standards and experience to be determined by the state board. A person who has held or holds an aide title and becomes employed as an autism mentor shall hold a multiclassification status that includes both aide and autism mentor titles, in accordance with section eight-b of this article;

(15) "Braille or sign language specialist" means a person employed to provide braille and/or sign language assistance to students. A service person who has held or holds an aide title and becomes employed as a braille or sign language specialist shall hold a multiclassification status that includes both aide and braille or sign language specialist title, in accordance with section eight-b of this article;

(16) "Bus operator" means a person employed to operate school buses and other school transportation vehicles as provided by the state board;

(17) "Buyer" means a person employed to review and write specifications, negotiate purchase bids and recommend purchase
agreements for materials and services that meet predetermined specifications at the lowest available costs;

(18) "Cabinetmaker" means a person employed to construct cabinets, tables, bookcases and other furniture;

(19) "Cafeteria manager" means a person employed to direct the operation of a food services program in a school, including assigning duties to employees, approving requisitions for supplies and repairs, keeping inventories, inspecting areas to maintain high standards of sanitation, preparing financial reports and keeping records pertinent to food services of a school;

(20) "Carpenter I" means a person classified as a carpenter's helper;

(21) "Carpenter II" means a person classified as a journey-man carpenter;

(22) "Chief mechanic" means a person employed to be responsible for directing activities which ensure that student transportation or other county board-owned vehicles are properly and safely maintained;

(23) "Clerk I" means a person employed to perform clerical tasks;

(24) "Clerk II" means a person employed to perform general clerical tasks, prepare reports and tabulations and operate office machines;

(25) "Computer operator" means a qualified person employed to operate computers;

(26) "Cook I" means a person employed as a cook's helper;

(27) "Cook II" means a person employed to interpret menus and to prepare and serve meals in a food service program of a
school. This definition includes a service person who has been
employed as a “Cook I” for a period of four years;

(28) “Cook III” means a person employed to prepare and
serve meals, make reports, prepare requisitions for supplies,
order equipment and repairs for a food service program of a
school system;

(29) “Crew leader” means a person employed to organize the
work for a crew of maintenance employees to carry out assigned
projects;

(30) “Custodian I” means a person employed to keep
buildings clean and free of refuse;

(31) “Custodian II” means a person employed as a watchman
or groundsman;

(32) “Custodian III” means a person employed to keep
buildings clean and free of refuse, to operate the heating or
cooling systems and to make minor repairs;

(33) “Custodian IV” means a person employed as head
custodians. In addition to providing services as defined in
“custodian III,” duties may include supervising other custodian
personnel;

(34) “Director or coordinator of services” means an em-
ployee of a county board who is assigned to direct a department
or division.

(A) Nothing in this subdivision prohibits a professional
person or a professional educator from holding this class title;

(B) Professional personnel holding this class title may not be
defined or classified as service personnel unless the professional
person held a service personnel title under this section prior to
holding the class title of “director or coordinator of services.”
(C) The director or coordinator of services shall be classified either as a professional person or a service person for state aid formula funding purposes;

(D) Funding for the position of director or coordinator of services is based upon the employment status of the director or coordinator either as a professional person or a service person; and

(E) A person employed under the class title "director or coordinator of services" may not be exclusively assigned to perform the duties ascribed to any other class title as defined in this subsection: Provided, That nothing in this paragraph prohibits a person in this position from being multiclassified;

(35) "Draftsman" means a person employed to plan, design and produce detailed architectural/engineering drawings;

(36) "Electrician I" means a person employed as an apprentice electrician helper or one who holds an electrician helper license issued by the State Fire Marshal;

(37) "Electrician II" means a person employed as an electrician journeyman or one who holds a journeyman electrician license issued by the State Fire Marshal;

(38) "Electronic technician I" means a person employed at the apprentice level to repair and maintain electronic equipment;

(39) "Electronic technician II" means a person employed at the journeyman level to repair and maintain electronic equipment;

(40) "Executive secretary" means a person employed as secretary to the county school superintendent or as a secretary who is assigned to a position characterized by significant administrative duties;
(41) “Food services supervisor” means a qualified person who is not a professional person or professional educator as defined in section one, article one of this chapter. The food services supervisor is employed to manage and supervise a county school system’s food service program. The duties include preparing in-service training programs for cooks and food service employees, instructing personnel in the areas of quantity cooking with economy and efficiency and keeping aggregate records and reports;

(42) “Foreman” means a skilled person employed to supervise personnel who work in the areas of repair and maintenance of school property and equipment;

(43) “General maintenance” means a person employed as a helper to skilled maintenance employees and to perform minor repairs to equipment and buildings of a county school system;

(44) “Glazier” means a person employed to replace glass or other materials in windows and doors and to do minor carpentry tasks;

(45) “Graphic artist” means a person employed to prepare graphic illustrations;

(46) “Groundsman” means a person employed to perform duties that relate to the appearance, repair and general care of school grounds in a county school system. Additional assignments may include the operation of a small heating plant and routine cleaning duties in buildings;

(47) “Handyman” means a person employed to perform routine manual tasks in any operation of the county school system;

(48) “Heating and air conditioning mechanic I” means a person employed at the apprentice level to install, repair and
259 maintain heating and air conditioning plants and related electrical equipment;

261 (49) “Heating and air conditioning mechanic II” means a person employed at the journeyman level to install, repair and maintain heating and air conditioning plants and related electrical equipment;

265 (50) “Heavy equipment operator” means a person employed to operate heavy equipment;

267 (51) “Inventory supervisor” means a person employed to supervise or maintain operations in the receipt, storage, inventory and issuance of materials and supplies;

270 (52) “Key punch operator” means a qualified person employed to operate key punch machines or verifying machines;

272 (53) “Licensed practical nurse” means a nurse, licensed by the West Virginia Board of Examiners for Licensed Practical Nurses, employed to work in a public school under the supervision of a school nurse;

276 (54) “Locksmith” means a person employed to repair and maintain locks and safes;

278 (55) “Lubrication man” means a person employed to lubricate and service gasoline or diesel-powered equipment of a county school system;

281 (56) “Machinist” means a person employed to perform machinist tasks which include the ability to operate a lathe, planer, shaper, threading machine and wheel press. A person holding this class title also should have the ability to work from blueprints and drawings;

286 (57) “Mail clerk” means a person employed to receive, sort, dispatch, deliver or otherwise handle letters, parcels and other mail;
“Maintenance clerk” means a person employed to maintain and control a stocking facility to keep adequate tools and supplies on hand for daily withdrawal for all school maintenance crafts;

“Mason” means a person employed to perform tasks connected with brick and block laying and carpentry tasks related to these activities;

“Mechanic” means a person employed to perform skilled duties independently in the maintenance and repair of automobiles, school buses and other mechanical and mobile equipment to use in a county school system;

“Mechanic assistant” means a person employed as a mechanic apprentice and helper;

“Multiclassification” means a person employed to perform tasks that involve the combination of two or more class titles in this section. In these instances the minimum salary scale shall be the higher pay grade of the class titles involved;

“Office equipment repairman I” means a person employed as an office equipment repairman apprentice or helper;

“Office equipment repairman II” means a person responsible for servicing and repairing all office machines and equipment. A person holding this class title is responsible for the purchase of parts necessary for the proper operation of a program of continuous maintenance and repair;

“Painter” means a person employed to perform duties painting, finishing and decorating wood, metal and concrete surfaces of buildings, other structures, equipment, machinery and furnishings of a county school system;

“Paraprofessional” means a person certified pursuant to section two-a, article three of this chapter to perform duties in a
support capacity including, but not limited to, facilitating in the 
instruction and direct or indirect supervision of students under 
the direction of a principal, a teacher or another designated 
professional educator.

(A) A person employed on the effective date of this section 
in the position of an aide may not be subject to a reduction in 
force or transferred to create a vacancy for the employment of a 
apparaprofessional;

(B) A person who has held or holds an aide title and be- 
comes employed as a paraprofessional shall hold a 
multiclassification status that includes both aide and 
apparaprofessional titles in accordance with section eight-b of this 
article; and

(C) When a service person who holds an aide title becomes 
certified as a paraprofessional and is required to perform duties 
that may not be performed by an aide without paraprofessional 
certification, he or she shall receive the paraprofessional title pay 
grade;

(67) "Payroll supervisor" means a person employed in the 
county board office who has primary responsibility for the 
payroll function and who either has completed twelve college 
hours of accounting from an accredited institution of higher 
education or has at least eight years of experience performing 
progressively difficult accounting tasks. Responsibilities of this 
class title may include supervision of other personnel;

(68) "Plumber I" means a person employed as an apprentice 
plumber and helper;

(69) "Plumber II" means a person employed as a journeyman 
plumber;

(70) "Printing operator" means a person employed to operate 
duplication equipment, and to cut, collate, staple, bind and 
shelve materials as required;
(71) “Printing supervisor” means a person employed to supervise the operation of a print shop;

(72) “Programmer” means a person employed to design and prepare programs for computer operation;

(73) “Roofing/sheet metal mechanic” means a person employed to install, repair, fabricate and maintain roofs, gutters, flashing and duct work for heating and ventilation;

(74) “Sanitation plant operator” means a person employed to operate and maintain a water or sewage treatment plant to ensure the safety of the plant’s effluent for human consumption or environmental protection;

(75) “School bus supervisor” means a qualified person:

(A) Employed to assist in selecting school bus operators and routing and scheduling school buses, operate a bus when needed, relay instructions to bus operators, plan emergency routing of buses and promote good relationships with parents, students, bus operators and other employees; and

(B) Certified to operate a bus or previously certified to operate a bus;

(76) “Secretary I” means a person employed to transcribe from notes or mechanical equipment, receive callers, perform clerical tasks, prepare reports and operate office machines;

(77) “Secretary II” means a person employed in any elementary, secondary, kindergarten, nursery, special education, vocational or any other school as a secretary. The duties may include performing general clerical tasks; transcribing from notes, stenotype, mechanical equipment or a sound-producing machine; preparing reports; receiving callers and referring them to proper persons; operating office machines; keeping records
and handling routine correspondence. Nothing in this subdivision
prevents a service person from holding or being elevated to a
higher classification;

(78) “Secretary III” means a person assigned to the county
board office administrators in charge of various instructional,
maintenance, transportation, food services, operations and health
departments, federal programs or departments with particular
responsibilities in purchasing and financial control or any person
who has served for eight years in a position which meets the
definition of “secretary II” or “secretary III”;

(79) “Supervisor of maintenance” means a skilled person
who is not a professional person or professional educator as
defined in section one, article one of this chapter. The responsi-
bilities include directing the upkeep of buildings and shops, and
issuing instructions to subordinates relating to cleaning, repairs
and maintenance of all structures and mechanical and electrical
equipment of a county board;

(80) “Supervisor of transportation” means a qualified person
employed to direct school transportation activities properly and
safely, and to supervise the maintenance and repair of vehicles,
buses and other mechanical and mobile equipment used by the
county school system. After July 1, 2010, all persons employed
for the first time in a position with this classification title or in
a multi-classification position that includes this title shall have
five years of experience working in the transportation depart-
ment of a county board. Experience working in the transportation
department shall consist of serving as a bus operator, bus aide,
assistant mechanic, mechanic, chief mechanic or in a clerical
position within the transportation department;

(81) “Switchboard operator-receptionist” means a person
employed to refer incoming calls, to assume contact with the
public, to direct and to give instructions as necessary, to operate
switchboard equipment and to provide clerical assistance;
(82) “Truck driver” means a person employed to operate light or heavy duty gasoline and diesel-powered vehicles;

(83) “Warehouse clerk” means a person employed to be responsible for receiving, storing, packing and shipping goods;

(84) “Watchman” means a person employed to protect school property against damage or theft. Additional assignments may include operation of a small heating plant and routine cleaning duties;

(85) “Welder” means a person employed to provide acetylene or electric welding services for a school system;

(86) “WVEIS data entry and administrative clerk” means a person employed to work under the direction of a school principal to assist the school counselor or counselors in the performance of administrative duties, to perform data entry tasks on the West Virginia Education Information System, and to perform other administrative duties assigned by the principal;

(87) “Early Childhood Classroom Assistant Teacher - Temporary Authorization” means a person who does not possess minimum requirements for the permanent authorization requirements, but is enrolled in and pursuing requirements;

(88) “Early Childhood Classroom Assistant Teacher - Permanent Authorization” means a person who has completed the minimum requirements for a state-awarded certificate for early childhood classroom assistant teachers that meet or exceed the requirements for a child development associate. Equivalency for the West Virginia Department of Education will be determined as the child development associate or the West Virginia Apprenticeship for Child Development Specialists; and

(89) “Early Childhood Classroom Assistant Teacher - Paraprofessional Certificate” means a person who has completed
permanent authorization requirements, as well as additional
requirements comparable to current paraprofessional certificate.

(j) Notwithstanding any provision in this code to the
counter, and in addition to the compensation provided for
service personnel in section eight-a of this article, each service
person is entitled to all service personnel employee rights,
privileges and benefits provided under this or any other chapter
of this code without regard to the employee’s hours of employ-
ment or the methods or sources of compensation.

(k) A service person whose years of employment exceeds the
number of years shown and provided under the state minimum
pay scale set forth in section eight-a of this article may not be
paid less than the amount shown for the maximum years of
employment shown and provided in the classification in which
he or she is employed.

(l) Each county board shall review each service person’s job
classification annually and shall reclassify all service persons as
required by the job classifications. The state superintendent may
withhold state funds appropriated pursuant to this article for
salaries for service personnel who are improperly classified by
the county boards. Further, the state superintendent shall order
a county board to correct immediately any improper classification
matter and, with the assistance of the Attorney General,
shall take any legal action necessary against any county board to
enforce the order.

(m) Without his or her written consent, a service person may
not be:

(1) Reclassified by class title; or

(2) Relegated to any condition of employment which would
result in a reduction of his or her salary, rate of pay, compensa-
tion or benefits earned during the current fiscal year; or for
which he or she would qualify by continuing in the same job position and classification held during that fiscal year and subsequent years.

(n) Any county board failing to comply with the provisions of this article may be compelled to do so by mandamus and is liable to any party prevailing against the board for court costs and the prevailing party's reasonable attorney fee, as determined and established by the court.

(o) Notwithstanding any provision of this code to the contrary, a service person who holds a continuing contract in a specific job classification and who is physically unable to perform the job's duties as confirmed by a physician chosen by the employee shall be given priority status over any employee not holding a continuing contract in filling other service personnel job vacancies if the service person is qualified as provided in section eight-e of this article.

(p) Any person employed in an aide position on the effective date of this section may not be transferred or subject to a reduction in force for the purpose of creating a vacancy for the employment of a licensed practical nurse.

(q) Without the written consent of the service person, a county board may not establish the beginning work station for a bus operator or transportation aide at any site other than a county board-owned facility with available parking. The workday of the bus operator or transportation aide commences at the bus at the designated beginning work station and ends when the employee is able to leave the bus at the designated beginning work station, unless he or she agrees otherwise in writing. The application or acceptance of a posted position may not be construed as the written consent referred to in this subsection.

(r) "Itinerant status" means a service person who does not have a fixed work site and may be involuntarily reassigned to
another work site. A service person is considered to hold itinerant status if he or she has bid upon a position posted as itinerant or has agreed to accept this status. A county board may establish positions with itinerant status only within the aide and autism mentor classification categories and only when the job duties involve exceptional students. A service person with itinerant status may be assigned to a different work site upon written notice ten days prior to the reassignment without the consent of the employee and without posting the vacancy. A service person with itinerant status may be involuntarily reassigned no more than twice during the school year. At the conclusion of each school year, the county board shall post and fill, pursuant to section eight-b of this article, all positions that have been filled without posting by a service person with itinerant status. A service person who is assigned to a beginning and ending work site and travels at the expense of the county board to other work sites during the daily schedule, shall not be considered to hold itinerant status.

§18A-4-8a. Service personnel minimum monthly salaries.

(a) The minimum monthly pay for each service employee shall be as follows:

(1) Beginning July 1, 2011, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one half the amount indicated in the State Minimum Pay Scale Pay Grade set forth in this subdivision.
### STATE MINIMUM PAY SCALE PAY GRADE

<table>
<thead>
<tr>
<th>Years</th>
<th>Exp.</th>
<th>Pay Grade</th>
</tr>
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<tbody>
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</tr>
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</table>
(2) Each service employee shall receive the amount prescribed in the Minimum Pay Scale in accordance with the provisions of this subsection according to their class title and pay grade as set forth in this subdivision:

<table>
<thead>
<tr>
<th>CLASS TITLE</th>
<th>PAY GRADE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Accountant I</td>
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<tr>
<td>Accountant II</td>
<td>E</td>
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<tr>
<td>Accountant III</td>
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<td>Accounts Payable Supervisor</td>
<td>G</td>
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<tr>
<td>Aide I</td>
<td>A</td>
</tr>
<tr>
<td>Aide II</td>
<td>B</td>
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</table>
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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
<table>
<thead>
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<th>No.</th>
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<th>Level</th>
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<td>Graphic Artist</td>
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<tr>
<td>99</td>
<td>Groundsman</td>
<td>B</td>
</tr>
<tr>
<td>100</td>
<td>Handyman</td>
<td>B</td>
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<tr>
<td>101</td>
<td>Heating and Air Conditioning Mechanic I</td>
<td>E</td>
</tr>
<tr>
<td>102</td>
<td>Heating and Air Conditioning Mechanic II</td>
<td>G</td>
</tr>
<tr>
<td>103</td>
<td>Heavy Equipment Operator</td>
<td>E</td>
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<td>104</td>
<td>Inventory Supervisor</td>
<td>D</td>
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<tr>
<td>105</td>
<td>Key Punch Operator</td>
<td>B</td>
</tr>
<tr>
<td>106</td>
<td>Licensed Practical Nurse</td>
<td>F</td>
</tr>
<tr>
<td>107</td>
<td>Locksmith</td>
<td>G</td>
</tr>
<tr>
<td>108</td>
<td>Lubrication Man</td>
<td>C</td>
</tr>
<tr>
<td>109</td>
<td>Machinist</td>
<td>F</td>
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<tr>
<td>110</td>
<td>Mail Clerk</td>
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<td>111</td>
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<td>Mechanic Assistant</td>
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<tr>
<td>115</td>
<td>Office Equipment Repairman I</td>
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<tr>
<td>116</td>
<td>Office Equipment Repairman II</td>
<td>G</td>
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<tr>
<td>117</td>
<td>Painter</td>
<td>E</td>
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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
(b) An additional $12 per month shall be added to the minimum monthly pay of each service employee who holds a high school diploma or its equivalent.

(c) An additional $11 per month also shall be added to the minimum monthly pay of each service employee for each of the following:

1. A service employee who holds twelve college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
2. A service employee who holds twenty-four college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
3. A service employee who holds thirty-six college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
4. A service employee who holds forty-eight college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
5. A service employee who holds sixty college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
6. A service employee who holds seventy-two college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
7. A service employee who holds eighty-four college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
A service employee who holds ninety-six college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

A service employee who holds one hundred eight college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

A service employee who holds one hundred twenty college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(d) An additional $40 per month also shall be added to the minimum monthly pay of each service employee for each of the following:

(1) A service employee who holds an associate's degree;

(2) A service employee who holds a bachelor's degree;

(3) A service employee who holds a master's degree;

(4) A service employee who holds a doctorate degree.

(e) An additional $11 per month shall be added to the minimum monthly pay of each service employee for each of the following:

(1) A service employee who holds a bachelor's degree plus fifteen college hours;

(2) A service employee who holds a master's degree plus fifteen college hours;

(3) A service employee who holds a master's degree plus thirty college hours;

(4) A service employee who holds a master's degree plus forty-five college hours; and
(5) A service employee who holds a master’s degree plus sixty college hours.

(f) To meet the objective of salary equity among the counties, each service employee shall be paid an equity supplement, as set forth in section five of this article, of $152 per month, subject to the provisions of that section. These payments: 

(i) Shall be in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to section five-b of this article; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for service personnel.

(g) When any part of a school service employee’s daily shift of work is performed between the hours of six o’clock p. m. and five o’clock a. m. the following day, the employee shall be paid no less than an additional $10 per month and one half of the pay shall be paid with local funds.

(h) Any service employee required to work on any legal school holiday shall be paid at a rate one and one-half times the employee’s usual hourly rate.

(i) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid shall be paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(j) No service employee may have his or her daily work schedule changed during the school year without the employee’s written consent and the employee’s required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.
(k) The minimum hourly rate of pay for extra duty assignments as defined in section eight-b of this article shall be no less than one seventh of the employee’s daily total salary for each hour the employee is involved in performing the assignment and paid entirely from local funds: Provided, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time employees within that classification category of employment within that county: Provided, however, That the vote shall be by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment shall be prorated accordingly. When performing extra duty assignments, employees who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the employee were employed on a full-day salary basis.

(l) The minimum pay for any service personnel employees engaged in the removal of asbestos material or related duties required for asbestos removal shall be their regular total daily rate of pay and no less than an additional $3 per hour or no less than $5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos related duties outside of the employee’s regular employment county, the daily rate of pay shall be no less than the minimum amount as established in the employee’s regular employment county for asbestos removal and an additional $30 per each day the employee is engaged in asbestos
removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel employees may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in section eight, article five of this chapter, an aide shall be considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds or wherever supervision is required. For purposes of this section, "under the direct supervision of a certified professional person" means that certified professional person is present, with and accompanying the aide.

§18A-4-14. Duty-free lunch and daily planning period for certain employees.

(a) Notwithstanding the provisions of section seven, article two of this chapter, every teacher who is employed for a period of time more than one half the class periods of the regular school day and every service person whose employment is for a period of more than three and one-half hours per day and whose pay is at least the amount indicated in the state minimum pay scale as set forth in section eight-a of this article shall be provided a daily lunch recess of not less than thirty consecutive minutes, and the employee shall not be assigned any responsibilities during this recess. The recess shall be included in the number of hours worked, and no county shall increase the number of hours to be
worked by an employee as a result of the employee being granted a recess under the provisions of this section.

(b) Every teacher who is regularly employed for a period of time more than one half the class periods of the regular school day shall be provided at least one planning period within each school instructional day to be used to complete necessary preparations for the instruction of pupils. No teacher may be assigned any responsibilities during this period, and no county shall increase the number of hours to be worked by a teacher as a result of such teacher being granted a planning period subsequent to the adoption of this section (March 13, 1982).

The duration of the planning period shall be in accordance with the following:

(1) For grades where the majority of the student instruction is delivered by only one teacher, the planning period shall be no less than forty minutes; and

(2) For grades where students take separate courses during at least four separate periods of instruction, most usually delivered by different teachers for each subject, the planning period shall be the length of the usual class period taught by the teacher, but no less than forty minutes. Principals, and assistant principals, where applicable, shall cooperate in carrying out the provisions of this subsection, including, but not limited to, assuming control of the class period or supervision of students during the time the teacher is engaged in the planning period. Substitute teachers may also be utilized to assist with classroom responsibilities under this subsection: Provided, That any substitute teacher who is employed to teach a minimum of two consecutive days in the same position shall be granted a planning period pursuant to this section.

(c) Nothing in this section prevents any teacher from exchanging his or her lunch recess or a planning period or any
service person from exchanging his or her lunch recess for any
compensation or benefit mutually agreed upon by the employee
and the county superintendent or his or her agent: Provided, That
a teacher and the superintendent or his or her agent may not
agree to terms which are different from those available to any
other teacher granted rights under this section within the
individual school or to terms which in any way discriminate
among those teachers within the individual school, and a service
person granted rights under this section and the superintendent
or his or her agent may not agree to terms which are different
from those available to any other service personnel within the
same classification category granted rights under this section
within the individual school or to terms which in any way
discriminate among those service personnel within the same
classification category within the individual school.

(d) The state board shall conduct a study on planning
periods. The study shall include, but not be limited to, the
appropriate length for planning periods at the various grade
levels and for the different types of class schedules. The board
shall report its findings and recommendations to the Legislative
Oversight Commission on Education Accountability no later
than December 31, 2013.

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-2. Holidays; closing of schools; time lost because of such;
special Saturday classes.

(a) Schools shall be closed on Saturdays and on the follow-
ing days which are designated as legal school holidays: Inde-
pendence Day, Labor Day, Veterans Day, Thanksgiving Day,
Christmas Day, New Year's Day, Martin Luther King's birthday,
Memorial Day and West Virginia Day. Schools also shall be
closed on any day on which a primary election, general election
or special election is held throughout the state or school district
and on any day appointed and set apart by the president or the Governor as a holiday of special observance by the people of the state.

(b) When any of the above designated holidays, except a special election, falls on Saturday, the schools shall be closed on the preceding Friday. When any designated holiday falls on Sunday, the schools shall be closed on the following Monday.

(c) Special classes may be conducted on Saturdays for pupils and by teachers and service personnel. Saturday classes shall be conducted on a voluntary basis and teachers and service personnel shall be remunerated in ratio to the regularly contracted pay.

(d) Any school or schools may be closed by proper authorities on account of the prevalence of contagious disease, conditions of weather or any other calamitous cause over which the board has no control.

(1) Under any or all of the above provisions, the time lost by the school closings may not be counted as days of employment and may not be counted as meeting a part of the requirements of the minimum term of one hundred eighty days of instruction. A school employee's pay per pay period may not change as a result of a school closing not being counted as a day of employment, and the employee shall be paid the same amount during any pay period in which a school closing occurs that the employee would have been paid during the pay period if a school closing had not occurred.

(2) On the day or days when a school or schools are closed, county boards may provide appropriate alternate work schedules for professional and service personnel affected by the closing of any school or schools under any or all of the provisions of this subsection. Professional and service personnel shall receive pay the same as if school were in session.
(3) Insofar as funds are available or can be made available during the school year, the board may extend the employment term for the purpose of making up time that might affect the instructional term.

(e) In addition to any other provisions of this chapter, the board further is authorized to provide in its annual budget for meetings, workshops, vacation time or other holidays through 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.

Definitions for terms used in this chapter have the meanings ascribed to them in section two, article one, chapter eighteen-b of this code unless the context clearly indicates a different meaning:

(a) “Board” or “governing board” in the singular or plural means the vice chancellor for administration employed pursuant to section two, article four, chapter eighteen-b of this code when a power or duty assigned to a governing board is delegated by it to the senior administrator. In other instances as used in this chapter, “board” or “governing board” in the singular or plural means the Higher Education Policy Commission or the Council for Community and Technical College Education, as appropriate.

(b) “Senior administrator” means the vice chancellor for administration employed pursuant to section two, article four, chapter eighteen-b of this code.

ARTICLE 4. UNDERWOOD-SMITH TEACHER SCHOLARSHIP PROGRAM.
§18C-4-1. Scholarship and loan assistance fund created; purposes; funding.

(a) It is the purpose of this article and article four-a of this chapter to improve the quality of education in the public schools of West Virginia by encouraging and enabling individuals who have demonstrated outstanding academic abilities to pursue teaching careers at the preschool, elementary, middle or secondary levels in the public schools of this state. In addition, of those individuals who have demonstrated outstanding academic abilities to pursue teaching careers, for scholarships initially awarded for the fall semester, 2014, and thereafter, particular efforts shall be made in the scholarship selection criteria and procedures to reflect the state’s present and projected subject and geographic areas of critical need.

(b) In consultation with the State Board of Education and the State Superintendent of Schools the commission shall propose legislative rules in accordance with the provisions of article three-a, chapter twenty-nine-a of this code. The rules shall provide for the administration of the Underwood-Smith Teacher Scholarship and Loan Assistance programs by the vice chancellor for administration in furtherance of the purposes of this article and article four-a of this chapter, including, but not limited to, the following:

(1) Establishing scholarship selection criteria and procedures;

(2) Establishing criteria and procedures for identifying subject areas, public schools or geographic areas in critical need of teachers;

(3) Awarding loan assistance, including establishing conditions under which partial awards may be granted for less than a full year of teaching in an area of critical need;
(4) Determining eligibility for loan assistance renewal;

(5) Establishing procedures ensuring that loan assistance funds are paid directly to the proper lending entity; and

(6) Establishing criteria for determining participant compliance or noncompliance with terms of the agreement and establishing procedures to address noncompliance including, but not limited to, repayment, deferral and excusal; and

(7) Developing model agreements.

(c) There is created in the State Treasury a special revolving fund to be known as the Underwood-Smith Teacher Scholarship and Loan Assistance Fund to be administered by the vice chancellor for administration solely for granting scholarships and loan assistance to teachers and prospective teachers in accordance with this article and article four-a of this chapter. Any moneys which may be appropriated by the Legislature, or received by the vice chancellor for administration from other sources, for the purposes of this article and article four-a of this chapter, shall be deposited in the fund. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Any moneys repaid to the vice chancellor for administration by reason of default of a scholarship or loan assistance agreement under this article or article four-a of this chapter also shall be deposited in the fund. Fund balances shall be invested with the state’s consolidated investment fund, and any and all interest earnings on these investments shall be used solely for the purposes for which moneys invested were appropriated or otherwise received.

(d) The vice chancellor for administration may accept and expend any gift, grant, contribution, bequest, endowment or other money for the purposes of this article and article four-a of this chapter and shall make a reasonable effort to encourage
external support for the scholarship and loan assistance programs.

(e) For the purpose of encouraging support for the scholarship and loan assistance programs from private sources, the vice chancellor for administration may set aside no more than half of the funds appropriated by the Legislature for Underwood-Smith Teacher Scholarships and Loan Assistance Awards to be used to match two state dollars to each private dollar from a nonstate source contributed on behalf of a specific institution of higher education in this state.

§18C-4-2. Selection criteria and procedures for awarding scholarships.

(a) The Governor shall designate the Higher Education Student Financial Aid Advisory Board created by section five, article one of this chapter to select the recipients of Underwood-Smith teacher scholarships who meet the eligibility criteria set forth in subsection (b) of this section.

(b) Eligibility for an Underwood-Smith Teacher Scholarship award shall be limited to students who meet the following criteria:

1. Have graduated or are graduating from a West Virginia high school and rank in the top ten percent of their graduating class or the top ten percent statewide of those West Virginia students taking the ACT test;

2. Have a cumulative grade point average of at least 3.25 on a possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia;

3. Are public school aides or paraprofessionals as defined in section eight, article four, chapter eighteen-a of this code and
who have a cumulative grade point average of at least 3.25 on a possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia; or

(4) Are graduate students at the master's degree level who have graduated or are graduating in the top ten percent of their college graduating class.

(c) In accordance with the rules of the commission, the vice chancellor for administration shall develop criteria and procedures for the selection of scholarship recipients. The selection criteria shall reflect the purposes of this article and shall specify the areas in which particular efforts will be made in the selection of scholars as set forth in section one of this article. Selection procedures and criteria also may include, but are not limited to, the grade point average of the applicant, involvement in extracurricular activities, financial need, current academic standing and an expression of interest in teaching as demonstrated by an essay written by the applicant.

These criteria and procedures further may require the applicant to furnish letters of recommendation from teachers and others.

It is the intent of the Legislature that academic abilities be the primary criteria for selecting scholarship recipients. However, the qualified applicants with the highest academic abilities who intend to pursue teaching careers in areas of critical need and shortage pursuant to section one of this article shall be given priority.

(d) In developing the selection criteria and procedures to be used by the Higher Education Student Financial Aid Advisory Board, the vice chancellor for administration shall solicit the views of public and private education agencies and institutions and other interested parties. Input from interested parties shall be
solicited by means of written and published selection criteria and
procedures in final form for implementation and may be
solicited by means of public hearings on the present and
projected teacher needs of the state or any other methods the vice
chancellor for administration may determine to be appropriate to
gather the information.

(e) The vice chancellor for administration shall make
application forms for Underwood-Smith Teacher Scholarships
available to public and private high schools in the state and in
other locations convenient to applicants, parents and others, and
shall make an effort to attract students from low-income
backgrounds, ethnic or racial minority students, students with
disabilities, and women or minority students who show interest
in pursuing teaching careers in mathematics and science and who
are underrepresented in those fields.

§18C-4-3. Scholarship agreement.

(a) Each recipient of an Underwood-Smith teacher scholar-
ship shall enter into an agreement with the vice chancellor for
administration under which the recipient shall meet the follow-
ing conditions:

(1) Provide the commission with evidence of compliance
with subsection (a), section four of this article;

(2) Within a ten-year period after completing the teacher
education for which the scholarship was awarded:

(A) Teach full time under contract with a county board of
education in a public education program in the state for a period
of not fewer than two years for each year for which a scholarship
was received; or

(B) Teach full time under contract for not less than one year
for each year for which a scholarship was received with a county
board of education in this state in a teacher shortage area pursuant to section one of this article, in an exceptional children program in this state, in a school having less than average academic results or in a school in an economically disadvantaged area of this state; or

(C) Within the ten-year period, while seeking and unable to secure a full-time teaching position under contract with a county board of education which satisfies the conditions of paragraph (A) of this subdivision:

(i) Teach full-time in a private school, parochial or other school approved for the instruction of students of compulsory school age pursuant to section one, article eight, chapter eighteen of this code; or

(ii) Teach in an institution of higher education in this state as defined in section two, article one, chapter eighteen-b of this code or in a post-secondary vocational education program in this state for a period of not fewer than two years for each year for which a scholarship was received; or

(iii) Perform alternative service or employment in this state pursuant to rules promulgated by the commission, in federal, state, county or local supported programs with an educational component, including mental or physical health care, or with bona fide tax exempt charitable organizations dedicated to the above, for a period of not fewer than two years for each year for which a scholarship was received.

Any teaching time accrued as a substitute teacher for a county board of education under paragraph (A) or (B) of this subdivision shall be credited pro rata in accordance with rules promulgated by the commission; or

(3) Repay all or part of an Underwood-Smith teacher scholarship received under this article plus interest and, if
applicable, reasonable collection fees in accordance with subsection (c), section four of this article, except as provided in subsection (d) of section four of this article.

(b) Scholarship agreements shall disclose fully the terms and conditions under which assistance under this article is provided and under which repayment may be required. The agreements shall include the following:

(1) A description of the conditions and procedures to be established under section four of this article; and

(2) A description of the appeals procedure required to be established under section four of this article.

(c) Individuals who were awarded an Underwood-Smith teacher scholarship prior to the effective date of this section may apply the provisions of paragraph (A), (B) or (C), subdivision (2), subsection (a) of this section to teaching or other service performed by them after July 1, 1997.

§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.

(a) The recipient of an Underwood-Smith Teacher Scholarship is eligible for scholarship renewal only during those periods when the recipient meets the following conditions:

(1) Is enrolled as a full-time student in an accredited institution of higher education in this state;

(2) Is pursuing a course of study leading to teacher certification at the preschool, elementary, middle or secondary level in this state;

(3) Is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending; and

(4) Is complying with such other standards as the commission may establish by rule.
(b) Recipients found to be in noncompliance with the agreement entered into under section three of this article shall be required to repay the amount of the scholarship awards received, plus interest, and, where applicable, reasonable collection fees, on a schedule and at a rate of interest prescribed in the program guidelines. Guidelines also shall provide for proration of the amount to be repaid by a recipient who teaches for part of the period required under subsection (a), section three of this article and for appeal procedures under which a recipient may appeal any determination of noncompliance.

(c) A recipient is not in violation of the agreement entered into under section three of this article during any period in which the recipient is meeting any of the following conditions:

(1) Pursuing a full-time course of study at an accredited institution of higher education;

(2) Serving, not in excess of four years, as a member of the armed services of the United States;

(3) Seeking and unable to find full-time employment in accordance with paragraph (A), subdivision (2), subsection (a), section three of this article and is fulfilling any of the alternatives specified in paragraph (B) or (C) of that subdivision;

(4) Satisfying the provisions of additional repayment exemptions that may be prescribed by the commission by rule;

or

(5) Failing to comply with the terms of the agreement due to death or permanent or temporary disability as established by sworn affidavit of a qualified physician.

(d) The rules adopted by the commission may provide guidelines under which the vice chancellor for administration may extend the period for fulfilling the obligation to fifteen years, if extenuating circumstances exist.
ARTICLE 4A. UNDERWOOD-SMITH TEACHER LOAN ASSISTANCE PROGRAM.

§18C-4A-1. Selection criteria and procedures for loan assistance.

(a) The Governor shall designate the Higher Education Student Financial Aid Advisory Board created by section five, article one of this chapter to select recipients to receive Underwood-Smith Teacher Loan Assistance Awards.

(b) The advisory board shall make decisions regarding loan assistance pursuant to section one, article four of this chapter and the following criteria:

(A) Eligibility for an award is limited to a teacher who has earned a teaching degree and is certified to teach a subject area of critical need in the public schools of West Virginia. A certified teacher in a subject area of critical need who is enrolled in an advanced in-field degree course or who has earned an advanced in-field degree may apply for an award to be paid toward current education loans;

(B) To be eligible for a loan award, a teacher shall agree to teach, or shall currently be teaching, a subject area of critical need in a state school or geographic area of the state identified as an area of critical need pursuant to section one, article four of this chapter.

(c) In accordance with the rule promulgated pursuant to section one, article four of this chapter, the vice chancellor for administration shall develop criteria and procedures for the administration of the loan program.

(d) The vice chancellor for administration shall make available program application forms to public and private schools in the state via the commission and the State Department of Education's websites and in other locations convenient to potential applicants.
§18C-4A-2. Loan assistance agreement.

(a) Before receiving an award, each eligible teacher shall enter into an agreement with the vice chancellor for administration and shall meet the following criteria:

(1) Provide the commission with evidence of compliance with subsection (b), section four, article four of this chapter;

(2) Teach in a subject area or geographic area of critical need full time under contract with a county board for a period of two school years for each year for which loan assistance is received pursuant to this article. The vice chancellor for administration may grant a partial award to an eligible recipient whose contract term is for less than a full school year pursuant to criteria established by commission rule.

(3) Acknowledge that an award is to be paid to the recipient's educational loan institution, not directly to the recipient, only after the commission determines that the recipient has complied with all terms of the agreement; and

(4) Repay all or part of an award received pursuant to this article if the award is not paid to the educational loan institution or if the recipient does not comply with the other terms of the agreement.

(b) Each loan agreement shall disclose fully the terms and conditions under which an award may be granted pursuant to this article and under which repayment may be required. The agreement also is subject to and shall include the terms and conditions established by section five, article four of this chapter.

§18C-4A-3. Amount and duration of loan assistance; limits.

(a) Each award recipient is eligible to receive loan assistance of up to $2,000 annually subject to limits set forth in subsection (b) of this section:
(1) If the recipient has taught math or science for a full school year under contract with a county board in a school or geographic area of critical need; and

(2) If the recipient otherwise has complied with the terms of the agreement and with applicable provisions of this article and article four of this chapter, and any rules promulgated pursuant thereto.

(b) The recipient is eligible for renewal of loan assistance only during the periods when the recipient is under contract with a county board to teach in a subject area of critical need in a school or geographic area of critical need, and complies with other criteria and conditions established by rule, except that a teacher who is teaching under a contract in a position that no longer meets the definition of critical need under rules established in accordance with section one, article four of this chapter is eligible for renewal of loan assistance until the teacher leaves his or her current position.

(c) No recipient may receive loan assistance pursuant to this 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.]

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.

(a) The state board annually shall review and evaluate the list of reports required to be written by principals and teachers in order to determine which reports are repetitive, unnecessary, counterproductive or outdated so that the administrative burden on principals and teachers may be lessened.

(b) The state board shall submit a report to the Legislative Oversight Commission on Education Accountability no later than December 31 of each year identifying those unnecessary reports, together with any comments and recommendations on how to reduce or consolidate principal and teacher reports.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-45. School calendar.

(a) As used in this section:

(1) “Instructional day” means a day within the instructional term which meets the following criteria:

(A) Instruction is offered to students for at least the minimum amount of hours provided by state board rule;
(B) Instructional time is used for instruction and cocurricular activities; and

(C) Other criteria as the state board determines appropriate.

(2) "Cocurricular activities" are activities that are closely related to identifiable academic programs or areas of study that serve to complement academic curricula as further defined by the state board.

(b) Findings. –

(1) The primary purpose of the school system is to provide instruction for students.

(2) The school calendar, as defined in this section, is designed to define the school term both for employees and for instruction.

(3) The school calendar shall provide for one hundred eighty separate instructional days.

(c) The county board shall provide a school term for its schools that contains the following:

(1) An employment term that excludes Saturdays and Sundays and consists of at least two hundred days, which need not be successive. The beginning and closing dates of the employment term may not exceed forty-eight weeks;

(2) Within the employment term, an instructional term for students of no less than one hundred eighty separate instructional days, which includes an inclement weather and emergencies plan designed to guarantee an instructional term for students of no less than one hundred eighty separate instructional days;

(3) Within the employment term, noninstructional days shall total twenty and shall be comprised of the following:
(A) Seven paid holidays;

(B) Election day as specified in section two, article five, chapter eighteen-a of this code;

(C) Six days to be designated by the county board to be used by the employees outside the school environment, with at least four outside the school environment days scheduled to occur after the one hundred and thirtieth instructional day of the school calendar; and

(D) The remaining days to be designated by the county board for purposes to include, but not be limited to:

(i) Curriculum development;

(ii) Preparation for opening and closing school;

(iii) Professional development;

(iv) Teacher-pupil-parent conferences;

(v) Professional meetings;

(vi) Making up days when instruction was scheduled but not conducted; and

(vii) At least four two-hour blocks of time for faculty senate meetings with each two-hour block of time scheduled once at least every forty-five instructional days; and

(4) Scheduled out-of-calendar days that are to be used for instructional days in the event school is canceled for any reason.

(d) A county board of education shall develop a policy that requires additional minutes of instruction in the school day or additional days of instruction to recover time lost due to late arrivals and early dismissals.
(e) If it is not possible to complete one hundred eighty separate instructional days with the current school calendar, the county board shall schedule instruction on any available noninstructional day, regardless of the purpose for which the day originally was scheduled, or an out-of-calendar day and the day will be used for instruction of students: Provided, That the provisions of this subsection do not apply to:

(A) Holidays;
(B) Election day;
(C) Saturdays and Sundays.

(f) The instructional term shall commence and terminate on a date selected by the county board.

(g) The state board may not schedule the primary statewide assessment program more than thirty days prior to the end of the instructional year unless the state board determines that the nature of the test mandates an earlier testing date.

(h) The following applies to cocurricular activities:

(1) The state board shall determine what activities may be considered cocurricular;

(2) The state board shall determine the amount of instructional time that may be consumed by cocurricular activities; and

(3) Other requirements or restrictions the state board may provide in the rule required to be promulgated by this section.

(i) Extracurricular activities may not be used for instructional time.

(j) Noninstructional interruptions to the instructional day shall be minimized to allow the classroom teacher to teach.
(k) Prior to implementing the school calendar, the county board shall secure approval of its proposed calendar from the state board or, if so designated by the state board, from the state superintendent.

(l) In formulation of a school’s calendar, a county school board shall hold at least two public meetings that allow parents, teachers, teacher organizations, businesses and other interested parties within the county to discuss the school calendar. The public notice of the date, time and place of the public hearing must be published in a local newspaper of general circulation in the area as a Class II legal advertisement, in accordance with the provisions of article three, chapter fifty-nine of this code.

(m) The county board may contract with all or part of the personnel for a longer term of employment.

(n) The minimum instructional term may be decreased by order of the state superintendent in any county declared a federal disaster area and where the event causing the declaration is substantially related to a reduction of instructional days.

(o) Notwithstanding any provision of this code to the contrary, the state board may grant a waiver to a county board for its noncompliance with provisions of chapter eighteen, eighteen-a, eighteen-b and eighteen-c of this code to maintain compliance in reaching the mandatory one hundred eighty separate instructional days established in this section.

(p) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for the purpose of implementing the provisions of this section.

(q) The amendments to this section during the 2013 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2014, and the provisions of this
section existing immediately prior to the 2013 regular session of the Legislature remain in effect for school years beginning prior to July 1, 2014.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-6a. Incentive for county board participation in circuit court juvenile probation truancy programs.

A county board that enters into a truancy program agreement with the circuit court of the county that (1) provides for the referral of truant juveniles for supervision by the court’s probation office pursuant to section eleven, article five, chapter forty-nine of this code and (2) requires the county board to pay for the costs of the probation officer or officers assigned to supervise truant juveniles, shall be reimbursed for one-half of the costs of the probation officer or officers, subject to appropriation of the Legislature for this purpose to the West Virginia Department of Education. For any year in which the funds appropriated are insufficient to cover the reimbursement costs, the county’s costs shall be reimbursed pro rata.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-10. Foundation allowance to improve instructional programs.

(a) The total allowance to improve instructional programs shall be the sum of the following:

(1) For instructional improvement, in accordance with county and school electronic strategic improvement plans required by section five, article two-e of this chapter, an amount equal to fifteen percent of the increase in the local share amount for the next school year above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding
Provided, That effective July 1, 2014, an amount equal to ten percent of the increase in the local share amount for the next school year above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be distributed to the counties as follows:

(A) One hundred fifty thousand dollars shall be allocated to each county; and

(B) Distribution to the counties of the remainder of these funds shall be made proportional to the average of each county’s average daily attendance for the preceding year and the county’s second month net enrollment.

Moneys allocated by provision of this subdivision shall be used to improve instructional programs according to the county and school strategic improvement plans required by section five, article two-e of this chapter and approved by the state board: Provided, That notwithstanding any other provision of this code to the contrary, moneys allocated by provision of this section also may be used in the implementation and maintenance of the uniform integrated regional computer information system.

Up to twenty-five percent of this allocation may be used to employ professional educators and service personnel in counties after all applicable provisions of sections four and five of this article have been fully utilized.

Prior to the use of any funds from this subdivision for personnel costs, the county board must receive authorization from the state superintendent. The state superintendent shall require the county board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3) sharing of services with adjoining counties and the regional
educational service agency for that county in the use of the total
local district board budget; and (4) employment of technology
integration specialists to meet the needs for implementation of
the West Virginia 21st Century Strategic Technology Learning
Plan. County boards shall make application for the use of funds
for personnel for the next fiscal year by May 1 of each year. On
or before June 1, the state superintendent shall review all
applications and notify applying county boards of the approval
or disapproval of the use of funds for personnel during the fiscal
year appropriate. The state superintendent shall require the
county board to demonstrate the need for an allocation for
personnel based upon the county’s inability to meet the require-
ments of state law or state board policy.

The provisions relating to the use of any funds from this
subdivision for personnel costs are subject to the following: (1)
The funds available for personnel under this subsection may not
be used to increase the total number of professional
noninstructional personnel in the central office beyond four; and
(2) For the school year beginning July 1, 2013, and thereafter,
any funds available to a county for use for personnel above the
amount available for the 2012-2013 school year, only may be
used for technology systems specialists until the state superinten-
dent determines that the county has sufficient technology
systems specialists to serve the needs of the county.

The plan shall be made available for distribution to the
public at the office of each affected county board; plus

(2) For the purposes of improving instructional technology,
an amount equal to fifteen percent of the increase in the local
share amount for the next school year above any required
allocation pursuant to section six-b of this article shall be added
to the amount of the appropriation for this purpose for the
immediately preceding school year: Provided, That effective
July 1, 2014, an amount equal to twenty percent of the increase
in the local share amount for the next school year above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be allocated to the counties as provided in section seven, article two-e of this chapter to meet the objectives of the West Virginia 21st Century Strategic Technology Learning Plan: Provided, That effective July 1, 2014, the sum of these amounts shall be distributed to the counties as follows:

(A) Thirty thousand dollars shall be allocated to each county; and

(B) Distribution to the counties of the remainder of these funds shall be made proportional to the average of each county’s average daily attendance for the preceding year and the county’s second month net enrollment.

Effective July 1, 2014, moneys allocated by provision of this subdivision shall be used to improve instructional technology programs according to the county and school strategic improvement plans; plus

(3) One percent of the state average per pupil state aid multiplied by the number of students enrolled in dual credit, advanced placement and international baccalaureate courses, as defined by the state board, distributed to the counties proportionate to enrollment in these courses in each county; plus

(4) An amount not less than the amount required to meet debt service requirements on any revenue bonds issued prior to January 1, 1994, and the debt service requirements on any revenue bonds issued for the purpose of refunding revenue bonds issued prior to January 1, 1994, shall be paid into the School Building Capital Improvements Fund created by section six, article nine-d of this chapter and shall be used solely for the
purposes of that article. The School Building Capital Improvements Fund shall not be utilized to meet the debt services requirement on any revenue bonds or revenue refunding bonds for which moneys contained within the School Building Debt Service Fund have been pledged for repayment pursuant to that section.

(b) When the school improvement bonds secured by funds from the School Building Capital Improvements Fund mature, the state Board of Education shall annually deposit an amount equal to $24,000,000 from the funds allocated in this section into the School Construction Fund created pursuant to the provisions of section six, article nine-d of this chapter to continue funding school facility construction and improvements.

(c) Any project funded by the School Building Authority shall be in accordance with a comprehensive educational facility plan which must be approved by the state board and the School Building Authority.

ARTICLE 17. WEST VIRGINIA SCHOOLS FOR THE DEAF AND THE BLIND.

§18-17-8. Continuing contract status established; dismissal and suspension procedures.

Before entering upon their duties, all teachers shall execute a contract with the state board, which contract shall state the salary to be paid and shall be in the form prescribed by the state superintendent. Every such contract shall be signed by the teacher and by the president and secretary of the state board.

A teacher’s contract, under this section, shall be for a term of not less than one nor more than three years; and if, after three years of such employment, the teacher who holds a professional certificate, based on at least a bachelor’s degree, has met the
qualifications for the same, and the state board enter into a new contract of employment, it shall be a continuing contract.

Notwithstanding any other provisions of law, the state board may suspend or dismiss any teacher, auxiliary personnel or service personnel, subject to the provisions of this article, for immorality, incompetency, cruelty, insubordination, intemperance or willful neglect of duty. The charges shall be stated in writing and the teacher, auxiliary personnel or service personnel affected shall be given an opportunity to be heard by the state board, sitting as a hearing board, or by an assigned hearing examiner employed by the state board to preside at the taking of evidence upon not less than ten days' written notice. A hearing examiner shall prepare his or her own proposed finding and recommendation, make copies of the findings available to the parties and then submit the entire record to the state board for final decision. The state board shall set a time and place for hearing of arguments by the parties on the record at a regular meeting of the state board or at a special meeting called for that purpose and shall deliberate and issue a decision at the conclusion of arguments. Written notice of the final decision shall be served within five days of the state board's consideration of the 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.

(a) The state board shall promulgate rules for the accreditation, classification and standardization of all schools in the state, except institutions of higher education, and shall determine the minimum standards for granting diplomas and certificates of proficiency by those schools.

(1) The certificates of proficiency shall include specific information regarding the graduate's skills, competence and readiness for employment or honors and advanced education and shall be granted, along with the diploma, to every eligible high school graduate.

(2) The certificate of proficiency shall include the program of study major completed by the student only for those students who have completed the required major courses, or higher level courses, advanced placement courses, college courses or other more rigorous substitutes related to the major, and the recommended electives.
(b) An institution of less than collegiate or university status may not grant any diploma or certificate of proficiency on any basis of work or merit below the minimum standards prescribed by the state board.

(c) A charter or other instrument containing the right to issue diplomas or certificates of proficiency may not be granted by the State of West Virginia to any institution or other associations or organizations of less than collegiate or university status within the state until the condition of granting or issuing the diplomas or other certificates of proficiency has first been approved in writing by the state board.

(d) The state board shall promulgate a rule for the approval of alternative education programs for disruptive students who are at risk of not succeeding in the traditional school structure.

(1) This rule may provide for the waiver of other policies of the state board, the establishment and delivery of a nontraditional curriculum, the establishment of licensure requirements for alternative education program teachers, and the establishment of performance measures for school accreditation.

(2) This rule shall provide uniform definitions of disruptive student behavior and uniform standards for the placement of students in alternative settings or providing other interventions including referrals to local juvenile courts to correct student behavior so that they can return to a regular classroom without engaging in further disruptive behavior.

(e) The state board shall establish up to five pilot projects at the elementary or middle school levels, or both, that employ alternative schools or other placements for disruptive students to learn appropriate behaviors so they can return to the regular classroom without further disrupting the learning environment. The state board shall report to the Legislative Oversight Com-
mission on Education Accountability by December 1, 2010, on its progress in establishing the pilot projects and by December 1 in each year after that for the duration of the pilot projects on the effect of the projects on maintaining student discipline.

(f) If a student attends an approved alternative education program or the Mountaineer Challenge Academy, which is designated as a special alternative education program pursuant to section twenty-four, article one-b, chapter fifteen of this code, and the student graduates or passes the General Equivalency Development (GED) Tests within five years of beginning ninth grade, that student shall be considered graduated for the purposes of calculating the high school graduation rate used for school accreditation and school system approval, subject to the following:

(1) The student shall be considered graduated only to the extent that this is not in conflict with any provision of federal law relating to graduation rates;

(2) If the state board determines that this is in conflict with a provision of federal law relating to graduation rates, the state board shall request a waiver from the United States Department of Education; and

(3) If the waiver is granted, notwithstanding the provisions of subdivision (1) of this subsection, the student graduating or passing the General Educational Development (GED) Tests within five years shall be considered graduated.

(g) The state board shall promulgate a rule to support the operation of the National Guard Youth Challenge Program operated by the Adjutant General and known as the "Mountaineer Challenge Academy" which is designated as a special alternative education program pursuant to section twenty-four, article one-b, chapter fifteen of this code, for students who are at
risk of not succeeding in the traditional school structure. The rule shall set forth policies and procedures applicable only to the Mountaineer Challenge Academy that provide for, but are not limited to, the following:

(1) Implementation of provisions set forth in section twenty-four, article one-b, chapter fifteen of this code;

(2) Precedence of the policies and procedures designated by the National Guard Bureau for the operation of the Mountaineer Challenge Academy special alternative education program;

(3) Consideration of a student participating in the Mountaineer Challenge Academy special alternative education program at full enrollment status in the referring county for the purposes of funding and calculating attendance and graduation rates, subject to the following:

(A) The student shall be considered at full enrollment status only for the purposes of calculating attendance and graduation rates to the extent that this is not in conflict with any provision of federal law relating to attendance or graduation rates;

(B) If the state board determines that this is in conflict with a provision of federal law relating to attendance or graduation rates, the state board shall request a waiver from the United States Department of Education;

(C) If the waiver is granted, notwithstanding the provisions of paragraph (A) of this subdivision, the student shall be considered at full enrollment status in the referring county for the purposes of calculating attendance and graduation rates; and

(D) Consideration of the student at full enrollment status in the referring county is for the purposes of funding and calculating attendance and graduation rates only. For any other purpose, a student participating in the academy is considered withdrawn from the public school system;
(4) Articulation of the knowledge, skills and competencies gained through alternative education so that students who return to regular education may proceed toward attainment or may attain the standards for graduation without duplication; and

(5) Consideration of eligibility to take the General Educational Development (GED) Tests by qualifying within the extraordinary circumstances provisions established by state board rule for a student participating in the Mountaineer Challenge Academy special alternative education program who does not meet any other criteria for eligibility.

(h) Nothing in this section or the rules promulgated under this section compels the Mountaineer Challenge Academy to be operated as a special alternative education program or to be subject to any other laws governing the public schools except by its consent.

(i) The Legislature makes the following findings regarding students at-risk:

(1) Defeated and discouraged learners:

(A) Any child who is unlikely to graduate on schedule with both the skills and self esteem necessary to exercise meaningful options in the areas of work, leisure, culture, civic affairs and personal relationships may be defined as being an at-risk student;

(B) Problems associated with students at-risk often begin for them in the early grades as they gradually fall further behind in the essential skills of reading, writing and math;

(C) These problems may be accompanied by such behavior patterns as poor attendance, inattentiveness, negative attitudes and acting out in class. These patterns are both symptoms of and added catalysts for students to become increasingly defeated and discouraged learners;
(D) By the middle grades, students with growing skill deficits, usually know they are behind other students and have good reason to feel discouraged. A growing lack of self confidence and self worth, limited optimism for the future, avoidance of school and adults and a dimming view of the relationship between effort and achievement are among the characteristics of defeated and discouraged learners;

(E) Public schools are expected to address the needs of all students, minimizing the likelihood that they will become at-risk and giving additional attention to those who do; however, the circumstances involved with a child becoming at-risk often are complex and may include influences both within and outside of the school environment; and

(F) In fragile homes, a child who is at-risk and is becoming a discouraged and defeated learner often lacks adequate support and may develop peer relationships that further exacerbate the difficulty of reengaging him or her in learning, school and responsible social behavior.

(2) The Legislature further finds that the public schools should not be deterred from seeking and assisting with enrollment of students in an alternative program that helps remedy the discouragement, lessens skill deficits and facilitates a successful return to public school.

(A) For this purpose, subject to approval of the county superintendent, a student enrolled in the public schools of the county may continue to be enrolled while also enrolled in an alternative program subject to the following conditions:

(1) The alternative program is approved by the state board;

(2) The student meets the general description of an at-risk student and exhibits behaviors and characteristics associated with a discouraged and defeated learner;
(3) The alternative program complies with all requests of the county superintendents for information on the educational program and progress of the student;

(4) The alternative program includes a family involvement component in its program. This component shall include, but is not limited to, providing for student and parent participation in activities that help address the challenging issues that have hindered the student's engagement and progress in learning;

(5) The alternative program includes an on site boarding option for students;

(6) The alternative program provides an individualized education program for students that is designed to prepare them for a successful transition back into the public schools; and

(7) The parents or legal guardian of the student make application for enrollment of the student in the alternative program, agree to the terms and conditions for enrollment, and 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
respects 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.

(a) The Legislature makes the following findings:

(1) Concussions are one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities. The Centers for Disease Control and Prevention estimates that as many as 3.9 million sports-related and recreation-related concussions occur in the United States each year;

(2) A concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull. The risk of catastrophic injuries or death is significant when a concussion or head injury is not properly evaluated and managed;

(3) Concussions are a type of brain injury that can range from mild to severe and can disrupt the way the brain normally functions;

(4) Concussions can occur in any organized or unorganized sport or recreational activity and can result from a fall or from players colliding with each other or with obstacles;
(5) Concussions occur with or without loss of consciousness, but the vast majority occur without loss of consciousness;

(6) The interscholastic athlete who continues to play or practice with a concussion or symptoms of head injury is especially vulnerable to greater injury and even death; and

(7) Even with generally recognized return-to-play-and-practice standards for concussion and head injury, some affected interscholastic athletes are prematurely returned to play or practice resulting in increased risk of physical injury or death to the athletes in the State of West Virginia.

(b) For the purposes of this section, “interscholastic athlete” means any athlete who is participating in interscholastic athletics at a high school or middle school that is a member of the West Virginia Secondary School Activities Commission. “Licensed health care professional” means a health care provider whose licensed scope of practice includes the ability to diagnose and treat an injury or disease.

(c) The West Virginia Secondary School Activities Commission shall promulgate rules pursuant to section twenty-five of this article that address concussions and head injuries in interscholastic athletes: Provided, That prior to state board approval and notwithstanding the exemption provided in section three, article one, chapter twenty-nine-a of this code, the state board shall submit the rule to the Legislative Oversight Commission on Education Accountability pursuant to section nine, article three-b of said chapter.

(d) The rules required by this section shall include, but are not limited to, the following:

(1) Guidelines and other pertinent information to inform and educate appropriate school administrators, coaches, interscholastic athletes and their parents or guardians of the
nature and risk of concussion and head injury including the risks of continuing to play or practice after a concussion or head injury;

(2) A concussion and head injury information sheet that shall be signed and returned by the interscholastic athlete and the athlete’s parent or guardian on an annual basis before the interscholastic athlete begins practice or competition;

(3) A requirement that each head coach of an interscholastic sport at a high school or middle school who is a member of the West Virginia Secondary School Activities Commission complete a commission-approved concussion and head injury recognition and return-to-play protocol course annually;

(4) A requirement that an interscholastic athlete who is suspected by a licensed health care professional or by his or her head coach or athletic trainer of having sustained a concussion or head injury in a practice or game shall be removed from competition at that time;

(5) A requirement that an interscholastic athlete who has been removed from play or practice may not return to play or practice until the athlete is evaluated by a licensed health care professional trained in the evaluation and management of concussions and receives written clearance to return to play and practice from the licensed health care professional;

(6) A list of the respective categories of licensed health care professionals who, if properly trained in the evaluation and management of concussions, are authorized to provide written clearance for the interscholastic athlete to return to play; and

(7) A requirement that all member schools must submit a report to the West Virginia Secondary School Activities Commission within thirty days of an interscholastic athlete suffering or being suspected of suffering a concussion or head injury in a
practice or game. The report must state whether an evaluation by a licensed health care professional verified that a concussion or head injury was actually suffered, whether the athlete received written clearance to return to play or practice and, if written clearance was given, the number of days between the incident and the actual return to play or practice. If written clearance to return to play is given after thirty days of the incident, a report update shall be submitted. The West Virginia Secondary School Activities Commission shall compile and submit the reports to the appropriate state and national organization or agencies to analyze and make determinations on whether the rule required by this section needs to be amended or if equipment worn by 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.

(a) During the months of July and August, 2013, and thereafter biennially within two months following the organizational meetings of county boards required by section one-c, article five of this chapter, all county superintendents of schools and members of county boards belonging to the same regional educational service agency shall meet together to identify administrative, coordinating and other county level services and functions that may be shared between or among the county boards, especially when resignations, retirements, staffing realignments or similar events may occur. The meeting shall be a special meeting of each participating county board, to be called pursuant to section four, article five of this chapter solely for the purposes set forth in this section.

(b) As soon as each meeting is scheduled, the West Virginia School Board Association shall notify the State Superintendent in writing of the time, place and date of the meeting. The association shall conduct the meetings and for that purpose may consult with the regional educational service agencies. The format of the meetings shall be approved by the state board in advance.

(c) Prior to seeking the approval of the state board for the format of the meetings, the association shall solicit input from statewide organizations that have an interest in public education, including organizations representing the interests of parents, business and industry, public school administrators, teachers and service personnel.

(d) By October 1, following the meetings required by this section, the West Virginia School Board Association shall
provide a report of the meetings to the state board and the Legislative Oversight Commission on Education Accountability. The report shall include, but is not limited to, the following items:

(1) Identification of the administrative, coordinating and other county level services and functions that may be shared between or among the county boards;

(2) An analysis of the advantages and disadvantages of sharing services in each instance; and

(3) A process for implementing recommended changes.

(e) Subject to state board approval, the county board member training standards review committee established by section one-a, article five of this chapter may determine that the attendance of a county board member at the meeting required by subsection (a) of this section shall be approved as training related to boardmanship and governance effectiveness.

(f) Nothing in this section requires the elimination or 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.]
[Amended 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.


(a) The boards of two or more adjoining counties may jointly establish and maintain schools. The title to the school shall be vested in the board of the county in which the school is located. The agreement by which the school is established shall be reduced to writing and entered of record in the minutes of each board.
(b) The boards of the several districts shall determine the site of the proposed school and the amount to be expended for its establishment and equipment.

(1) The participating counties shall enter a formal agreement regarding the manner in which the cost for the acquisition of the property and equipment shall be apportioned.

(2) The board in the district in which the building is located shall be vested with the control and management of the school, except as may otherwise be provided in the agreement between the counties.

(c) The annual operating costs shall be the responsibility of the county in which the joint school is located and subject to the allowance transfer set forth in section fourteen, article nine-a of this chapter unless otherwise provided in the agreement between the counties.

(d) For a county board that sends students to a jointly established school in another county and that provides transportation for those students or that otherwise contributes to the support services or instructional program of the school, the net enrollment of the county for the purposes of calculating its basic foundation program as provided in article nine-a of this chapter, only, shall be increased by fifteen one hundredths multiplied by the number of full-time equivalent students from the county who are enrolled in the jointly established school.

§18-5-11a. Joint governing partnership board pilot initiative.

(a) The Legislature finds that many examples exist across the state of students who reside in one county, but who attend the public schools in an adjoining county.

(1) These arrangements have been accommodated by the boards of the adjoining counties and applicable statutes to serve
best the interests of the students by enabling them to attend a
school closer to their homes.

(2) Typically, these arrangements have evolved because
school closures or construction of new schools in the student’s
county of residence have made a cross-county transfer to an
existing school in an adjoining county a more convenient,
practical and educationally sound option.

(b) The Legislature further finds that as population changes
continue to occur, the boards of adjoining counties may best
serve the interests of their students and families by establishing
a new school in partnership to be attended by students residing
in each of the counties. Particularly in the case of elementary
grade level schools established in partnership between adjoining
counties, the Legislature finds that each of the county boards, as
well as the parents of students from each of the counties attend-
ing the school, have an interest in the operation of the school and
the preparation of the students for success as they transition to
the higher grade levels in the other schools of their respective
home counties. Therefore, in the absence of a well defined
governance structure that accommodates these interests, the
purpose of this section is to provide for a joint governing
partnership board pilot initiative.

c) The pilot initiative is limited to the joint establishment by
two adjoining counties of a school including elementary grade
levels for which a memorandum of understanding on the
governance and operation of the school has been signed. The
pilot initiative is subject to amendment of the agreement as may
be necessary to incorporate at least the following features of a
joint governing partnership board:

(1) The joint governing partnership board is comprised of the
county superintendent of each county, the president of the county
board of each county or his or her designee, and a designee of
the state superintendent;
(2) The board shall elect a chair from among its membership for a two-year term and may meet monthly or at the call of the chair.

(A) Meetings of the board are subject to the open governmental proceedings laws applicable to county boards.

(B) The boards of the respective counties are responsible for the expenses of its members and shall apportion other operational expenses of the board upon mutual agreement.

(C) Once the jointly established school is opened, the meetings of the board shall be held at the school;

(3) All provisions of law applicable to the establishment, operation and management of an inter-county school including, but not limited to, section eleven, article five and section fourteen, article nine-a of this chapter and article eight-i, article four, chapter eighteen-a of this code apply, except that the joint governing partnership board may exercise governing authority for operation and management of the school in the following areas:

(A) Personnel.

(i) Within the applicable laws for employment, evaluation, mentoring, professional development, suspension and dismissal, the powers and duties of the county superintendent are vested in the joint governing partnership board with respect to the employees employed by the county in which the school is located or assigned to the school from the partner county.

(ii) The employees are the employees of the employing county board and the partnership board may make recommendations concerning these employment matters to the employing board it considers necessary and appropriate;
(B) Curriculum.

(i) The joint governing partnership board is responsible for the formulation and execution of the school’s strategic improvement plan and technology plan to meet the goals for student and school performance and progress.

(ii) In its formulation of these plans, the partnership board shall consider the curriculum and plans of the respective county boards to ensure preparation of the students at the school for their successful transition into the higher grade level schools of the respective counties;

(C) Finances. The joint governing partnership board shall control and may approve the expenditure of all funds allocated to the school for the school budget from either county and may solicit and receive donations, apply for and receive grants and conduct fund raisers to supplement the budget; and

(D) Facilities. Consistent with the policies in effect concerning liability insurance coverage, maintenance and appropriate uses of school facilities for the schools of the county in which the school is located, the joint governing partnership board governs the use of the school facility and ensures equitable opportunities for access and use by organizations and groups from both counties.

(d) The joint governing partnership board may adopt policies for the school that are separate from the policies of the respective counties and, working in concert with its local school improvement council, may propose alternatives to the operation of the school which require the request of a waiver of policy, interpretation or statute from either or both county boards, the state board or the Legislature as appropriate.

(e) The superintendents and presidents of county boards of adjoining counties that have in effect on the effective date of this
section a memorandum of understanding on the governance and
operation of a jointly established school shall report to the
Legislative Oversight Commission on Education Accountability
on or before November 1, 2013, on the status of implementation
of this section.

(1) Once established, the joint governing partnership board
established under this pilot initiative shall remain in effect for
five consecutive school years unless authority for the pilot
initiative is repealed.

(2) The Legislative Oversight Commission on Education
Accountability may request the superintendents and the presi-
dents of the county boards to provide periodic updates on this
pilot initiative. Also, at the conclusion of the five-year pilot
initiative, they shall report their recommendations on the
viability of the joint governing partnership board approach and
any recommended changes to the Legislative Oversight Com-
mission on Education Accountability.

(A) When the five-year period is concluded, by affirmative
vote of both boards, the joint governing partnership board shall
remain in effect; or

(B) The agreement between the boards for the governance
and operation of the school shall revert to the terms in effect on
the effective date of this section, subject to amendment by
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.

(a) For the purposes of this section, "parent" or "parents"
means the person or persons who have legal responsibility for a
student, including parents, guardians or custodians.
(b) Jointly established schools —

(1) In the case of a school that is jointly established by two or more adjoining counties as provided in section eleven, article five of this chapter, the school’s local school improvement council shall be modified to include a composition of parents and at-large members in its membership as follows, notwithstanding subdivisions (4) and (5), subsection (a), section two of this article:

(A) Five parents of students enrolled at the school elected by the parent members of the school’s parent teacher organization. If there is no parent teacher organization, the parent members shall be elected by the parents of students enrolled at the school in such manner as may be determined by the principal. No more than three parents may be residents of the same county; and

(B) Four at-large members appointed by the principal:

(i) Two shall reside in the school’s attendance area, but may not be from the same county; and

(ii) Two shall represent business or industry and may not be from the same county.

(C) None of the at-large members is eligible for membership under any of the other elected classes of members.

(2) The local school improvement council shall meet at least once each year with the advisory council as established in the memorandum of understanding or with the joint governing partnership board for the jointly established school as applicable.

(3) Prior to commencing an authorized action under section three of this article for the purpose of proposing alternatives to the operation of the school and for the purpose of requesting a waiver of policy, interpretation or statute if needed to implement
the alternative, the local school improvement council shall seek
advice from the jointly established school’s advisory council or
joint governing partnership board.

(c) In the case of a school that is not a jointly established
school as provided in section eleven, article five of this chapter,
but whose net enrollment includes at least one hundred fifty
students whose parents are residents of an adjoining county,
upon a petition signed by a majority of the parents of the
students who are enrolled at the school, but who reside in an
adjoining county, the local school improvement council of the
school shall be modified as provided in subdivisions (1) and (2),
subsection (b) of this section.

(d) For local school improvement councils under this section
who are proposing alternatives to the operation of the school
which require the request of a waiver of policy, interpretation or
statute under the authority and procedures as set forth in section
three of this article, the terms “appropriate board” and “affected
board” as used in section three, mean the board or the multiple
boards from whom a waiver is necessary for the proposal to be
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.

(a) A public, private, parochial or denominational school located within this state may possess and maintain at the school a supply of epinephrine auto-injectors for use in emergency medical care or treatment for an anaphylactic reaction. A prior diagnosis for a student or school personnel requiring the use of epinephrine auto-injectors is not necessary to permit the school to stock epinephrine auto-injectors. Epinephrine auto-injectors shall be maintained by the school in a secure location which is
only accessible by medical personnel and authorized nonmedical personnel and not by students.

(b) An allopathic physician licensed to practice pursuant to the provisions of article three, chapter thirty of this code or an osteopathic physician licensed to practice pursuant to the provisions of article fourteen, chapter thirty of this code may prescribe within the course of his or her professional practice standing orders and protocols for use when necessary by a school which wishes to maintain epinephrine auto-injector pursuant to the provisions of this section.

(c) A school nurse, as set forth in section twenty-two of this article, is authorized to administer an epinephrine auto-injector to a student or school personnel during regular school hours or at a school function when the school nurse medically believes the individual is experiencing an anaphylactic reaction. A school nurse may use the school supply of epinephrine auto-injectors for a student or school personnel authorized to self-administer that meet the requirements of a prescription on file with the school.

(d) Nonmedical school personnel who have been trained in the administration of an epinephrine auto-injector and who have been designated and authorized by the school to administer the epinephrine auto-injector are authorized to administer an epinephrine auto-injector to a student or school personnel during regular school hours or at a school function when the authorized and designated nonmedical school personnel reasonably believes, based upon their training, that the individual is experiencing an anaphylactic reaction. Nonmedical school personnel may use the school supply of epinephrine auto-injectors for a student or school personnel authorized to self-administer that meet the requirements of a prescription on file with the school.
(e) Prior notice to the parents of a student of the administration of the epinephrine auto-injector is not required. Immediately following the administration of the epinephrine auto-injector, the school shall provide notice to the parent of a student who received an auto-injection.

(f) A school nurse or trained and authorized nonmedical school personnel who administer an epinephrine auto-injection to a student or to school personnel as provided in this section is immune from liability for any civil action arising out of an act or omission resulting from the administration of the epinephrine auto-injection unless the act or omission was the result of the school nurse or trained and authorized nonmedical school personnel's gross negligence or willful misconduct.

(g) For the purposes of this section, all county boards of education may participate in free or discounted drug programs from pharmaceutical manufacturers to provide epinephrine auto-injectors to schools in their counties who choose to stock auto-injectors.

(h) All county boards of education are required to collect and compile aggregate data on incidents of anaphylactic reactions resulting in the administration of school maintained epinephrine auto-injectors in their county during a school year and forward the data to State Superintendent of Schools. The State Superintendent of Schools shall prepare an annual report to be presented to the Joint Committee on Government and Finance as set forth in article three, chapter four of this code, by December 31 of each year.

(i) The State Board of Education, as defined in article two of this chapter, shall consult with the State Health Officer, as defined in section four, article three, chapter thirty of this code, and promulgate rules necessary to effectuate the provisions of
this section in accordance with the provisions of article three-b, chapter twenty-nine-a of this code. The rules shall provide, at a minimum, for:

(1) The criteria for selection and minimum requirements of nonmedical school personnel who may administer epinephrine auto-injectors following the necessary training;

(2) The training requirements necessary for nonmedical school personnel to be authorized to administer an epinephrine auto-injection;

(3) Training on anaphylaxis and allergy awareness for food service workers in the school system, if easily available locally;

(4) Storage requirements for maintaining the epinephrine auto-injectors within the schools;

(5) Comprehensive notice requirements to the parents of a student who was administered a school maintained epinephrine auto-injection including who administered the injection, the rational for administering the injection, the approximate time of the injection and any other necessary elements to make the students’ parents fully aware of the circumstances surrounding the administration of the injection;

(6) Any and all necessary documentation to be kept and maintained regarding receipt, inventory, storage and usage of all epinephrine auto-injectors;

(7) Detailed reporting requirements for county boards of education on incidents of use of school maintained epinephrine auto-injectors during a school year; and

(8) Any other requirements necessary to fully implement this section.
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.

(a) The county board, upon the recommendation of the county superintendent, may employ an assistant whose term of employment may be not less than one nor more than four years: Provided, That his or her term may not extend beyond that of the incumbent county superintendent.

(b) The board may not employ more than one assistant for each two hundred teachers or major fraction thereof.

(c) The county board, upon the recommendation of the county superintendent, is authorized to employ general and
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10 special supervisors or directors of instruction and of other educational activities as may be considered necessary.

12 (d) The employment of the assistant superintendent shall be on a twelve-month basis. The period of employment for all others named herein shall be at the discretion of the county board.

16 (e) Rules for qualifications of assistant superintendents, and directors and supervisors of instruction and of other educational activities shall be fixed by the state board: Provided, That the qualifications required for any assistant superintendent may not be higher than those required for the county superintendent: Provided, however, That the rules do not affect the status of any incumbent nor his or her right to succeed himself or herself in his or her assigned position.

24 (f) The county board is authorized to reimburse the employees for their necessary traveling expenses upon presentation of a monthly, itemized, sworn statement approved by the county superintendent.

28 (g) Any person employed under the foregoing provision of this section, provided he or she holds a valid teacher’s certificate, shall be given continuing contract status as a teacher and shall hold that status unless dismissed for statutory reasons.

32 (h) The job duties of a professional educator employed under the provisions of this section, including a professional educator employed as a “supervisor” or “central office administrator” as defined in section one, article one, chapter eighteen-a of this code, shall include substitute teaching on at least three instructional days each school year: Provided, That the substitute teaching requirement of this subsection does not apply to the superintendent and those who have never held a teaching certificate or an administrative certificate.
(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.

(a) The Legislature hereby grants an exception to the statute or statutes indicated for the following schools pursuant to and for the purposes enumerated in their innovation zone plans approved by the state board at its meeting on the date specified. The grant
of an exception to a statute means that the school or schools granted the exception may implement the actions as specifically described in their approved innovation zone plan notwithstanding the provisions of this code from which they are specifically excepted. These exceptions are limited to the purposes as specifically described in the plan approved on the date indicated and are expressly repealed for any plan modification or plan implementation which changes those purposes. However, nothing in this section prohibits a school or schools with an approved innovation zone plan from requesting plan modifications, subject to approval of the state board, and if the modifications change the purposes for which an exception to a statute was granted, the state board shall request an exception to achieve the new purposes in the manner provided in section five of this article for requesting exceptions to a statute. If the approved innovation zone plan of a school or schools is withdrawn by the state board, or the innovation zone designation of a school or schools is revoked by the state board, the exception granted to that school or those schools is expressly repealed.

(b) The following exceptions are granted:

(1) Piedmont Elementary School, Kanawha County, is excepted from subsection (3), section fourteen, article four, chapter eighteen-a of this code for the purpose of allowing specialist teachers to take their planning period before and after school totaling one hour, three days per week, and from section eighteen-a, article five of this chapter for the purpose of permitting a number of students in music and physical education classes in excess of the class size limits to provide the time and structure for teams to meet in professional learning communities, which purposes are as more specifically described in the school’s innovation zone plan approved by the state board on January 13, 2010;
(2) Putnam County High Schools Consortium comprised of Buffalo High School, Hurricane High School, Poca High School, Winfield High School and Putnam Career and Technical Center, Putnam County, is excepted from section forty-five, article five of this chapter only to the extent necessary for the purpose of establishing a structured transition program for freshman only one day prior to the beginning of the regular instructional term, and for the purpose of permitting the creation of not more than three hours each month during the school term of structured, regularly scheduled time for all teachers to work in professional learning communities, which purposes are as more specifically described in the schools’ innovation zone plan approved by the state board on January 13, 2010;

(3) Nellis Elementary School, Boone County, is excepted from subsection (a), section two, article five-a of this chapter, for the purpose of expanding the membership of its local school improvement council, which purpose is as more specifically described in the school’s innovation zone plan approved by the state board on January 13, 2010;

(4) Cabell County Secondary School Consortium comprised of Cabell County Career Technical Center, Cabell Midland High School and Huntington High School, Cabell County, is excepted from sections one and one-a, article eight of this chapter for the purpose of raising the compulsory school attendance age to eighteen years old, and from section two-b, article three, chapter eighteen-a of this code for the purpose of providing a customized high quality beginning teacher induction program developed at the county level, which purposes are as more specifically described in the schools’ innovation zone plan approved by the state board on January 13, 2010;

(5) Clay County Schools is excepted from section fifteen, article five of this chapter for the purpose of allowing persons
over the age of twenty-one years to enroll without charge of fees in the Clay County Schools “iREAD” program and upon, successful completion, be awarded a Clay County High School Diploma, which purposes are more specifically described in the Clay County School’s innovation zone plan approved by the state board on January 12, 2011. The grant of this exception does not abrogate the authority of the state board to determine the minimum standards for granting diplomas pursuant to section six, article two of this chapter and does not permit persons over the age of twenty-one who reenter the public schools to be included in net enrollment for the purposes of funding pursuant to article nine-a of this chapter, except as otherwise provided by law;

(6) Monroe County Schools is excepted from subdivision (3), subsection (a), section one-a, article eight of this chapter for the purpose of allowing the school district to increase the compulsory school attendance age from seventeen years of age to eighteen years of age as part of its county-wide dropout prevention initiative as more specifically described in the Monroe County School’s Local Solutions Dropout Prevention and Recovery Innovation Zone plan approved by the state board on November 14, 2012; and

(7) Nicholas County Schools is excepted from sections four, eight and eleven, article eight of this chapter only to the extent necessary to permit up to two unexcused absences per semester on regular instructional days to be erased from a student’s attendance record and not used toward the initiation of the attendance enforcement actions as set-forth in those sections, if the student successfully completes the county’s Saturday instruction program operated as part of the county’s county-wide Attendance Recovery dropout prevention initiative as more specifically described in the Nicholas County School’s Local Solutions Dropout Prevention and Recovery Innovation Zone plan approved by the state board on October 3, 2012.
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.


1 As used in this article, unless the context clearly requires a different meaning:

3 (1) “Accumulated contributions” means all deposits and all deductions from the gross salary of a contributor plus regular interest.
(2) “Accumulated net benefit” means the aggregate amount of all benefits paid to or on behalf of a retired member.

(3) “Actuarially equivalent” or “of equal actuarial value” means a benefit of equal value computed upon the basis of the mortality table and interest rates as set and adopted by the retirement board in accordance with the provisions of this article: Provided, That when used in the context of compliance with the federal maximum benefit requirements of Section 415 of the Internal Revenue Code, “actuarially equivalent” shall be computed using the mortality tables and interest rates required to comply with those requirements.

(4) “Annuities” means the annual retirement payments for life granted beneficiaries in accordance with this article.

(5) “Average final salary” means the average of the five highest fiscal year salaries earned as a member within the last fifteen fiscal years of total service credit, including military service as provided in this article, or if total service is less than fifteen years, the average annual salary for the period on which contributions were made: Provided, That salaries for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with section seven, article ten-d, chapter five of this code and Section 401(a)(17) of the Internal Revenue Code.

(6) “Beneficiary” means the recipient of annuity payments made under the retirement system.

(7) “Contributor” means a member of the retirement system who has an account in the teachers accumulation fund.

(8) “Deposit” means a voluntary payment to his or her account by a member.

(9) “Employer” means the agency of and within the state which has employed or employs a member.
(10) "Employer error" means an omission, misrepresentation or violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by the participating public employer that has resulted in an underpayment or overpayment of contributions required. A deliberate act contrary to the provisions of this section by a participating public employer does not constitute employer error.

(11) "Employment term" means employment for at least ten months, a month being defined as twenty employment days.

(12) "Gross salary" means the fixed annual or periodic cash wages paid by a participating public employer to a member for performing duties for the participating public employer for which the member was hired. Gross salary shall be allocated and reported in the fiscal year in which the work was done. Gross salary also includes retroactive payments made to a member to correct a clerical error, or made pursuant to a court order or final order of an administrative agency charged with enforcing federal or state law pertaining to the member's rights to employment or wages, with all retroactive salary payments to be allocated to and considered paid in the periods in which the work was or would have been done. Gross salary does not include lump sum payments for bonuses, early retirement incentives, severance pay or any other fringe benefit of any kind including, but not limited to, transportation allowances, automobiles or automobile allowances, or lump sum payments for unused, accrued leave of any type or character.

(13) "Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been amended.

(14) "Member" means any person who has accumulated contributions standing to his or her credit in the state Teachers
Retirement System. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited, or until cessation of membership pursuant to section thirteen of this article.

(15) "Members of the administrative staff of the public schools" means deans of instruction, deans of men, deans of women, and financial and administrative secretaries.

(16) "Members of the extension staff of the public schools" means every agricultural agent, boys' and girls' club agent and every member of the agricultural extension staff whose work is not primarily stenographic, clerical or secretarial.

(17) "New entrant" means a teacher who is not a present teacher.

(18) "Nonteaching member" means any person, except a teacher member, who is regularly employed for full-time service by: (A) Any county board of education; (B) the State Board of Education; (C) the Higher Education Policy Commission; (D) the West Virginia Council for Community and Technical College Education; or (E) a governing board, as defined in section two, article one, chapter eighteen-b of this code: Provided, That any person whose employment with the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education or a governing board commences on or after July 1, 1991, is not considered a nonteaching member.

(19) "Plan year" means the twelve-month period commencing on July 1 and ending the following June 30 of any designated year.

(20) "Present member" means a present teacher or nonteacher who is a member of the retirement system.
(21) “Present teacher” means any person who was a teacher within the thirty-five years beginning July 1, 1934, and whose membership in the retirement system is currently active.

(22) “Prior service” means all service as a teacher completed prior to July 1, 1941, and all service of a present member who was employed as a teacher, and did not contribute to a retirement account because he or she was legally ineligible for membership during the service.

(23) “Public schools” means all publicly supported schools, including colleges and universities in this state.

(24) “Refund beneficiary” means the estate of a deceased contributor or a person he or she has nominated as beneficiary of his or her contributions by written designation duly executed and filed with the retirement board.

(25) “Regular interest” means interest at four percent compounded annually, or a higher earnable rate if set forth in the formula established in legislative rules, series seven of the Consolidated Public Retirement Board, 162 CSR 7.

(26) “Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay.

(27) “Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age seventy and one-half years; or (B) the calendar year in which the member retires or ceases covered employment under the system after having attained the age of seventy and one-half years.

(28) “Retirant” means any member who commences an annuity payable by the retirement system.
(29) "Retirement board" means the Consolidated Public Retirement Board created pursuant to article ten-d, chapter five of this code.

(30) "Retirement system" means the state Teachers Retirement System established by this article.

(31) "Teacher member" means the following persons, if regularly employed for full-time service: (A) Any person employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher's certificate; (F) members of the research, extension, administrative or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision, or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, the State Department of Education or the State Teachers Retirement Board, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals and educational administrators in schools under the supervision of the Division of Corrections, the Division of Health or the Division of Human Services; (K) an employee of the State Board of School Finance, if that person was formerly employed as a teacher in the public schools; and (L) any person designated as a 21st Century Learner Fellow pursuant to section eleven, article three, chapter eighteen-a of this code who elects to remain a member of the State Teachers Retirement System provided in this article.

(32) "Total service" means all service as a teacher or nonteacher while a member of the retirement system since last
becoming a member and, in addition thereto, credit for prior
service, if any.

Age in excess of seventy years shall be considered to be
seventy years.

§18-7A-14. Contributions by members; contributions by employers; correction of errors; forfeitures.

(a) At the end of each month every member of the retirement
system shall contribute six percent of that member’s monthly
gross salary to the retirement board: Provided, That any member
employed by a state institution of higher education shall contrib-
ute on the member’s full earnable compensation, unless other-
wise provided in section fourteen-a of this article. The sums are
due the state Teachers Retirement System at the end of each
calendar month in arrears and shall be paid not later than fifteen
days following the end of the calendar month. Each remittance
shall be accompanied by a detailed summary of the sums
withheld from the compensation of each member for that month
on forms, either paper or electronic, provided by the State
Teachers Retirement System for that purpose.

(b) Annually, the contributions of each member shall be
credited to the member’s account in the State Teachers Retire-
ment System Fund. The contributions shall be deducted from the
salaries of the members as prescribed in this section and every
member shall be considered to have given consent to the
deductions. No deductions, however, shall be made from the
earnable compensation of any member who retired because of
age or service and then resumed service unless as provided in
section thirteen-a of this article.

(c) The aggregate of employer contributions, due and
payable under this article, shall equal annually the total deduc-
tions from the gross salary of members required by this section.
Beginning July 1, 1994, the rate shall be seven and one-half
percent; beginning on July 1, 1995, the rate shall be nine percent; beginning on July 1, 1996, the rate shall be ten and one-half percent; beginning on July 1, 1997, the rate shall be twelve percent; beginning on July 1, 1998, the rate shall be thirteen and one-half percent; and beginning on July 1, 1999, and thereafter, the rate shall be fifteen percent: Provided, That the rate shall be seven and one-half percent for any individual who becomes a member of the State Teachers Retirement System for the first time on or after July 1, 2005, or any individual who becomes a member of the State Teachers Retirement System as a result of the voluntary transfer contemplated in article seven-d of this chapter.

(d) Payment by an employer to a member of the sum specified in the employment contract minus the amount of the employee's deductions shall be considered to be a full discharge of the employer's contractual obligation as to earnable compensation.

(e) Each contributor shall file with the retirement board or with the employer to be forwarded to the retirement board an enrollment form showing the contributor's date of birth and other data needed by the retirement board.

(f) Notwithstanding any other provisions of this article, forfeitures under the retirement system shall not be applied to increase the benefits any member would otherwise receive under the retirement system.

§18-7A-14c. Correction of errors; underpayments; overpayments.

(a) General rule: If any change or employer error in the records of any employer or the retirement system results in any member, retiree or beneficiary receiving from the plan more or less than he or she would have been entitled to receive had the records been correct, the retirement board shall correct the error.
If correction of the error occurs after the effective retirement date of a retirant, and as far as is practicable, the retirement board shall adjust the payment of the benefit in a manner that the actuarial equivalent of the benefit to which the retirant was correctly entitled shall be paid.

(b) Underpayments: Any error resulting in an underpayment to the retirement system of required contributions may be corrected by the member or retirant remitting the required member contribution and the employer remitting the required employer contribution. Interest shall accumulate in accordance with the Legislative Rule 162 CSR 7 concerning retirement board refund, reinstatement, retroactive service, loan and employer error interest factors and any accumulating interest owed on the member and employer contributions resulting from an employer error shall be the responsibility of the employer. The employer may remit total payment and the member reimburse the employer through payroll deduction over a period equivalent to the time period during which the employer error occurred. If the correction of an error involving an underpayment of required contributions to the retirement system will result in increased payments to a retirant, including increases to payments already made, any adjustments shall be made only after the retirement board receives full payment of all required member and employer contributions, including interest.

(c) Overpayments: (1) When mistaken or excess employer contributions, including any overpayments, have been made to the retirement system by an employer, due to error or other reason, the retirement board shall credit the employer with an amount equal to the erroneous contributions, to be offset against the employer’s future liability for employer contributions to the retirement system. Earnings or interest shall not be credited to the employer.

(2) When mistaken or excess member contributions, including any overpayments, have been made to the retirement
system, due to error or other reason, the retirement board shall have sole authority for determining the means of return, offset or credit to or for the benefit of the member of the amounts, and may use any means authorized or permitted under the provisions of Section 401(a), et seq. of the Internal Revenue Code and guidance issued thereunder applicable to governmental plans. Alternatively, in its full and complete discretion, the retirement board may require the employer to pay the member the amounts as wages, with the retirement board crediting the employer with a corresponding amount to offset against its future contributions to the retirement system: Provided, That the wages paid to the member shall not be considered compensation for any purposes under this article. Earnings or interest shall not be returned, offset, or credited under any of the means used by the retirement board for returning mistaken or excess member contributions, including any overpayments, to a member.

§18-7A-17. Statement and computation of teachers' service; qualified military service.

(a) Under rules adopted by the retirement board, each teacher and nonteaching member shall file a detailed statement of his or her length of service as a teacher or nonteacher for which he or she claims credit. The Retirement Board shall determine what part of a year is the equivalent of a year of service. In computing the service, however, it shall credit no period of more than a month's duration during which a member was absent without pay, nor shall it credit for more than one year of service performed in any calendar year.

(b) For the purpose of this article, the retirement board shall grant prior service credit to members of the retirement system who were honorably discharged from active duty service in any of the Armed Forces of the United States in any period of national emergency within which a federal Selective Service Act was in effect. For purposes of this section, "Armed Forces"
includes Women’s Army Corps, women’s appointed volunteers for emergency service, Army Nurse Corps, SPARS, Women’s Reserve and other similar units officially parts of the military service of the United States. The military service is considered equivalent to public school teaching, and the salary equivalent for each year of that service is the actual salary of the member as a teacher for his or her first year of teaching after discharge from military service. Prior service credit for military service shall not exceed ten years for any one member, nor shall it exceed twenty-five percent of total service at the time of retirement. Notwithstanding the preceding provisions of this subsection, contributions, benefits and service credit with respect to qualified military service shall be provided in accordance with Section 414(u) of the Internal Revenue Code. For purposes of this section, “qualified military service” has the same meaning as in Section 414(u) of the Internal Revenue Code. The Retirement Board is authorized to determine all questions and make all decisions relating to this section and, pursuant to the authority granted to the retirement board in section one, article ten-d, chapter five of this code, may promulgate rules relating to contributions, benefits and service credit to comply with Section 414(u) of the Internal Revenue Code. No military service credit may be used in more than one retirement system administered by the Consolidated Public Retirement Board.

(c) For service as a teacher in the employment of the federal government, or a state or territory of the United States, or a governmental subdivision of that state or territory, the retirement board shall grant credit to the member: Provided, That the member shall pay to the system twelve percent of that member’s gross salary earned during the first full year of current employment whether a member of the Teachers’ Retirement System or the Teachers’ Defined Contribution Retirement System, times the number of years for which credit is granted, plus interest at a rate to be determined by the retirement board. The interest shall be deposited in the reserve fund and service credit granted
at the time of retirement shall not exceed the lesser of ten years or fifty percent of the member’s total service as a teacher in West Virginia. Any purchase of out-of-state service, as provided in this article, shall not be used to establish eligibility for a retirement allowance and the retirement board shall grant credit for the purchased service as additional service only: Provided, however, That a purchase of out-of-state service is prohibited if the service is used to obtain a retirement benefit from another retirement system: Provided further, That salaries paid to members for service prior to entrance into the retirement system shall not be used to compute the average final salary of the member under the retirement system.

(d) No members shall be considered absent from service while serving as a member or employee of the Legislature of the State of West Virginia during any duly constituted session of that body or while serving as an elected member of a county commission during any duly constituted session of that body.

(e) No member shall be considered absent from service as a teacher or nonteacher while serving as an officer with a statewide professional teaching association, or who has served in that capacity, and no retirant, who served in that capacity while a member, shall be considered to have been absent from service as a teacher by reason of that service: Provided, That the period of service credit granted for that service shall not exceed ten years: Provided, however, That a member who is serving or has served as an officer of a statewide professional teaching association shall make deposits to the Teachers Retirement System, for the time of any absence, in an amount double the amount which he or she would have contributed in his or her regular assignment for a like period of time.

(f) The Teachers Retirement System shall grant service credit to any former or present member of the West Virginia Public Employees Retirement System who has been a contribut-
ing member of the Teachers’ Retirement System for more than three years, for service previously credited by the Public Employees Retirement System upon his or her written request and: (1) Shall require the transfer of the member’s Public Employees Retirement System accumulated contributions to the Teachers Retirement System; or (2) shall require a repayment of the amount withdrawn from the Public Employees Retirement System, plus interest at a rate to be determined by the retirement board, compounded annually from the date of withdrawal to the date of payment, any time prior to the member’s effective retirement date: Provided, That there shall be added by the member to the amounts transferred or repaid under this subsection an amount which shall be sufficient to equal the contributions he or she would have made had the member been under the Teachers Retirement System during the period of his or her membership in the Public Employees Retirement System. All interest paid or transferred shall be deposited in the reserve fund.

(g) For service as a teacher in an elementary or secondary parochial school, located within this state and fully accredited by the West Virginia Department of Education, the retirement board shall grant credit to the member: Provided, That the member shall pay to the system twelve percent of that member’s gross salary earned during the first full year of current employment whether a member of the Teachers’ Retirement System or the Teachers’ Defined Contribution Retirement System, times the number of years for which credit is granted, plus interest at a rate to be determined by the retirement board. The interest shall be deposited in the reserve fund and service granted at the time of retirement shall not exceed the lesser of ten years or fifty percent of the member’s total service as a teacher in the West Virginia public school system. Any transfer of parochial school service, as provided in this section, may not be used to establish eligibility for a retirement allowance and retirement board shall grant credit for the transfer as additional service only: Provided,
However, that a transfer of parochial school service is prohibited if the service is used to obtain a retirement benefit from another retirement system.

(h) Active members who previously worked in CETA (Comprehensive Employment and Training Act) may receive service credit for time served in that capacity: Provided, That in order to receive service credit under the provisions of this subsection the following conditions must be met: (1) The member must have moved from temporary employment with the participating employer to permanent full-time employment with the participating employer within one hundred twenty days following the termination of the member's CETA employment; (2) the retirement board must receive evidence that establishes to a reasonable degree of certainty as determined by the retirement board that the member previously worked in CETA; and (3) the member shall pay to the retirement board an amount equal to the employer and employee contribution plus interest at the amount set by the retirement board for the amount of service credit sought pursuant to this subsection: Provided, however, That the maximum service credit that may be obtained under the provisions of this subsection is two years: Provided further, That a member must apply and pay for the service credit allowed under this subsection and provide all necessary documentation by March 31, 2003: And provided further, That the retirement board shall exercise due diligence to notify affected employees of the provisions of this subsection.

(i) If a member is not eligible for prior service credit or pension as provided in this article, then his or her prior service shall not be considered a part of his or her total service.

(j) A member who withdrew from membership may regain his or her former membership rights as specified in section thirteen of this article only in case he or she has served two years since his or her last withdrawal.
Subject to the provisions of subsections (a) through (l), inclusive, of this section, the retirement board shall verify as soon as practicable the statements of service submitted. The retirement board shall issue prior service certificates to all persons eligible for the certificates under the provisions of this article. The certificates shall state the length of the prior service credit, but in no case shall the prior service credit exceed forty years.

Notwithstanding any provision of this article to the contrary, when a member is or has been elected to serve as a member of the Legislature, and the proper discharge of his or her duties of public office require that member to be absent from his or her teaching or administrative duties, the time served in discharge of his or her duties of the legislative office are credited as time served for purposes of computing service credit: Provided, That the retirement board may not require any additional contributions from that member in order for the retirement board to credit him or her with the contributing service credit earned while discharging official legislative duties: Provided, however, That nothing in this section may be construed to relieve the employer from making the employer contribution at the member’s regular salary rate or rate of pay from that employer on the contributing service credit earned while the member is discharging his or her official legislative duties. These employer payments shall commence as of June 1, 2000: Provided further, That any member to which the provisions of this subsection apply may elect to pay to the retirement board an amount equal to what his or her contribution would have been for those periods of time he or she was serving in the Legislature. The periods of time upon which the member paid his or her contribution shall then be included for purposes of determining his or her final average salary as well as for determining years of service: And provided further, That a member using the provisions of this subsection is not required to pay interest on any contributions he or she may decide to make.
(m) The Teachers Retirement System shall grant service credit to any former member of the State Police Death, Disability and Retirement System who has been a contributing member for more than three years, for service previously credited by the State Police Death, Disability and Retirement System; and: (1) Shall require the transfer of the member's contributions to the Teachers Retirement System; or (2) shall require a repayment of the amount withdrawn any time prior to the member's retirement: Provided, That the member shall add to the amounts transferred or repaid under this paragraph an amount which is sufficient to equal the contributions he or she would have made had the member been under the Teachers Retirement System during the period of his or her membership in the State Police Death, Disability and Retirement System plus interest at a rate to be determined by the board compounded annually from the date of withdrawal to the date of payment. The interest paid shall be deposited in the reserve fund.


(a) Benefits upon withdrawal from service prior to retirement under the provisions of this article shall be as follows:

(1) A contributor who withdraws from service for any cause other than death, disability or retirement shall, upon application, be paid his or her accumulated contributions up to the end of the fiscal year preceding the year in which application is made, after offset of any outstanding loan balance, plus accrued loan interest, pursuant to section thirty-four of this article, but in no event shall interest be paid beyond the end of five years following the year in which the last contribution was made: Provided, That the contributor, at the time of application, is then no longer under contract, verbal or otherwise, to serve as a teacher; or

(2) If the inactive member has completed twenty years of total service, he or she may elect to receive at age sixty an
annuity which shall be computed as provided in this article:

Provided, That if the inactive member has completed at least five, but fewer than twenty, years of total service in this state, he or she may elect to receive at age sixty-two an annuity which shall be computed as provided in this article. The inactive member must notify the retirement board in writing concerning the election. If the inactive member has completed fewer than five years of service in this state, he or she shall be subject to the provisions as outlined in subdivision (1) of this subsection.

(b) Benefits upon the death of a contributor prior to retirement under the provisions of this article shall be paid as follows:

(1) If the contributor was at least fifty years old and if his or her total service as a teacher or nonteaching member was at least twenty-five years at the time of his or her death, then the surviving spouse of the deceased, provided the spouse is designated as the sole primary refund beneficiary, is eligible for an annuity computed as though the deceased were actually a retirant at the time of death and had selected a survivorship option which pays the spouse the same monthly amount which would have been received by the deceased; or

(2) If the facts do not permit payment under subdivision (1) of this subsection, then the following sum shall be paid to the refund beneficiary of the contributor: (A) The contributor’s accumulated contributions up to the plan year of his or her death plus an amount equal to his or her member contributions. Provided, That the latter sum shall emanate from the Employer’s Accumulation Fund; and (B) the refund beneficiary of any individual who became a member of the retirement system as a result of the voluntary transfer contemplated in article seven-d of this chapter shall also be paid the member contributions plus the vested portion of employer contributions made on his or her behalf to the Teachers’ Defined Contribution Retirement
§18-7A-25. Eligibility for retirement allowance.

(a) Any actively contributing member who has attained the age of sixty years or any member who has had thirty-five years of total service as a teacher or nonteaching member in West Virginia, regardless of age, is eligible for an annuity. No new entrant nor present member is eligible for an annuity, however, if either has less than five years of service to his or her credit: Provided, That on and after July 1, 2013, any person who becomes a new member of this retirement system shall, in qualifying for retirement under this section, have five or more years of contributory service, all of which shall be actual, contributory ones.

(b) Any member who has attained the age of fifty-five years and who has served thirty years as a teacher or nonteaching member in West Virginia is eligible for an annuity.

(c) Any member who has served at least thirty but less than thirty-five years as a teacher or nonteaching member in West Virginia and is less than fifty-five years of age is eligible for an annuity, but the annuity shall be the reduced actuarial equivalent of the annuity the member would have received if the member were age fifty-five at the time such annuity was applied for.

(d) The request for any annuity shall be made by the member in writing to the retirement board, but in case of retirement for disability, the written request may be made by either the member or the employer.

(e) A member is eligible for annuity for disability if he or she satisfies the conditions in either subdivision (1) or (2) of this subsection and meets the conditions of subdivision (3) of this subsection as follows:
(1) His or her service as a teacher or nonteaching member in West Virginia must total at least ten years and service as a teacher or nonteaching member must have been terminated because of disability, which disability must have caused absence from service for at least six months before his or her application for disability annuity is approved.

(2) His or her service as a teacher or nonteaching member in West Virginia must total at least five years and service as a teacher or nonteaching member must have been terminated because of disability, which disability must have caused absence from service for at least six months before his or her application for disability annuity is approved and the disability is a direct and total result of an act of student violence directed toward the member.

(3) An examination by a physician or physicians selected by the retirement board must show that the member is at the time mentally or physically incapacitated for service as a teacher or nonteaching member, that for that service the disability is total and likely to be permanent and that he or she should be retired in consequence of the disability.

(f) Continuance of the disability of the retirant shall be established by medical examination, as prescribed in subdivision (3), subsection (e) of this section, annually for five years after retirement, and thereafter at such times required by the retirement board. Effective July 1,1998, a member who has retired because of a disability may select an option of payment under the provisions of section twenty-eight of this article: Provided, That any option selected under the provisions of section twenty-eight of this article shall be in all respects the actuarial equivalent of the straight life annuity benefit the disability retirant receives or would receive if the options under said section were not available and that no beneficiary or beneficiaries of the disability retirant may receive a greater benefit, nor receive any
benefit for a greater length of time, than the beneficiary or
beneficiaries would have received had the disability retirant not
made any election of the options available under said section. In
determining the actuarial equivalence, the retirement board shall
take into account the life expectancies of the member and the
beneficiary: Provided, however, That the life expectancies may
at the discretion of the retirement board be established by an
underwriting medical director of a competent insurance company
offering annuities. Payment of the disability annuity provided in
this article shall cease immediately if the retirement board finds
that the disability of the retirant no longer exists, or if retirant
refuses to submit to medical examination as required by this
section.


(a) Retirants whose annuities were approved by the retire-
ment board effective before July 1, 1980, shall be paid the
annuities which were approved by the retirement board.

(b) Annuities approved by the retirement board effective
after June 30, 1980, shall be computed as provided in this
section.

(c) Upon establishment of eligibility for a retirement
allowance, a member shall be granted an annuity which shall be
two percent of the member's average salary multiplied by his or
her total service credit, subject to reduction if necessary to
comply with the maximum benefit provisions of Section 415 of
the Internal Revenue Code and section twenty-eight-a of this
article.

In this subsection "average salary" means the average of the
highest annual salaries received by the member during any five
plan years contained within his or her last fifteen years of total
service credit: Provided, That the highest annual salary used in
this calculation for certain members employed by the West
Virginia Higher Education Policy Commission under its control
shall be $4,800, as provided by section fourteen-a of this article.

(d) The disability annuities of disabled retirants shall be
based upon a disability table prepared by a competent actuary
approved by the retirement board. Disability annuity benefits
will begin the first day of the month following the latter of: (1)
Six months of absence caused by said disability; (2) date of
written report by physician selected by retirement board stating
member is mentally or physically incapacitated for service and
that disability is total and likely to be permanent; and (3)
termination of employment.

(e) Upon the death of a retirant who qualified for an annuity
as the surviving spouse of an active member or because of
permanent disability, the estate of the deceased or beneficiary
designated for such purpose shall be paid the difference, if any,
between the member’s contributions with regular interest
thereon, and the sum of the annuity payments. Upon the death of
a spouse who was named as the member’s survivor, a retirant
may elect an annuity option approved by the retirement board in
an amount adjusted on a fair basis to be of equal actuarial value
as the annuity prospectively in effect relative to the surviving
member at the time the new option is elected.

(f) All annuities shall be paid in twelve monthly payments.
In computing the monthly payments, fractions of a cent shall be
considered a cent. The monthly payments shall cease with the
payment for the month within which the beneficiary dies, and
shall begin with the payment for the month succeeding the
month within which the retirant became eligible under this
article for the annuity granted; in no case, however, a retirant
receive more than four monthly payments which are retroactive
after the retirement board receives his or her application for
annuity. The monthly payments shall be made on the twenty-
fifth day of each month, except the month of December, when the payment shall be made on December 18. If the date of payment falls on a holiday, Saturday or Sunday, then the payment shall be made on the preceding workday.

(g) In case the retirement board receives data affecting the approved annuity of a retirant, the annuity shall be changed in accordance with the data, the change being effective with the payment for the month within which the retirement board received the new data.

(h) Any person who has attained the age of sixty-five and who has served at least twenty-five years as a teacher or nonteacher prior to July 1, 1941, is eligible for prior service 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.

As used in this article, unless the context clearly requires a different meaning:

1. “Annual addition” means, for purposes of the limitations under Section 415(c) of the Internal Revenue Code, the sum credited to a member’s account for any limitation year of: (A) Employer contributions; (B) employee contributions; and (C) forfeitures. Repayment of cashouts or contributions as described in Section 415(k)(3) of the Internal Revenue Code, rollover contributions and picked-up employee contributions to a defined benefit plan shall not be treated as annual additions, consistent with the requirements of Treasury Regulation §1.415(c)-1;

2. “Annuity account” or “annuity” means an account established for each member to record the deposit of member contributions and employer contributions and interest, dividends or other accumulations credited on behalf of the member;

3. “Compensation” means the full compensation actually received by members for service whether or not a part of the compensation is received from other funds, federal or otherwise, than those provided by the state or its subdivisions: Provided, That annual compensation for determining contributions during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with section seven, article ten-d, chapter five of this code and Section
401(a)(17) of the Internal Revenue Code: *Provided, however,*

That solely for purposes of applying the limitations of Section 415 of the Internal Revenue Code to any annual addition, "compensation" has the meaning given it in subsection (d), section thirteen of this article;

(4) "Consolidated board" or "board" means the Consolidated Public Retirement Board created and established pursuant to article ten-d, chapter five of this code;

(5) "Defined contribution system" or "system" means the Teachers' Defined Contribution Retirement System created and established by this article;

(6) "Employer" means the agency of and within the State of West Virginia which has employed or employs a member;

(7) "Employer contribution" means an amount deposited into the member's individual annuity account on a periodic basis coinciding with the employee's regular pay period by an employer from its own funds;

(8) "Employment term" means employment for at least ten months in any plan year with a month being defined as twenty employment days;

(9) "Existing employer" means any employer who employed or employs a member of the system;

(10) "Existing retirement system" means the State Teachers Retirement System established in article seven-a of this chapter;

(11) "Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been amended;

(12) "Member" or "employee" means the following persons, if regularly employed for full-time service: (A) Any person
employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher's certificate; (F) members of the research, extension, administrative or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education or the State Department of Education, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals and educational administrators in schools under the supervision of the Division of Corrections and the Department of Health and Human Resources; (K) any person who is regularly employed for full-time service by any county board of education or the State Board of Education; (L) the administrative staff of the public schools including deans of instruction, deans of men and deans of women, and financial and administrative secretaries; and (M) any person designated as a 21st Century Learner Fellow pursuant to section eleven, article three, chapter eighteen-a of this code who elects to remain a member of the Teachers' Defined Contribution Retirement System established by this article;

(13) "Member contribution" means an amount reduced from the employee's regular pay periods, and deposited into the member's individual annuity account within the Teachers' Defined Contribution Retirement System;

(14) "Permanent, total disability" means a mental or physical incapacity requiring absence from employment service for at least six months: Provided, That the incapacity is shown by an
examination by a physician or physicians selected by the board: 

Provided, however, That for employees hired on or after July 1, 2005, “permanent, total disability” means an inability to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than twelve months and the incapacity is so severe that the member is likely to be permanently unable to perform the duties of the position the member occupied immediately prior to his or her disabling injury or illness;

(15) “Plan year” means the twelve-month period commencing on July 1 of any designated year and ending on the following June 30;

(16) “Public schools” means all publicly supported schools, including normal schools, colleges and universities in this state;

(17) “Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay;

(18) “Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age seventy and one-half years; or (B) the calendar year in which the member retires or otherwise ceases employment with a participating employer after having attained the age of seventy and one-half years;

(19) “Retirement” means a member’s withdrawal from the active employment of a participating employer and completion of all conditions precedent to retirement;

(20) “Year of employment service” means employment for at least ten months, with a month being defined as twenty
employment days: Provided, That no more than one year of service may be accumulated in any twelve-month period.

§18-7B-21. Correction of errors; underpayments; overpayments.

(a) General rule. – If any change or employer error in the records of any existing employer or the retirement system results in a member, retirant or beneficiary receiving from the system more or less than he or she would have been entitled to receive had the records been correct, the board shall correct the error. If correction of the error occurs after retirement, the board shall adjust the payment of the benefit in an amount computed by the board to which the retirant was correctly entitled.

(b) Underpayments. – Any error resulting in an underpayment to the retirement system of required contributions may be corrected by the member or retirant remitting the required employee contribution and the existing employer remitting the required employer contribution. Interest accumulates in accordance with the board’s Rule, Refund, Reinstatement, Retroactive Service, Loan and Employer Error Interest Factors, 162 CSR 7, and any accumulating interest owed on the employee and employer contributions resulting from an employer error is the responsibility of the participating public employer. The existing employer may remit total payment and the employee may reimburse the existing employer through payroll deduction over a period equivalent to the time period during which the employer error occurred. If the correction of an error involving an underpayment of required contributions to the retirement system will result in increased payments to a retirant, including increases to payments already made, any adjustments may be made only after the board receives full payment of all required employee and employer contributions, including interest.

(c) Overpayments. – (1) When mistaken or excess employer contributions, including any overpayments, have been made to
the retirement system by an existing employer, due to error or
other reason, the board shall credit the existing employer with an
amount computed by the board, to be offset against the existing
employer's future liability for employer contributions to the
system.

(2) When mistaken or excess employee contributions,
including any overpayments, have been made to the retirement
system, due to error or other reason, the board has sole authority
for determining the means of return, offset or credit to or for the
benefit of the employee of the amounts, and may use any means
authorized or permitted under the provisions of Section 401(a),
et seq., of the Internal Revenue Code and guidance issued
thereunder applicable to governmental plans. Alternatively, in its
full and complete discretion, the board may require the existing
employer to pay the employee the amounts as wages, with the
board crediting the existing employer with an amount to offset
against its future contributions to the plan: Provided, That the
wages paid to the employee are not considered compensation for
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.

(a) The county attendance director and the assistants shall diligently promote regular school attendance. The director and assistants shall:

(1) Ascertain reasons for inexcusable absences from school of students of compulsory school age and students who remain enrolled beyond the compulsory school age as defined under section one-a of this article; and

(2) Take such steps as are, in their discretion, best calculated to encourage the attendance of students and to impart upon the parents and guardians the importance of attendance and the seriousness of failing to do so.

(b) In the case of five total unexcused absences of a student during a school year, the attendance director or assistant shall:

Serve written notice to the parent, guardian or custodian of the student that the attendance of the student at school is required and that within ten days of receipt of the notice the parent, guardian or custodian, accompanied by the student, shall report in person to the school the student attends for a conference with the principal or other designated representative of the school in order to discuss and correct the circumstances causing the inexcusable absences of the student; and if the parent, guardian or custodian does not comply with the provisions of this article, then the attendance director or assistant shall make complaint against the parent, guardian or custodian before a magistrate of
the county. If it appears from the complaint that there is probable
cause to believe that an offense has been committed and that the
accused has committed it, a summons or a warrant for the arrest
of the accused shall issue to any officer authorized by law to
serve the summons or to arrest persons charged with offenses
against the state. More than one parent, guardian or custodian
may be charged in a complaint. Initial service of a summons or
warrant issued pursuant to the provisions of this section shall be
attempted within ten calendar days of receipt of the summons or
warrant and subsequent attempts at service shall continue until
the summons or warrant is executed or until the end of the
school term during which the complaint is made, whichever is
later.

(c) The magistrate court clerk, or the clerk of the circuit
court performing the duties of the magistrate court as authorized
in section eight, article one, chapter fifty of this code, shall
assign the case to a magistrate within ten days of execution of
the summons or warrant. The hearing shall be held within twenty
days of the assignment to the magistrate, subject to lawful
continuance. The magistrate shall provide to the accused at least
ten days’ advance notice of the date, time and place of the
hearing.

(d) When any doubt exists as to the age of a student absent
from school, the attendance director and assistants have
authority to require a properly attested birth certificate or an
affidavit from the parent, guardian or custodian of the student,
stating age of the student. In the performance of his or her duties,
the county attendance director and assistants have authority to
take without warrant any student absent from school in violation
of the provisions of this article and to place the student in the
school in which he or she is or should be enrolled.

(e) The county attendance director and assistants shall
devote such time as is required by section three of this article to
the duties of attendance director in accordance with this section
during the instructional term and at such other times as the duties of an attendance director are required. All attendance directors and assistants hired for more than two hundred days may be assigned other duties determined by the superintendent during the period in excess of two hundred days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

(f) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors also shall perform the following duties:

(1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

(2) Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible nonenrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at such times and in such detail as may be required. The state board shall promulgate a legislative rule pursuant to article three-b, chapter twenty-nine-a of this code that sets forth student absences that are excluded for accountability purposes. The absences that are excluded by the rule include, but are not be limited to, excused student absences, students not in attendance due to disciplinary measures and absent students for whom the attendance director has pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance director shall file with the county superintendent and county board at the close of each month a report showing activities of
the school attendance office and the status of attendance in the county at the time;

(5) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in such manner as the county superintendent may direct;

(6) Participate in school teachers' conferences with parents and students;

(7) Assist in such other ways as the county superintendent may direct for improving school attendance;

(8) Make home visits of students who have excessive unexcused absences, as provided above, or if requested by the chief administrator, principal or assistant principal; and

(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.


(a) The allowance in the foundation school program for each county for transportation shall be the sum of the following computations:

(1) A percentage of the transportation costs incurred by the county for maintenance, operation and related costs exclusive of all salaries, including the costs incurred for contracted transportation services and public utility transportation, as follows:

(A) For each high-density county, eighty-seven and one-half percent;

(B) For each medium-density county, ninety percent;

(C) For each low-density county, ninety-two and one-half percent;

(D) For each sparse-density county, ninety-five percent;

(E) For any county for the transportation cost for maintenance, operation and related costs, exclusive of all salaries, for transporting students to and from classes at a multicounty vocational center, the percentage provided in paragraphs (A)
through (D) of this subdivision as applicable for the county plus an additional ten percent; and

(F) For any county for that portion of its school bus system that uses as an alternative fuel compressed natural gas, the percentage provided in paragraphs (A) through (D) of this subdivision as applicable for the county plus an additional ten percent: Provided, That for any county receiving an additional ten percent for that portion of their bus system using bio-diesel as an alternative fuel during the school year 2012-2013, bio-diesel shall continue to qualify as an alternative fuel under this paragraph to the extent that the additional percentage applicable to that portion of the bus system using bio-diesel shall be decreased by two and one-half percent per year for four consecutive school years beginning in school year 2014-2015: Provided, however, That any county using an alternative fuel and qualifying for the additional allowance under this subdivision shall submit a plan regarding the intended future use of alternatively fueled school buses;

(2) The total cost, within each county, of insurance premiums on buses, buildings and equipment used in transportation;

(3) An amount equal to eight and one-third percent of the current replacement value of the bus fleet within each county as determined by the state board. The amount shall only be used for the replacement of buses. Buses purchased after July 1, 1999, that are driven one hundred eighty thousand miles, regardless of year model, will be subject to the replacement value of eight and one-third percent as determined by the state board. In addition, in any school year in which its net enrollment increases when compared to the net enrollment the year immediately preceding, a school district may apply to the State Superintendent for funding for an additional bus or buses. The State Superintendent shall make a decision regarding each application based upon an analysis of the individual school district’s net enrollment history
and transportation needs: *Provided*, That the superintendent shall not consider any application which fails to document that the county has applied for federal funding for additional buses. *If the* State Superintendent finds that a need exists, a request for funding shall be included in the budget request submitted by the state board for the upcoming fiscal year; and

(4) Aid in lieu of transportation equal to the state average amount per pupil for each pupil receiving the aid within each county.

(b) The total state share for this purpose shall be the sum of the county shares: *Provided*, *That no county shall receive an allowance which is greater than* one-third above the computed state average allowance per transportation mile multiplied by the total transportation mileage in the county exclusive of the allowance for the purchase of additional buses.

(c) One half of one percent of the transportation allowance distributed to each county shall be for the purpose of trips related to academic classroom curriculum and not related to any extracurricular activity. Any remaining funds credited to a county for the purpose of trips related to academic classroom curriculum during the fiscal year shall be carried over for use in the same manner the next fiscal year and shall be separate and apart from, and in addition to, the appropriation for the next fiscal year. The state board may request a county to document the use of funds for trips related to academic classroom curriculum if the board *determines* that it is necessary.

§18-9A-8a. Foundation allowance for regional education service agencies.

For the fiscal year beginning on July 1, 2006, and for each fiscal year thereafter, the foundation allowance for regional education service agencies shall be equal to sixty-three
one-hundredths percent of the allocation for professional educators as determined in section four of this article, but not more than $3,690,750. The allowance shall be distributed to the regional education service agencies in accordance with rules adopted by the state board. The allowance for regional education service agencies shall be excluded from the computation of total 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.

Citizens of the state shall be entitled to vote at all elections held within the precincts of the counties and municipalities in which they respectively reside. But no person who has not been registered as a voter as required by law, or who is a minor, or who has been declared mentally incompetent by a court of competent jurisdiction, or who is under conviction of treason, felony or bribery in an election, or who is not a bona fide resident of the state, county or municipality in which he or she offers to vote, shall be permitted to vote at such election while such disability continues, unless otherwise specifically provided by federal or state code. Subject to the qualifications otherwise prescribed in this section, however, a minor shall be permitted to vote only in a primary election if he or she will have reached the age of eighteen years on the date of the general election next to be held after such primary election.

ARTICLE 2. REGISTRATION OF VOTERS.

§3-2-2. Eligibility to register to vote.

(a) Any person who possesses the constitutional qualifications for voting may register to vote. To be qualified, a person
must be a citizen of the United States and a legal resident of West Virginia and of the county where he or she is applying to register, shall be at least eighteen years of age, except that a person who is at least seventeen years of age and who will be eighteen years of age by the time of the next ensuing general election may also be permitted to register, and shall not be otherwise legally disqualified: Provided, That a registered voter who has not reached eighteen years of age may vote both partisan and nonpartisan ballots in a federal, state, county, municipal or special primary election if he or she will be eighteen years of age by the time of the corresponding general election.

(b) Any person who has been convicted of a felony, treason or bribery in an election, under either state or federal law, is disqualified and is not eligible to register or to continue to be registered to vote while serving his or her sentence, including any period of incarceration, probation or parole related thereto. Any person who has been declared mentally incompetent by a court of competent jurisdiction is disqualified and shall not be eligible to register or to continue to be registered to vote for as long as that disability continues.

§3-2-4a. Statewide voter registration database.

(a) The Secretary of State shall implement and maintain a single, official, statewide, centralized, interactive computerized voter registration database of every legally registered voter in the state, as follows:

(1) The statewide voter registration database shall serve as the single system for storing and managing the official list of registered voters throughout the state.

(2) The statewide voter registration database shall contain the name, registration information and voter history of every legally registered voter in the state.
(3) In the statewide voter registration database, the Secretary of State shall assign a unique identifier to each legally registered voter in the state.

(4) The statewide voter registration database shall be coordinated with other agency databases within the state and elsewhere, as appropriate.

(5) The Secretary of State, any clerk of the county commission or any authorized designee of the Secretary of State or clerk of the county commission may obtain immediate electronic access to the information contained in the statewide voter registration database.

(6) The clerk of the county commission shall electronically enter voter registration information into the statewide voter registration database on an expedited basis at the time the information is provided to the clerk.

(7) The Secretary of State shall provide necessary support to enable every clerk of the county commission in the state to enter information as described in subdivision (6) of this subsection.

(8) The statewide voter registration database shall serve as the official voter registration list for conducting all elections in the state.

(b) The Secretary of State or any clerk of a county commission shall perform maintenance with respect to the statewide voter registration database on a regular basis as follows:

(1) If an individual is to be removed from the statewide voter registration database, he or she shall be removed in accordance with the provisions of 42 U. S. C.§1973gg, et seq., the National Voter Registration Act of 1993.

(2) The Secretary of State shall coordinate the statewide voter registration database with state agency records and shall
establish procedures for the removal of names of individuals who are not qualified to vote because of felony status or death. No state agency may withhold information regarding a voter’s status as deceased or as a felon unless ordered by a court of law.

(c) The list maintenance performed under subsection (b) of this section shall be conducted in a manner that ensures that:

(1) The name of each registered voter appears in the statewide voter registration database;

(2) Only voters who are not registered, who have requested in writing that their voter registration be canceled or who are not eligible to vote are removed from the statewide voter registration database;

(3) Duplicate names are eliminated from the statewide voter registration database; and

(4) Deceased individuals’ names are eliminated from the statewide voter registration database.

(d) The Secretary of State and the clerks of all county commissions shall provide adequate technological security measures to prevent the unauthorized access to the statewide voter registration database established under this section.

(e) The Secretary of State shall ensure that voter registration records in the state are accurate and updated regularly, including the following:

(1) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under the system, consistent with 42 U. S. C.§1973gg, et seq., registrants who have not responded to a notice sent pursuant to section twenty six, article two of this chapter, who have not otherwise updated their voter registration
address and who have not voted in two consecutive general
elections for federal office shall be removed from the official list
of eligible voters, except that no registrant may be removed
solely by reason of a failure to vote;

(2) By participation in programs across state lines to share
data specifically for voter registration to ensure that voters who
have moved across state lines or become deceased in another
state are removed in accordance with state law and 42 U. S.
C.§1973gg, et seq.; and

(3) Through safeguards to ensure that eligible voters are not
removed in error from the official list of eligible voters.

Applications for voter registration may only be accepted
when the following information is provided:

(1) Except as provided in subdivision (2) of this subsection
and notwithstanding any other provision of law to the contrary,
an application for voter registration may not be accepted or
processed unless the application includes:

(A) In the case of an applicant who has been issued a current
and valid driver’s license, the applicant’s driver’s license
number;

(B) In the case of an applicant who has been issued an
identification card by the Division of Motor Vehicles, the
applicant’s identification number; or

(C) In the case of any other applicant, the last four digits of
the applicant’s Social Security number; and

(2) If an applicant for voter registration has not been issued
a current and valid driver’s license, Division of Motor Vehicles
identification card or a Social Security number, the Secretary of
State shall assign the applicant a number which will serve to
identify the applicant for voter registration purposes. The number assigned under this subdivision shall be the unique identifying number assigned under the statewide voter registration database.

(g) The Secretary of State and the Commissioner of the Division of Motor Vehicles shall enter into an agreement to match and transfer applicable information in the statewide voter registration database with information in the database of the Division of Motor Vehicles to the extent required to enable each official to verify the accuracy of the information provided on applications for voter registration.

(h) The Commissioner of the Division of Motor Vehicles shall enter into an agreement with the Commissioner of Social Security under 42 U. S. C.§401, et seq., the Social Security Act. All fees associated with this agreement shall be paid for from 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.

(a) For the purposes of this article:

(1) “Original voter registration record” means all records submitted or entered in writing or electronically, where permitted by law, for voter registration purposes, including:

(A) Any original application or notice submitted by any person for registration or reinstatement, change of address, change of name, change of party affiliation, correction of records, cancellation, confirmation of voter information or other request or notice for voter registration purposes; and

(B) Any original entry made on any voter’s registration record at the polling place, or made or received by the clerk of
(2) "Active voter registration records" means the registration records, whether on paper or in electronic format, containing the names, addresses, birth dates and other required information for all persons within a county who are registered to vote and whose registration has not been designated as inactive or canceled pursuant to the provisions of this article.

(3) "Inactive voter registration records" means the registration records, whether on paper or in electronic format, containing the names, addresses, birth dates and other required information for all persons designated inactive pursuant to the provisions of section twenty-seven of this article following the return of the prescribed notices as undeliverable at the address provided by the United States Postal Service or entered on the voter registration, or for failure of the contacted voter to return a completed confirmation notice within thirty days of the mailing.

(4) "Canceled voter registration records" means the records containing all required information for all persons who have been removed from the active and inactive voter registration records and who are no longer registered to vote within the county.

(5) "Pending application records" means the temporary records containing all information submitted on a voter registration application, pending the expiration of the verification period.

(6) "Rejected application records" means the records containing all information submitted on a voter registration
application which was rejected for reasons as described in this article.

(7) "Confirmation pending records" means the records containing all required information for persons who have been identified to be included in the next succeeding mailing of address confirmation notices as set forth by the National Voter Registration Act of 1993 (42 U.S.C.§1973gg, et seq.).

(b) For the purposes of this chapter or of any other provisions of this code relating to elections conducted under the provisions of this chapter, whenever a requirement is based on the number of registered voters, including, but not limited to, the number of ballots to be printed, the limitations on the size of a precinct, or the number of petition signatures required for election purposes, only those registrations included on the active voter registration files shall be counted and voter registrations included on the inactive voter registration files, as defined in this subdivision, shall not be counted.

(c) Active voter registration records, confirmation pending records and inactive voter registration records may be maintained in the same physical location, providing the records are coded, marked or arranged in such a way as to make the status of the registration immediately obvious. Canceled voter registration records, pending application records and rejected application records may be maintained in separate physical locations. However, all such records shall be maintained in the statewide voter registration database, subject to this article.

(d) The effective date of any action affecting any voter's registration status shall be entered on the voter record, including the effective date of registration, change of name, address or party affiliation or correction of the record, effective date of transfer to inactive status, return to active status or cancellation. When any registration is designated inactive or is canceled, the
reason for the designation or cancellation and any reference
notation necessary to locate the original documentation related
to the change shall be entered on the voter record.

(e) Within one hundred twenty days after each primary,
general, municipal or special election, the clerk of the county
commission shall enter the voting records into the statewide
voter registration database.

§3-2-19. Maintenance of active and inactive registration records
for municipal elections.

(a) For municipal elections, the registration records of active
and inactive voters shall be maintained as follows:

(1) Clerks of the county commissions shall prepare
pollbooks or voter lists to be used in municipal elections when
the county precinct boundaries and the municipal precinct
boundaries are the same and all registrants of the precinct are
entitled to vote in state, county and municipal elections within
the precinct or when the registration records of municipal voters
within a county precinct are separated and maintained in a
separate municipal section or book for that county precinct and
can be used either alone or in combination with other pollbooks
or voter lists to make up a complete set of registration records
for the municipal election precinct.

(2) Upon request of the municipality, and if the clerk of the
county commission does not object, separate municipal precinct
books shall be maintained in cases where municipal or ward
boundaries divide county precincts and it is impractical to use
county pollbooks or voter lists or separate municipal sections of
those pollbooks or voter lists. If the clerk of the county commis-
non objects to the request of a municipality for separate munici-
pal precinct books, the State Election Commission must deter-
mine whether the separate municipal precinct books should be
maintained.
(3) No registration record may be removed from a municipal registration record unless the registration is lawfully transferred or canceled pursuant to the provisions of this article in both the county and the municipal registration records.

(b) Within thirty days following the entry of any annexation order or change in street names or numbers, the governing body of an incorporated municipality shall file with the clerk of the county commission a certified current official municipal boundary map and a list of streets and ranges of street numbers within the municipality to assist the clerk in determining whether 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.

(a) The clerk of the county commission of each county shall maintain a voter registration data system record book into which all required records of appointments of authorized personnel, tests, repairs, program alterations or upgrades and any other action by the clerk of the county commission or by any other person under supervision of the clerk affecting the programming or records contained in the system, other than routine data entry, alteration, use, transfer or transmission of records shall be entered.

(b) The clerk of the county commission shall appoint all personnel authorized to add, change or transfer voter registration information within the statewide voter registration database, and a record of each appointment and the date of authorization shall be entered as provided in subsection (a) of this section. The assignment and confidential record of assigned system identification or authorized user code for each person appointed shall be as prescribed by the Secretary of State.

(c) Voter registration records entered into and maintained in the statewide voter registration database shall include the
information required for application for voter registration, for
maintenance of registration and voting records, for conduct of
elections and for statistical purposes, as prescribed by the
Secretary of State.

(d) No person shall make any entry or alteration of any voter
record which is not specifically authorized by law. Each entry or
action affecting the status of a voter registration shall be based
on information in an original voter registration record, as defined
in section eighteen of this article.

(e) The clerk of the county commission shall maintain,
within the statewide voter registration database, active and
inactive voter registration records, confirmation pending records,
canceled voter registration records, pending application records
and rejected application records, all as defined in section
eighteen of this article.

(f) Upon receipt of a completed voter registration applica-
tion, the clerk shall enter into the statewide voter registration
database the information provided on the application, mark the
records as pending and initiate the verification or notice of
disposition procedure as provided in section sixteen of this
article. Upon completion of the verification or notice of disposi-
tion, the status of the voter record shall be properly noted in the
statewide voter registration database.

(g) Upon receipt of an application or written confirmation
from the voter of a change of address within the county, change
of name, change of party affiliation or other correction to an
active voter registration record, the change shall be entered in the
record and the required notice of disposition mailed.

(h) Upon receipt of an application or written confirmation
from an inactive voter of a change of address within the county,
change of name, change of party affiliation or other correction
to a registration record, any necessary change shall be entered in
the record, the required notice of disposition mailed and the
record updated to active status, and the date of the transaction
shall be recorded. Receipt of an application or written confirma-
tion from an inactive voter that confirms the voter’s current
address shall be treated in the same manner.

(i) Upon receipt of a notice of death, a notice of conviction
or a notice of a determination of mental incompetence, as
provided in section twenty-three of this article, the date and
reason for cancellation shall be entered on the voter’s record and
the record status shall be changed to canceled.

(j) Upon receipt from the voter of a request for cancellation
or notice of change of address to an address outside the county
pursuant to the provisions of section twenty-two of this article,
or as a result of a determination of ineligibility through a general
program of removing ineligible voters as authorized by the
provisions of this article, the date and reason for cancellation
shall be entered on the voter’s record and the record status shall
be changed to canceled.

§3-2-23. Cancellation of registration of deceased or ineligible
voters.

The clerk of the county commission shall cancel the registra-
tion of a voter:

(1) Upon the voter’s death as verified by:

(A) A death certificate from the Registrar of Vital Statistics
or a notice from the Secretary of State that a comparison of the
records of the registrar with the county voter registration records
show the person to be deceased;

(B) The publication of an obituary or other writing clearly
identifying the deceased person by name, residence and age
corresponding to the voter record; or
(C) An affidavit signed by the parent, legal guardian, child, sibling or spouse of the voter giving the name and birth date of the voter, and date and place of death;

(2) Upon receipt of an official notice from a state or federal court that the person has been convicted of a felony, of treason or bribery in an election;

(3) Upon receipt of a notice from the appropriate court of competent jurisdiction of a determination of a voter’s mental incompetence;

(4) Upon receipt from the voter of a written request to cancel the voter’s registration, upon confirmation by the voter of a change of address to an address outside the county, upon notice from a voter registrar of another jurisdiction outside the county or state of the receipt of an application for voter registration in that jurisdiction, or upon notice from the Secretary of State that a voter registration application was accepted in another county of the state subsequent to the last registration date in the first county, as determined from a comparison of voter records; or

(5) Upon failure to respond and produce evidence of continued eligibility to register following the challenge of the voter’s registration pursuant to the provisions of section twenty-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.

(a) The systematic purging program provided in this section shall begin no earlier than October 1 of each odd-numbered year and shall be completed no later than February 1 of the following year. The clerk of the county commission shall transmit or mail to the Secretary of State a certification that the systematic
purging program has been completed and all voters identified as no longer eligible to vote have been canceled in the statewide voter registration database in accordance with the law no later than February 15 in the year in which the purging program is completed.

(b) The Secretary of State shall provide for the comparison of data records of all counties. The Secretary of State shall, based on the comparison, prepare a list for each county which shall include the voter registration record for each voter shown on that county’s list who appears to have registered or to have updated a voter registration in another county at a subsequent date. The resulting lists shall be returned to the appropriate county and the clerk of the county commission shall proceed with the confirmation procedure for those voters as prescribed in section twenty-six of this article.

(c) The Secretary of State may provide for the comparison of data records of counties with the data records of the Division of Motor Vehicles, the registrar of vital statistics and with the data records of any other state agency which maintains records of residents of the state, if the procedure is practical and the agency agrees to participate. Any resulting information regarding potentially ineligible voters shall be returned to the appropriate county and the clerk of the county commission shall proceed with the confirmation procedure as prescribed in section twenty-six of this article.

(d) The records of all voters not identified pursuant to the procedures set forth in subsections (b) and (c) of this section shall be combined for comparison with United States Postal Service change of address information, as described in section 8(c)(A) of the National Voter Registration Act of 1993 (42 U. S. C.§1973gg, et seq.). The Secretary of State shall contract with an authorized vendor of the United States Postal Service to perform the comparison. The cost of the change of address comparison
procedure shall be paid for from the combined voter registration and licensing fund established in section twelve of this article and the cost of the confirmation notices, labels and postage shall be paid for by the counties.

(e) The Secretary of State shall return to each county the identified matches of the county voter registration records and the postal service change of address records.

(1) When the change of address information indicates the voter has moved to a new address within the county, the clerk of the county commission shall enter the new address on the voter record and assign the proper precinct.

(2) The clerk of the county commission shall then mail to each voter who appears to have moved from the residence address shown on the registration records a confirmation notice pursuant to section twenty-six of this article and of section 8(d)(2) of the National Voter Registration Act of 1993 (42 U.S. C.§1973gg, et seq.). The notice shall be mailed, no later than December 31, to the new address provided by the postal service records or to the old address if a new address is not available.

(f) The clerk of the county commission shall indicate in the statewide voter registration database the name and address of each voter to whom a confirmation notice was mailed and the date on which the notice was mailed.

(g) Upon receipt of any response or returned mailing sent pursuant to the provisions of subsection (e) of this section, the clerk shall immediately enter the date and type of response received in the statewide voter registration database and shall then proceed in accordance with the provisions of section twenty-six of this article.

(h) For purposes of complying with the record keeping and public inspection requirements of the National Voter Registra-
tion Act of 1993 (42 U. S. C.§1973gg, et seq.), and with the provisions of section twenty-seven of this article, the public inspection lists shall be maintained either in printed form kept in a binder prepared for such purpose and available for public inspection during regular business hours at the office of the clerk of the county commission or in read-only data format available for public inspection on computer terminals set aside and available for regular use by the general public. Information concerning whether or not each person has responded to the notice shall be entered into the statewide voter registration database upon receipt and shall be available for public inspection as of the date the information is received.

(i) Any voter to whom a confirmation notice was mailed pursuant to the provisions of subsection (e) of this section who fails to respond to the notice or to update his or her voter registration address by February 1 immediately following the completion of the program, shall be designated inactive in the statewide voter registration database. Any voter designated inactive shall be required to affirm his or her current residence address, on a form prescribed by the Secretary of State, upon appearing at the polls to vote.

(j) In addition to the preceding purging procedures, all counties using the change of address information of the United States Postal Service shall also, once each four years during the period established for systematic purging in the year following a presidential election year, conduct the same procedure by mailing a confirmation notice to those persons not identified as potentially ineligible through the change of address comparison procedure but who have not updated their voter registration records and have not voted in any election during the preceding four calendar years. The purpose of this additional systematic confirmation procedure shall be to identify those voters who may have moved without filing a forwarding address, moved with a forwarding address under another name, died in another county
or state so that the certificate of death was not returned to the
clerk of the county commission, or who otherwise have become
ineligible.

§3-2-29. Custody of original registration records.

(a) All original registration records in paper format shall
remain in the custody of the county commission, by its clerk, or,
electronically, in the statewide voter registration database and
shall not be removed except for use in an election or by the order
of a court of record or in compliance with a subpoena duces
tecum issued by the Secretary of State pursuant to the provisions
of section six, article one-a of this chapter.

(b) All original voter registration records shall be retained
for a minimum of five years following the last recorded activity
relating to the record, except that any application which dupli-
cates and does not alter an existing registration shall be retained
for a minimum of two years following its receipt. The Secretary
of State shall promulgate rules pursuant to the provisions of
chapter twenty-nine-a of this code for the specific retention
times and procedures required for original voter registration
records.

(c) Prior to the destruction of original voter registration
applications or registration cards of voters whose registration has
been canceled at least five years previously, the clerk of the
county commission shall notify the Secretary of State of the
intention to destroy those records. If the Secretary of State
determines, within ninety days of the receipt of the notice, that
those records are of sufficient historical value that microfilm or
other permanent data storage is desirable, the Secretary of State
may require that the records be delivered to a specified location
for processing at state expense.

(d) Active, inactive, pending, rejected and canceled registra-
tion records shall be maintained as a permanent record, as
follows:
Individual canceled registration records shall be maintained in the statewide voter registration database for a period of at least five years following cancellation. Upon the expiration of five years, those individual records may be removed from the statewide voter registration database and disposed of in accordance with the appropriate documentent retention policy.

Rejected registration records shall be maintained in the 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.

(a) The Secretary of State shall establish and maintain a state-based administrative complaint procedure for complaints
received concerning election violations which shall meet the following requirements:

(1) The procedures shall be uniform and nondiscriminatory.

(2) Under the procedures, any person who believes that there is a violation of any provision of this chapter or Title III of the Help America Vote Act, Pub. L. 107-252, including a violation which has occurred, is occurring or is about to occur, may file a complaint.

(3) Any complaint filed under the procedures shall be in writing, notarized and signed and sworn by the person filing the complaint.

(4) The Secretary of State may consolidate complaints filed under this section.

(5) At the request of the complainant there shall be a hearing on the record.

(6) Violations of any provision of this chapter or Title III of the Help America Vote Act, Pub. L. 107-252 shall be punishable in accordance with the provisions of article nine of this chapter.

(7) If, under the procedures, the Secretary of State determines that there is no violation, the Secretary of State shall dismiss the complaint and publish the results of the procedures.

(8) The Secretary of State shall make a final determination with respect to a complaint prior to the expiration of the ninety-day period which begins on the date the complaint is filed unless the complainant consents to a longer period for making a determination.

(9) If the Secretary of State fails to meet the deadline applicable under subdivision (8) of this section, the complaint shall be resolved within sixty days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section
shall be made available for use under the alternative dispute resolution procedures.

(b) The administrative complaint procedure required by subsection (a) of this section is not applicable if, within thirty days of the filing of the complaint: (1) The Secretary of State initiates an investigation; (2) the Secretary of State determines that the allegations contained in the complaint may result in a finding of a criminal violation; and (3) the Secretary of State determines that the administrative complaint procedure required by this section would endanger or impede the associated criminal investigation: Provided, That within three business days thereafter the Secretary of State shall notify the complainant in writing that the allegations contained in the complaint may result in a finding of a criminal violation and, therefore, the administrative 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 disapprove applications for approval of any voting machine as provided in section seven, article four of this chapter.

4 (b) The commission also shall serve as a body advisory to the Secretary of State, and, as such, shall have the following powers and duties:

7 (1) To recommend policies and practices pertaining to the registration of voters and the conduct of elections generally;

9 (2) To review the work of the office of Secretary of State pertaining to the duties of that office with respect to elections,
and for this purpose to have access at reasonable times to pertinent records, books, papers and documents;

(3) To consider and study the election practices of other jurisdictions, with a view to determining the techniques used in eliminating fraud in elections and in simplifying election procedures;

(4) To advise or make recommendations to the Governor relative to election practices and policy in the state;

(5) To advise the Secretary of State on carrying out the duties to which he or she is assigned pursuant to the West Virginia Supreme Court of Appeals Public Campaign Financing Program, established in article twelve of this chapter;

(6) To carry out the duties assigned to the commission by the West Virginia Supreme Court of Appeals Public Campaign Financing Program, established in article twelve of this chapter; and

(7) To keep minutes of the transactions of each meeting of the commission, which shall be public records and filed with the Secretary of State.

c) It is the commission’s further duty to prepare and distribute in its name, within available appropriations and upon the recommendation of the Secretary of State, nonpartisan educational material to inform voters of the importance of voting, to encourage voters to vote, to inform voters of election laws and procedures, and to inform voters of the effect of any public question, Constitutional amendment or bond issue that is to be voted upon by all the voters of the state and that has been authorized to be placed upon the ballot by the Legislature, and manuals to assist county commissions, ballot commissioners, circuit and county clerks and other election officials in the proper performance of their duties in the conduct of elections.
(d) The commission shall propose for promulgation emergency and legislative rules, in accordance with article three, chapter twenty-nine-a of this code, as may be necessary to standardize and make effective the administration of article eight of this chapter, and may propose for promulgation other rules, in accordance with article three, chapter twenty-nine-a of this code, relating to the conduct and administration of elections as the commission determines to be advisable.

(e) Meetings of the commission conducted for the purpose of confirming the eligibility of individual candidates to receive public campaign financing under the West Virginia Supreme Court of Appeals Public Campaign Financing Fund are expressly exempted from the public notice and public meeting 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.

This article is known as the “West Virginia Supreme Court of Appeals Public Campaign Financing Program”.

§3-12-2. Legislative findings and declarations.

The Legislature finds and declares the following:

(1) Current campaign finance laws permit candidates to spend unlimited amounts of money raised from private sources;

(2) Current campaign finance laws permit certain independent parties to raise and spend unlimited amounts of money to influence the outcome of elections;

(3) Over the last decade, fundraising and campaign expenditures in elections for a seat on the Supreme Court of Appeals have dramatically increased in West Virginia;
In 2000, candidates running for a seat on the Supreme Court of Appeals raised a total of $1.4 million;

In 2004, candidates running for a seat on the Supreme Court of Appeals raised a total of $2.8 million;

In 2008, candidates running for a seat on the Supreme Court of Appeals raised a total of $3.3 million;

In 2012, candidates running for a seat on the Supreme Court of Appeals raised a total of $3.7 million.

As spending by candidates and independent parties increases, so does the perception that contributors and interested third parties hold too much influence over the judicial process;

The detrimental effects of spending large amounts by candidates and independent parties are especially problematic in judicial elections because impartiality is uniquely important to the integrity and credibility of courts;

As demonstrated by the 2012 West Virginia Supreme Court of Appeals Public Campaign Financing Pilot Program, an alternative public campaign financing option for candidates running for a seat on the Supreme Court of Appeals will ensure the fairness of democratic elections in this state, protect the Constitutional rights of voters and candidates from the detrimental effects of increasingly large amounts of money being raised and spent to influence the outcome of elections, protect the impartiality and integrity of the judiciary, and strengthen public confidence in the judiciary; and

Funding the “West Virginia Supreme Court of Appeals Public Campaign Financing Program” from a wide range of revenue sources furthers important state interests in protecting the integrity of judicial elections and serves to protect the public interest.
§3-12-3. Definitions.

As used in this article, the following terms and phrases have the following meanings:

(1) "Candidate's committee" means a political committee established with the approval of or in cooperation with a candidate or a prospective candidate to explore the possibilities of seeking a particular office or to support or aid his or her nomination or election to an office in an election cycle. If a candidate directs or influences the activities of more than one active committee in a current campaign, those committees shall be considered one committee for the purpose of contribution limits.

(2) "Certified candidate" means an individual seeking election to the West Virginia Supreme Court of Appeals who has been certified in accordance with section ten of this article as having met all of the requirements for receiving public campaign financing from the fund.

(3) "Contribution" means a gift subscription, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for the purpose of influencing the nomination, election or defeat of a candidate. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned. A contribution does not include volunteer personal services provided without compensation: Provided, That a nonmonetary contribution is to be considered at fair market value for reporting requirements and contribution limitations.

(4) "Exploratory contribution" means a contribution of no more than $1,000 made by an individual adult, including a
participating candidate and members of his or her immediate family, during the exploratory period but prior to filing the declaration of intent. Exploratory contributions may not exceed $20,000 in the aggregate.

(5) "Exploratory period" means the period during which a participating candidate may raise and spend exploratory contributions to examine his or her chances of election and to qualify for public campaign financing under this article. The exploratory period begins on January 1 the year before the primary in which the candidate may run for Justice of the Supreme Court of Appeals and ends on the last Saturday in January of the election year.

(6) "Financial agent" means any individual acting for and by himself or herself, or any two or more individuals acting together or cooperating in a financial way to aid or take part in the nomination or election of any candidate for public office, or to aid or promote the success or defeat of any political party at any election.

(7) "Fund" means the Supreme Court of Appeals Public Campaign Financing Fund created by section five of this article.

(8) "General election campaign period" means the period beginning the day after the primary election and ending on the day of the general election.

(9) "Immediate family" or "immediate family members" means the spouse, parents, step-parents, siblings and children of the participating candidate.

(10) "Nonparticipating candidate" means a candidate who is:

(A) Seeking election to the Supreme Court of Appeals;

(B) Is neither certified nor attempting to be certified to receive public campaign financing from the fund; and
(C) Has an opponent who is a participating or certified candidate.

(11) “Participating candidate” means a candidate who is seeking election to the Supreme Court of Appeals and is attempting to be certified in accordance with section ten of this article to receive public campaign financing from the fund.

(12) “Person” means an individual, partnership, committee, association and any other organization or group of individuals.

(13) “Primary election campaign period” means the period beginning on the first day of the primary election filing period, as determined under section seven, article five of this chapter, and ending on the day of the subsequent primary election.

(14) “Qualifying contribution” means a contribution received from a West Virginia registered voter of not less than $1 nor more than $100 in the form of cash, check or money order, made payable to a participating candidate or the candidate’s committee, or in the form of an electronic payment or debit or credit card payment, received during the qualifying period.

(15) “Qualifying period” means the period during which participating candidates may raise and spend qualifying contributions in order to qualify to receive public campaign financing.

(A) For candidates seeking nomination on the primary election ballot, the qualifying period begins on September 1 preceding the election year and ends on the last Saturday in January of the election year.

(B) For candidates, other than those nominated during the primary election, seeking to be placed on the general election ballot, the qualifying period begins on June 1 of the election year and ends on October 1 of the election year.
§3-12-4. Alternative public campaign financing option.

This article establishes an alternative public campaign financing option available to candidates for election to the office of Justice of the West Virginia Supreme Court of Appeals. Candidates electing the alternative public campaign financing option shall comply with all other applicable election and campaign laws and rules.

§3-12-6. Sources of revenue for the fund.

Revenue from the following sources shall be deposited in the fund:

1. All exploratory and qualifying contributions in excess of the established maximums;
2. Money returned by participating or certified candidates who fail to comply with this article;
3. Unspent or unobligated moneys allotted to certified candidates and remaining unspent or unobligated on the date of the general election for which the money was distributed;
4. If a certified candidate loses, all remaining unspent or unobligated moneys after the primary election;
5. Civil penalties levied by the State Election Commission against candidates for violations of this article;
6. Civil penalties levied by the Secretary of State pursuant to section seven, article eight of this chapter;
7. Voluntary donations made directly to the fund;
8. Any interest income or other return earned on the money’s investment;
(9) On or before July 1, 2010, and for two successive years thereafter, the State Auditor shall authorize the transfer of the amount of $1 million from the Purchasing Card Administration Fund established in section ten-d, article three, chapter twelve of this code to the fund created by this article;

(10) On or before July 1, 2015, the state Auditor shall authorize the transfer of the amount of $400,000 from the Purchasing Card Administration Fund established in section ten-d, article three, chapter twelve of this code to the fund created by this article; and,

(11) Money appropriated to the fund.

§3-12-7. Declaration of intent.

A candidate desiring to receive campaign financing from the fund shall first file a declaration of intent before the end of the qualifying period and prior to collecting any qualifying contributions. The declaration shall be on a form prescribed by the State Election Commission and shall contain a statement that the candidate is qualified to be placed on the ballot, and, if elected, to hold the office sought and has complied with and will continue to comply with all requirements of this article, including contribution and expenditure restrictions. A candidate may not collect exploratory contributions after filing the declaration of intent. Contributions made prior to the filing of the declaration of intent are not qualifying contributions. Any contributions received by a candidate during any precandidacy period which preceded the exploratory period which remain unexpended at the time of the declaration of intent shall be considered exploratory funds and subject to the limits and provisions of section eight of this article.

§3-12-9. Qualifying contributions.

(a) A participating candidate or his or her candidate’s committee may not accept more than one qualifying contribution
from a single individual. A qualifying contribution may not be less than $1 nor more than $100. To be considered as a proper qualifying contribution, the qualifying contribution must be made by a registered West Virginia voter. A participating candidate shall collect qualifying contributions which in the aggregate are not less than $35,000 nor more than $50,000. Qualifying contributions in excess of $50,000 shall be sent to the State Election Commission for deposit in the fund.

(b) Each qualifying contribution shall be acknowledged by a written receipt that includes:

(1) The printed name of the participating candidate on whose behalf the contribution is made and the signature of the person who collected the contribution for the candidate or his or her candidate’s committee;

(2) For qualifying contributions of $25 or more, the contributor’s signature, printed name, street address, zip code, telephone number, occupation and name of employer; and for qualifying contributions of less than $25, the contributor’s signature, printed name, street address and zip code;

(3) A statement above the contributor’s signature that:

(A) The contributor understands the purpose of the contribution is to assist the participating candidate in obtaining public campaign financing;

(B) The contribution was made without coercion;

(C) The contributor has not been reimbursed, received or promised anything of value for making the contribution; and

(4) One copy of the receipt shall be given to the contributor, one copy shall be retained by the candidate and one copy shall be sent by the candidate to the Secretary of State. A contribution
which is not acknowledged by a written receipt in the form
required by this subsection is not a qualifying contribution.

(c) During the qualifying period, a participating candidate or
his or her candidate’s committee must obtain at least five
hundred qualifying contributions from registered West Virginia
voters. A minimum of ten percent of the total number of
qualifying contributions received by the candidate must be from
each of the state’s congressional districts.

(d) A participating candidate and each member of the
candidate’s immediate family who is a registered voter in this
state may each make one qualifying contribution. A participating
candidate may not use any other personal funds to satisfy the
qualifying contributions requirements.

(e) A participating candidate may not reimburse, give or
promise anything of value in exchange for a qualifying
contribution.

(f) At the beginning of each month, a participating or
certified candidate or his or her financial agent or committee
shall report all qualifying contributions, expenditures and
obligations along with all receipts for contributions received
during the prior month to the Secretary of State. Such reports
shall be filed electronically: Provided, That a committee may
apply for an exemption in case of hardship pursuant to
subsection (c) of section five-b, article eight of this chapter. If
the candidate decides not to run for office, all unspent or
unobligated qualifying contributions shall be sent to the State
Election Commission for deposit in the fund. If the candidate
decides to run for office as a nonparticipating candidate, the
unspent or unobligated qualifying contributions shall be used in
accordance with articles eight and twelve of this chapter.

(g) All qualifying contributions collected and all
expenditures by a participating candidate or his or her committee
shall be reported to the Secretary of State no later than two
business days after the close of the qualifying period.

(h) (1) Individuals are limited to not more than one $100
collection during the qualifying period.

(2) An individual may not contribute more than $1,000 in the
aggregate in exploratory and qualifying contributions.

(3) All contributions to candidates participating in the West
Virginia Supreme Court of Appeals Public Campaign Financing
Program shall be collected by the candidates's designated
financial agent.

§3-12-10. Certification of candidates.

(a) To be certified, a participating candidate shall apply to
the State Election Commission for public campaign financing
from the fund and file a sworn statement that he or she has
complied and will comply with all requirements of this article
throughout the applicable campaign.

(b) Upon receipt of a notice from the Secretary of State that
a participating candidate has received the required number and
amount of qualifying contributions, the State Election
Commission shall determine whether the candidate or
candidate's committee:

(1) Has signed and filed a declaration of intent as required by
section seven of this article;

(2) Has obtained the required number and amount of
qualifying contributions as required by section nine of this
article;

(3) Has complied with the contribution restrictions of this
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
21 (5) Has met all other requirements of this article.
22
23 (c) The State Election Commission shall process 
24 applications in the order they are received and shall verify a 
25 participating candidate’s compliance with the requirements of 
26 subsection (b) of this section by using the verification and 
27 sampling techniques approved by the State Election 
28 Commission.
29
30 (d) The State Election Commission shall determine whether 
31 to certify a participating candidate as eligible to receive public 
32 campaign financing no later than three business days after the 
33 candidate or the candidate’s committee makes his or her final 
34 report of qualifying contributions or, if a challenge is filed under 
35 subsection (g) of this section, no later than six business days 
36 after the candidate or the candidate’s committee makes his or her 
37 final report of qualifying contributions. A certified candidate 
38 shall comply with this article through the general election 
39 campaign period.
40
41 (e) No later than two business days after the State Election 
42 Commission certifies that a participating candidate is eligible to 
43 receive public campaign financing under this section, the State 
44 Election Commission, acting in concert with the State Auditor’s 
45 office and the State Treasurer’s office, shall cause a check to be 
46 issued to the candidate’s campaign depository account an 
47 amount equal to the public campaign financing benefit for which 
48 the candidate qualifies under section eleven of this article, minus 
49 the candidate’s qualifying contributions, and shall notify all 
50 other candidates for the same office of its determination.
51
52 (f) If the candidate desires to receive public financing 
53 benefits by electronic transfer, the candidate shall include in his
or her application sufficient information and authorization for the State Treasurer to transfer payments to his or her campaign depository account.

(g) Any person may challenge the validity of any contribution listed by a participating candidate by filing a written challenge with the State Election Commission setting forth any reason why the contribution should not be accepted as a qualifying contribution. If a contribution is challenged under this subsection, the State Election Commission shall decide the validity of the challenge no later than the end of the next business day after the day that the challenge is filed, unless the State Election Commission determines that the candidate whose contribution is challenged has both a sufficient qualifying number and amount of qualifying contributions to be certified as a candidate under this section without considering the challenge. Within five business days of a challenge, the candidate or candidate's committee who listed any contribution that is the subject of a challenge may file a report with the State Election Commission of an additional contribution collected pursuant to section nine of this article for consideration as a qualifying contribution.

(h) A candidate's certification and receipt of public campaign financing may be revoked by the State Election Commission, if the candidate violates this article. A certified candidate who violates this article shall repay all moneys received from the fund to the State Election Commission.

(i) The determination of any issue before the State Election Commission is the final administrative determination. Any meetings conducted by the State Elections Commission to certify a candidate's eligibility to receive funds under this article shall not be subject the public notice and open meeting requirements of article nine-a, chapter six of this code, but the commission shall concurrently provide public notice of any decision and
determination it makes which impacts the candidate’s eligibility to receive funds pursuant to this article. Any person adversely affected by a decision of the State Election Commission under this article may appeal that decision to the circuit court of Kanawha County.

(j) A candidate may withdraw from being a certified candidate and become a nonparticipating candidate at any time with the approval of the State Election Commission. Any candidate seeking to withdraw shall file a written request with the State Election Commission, which shall consider requests on a case-by-case basis. No certified candidate may withdraw until he or she has repaid all moneys received from the fund: Provided, That the State Election Commission may, in exceptional circumstances, waive the repayment requirement. The State Election Commission may assess a penalty not to exceed $10,000 against any candidate who withdraws without approval.

§3-12-11. Schedule and amount of Supreme Court of Appeals Public Campaign Financing Fund payments.

(a) The State Election Commission, acting in concert with the State Auditor’s office and the State Treasurer’s office, shall have a check issued within two business days after the date on which the candidate is certified, to make payments from the fund for the 2012 primary election campaign period available to a certified candidate.

(1) In a contested primary election, a certified candidate shall receive $300,000 in campaign financing from the fund, minus the certified candidate’s qualifying contributions.

(2) In an uncontested primary election, a certified candidate shall receive $50,000 from the public campaign financing fund, minus the certified candidate’s qualifying contributions.
(b) Within two business days after the primary election results are certified by the Secretary of State, the State Election Commission, acting in concert with the State Auditor’s office and the State Treasurer’s office, shall cause a check to be issued to make payments from the fund for the general election campaign period available to a certified candidate.

(1) In a contested general election, a certified candidate shall receive from the fund an amount not to exceed $525,000.

(2) In an uncontested general election, a certified candidate shall receive $35,000 from the public campaign financing fund.

(c) The State Election Commission shall authorize the distribution of campaign financing moneys to certified candidates in equal amounts. The commission shall propose a legislative rule on distribution of funds.

(d) The State Election Commission may not authorize or direct the distribution of moneys to certified candidates in excess of the total amount of money deposited in the fund pursuant to section six of this article. If the commission determines that the money in the fund is insufficient to totally fund all certified candidates, the commission shall authorize the distribution of the remaining money proportionally, according to each candidate’s eligibility for funding. Each candidate may raise additional money in the same manner as a nonparticipating candidate for the same office up to the unfunded amount of the candidate’s eligible funding.

§3-12-13. Reporting requirements.

(a) Participating candidates and certified candidates shall comply with this section in addition to any other reporting required by this chapter.

(b) During the exploratory and qualifying periods, a participating candidate or his or her financial agent shall submit,
on the first of each month, a report of all exploratory and qualifying contributions along with their receipts and an accounting of all expenditures and obligations received during the immediately preceding month. The reports shall be on forms or in a format prescribed by the Secretary of State. Such reports shall be filed electronically: *Provided*, That a committee may apply for an exemption, in case of hardship, pursuant to subsection (c) of section five-b, article eight of this chapter.

(c) No later than two business days after the close of the qualifying period, a participating candidate or his or her financial agent shall report to the Secretary of State on appropriate forms a summary of:

(1) All exploratory contributions received and funds expended or obligated during the exploratory period together with copies of any receipts not previously submitted for exploratory contributions; and

(2) All qualifying contributions received and funds expended or obligated during the qualifying period together with copies of any receipts not previously submitted for qualifying contributions.

(d) A certified candidate or his or her financial agent shall file periodic financial statements *in accordance with* section five, article eight of this chapter, detailing all funds received, expended or obligated during the specified periods. The reports shall be on forms approved by the Secretary of State.

§3-12-14. Duties of the State Election Commission; Secretary of State.

(a) In addition to its other duties, the State Election Commission shall carry out the duties of this article and complete the following as applicable:
(1) Prescribe forms for reports, statements, notices and other documents required by this article;

(2) Make an annual report to the Legislature accounting for moneys in the fund, describing the State Election Commission's activities and listing any recommendations for changes of law, administration or funding amounts;

(3) Propose emergency and legislative rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code, as may be necessary for the proper administration of this article;

(4) Enforce this article to ensure that moneys from the fund are placed in candidate campaign accounts and spent as specified in this article;

(5) Monitor reports filed pursuant to this article and the financial records of candidates to ensure that qualified candidates receive funds promptly and to ensure that moneys required by this article to be paid to the fund are deposited in the fund;

(6) Cause an audit of the fund to be conducted by independent certified public accountants ninety days after a general election. The State Election Commission shall cooperate with the audit, provide all necessary documentation and financial records to the auditor and maintain a record of all information supplied by the audit;

(7) In consultation with the State Treasurer and the State Auditor, develop a rapid, reliable method of conveying funds to certified candidates. In all cases, the commission shall distribute funds to certified candidates in a manner that is expeditious, ensures accountability and safeguards the integrity of the fund;
(8) Regularly monitor the receipts, disbursements, obligations and balance in the fund to determine whether the fund will have sufficient moneys to meet its obligations and sufficient moneys available for disbursement during the primary and general election campaign period; and

(9) Transfer a portion of moneys maintained in the fund to the West Virginia Investment Management Board for their supervised investment, after consultation with the State Treasurer, the State Auditor and the West Virginia Investment Management Board.

(b) In addition to his or her other duties, the Secretary of State shall carry out the duties of this article and complete the following as applicable:

(1) Prescribe forms for reports, statements, notices and other documents required by this article;

(2) Prepare and publish information about this article and provide it to potential candidates and citizens of this state;

(3) Prepare and publish instructions setting forth methods of bookkeeping and preservation of records to facilitate compliance with this article and to explain the duties of candidates and others participating in elections under this article;

(4) Propose emergency and legislative rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code as may be necessary for the proper administration of this article;

(5) Enforce this article to ensure that moneys from the fund are placed in candidate campaign accounts and spent as specified in this article;

(6) Monitor reports filed pursuant to this article and the financial records of candidates to ensure that qualified
candidates receive funds promptly and to ensure that moneys
required by this article to be paid to the fund are deposited in the
fund;

(7) Ensure public access to the campaign finance reports
required pursuant to this article, and whenever possible, use
electronic means for the reporting, storing and display of the
information; and

(8) Prepare a voters’ guide for the general public listing the
names of each candidate seeking election to the Supreme Court
of Appeals. Both certified and nonparticipating candidates shall
be invited by the State Election Commission to submit a
statement, not to exceed five hundred words in length, for
inclusion in the guide. The guide shall identify the candidates
that are certified candidates and the candidates that are
nonparticipating candidates. Copies of the guide shall be posted
on the website of the Secretary of State, as soon as may be
practical.

(c) To fulfill their responsibilities under this article, the State
Election Commission and the Secretary of State may subpoena
witnesses, compel their attendance and testimony, administer
oaths and affirmations, take evidence and require, by subpoena,
the production of any books, papers, records or other items
material to the performance of their duties or the exercise of
their powers.

(d) The State Election Commission may also propose and
adopt procedural rules to carry out the purposes and provisions
of this article and to govern procedures of the State Election
Commission as it relates to the requirements of this article.

§3-12-16. Civil penalties.

(a) If a participating or certified candidate or his or her
committee or financial agent unintentionally accepts
(b) If a participating or certified candidate or his or her committee or financial agent intentionally accepts contributions from a private source in violation of this article or spends or obligates more than the amount of public financing money he or she is eligible to receive from the fund pursuant to section eleven of this article, the State Election Commission may order the candidate to pay to the State Election Commission an amount equal to ten times the amount of the contribution, expenditure or obligation.

(c) If a participating or certified candidate fails to pay any moneys required to be paid to the State Election Commission or returned to the fund under this article, the State Election Commission may order the candidate to pay an amount equal to three times the amount that should have been paid to the State Election Commission or returned to the fund.

(d) In addition to any other penalties imposed by law, the State Election Commission may impose a civil penalty for a violation by or on behalf of any candidate of any reporting requirement imposed by this article in the amount of $100 a day.

(e) All penalties collected by the State Election Commission pursuant to this section shall be deposited into the fund. The candidate and the candidate's campaign account are jointly and severally responsible for the payment of any penalty imposed pursuant to this section.
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.

(a) An employee of the Secretary of State, who has attended a course of instruction at the State Police Academy or its equivalent, has all the lawful powers delegated to members of the state police to enforce the provisions of this chapter and the criminal laws of the state in any county or municipality of this state. The Secretary of State may allow an investigator who has met the standards set forth in section four, article seven, chapter sixty-one of this code to carry a firearm and concealed weapon
while performing their official duties: Provided, That as a precondition of being authorized to carry a firearm or concealed weapon in the course of their official duties, any such designated personnel must obtain and maintain firearms training and certification which is equivalent to that which is required of members of the state police. The designated persons must also possess a license to carry a concealed deadly weapon in the manner prescribed in article seven, chapter sixty-one of this code, or otherwise be exempted from the code’s provisions.

(b) Before entering upon the discharge of his or her duties, an employee shall execute a bond with security in the sum of $3,500, payable to the State of West Virginia, conditioned for the faithful performance of his or her duties. The bond shall be approved as to form by the Attorney General and filed with the Secretary of State and preserved in his or her office. The State Police and a county sheriff or deputy sheriff or a municipal police officer, upon request by the Secretary of State or his or her appointee, is authorized to assist the Secretary of State or his or her appointee in enforcing the provisions of this chapter and 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.

(a) (1) All state forms for application for voter registration shall be prescribed by the Secretary of State and shall conform with the requirements of 42 U. S. C.§1973gg, et seq., the National Voter Registration Act of 1993 and the requirements of the provisions of this article. Separate application forms may be prescribed for voter registration conducted by the clerk of the county commission, registration by mail, registration in conjunction with an application for motor vehicle driver’s license and registration at designated agencies. These forms may consist of one or more parts, may be combined with other forms
for use in registration by designated agencies or in conjunction with driver licensing and may be revised and reissued as required by the Secretary of State to provide for the efficient administration of voter registration.

(2) Notwithstanding any provisions of subdivision (1) of this subsection to the contrary, the federal postcard application for voter registration issued pursuant to 42 U. S. C.§1973, et seq., the Uniformed and Overseas Citizens Absentee Voting Act of 1986 and the mail voter registration application form prescribed by the Federal Election Commission pursuant to 42 U. S. C.§1973gg, et seq., the National Voter Registration Act of 1993, are accepted as valid forms of application for registration pursuant to the provisions of this article.

(3) The Secretary of State is authorized to promulgate procedures to permit persons to register to vote through a secure electronic voter registration system.

(b) Each application form for registration shall include:

(1) A statement specifying the eligibility requirements for registration and an attestation that the applicant meets each eligibility requirement;

(2) Any specific notice or notices required for a specific type or use of application by 42 U. S. C.§1973gg, et seq., the National Voter Registration Act of 1993;

(3) A notice that a voter may be permitted to vote the partisan primary election ballot of a political party only if the voter has designated that political party on the application for registration unless the political party has determined otherwise;

(4) The applicant’s driver’s license number or an identification number issued by the Division of Motor Vehicles. If the applicant does not have a driver’s license or an
identification card issued by the Division of Motor Vehicles, then the last four digits of the applicant’s Social Security number; and

(5) Any other instructions or information essential to complete the application process.

(c) Each application form shall require that the following be provided by the applicant, under oath, and an application which does not contain each of the following is incomplete:

(1) The applicant’s legal name, including the first name, middle or premarital name, if any, and last name;

(2) The month, day and year of the applicant’s birth;

(3) The applicant’s residence address including the number and street or route and city and county of residence except:

(A) In the case of a person eligible to register under the provisions of 42 U. S. C.§1973ff, et seq., the Uniformed and Overseas Citizens Absentee Voting Act, the address at which he or she last resided before leaving the United States or entering the uniformed services, or if a dependent child of such a person, the address at which his or her parent last resided;

(B) In the case of a homeless person having no fixed residence address who nevertheless resides and remains regularly within the county, the address of a shelter, assistance center or family member with whom he or she has regular contact or other specific location approved by the clerk of the county commission for the purposes of establishing a voting residence; or

(C) In the case of a participant in the Address Confidentiality Program administered by the Secretary of State in accordance with section one hundred three, article twenty-eight (a), chapter forty-eight of this code, the designated address assigned to the participant by the Secretary of State; and
(4) The applicant’s signature, under penalty of perjury as provided in section thirty-six of this article, to the attestation of eligibility to register to vote and to the truth of the information given. The clerk may accept the electronically transmitted signature kept on file with another approved state database for an applicant who applies to register to vote using an approved electronic voter registration system in accordance with procedures promulgated by the Secretary of State.

(d) The applicant shall be requested to provide the following information but no application may be rejected for lack of this information:

(1) An indication whether the application is for a new registration, change of address, change of name or change of party affiliation;

(2) The applicant’s choice of political party affiliation, if any, or an indication of no affiliation. An applicant who does not enter a choice of political party affiliation is listed as having no party affiliation on the voting record;

(3) The applicant’s residence mailing address if different than the residence street address;

(4) The last four digits of the applicant’s Social Security number;

(5) The applicant’s telephone number;

(6) The applicant’s e-mail address;

(7) The address where the applicant was last registered to vote, if any, for the purpose of canceling or transferring the previous registration; and

(8) The applicant’s gender.
(e) The Secretary of State shall prescribe the printing specifications of each type of voter registration application and the voter registration application portion of any form which is part of a combined agency form.

(f) Application forms prescribed in this section may refer to various public officials by title or official position but in no case may the actual name of an officeholder be printed on the voter registration application or on any portion of a combined application form.

(g) No later than July 1 of each odd-numbered year, the Secretary of State shall submit the specifications of the voter registration application by mail for statewide bidding for a contract period beginning September 1 of each odd-numbered year and continuing for two calendar years. The successful bidder shall produce and supply the required mail voter registration forms at the contract price to all purchasers of the form for the period of the contract.

§3-2-6. Time of registration application before an election.

(a) Voter registration before an election closes on the twenty-first day before the election or on the first day thereafter which is not a Saturday, Sunday or legal holiday.

(b) An application for voter registration, transfer of registration, change of name or change of political party affiliation submitted by an eligible voter by the close of voter registration is effective for any subsequent primary, general or special election if the following conditions are met:

(1) The application contains the information required by subsection (c), section five of this article. Incomplete applications for registration containing information which are submitted within the required time may be corrected within four business days after the close of registration if the applicant provides the required information; and
(2) The application is received by the appropriate clerk of the county commission no later than the hour of the close of registration or is otherwise submitted by the following deadlines:

(A) If mailed, the application shall be addressed to the appropriate clerk of the county commission and is postmarked by the postal service no later than the date of the close of registration. If the postmark is missing or illegible, the application is presumed to have been mailed no later than the close of registration if it is received by the appropriate clerk of the county commission no later than the third day following the close of registration;

(B) If accepted by a designated agency or motor vehicle licensing office, the application is received by that agency or office no later than the close of registration;

(C) If accepted through a registration outreach program, the application is received by the clerk, deputy clerk or registrar no later than the close of registration;

(D) If accepted through an approved electronic voter registration system, the application is received by the clerk of the county commission or other entity designated by the Secretary of State no later than the close of business on the final day of registration; and

(3) The verification notice by the provisions of section sixteen of this article mailed to the voter at the residence 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.

(a) The clerk of the county commission shall provide voter registration services at all times when the office of the clerk is open for regular business.
(b) An eligible voter who desires to apply for voter registration in person at the office of the clerk of the county commission shall complete a voter registration application on the prescribed form and shall sign the oath required on that application in the presence of the clerk of the county commission or his or her deputy: Provided, That an individual may apply for voter registration using an approved electronic voter registration system if available at the office of the clerk. Such system may electronically transfer the voter’s signature stored in the database of another state agency in accordance with procedures promulgated by the Secretary of State. The applicant shall present valid identification and proof of age. The clerk may waive the proof of age requirement if the applicant is clearly over the age of eighteen.

(c) The clerk shall attempt to establish whether the residence address given is within the boundaries of an incorporated municipality and, if so, make the proper entry required for municipal residents to be properly identified for municipal voter registration purposes.

(d) Upon receipt of the completed registration application, the clerk shall either:

(1) Provide a notice of procedure for verification and notice of disposition of the application and immediately begin the verification process prescribed by the provisions of section sixteen of this article; or

(2) Upon presentation of a current driver’s license or state-issued identification card containing the residence address as it appears on the voter registration application, issue the receipt of registration.

§3-2-11. Registration in conjunction with driver licensing.

(a) The Division of Motor Vehicles or other division or department that may be established by law to perform motor
vehicle driver licensing services shall provide each qualified registrant, as an integral and simultaneous part of every process of application for the issuance, renewal or change of address of a motor vehicle driver’s license or official identification card pursuant to the provisions of article two, chapter seventeen-b of this code, a voter registration application as prescribed in section five of this article when the division’s regional offices are open for regular business. An individual may apply for voter registration using an approved electronic voter registration system if available at a Division of Motor Vehicles regional office.

(b) Notwithstanding any other provision of this code to the contrary, the Division of Motor Vehicles is required to release the first name, middle name, last name, premarital name, if applicable, complete residence address, complete date of birth of an applicant and the applicant’s electronic signature, entered in the division’s records for driver license or nonoperator identification purposes upon notice and written consent of the applicant. The notice and consent is a required component of an electronic voter registration application made available to the general public by the Secretary of State. The release of an applicant’s signature by the Division of Motor Vehicles to the Office of the Secretary of State applies to any voter registration application approved through an electronic voter registration system approved by the Secretary of State regardless of the location of the online user and provided the user grants written consent.

(c) A person who fails to sign the voter registration application or who fails to return the voter registration application to a driver licensing facility or to an appropriate voter registration office is considered to have declined to register. Information regarding a person’s failure to sign the voter registration application is confidential and may not be used for any purpose other than to determine voter registration.
(d) A qualified voter who submits the application for registration pursuant to the provisions of subsection (a) of this section in person at a driver licensing facility at the time of applying for, obtaining, renewing or transferring his or her driver's license or official identification card and who presents identification and proof of age at that time is not required to make his or her first vote in person or to again present identification in order to make that registration valid.

(e) A qualified voter who submits by mail or by delivery by a third party an application for registration on the form used in conjunction with driver licensing is required to make his or her first vote in person and present identification as required for other mail registration in accordance with the provisions of subsection (g), section ten of this article. If the applicant has been previously registered in the jurisdiction and the application is for a change of address, change of name, change of political party affiliation or other correction, the presentation of identification and first vote in person is not required.

(f) An application for voter registration submitted pursuant to the provisions of this section updates a previous voter registration by the applicant and authorizes the cancellation of registration in any other county or state in which the applicant was previously registered.

(g) A change of address from one residence to another within the same county which is submitted for driver licensing or nonoperator's identification purposes in accordance with applicable law serves as a notice of change of address for voter registration purposes if requested by the applicant after notice and written consent of the applicant.

(h) Completed applications for voter registration or change of address for voting purposes received by an office providing driver licensing services shall be forwarded to the Secretary of State within five days of receipt unless other means are available
for a more expedited transmission. The Secretary of State shall
remove and file any forms which have not been signed by the
applicant and shall forward completed, signed applications to the
clerk of the appropriate county commission within five days of
receipt.

(i) Voter registration application forms containing voter
information which are returned to a driver licensing office
unsigned shall be collected by the Division of Motor Vehicles,
submitted to the Secretary of State and maintained by the
Secretary of State’s office according to the retention policy
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.

(a) Any person may examine the active, inactive, rejected and canceled voter registration records during office hours of the clerk of the county commission in accordance with chapter twenty-nine-b of this code.

Active, inactive, rejected and canceled voter files are to be maintained in electronic data format. Any person may examine voter record information in printed form or in a read-only data format on a computer terminal set aside for public use, if available. The data files available for examination and copying shall include all registration and voting information maintained in the file, but may not include the registrant’s telephone number, email address, Social Security number or driver’s license number or nonoperator’s identification number issued by the Division of Motor Vehicles.

(b) The clerk of the county commission shall, upon request, provide printed copies of the lists of voters for each precinct. No list prepared under this section may include the registrant’s
telephone number, email address, Social Security number or driver’s license number or nonoperator’s identification number issued by the Division of Motor Vehicles. The clerk shall establish a written policy, posted within public view, listing the options for selection and sorting criteria and available data elements. The data elements shall include, at least:

1. The name, residence address, political party affiliation and status of the registrant;

2. The available formats of the lists; and

3. The times at which lists will be prepared. A copy of the county policy shall be filed with the Secretary of State no later than January 1 of each even-numbered year.

(c) Lists of registered voters may be obtained for noncommercial purposes in data format on disk or as a printed list provided by the clerk of the county commission at a cost of one cent per name. No data file prepared under this subsection may include the registrant’s telephone number, email address, Social Security number or driver’s license number or nonoperator’s identification number issued by the Division of Motor Vehicles.

(d) The fees received by the clerk of the county commission shall be kept in a separate fund under the supervision of the clerk and may be used for the purpose of defraying the cost of the preparation of the voter lists. After deducting the costs of preparing voter lists, the clerk shall deposit the net proceeds from the sale of the voter lists in the State Election Fund as set forth in subsection (b), section forty-eight, article one of this chapter.

(e) The Secretary of State shall make voter lists available for sale subject to the limitations as provided in subsection (a) of this section. The fees for the voter lists shall be as prescribed in
section two-b, article one, chapter fifty-nine of this code. The revenue associated with purchase of a partial list or associated with a complete statewide list shall be deposited in the State Election Fund as set forth in subsection (b), section forty-eight, article one of this chapter.

(f) No voter registration lists or data files containing voter names, addresses or other information derived from voter data files obtained pursuant to the provisions of this article may be used for commercial or charitable solicitations or advertising, sold or reproduced for resale.

(g) This section may not be interpreted to prevent the Secretary of State from sharing data files containing voter information with authorized service providers or sharing data across state lines with any state or local election official for the purpose of voter registration and election administration in 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.

(a) Except as may be otherwise provided in this code, the Secretary of State shall charge the following fees for data originating in the statewide voter registration system to be paid by the person for whom the service is rendered at the time it is performed:

(1) Election Cycle Subscription Service. ............ $6,000

(2) Statewide Voter Registration List ............... $500
(3) Master Voter History List Export ............... $500
(4) Statewide Early Voters List .................. $200
(5) Statewide Absentee Requests List ............. $200
(6) Statewide Absentee Received List ............. $200
(7) Partial Voter Registration List .... Current hourly rate
(8) Voter History List .......................... Current hourly rate
(9) Complex Research Query ........ Current hourly rate

(b) For the purposes of this section, “Election Cycle Subscription Service” includes:

(1) Statewide Registered Voter List updated monthly throughout the year and updated daily starting thirty days prior to election day through election day;

(2) Master Voter History List Export following certification of the primary, general and odd-year elections;

(3) Statewide All Mail-in Absentee Request List and Statewide Public Received Mail-in Absentee List for the primary, general and odd-year elections, updated daily starting thirty days prior to election day through ten days following election day; and

(4) Statewide Early Voters List for the primary, general and odd-year elections, updated daily starting on the first day of early voting through election day.

(c) At the time that a request is made under subdivision (7), (8) or (9) of subsection (a) of this section, the current hourly rate, as determined by the Secretary of State, shall be communicated to the prospective purchaser along with an estimate of the
number of hours needed to fulfill the request before any list is compiled.

(d) Net proceeds from the sale of data originating in the statewide voter registration system, along with any interest on such funds, shall be deposited into the State Election Fund as set forth in subsection (b), section forty-eight, article one, chapter three of this code.

CHAPTER 74


[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.

As used in this article, unless otherwise specified:

1. “Automatic tabulating equipment” means all apparatus necessary to electronically count votes recorded on ballots, tabulate the results and produce necessary reports;

2. “Ballot” means a logical or physical device that presents races, candidates and contests, and facilitates the capture of the voter’s choices or intent;

3. “Central counting center” means a facility equipped with suitable and necessary automatic tabulating equipment, selected by the county commission, for the electronic counting of votes recorded on ballots;

4. “Electronic poll book” means an electronic device containing voter registration information for the purpose of facilitating voting at the precinct;

5. “Electronic voting system” is one or more integrated devices that utilize an electronic component for the following functions: Ballot presentation, vote capture, vote recording and tabulation;

6. “Standard validation test deck” means a group of ballots wherein all voting possibilities which can occur in an election are represented;

7. “Vote-recording device” means equipment that captures and records voter intent by marking a screen to record selections or by using electronically sensible ink to mark selections; and

8. “Voter verified paper audit trail” means a physical printout on which the voter’s ballot choices, as registered by a
§3-4A-8. Approval of electronic voting system by State Election Commission; expenses; compensation of persons examining system.

(a) Any person or corporation owning or interested in any electronic voting system may apply to the State Election Commission so that the system may be examined and a report be made on its accuracy, efficiency, capacity and safety. Upon the written application of any vendor tendered to the Secretary of State or to any clerks in his or her office in charge of receiving filings for any purpose, the Secretary of State shall fix a date, time and place, not more than thirty days after the receipt of the application, for a meeting of the State Election Commission for mutual consideration of the application. The Secretary of State shall mail notice of the hearing by certified mail to each member of the commission.

(b) The State Election Commission shall appoint two qualified computer experts who are not members of the same political party to examine the system and make full reports on the system to the commission within ninety days from the date the State Election Commission approves the consideration of the application. They shall state in the report whether the examined system complies with the requirements of this article and the federal agency responsible for certifying voting systems and can be safely used by voters at elections under the conditions prescribed in this article. If the report is in the affirmative on that question, the commission may approve the system and adopt a system of its make and design for use at elections as provided in this article: Provided, That under no circumstances may a system be approved that is not capable of accurately tabulating returns based upon all possible combinations of voting patterns. The vendor of the approved system shall provide the State Election Commission...
Commission with a report, due on January 1, of each even-numbered year, that outlines any problem that has been experienced with the equipment by any jurisdiction in the state or in any jurisdiction outside the state that uses the same or a similar version of the equipment that has been certified for use in this state.

(c) No electronic voting system may be used at any election unless it has been approved under this section or its former provisions and by the appropriate agency of the federal government whose purpose is to review and issue a certificate of approval. Each of the two qualified computer experts appointed by the commission are entitled to reasonable compensation and expenses in making the examination and report, to be paid in advance of the examination required by subsection (b) of this section by the person or corporation applying for the examination. This sum shall be the sole compensation to be received by any expert for any work performed pursuant to this section. The State Election Commission shall determine the compensation at the time of approving the application for certification.

§3-4A-23. Persons prohibited about voting booths; penalties.

Excepting election officials acting under authority of sections nineteen, twenty and twenty-two of this article in the conduct of the election, and qualified persons assisting voters pursuant to section twenty-two of this article, no person other than the voter may be in, about or within five feet of the voting booth during the time the voter is voting at any election. While the voter is voting, no person may communicate with the voter in any manner and the voter may not communicate with any other person or persons. No person may enter a voting booth with any recording or electronic device in order to record or interfere with the voting process. Any conduct or action of an election official about or around the voting booth while the voter
is in the process of voting, except as expressly provided in this article, is a violation of this section. Any person violating the provisions of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than $1,000 or confined in jail not more than twelve months, or both fined and confined.

§3-4A-27. Proceedings at the central counting center.

(a) All proceedings at the central counting center are to be under the supervision of the clerk of the county commission and are to be conducted under circumstances which allow observation from a designated area by all persons entitled to be present. The proceedings shall take place in a room of sufficient size and satisfactory arrangement to permit observation. Those persons entitled to be present include all candidates whose names appear on the ballots being counted or if a candidate is absent, a representative of the candidate who presents a written authorization signed by the candidate for the purpose and two representatives of each political party on the ballot who are chosen by the county executive committee chairperson. A reasonable number of the general public is also freely admitted to the room. In the event all members of the general public desiring admission to the room cannot be admitted at one time, the county commission shall provide for a periodic and convenient rotation of admission to the room for observation, to the end that each member of the general public desiring admission, during the proceedings at the central counting center, is to be granted admission for reasonable periods of time for observation: Provided, That no person except those authorized for the purpose may touch any ballot or other official records and papers utilized in the election during observation.

(b) All persons who are engaged in processing and counting the ballots are to work in teams consisting of two persons of opposite political parties, and are to be deputized in writing and
take an oath that they will faithfully perform their assigned duties. These deputies are to be issued an official badge or identification card which is assigned an identity control number and the deputies are to prominently wear on his or her outer garments the issued badge or identification card. Upon completion of the deputies’ duties, the badges or identification cards are to be returned to the county clerk.

(c) Ballots are to be handled and tabulated and the write-in votes tallied according to procedures established by the Secretary of State, subject to the following requirements:

(1) In systems using ballots marked with electronically sensible ink, ballots are to be removed from the ballot boxes and stacked for the tabulator which separates ballots containing marks for a write-in position. Immediately after tabulation, the valid write-in votes are to be tallied. No write-in vote may be counted for an office unless the voter has entered the name of an official write-in candidate for that office on the line provided; either by writing, affixing a sticker or placing an ink-stamped impression thereon;

(2) In systems using ballots in which votes are recorded upon screens with a stylus or by means of touch, the ballots are to be tabulated according to the processes of the system. Systems using ballots in which votes are recorded upon screens with a stylus or by means of touch are to tally write-in ballots simultaneously with the other ballots;

(3) When more than one person is to be elected to an office and the voter desires to cast write-in votes for more than one official write-in candidate for that office, the voter shall mark the location appropriate for the voting system, in the write-in location for that office. When there are multiple write-in votes for the same office and the combination of choices for candidates on the ballot and write-in choices for the same office
exceed the number of candidates to be elected, the ballot is to be
duplicated or hand counted, with all votes for that office
rejected;

(4) Write-in votes for nomination for any office and write-in
votes for any person other than an official write-in candidate are
to be disregarded;

(5) When a voter casts a straight ticket vote and also marks
the location for a write-in vote for an office, the straight ticket
vote for that office is to be rejected, whether or not a vote can be
counted for a write-in candidate; and

(6) Official write-in candidates are those who have filed a
write-in candidate’s certificate of announcement and have been
certified according to the provisions of section four-a, article six
of this chapter.

(d) If any ballot is damaged or defective so that it cannot
properly be counted by the automatic tabulating equipment, a
true duplicate copy is to be made of the damaged ballot in the
presence of representatives of each political party on the ballot
and substituted for the damaged ballot. All duplicate ballots are
to be clearly labeled “duplicate” and are to bear a serial number
which is recorded on the damaged or defective ballot and on the
replacement ballot.

(e) The returns printed by the automatic tabulating
equipment at the central counting center, to which have been
added write-in and other valid votes, are, when certified by the
clerk of the county commission, to constitute the unofficial
preliminary returns of the county. Upon completion of the count,
the returns are to be open to the public by posting a summary of
the returns as have been tabulated at the central counting center.
Upon completion of the canvass, the returns are to be posted as
tabulated precinct by precinct.
(f) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the county commission may direct that they be counted manually, following as far as practicable the provisions governing the counting of paper ballots.

(g) As soon as possible after the completion of the count, the clerk of the county commission shall have the vote recording devices properly boxed or securely covered and removed to a 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 following definitions:
(1) “Ballot issue” means a constitutional amendment, special levy, bond issue, local option referendum, municipal charter or revision, an increase or decrease of corporate limits or any other question that is placed before the voters for a binding decision.

(2) “Billboard Advertisement” means a commercially available outdoor advertisement, sign or similar display regularly available for lease or rental to advertise a person, place or product.

(3) “Broadcast, cable or satellite communication” means a communication that is publicly distributed by a television station, radio station, cable television system or satellite system.

(4) “Candidate” means an individual who:

(A) Has filed a certificate of announcement under section seven, article five of this chapter or a municipal charter;

(B) Has filed a declaration of candidacy under section twenty-three, article five of this chapter;

(C) Has been named to fill a vacancy on a ballot; or

(D) Has declared a write-in candidacy or otherwise publicly declared his or her intention to seek nomination or election for any state, district, county or municipal office or party office to be filled at any primary, general or special election.

(5) “Candidate’s committee” means a political committee established with the approval of or in cooperation with a candidate or a prospective candidate to explore the possibilities of seeking a particular office or to support or aid his or her nomination or election to an office in an election cycle. If a candidate directs or influences the activities of more than one active committee in a current campaign, those committees shall be considered one committee for the purpose of contribution limits.
(6) "Clearly identified" means that the name, nickname, photograph, drawing or other depiction of the candidate appears or the identity of the candidate is otherwise apparent through an unambiguous reference, such as "the Governor", "your Senator" or "the incumbent" or through an unambiguous reference to his or her status as a candidate, such as "the Democratic candidate for Governor" or "the Republican candidate for Supreme Court of Appeals".

(7) "Contribution" means a gift, subscription, loan, assessment, payment for services, dues, advance, donation, pledge, contract, agreement, forbearance or promise of money or other tangible thing of value, whether conditional or legally enforceable, or a transfer of money or other tangible thing of value to a person, made for the purpose of influencing the nomination, election or defeat of a candidate. An offer or tender of a contribution is not a contribution if expressly and unconditionally rejected or returned. A contribution does not include volunteer personal services provided without compensation: Provided, That a nonmonetary contribution is to be considered at fair market value for reporting requirements and contribution limitations.

(8) "Corporate political action committee" means a political action committee that is a separate segregated fund of a corporation that may only accept contributions from its restricted group as outlined by the rules of the State Election Commission.

(9) "Direct costs of purchasing, producing or disseminating electioneering communications" means:

(A) Costs charged by a vendor, including, but not limited to, studio rental time, compensation of staff and employees, costs of video or audio recording media and talent, material and printing costs and postage; or
(B) The cost of air time on broadcast, cable or satellite radio and television stations, the costs of disseminating printed materials, studio time, use of facilities and the charges for a broker to purchase air time.

(10) "Disclosure date" means either of the following:

(A) The first date during any calendar year on which any electioneering communication is disseminated after the person paying for the communication has spent a total of $5,000 or more for the direct costs of purchasing, producing or disseminating electioneering communications; or

(B) Any other date during that calendar year after any previous disclosure date on which the person has made additional expenditures totaling $5,000 or more for the direct costs of purchasing, producing or disseminating electioneering communications.

(11) "Election" means any primary, general or special election conducted under the provisions of this code or under the charter of any municipality at which the voters nominate or elect candidates for public office. For purposes of this article, each primary, general, special or local election constitutes a separate election. This definition is not intended to modify or abrogate the definition of the term "nomination" as used in this article.

(12) (A) "Electioneering communication" means any paid communication made by broadcast, cable or satellite signal, mass mailing, telephone bank, billboard advertisement or published in any newspaper, magazine or other periodical that:

(i) Refers to a clearly identified candidate for Governor, Secretary of State, Attorney General, Treasurer, Auditor, Commissioner of Agriculture, Supreme Court of Appeals or the Legislature;
(ii) Is publicly disseminated within:

(I) Thirty days before a primary election at which the nomination for office sought by the candidate is to be determined; or

(II) Sixty days before a general or special election at which the office sought by the candidate is to be filled; and

(iii) Is targeted to the relevant electorate: Provided, That for purposes of the general election of 2008 the amendments to this article are effective October 1, 2008.

(B) "Electioneering communication" does not include:

(i) A news story, commentary or editorial disseminated through the facilities of any broadcast, cable or satellite television or radio station, newspaper, magazine or other periodical publication not owned or controlled by a political party, political committee or candidate: Provided, That a news story disseminated through a medium owned or controlled by a political party, political committee or candidate is nevertheless exempt if the news is:

(I) A bona fide news account communicated in a publication of general circulation or through a licensed broadcasting facility; and

(II) Is part of a general pattern of campaign-related news that gives reasonably equal coverage to all opposing candidates in the circulation, viewing or listening area;

(ii) Activity by a candidate committee, party executive committee or caucus committee, or a political action committee that is required to be reported to the State Election Commission or the Secretary of State as an expenditure pursuant to section five of this article or the rules of the State Election Commission or the Secretary of State promulgated pursuant to such provision:
Provided, That independent expenditures by a party executive committee or caucus committee or a political action committee required to be reported pursuant to subsection (b), section two of this article are not exempt from the reporting requirements of this section;

(iii) A candidate debate or forum conducted pursuant to rules adopted by the State Election Commission or the Secretary of State or a communication promoting that debate or forum made by or on behalf of its sponsor;

(iv) A communication paid for by any organization operating under Section 501(c)(3) of the Internal Revenue Code of 1986;

(v) A communication made while the Legislature is in session which, incidental to promoting or opposing a specific piece of legislation pending before the Legislature, urges the audience to communicate with a member or members of the Legislature concerning that piece of legislation;

(vi) A statement or depiction by a membership organization, in existence prior to the date on which the individual named or depicted became a candidate, made in a newsletter or other communication distributed only to bona fide members of that organization;

(vii) A communication made solely for the purpose of attracting public attention to a product or service offered for sale by a candidate or by a business owned or operated by a candidate which does not mention an election, the office sought by the candidate or his or her status as a candidate; or

(viii) A communication, such as a voter’s guide, which refers to all of the candidates for one or more offices, which contains no appearance of endorsement for or opposition to the nomination or election of any candidate and which is intended as nonpartisan public education focused on issues and voting history.
(13) “Expressly advocating” means any communication that:

(A) Uses phrases such as “vote for the Governor”, “re-elect your Senator”, “support the Democratic nominee for Supreme Court”, “cast your ballot for the Republican challenger for House of Delegates”, “Smith for House”, “Bob Smith in ‘04”, “vote Pro-Life” or “vote Pro-Choice” accompanied by a listing of clearly identified candidates described as Pro-Life or Pro-Choice, “vote against Old Hickory”, “defeat” accompanied by a picture of one or more candidates, “reject the incumbent”;

(B) Communications of campaign slogans or individual words, that can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, such as posters, bumper stickers, advertisements, etc., which say “Smith’s the One”, “Jones ‘06”, “Baker”, etc; or

(C) Is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.

(14) “Financial agent” means any individual acting for and by himself or herself, or any two or more individuals acting together or cooperating in a financial way to aid or take part in the nomination or election of any candidate for public office, or to aid or promote the success or defeat of any political party at any election.

(15) “Fund-raising event” means an event such as a dinner, reception, testimonial, cocktail party, auction or similar affair through which contributions are solicited or received by such means as the purchase of a ticket, payment of an attendance fee or by the purchase of goods or services.

(16) “Independent expenditure” means an expenditure by a person:

(A) Expressly advocating the election or defeat of a clearly identified candidate; and
(B) That is not made in concert or cooperation with or at the
request or suggestion of such candidate, his or her agents, the
candidate's authorized political committee or a political party
committee or its agents.

Supporting or opposing the election of a clearly identified
candidate includes supporting or opposing the candidates of a
political party. An expenditure which does not meet the criteria
for an independent expenditure is considered a contribution.

(17) "Mass mailing" means a mailing by United States mail,
facsimile or electronic mail of more than five hundred pieces of
mail matter of an identical or substantially similar nature within
any thirty-day period. For purposes of this subdivision,
"substantially similar" includes communications that contain
substantially the same template or language, but vary in
nonmaterial respects such as communications customized by the
recipient's name, occupation or geographic location.

(18) "Membership organization" means a group that grants
bona fide rights and privileges, such as the right to vote, to elect
officers or directors and the ability to hold office, to its members
and which uses a majority of its membership dues for purposes
other than political purposes. "Membership organization" does
not include organizations that grant membership upon receiving
a contribution.

(19) "Name" means the full first name, middle name or
initial, if any, and full legal last name of an individual and the
full name of any association, corporation, committee or other
organization of individuals, making the identity of any person
who makes a contribution apparent by unambiguous reference.

(20) "Person" means an individual, corporation, partnership,
committee, association and any other organization or group of
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.
(26) "Targeted to the relevant electorate" means a communication which refers to a clearly identified candidate for statewide office or the Legislature and which can be received by one hundred forty thousand or more individuals in the state in the case of a candidacy for statewide office, eight thousand two hundred twenty or more individuals in the district in the case of a candidacy for the State Senate and two thousand four hundred ten or more individuals in the district in the case of a candidacy for the House of Delegates.

(27) "Telephone bank" means telephone calls that are targeted to the relevant electorate, other than telephone calls made by volunteer workers, regardless of whether paid professionals designed the telephone bank system, developed calling instructions or trained volunteers.

(28) "Two-year election cycle" means the twenty-four month period that begins the day after a general election and ends on the day of the subsequent general election.

(29) "Unaffiliated political action committee" means a political action committee that is not affiliated with a corporation 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.

(a) When a vacancy occurs in an elected office of the state or county, it shall be filled according to the processes set forth in this article. As used in this article, unless otherwise indicated by the context:

(1) “General cutoff date” means the eighty-fourth day before the general election that immediately precedes the general election where the office would be on the ballot for election if there were not a vacancy; and

(2) “Primary cutoff date” means the eighty-fourth day before the primary election that immediately precedes the general cutoff date.

(b) When this article requires an appointment to fill a vacancy in an elected office, the appointment shall be made within thirty days of the vacancy, unless this code specifically states a different time period for the specific office. The term that the appointee holds the office shall depend on when the vacancy occurs, as follows:

(1) If the vacancy occurs after the primary cutoff date, then that appointee shall hold the office until the end of the term of office: Provided, That if the vacancy for any county office or United States Senate occurs during the window after the primary cutoff date, but before the general cutoff date, the process contained in sections four, six, seven and eight of this article, depending on the specific office vacated, shall be followed; or

(2) If the vacancy occurs on or before the primary cutoff date, then the office shall be filled at the following regular
primary and subsequent general election pursuant to this article and the appointee shall hold the office until a qualified replacement is elected and certified at that general election. The elected replacement shall hold the office until the end of the original term of office.

(c) If an election is required to fill the vacancy by subsection (b) of this section and the other provisions of this article, the election shall proceed depending on when the vacancy occurs and in which office it occurs. Elections to fill vacancies shall be held at the same places, and superintended, conducted and returned, and the result ascertained, certified and declared, in the same manner, and by the same officers, as in general elections, unless otherwise stated in this article.

(1) For a vacancy in the Office of Governor, the times for the special elections contained in section two of this article shall control. The proclamation entered pursuant to section two of this article by the person acting as Governor shall include the dates for the special candidate filing period, if necessary, and shall follow the requirements set forth in this section. All aspects of this section, where not in conflict with section two of this article, shall also be followed. If a regularly scheduled primary or general election fits within the times for the special elections contained in section two of this article, the special elections shall be conducted in conjunction with the regularly scheduled election or elections. If a special election is required by section two of this article and it cannot be held in conjunction with the regular election dates, then the compensation of election officers shall be reimbursed pursuant to section nine of this article.

(2) For a vacancy in the offices of United States House of Representatives or United States Senate, the times for the special election, if necessary, contained in section four of this article shall control. All aspects of this section, where not in conflict with section four of this article, shall also be followed.
(A) With regard to United States House of Representatives, the proclamation entered pursuant to section four of this article by the Governor shall include the dates for the special candidate filing period, if necessary, and shall follow the requirements set forth in this section. If a regularly scheduled primary or general election fits within the times for the special elections contained in section four of this article, the special elections shall be conducted in conjunction with the regularly scheduled election or elections. If a special election is required by section two of this article and it cannot be held in conjunction with the regular election dates, then the compensation of election officers shall be reimbursed pursuant to section nine of this article.

(B) With regard to United States Senate, if a special general election following the regular general election is required by section four of this article, and it cannot be held in conjunction with the regular election dates, then the compensation of election officers shall be reimbursed pursuant to section nine of this article.

(3) For all other offices, the Governor, or other person granted authority by this article, shall issue a proclamation stating that the office will appear on the next regular primary election and subsequent general election, in order to fill the vacancy: Provided, That if the vacancy for any county office occurs during the window after the primary cutoff date, but before the general cutoff date, the process contained in sections six, seven and eight of this article shall be followed. If the candidate filing period for the next regular primary election has closed or has less than one week remaining, the proclamation shall provide for a special primary candidate filing period. If there are less than eighty-four days between the vacancy and the next regular primary election, then the proclamation shall state that the office will appear on the subsequent regular primary election and corresponding general election following the next regular primary election.
(d) (1) If a special candidate filing period is necessary, it shall begin no sooner than the day after the proclamation and shall close no earlier than close of business on the fourteenth day following the proclamation. A notarized declaration of candidacy and filing fee provided by section seven, article five of this chapter shall be filed either in person, by United States mail, electronic means or any other means authorized by the Secretary of State and received by the appropriate office before the close of the filing period. For petition in lieu of payment of filing fees, a candidate seeking nomination for the vacancy may utilize the process set forth in section eight-a, article five of this chapter: Provided, That the minimum number of signatures required is equivalent to one qualified signature per one whole dollar of the filing fee for that office.

(2) If a primary election is required by the provisions of this article:

(A) For all statewide, multicounty and legislative elections, drawing for the primary election ballot position will take place at the Secretary of State’s office twenty-four hours after the end of the filing period. For each major political party on the ballot, a single drawing by lot shall determine the candidate ballot position for ballots statewide. This drawing shall be witnessed by four clerks of the county commission chosen by the West Virginia Association of County Clerks, with no more than two clerks representing a single political party.

(B) For county elections, drawing for the primary election ballot position will take place at the county clerk’s office twenty-four hours after the end of the filing period. For each major political party on the ballot, a single drawing by lot shall determine the candidate ballot position for ballots statewide. This drawing shall be witnessed by the chairperson of the county democratic and republican executive committees or their designee, and the president of the county commission or his or her designee.
(3) Ballot position for a general election required by this article shall be determined pursuant to subdivision (3), subsection (c), section two, article six of this chapter. If a general election required by this article occurs in conjunction with a regularly scheduled primary election, the general election shall be listed along with the nonpartisan portion of each ballot in the order of offices provided for regular ballots in this chapter.

(e) When an election is required to fill a vacancy, the date of the election and offices to be elected, as well as any other information required in the proclamation, shall be published prior to such election as a Class I-O legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, and the publication area for such publication shall be each county of the state that is eligible to vote in the election for those offices.

(f) If an election is required by this article, citizens having no party organization or affiliation may nominate candidates as provided by sections twenty-three and twenty-four, article five of this chapter: Provided, That when an election is required by the provisions of this article to be held at some time other than with a regularly scheduled election, all certificates nominating candidates shall be filed with the appropriate official no later than ninety days before the election.

(g) The persons elected, having first duly qualified, shall enter upon the duties of their respective offices. The elected replacement shall hold the office until the end of the original term of office.

§3-10-2. Vacancy in Office of Governor.

(a) In case of the death, conviction on impeachment, failure to qualify, resignation or other disability of the Governor, the President of the Senate shall act as Governor until the vacancy 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 incapable of performing the duties of Governor, the same shall devolve upon the Speaker of the House of Delegates; and in all other cases where there is no one to act as Governor, one shall be chosen by the joint vote of the Legislature. Whenever a vacancy shall occur in the Office of Governor before the first three years of the term shall have expired, a new election for Governor shall take place to fill the vacancy.

(b) The new election shall consist of a special primary election and a special general election, and shall occur at such time as will permit the person elected as Governor in the new election to assume office within one year of the date the vacancy occurred: Provided, That the special general election provided in this section may not apply to section eight, article one of this chapter. Within thirty days from the date the vacancy occurs, the person acting as Governor pursuant to the State Constitution shall issue a proclamation fixing the time for a statewide election to fill the vacancy in the Office of Governor. The special primary election to fill a vacancy in the Office of Governor shall take place no less than ninety days after the proclamation and no later than one hundred forty days from the date that the vacancy in the office occurs. The proclamation issued by the person acting as Governor pursuant to the State Constitution shall also provide for a special general election to take place no sooner than ninety days after the special primary election and no later than two hundred eighty days from the date that the vacancy in the office occurs.

(c) The election shall follow the requirements of section one 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.

Any vacancy occurring in the offices of Secretary of State, Auditor, Treasurer, Attorney General, Commissioner of
Agriculture, Justice of the Supreme Court of Appeals or in any office created or made elective to be filled by the voters of the entire state, judge of a circuit court or judge of a family court is filled by the Governor of the state by appointment and subsequent election to fill the remainder of the term, if required by section one of this article.

§3-10-3a. Judicial Vacancy Advisory Commission.

(a) The Judicial Vacancy Advisory Commission shall assist the Governor in filling judicial vacancies. The commission shall meet and submit a list of no more than five nor less than two best qualified persons to the Governor within ninety days of the occurrence of a vacancy, or the formal announcement of the justice or judge by letter to the Governor of an upcoming resignation or retirement that will result in the occurrence of a vacancy, in the office of justice of the Supreme Court of Appeals, judge of a circuit court or judge of a family court. The Governor shall make the appointment to fill the vacancy, as required by this article, within thirty days following the receipt of the list of qualified candidates or within thirty days following the vacancy, whichever occurs later.

(b) The commission shall consist of eight appointed members. Four public members shall be appointed by the Governor for six-year terms, except for the initial appointments which shall be staggered in accordance with subsection (c) of this section. Four attorney members shall be appointed by the Governor for six-year terms, except as provided in subsection (c) of this section, from a list of nominees provided by the Board of Governors of the West Virginia State Bar. The Board of Governors of the West Virginia State Bar shall nominate no more than twenty nor less than ten best qualified attorneys for appointment to the commission whenever there is a vacancy in the membership of the commission reserved for attorney members. The commission shall choose one of its appointed
members to serve as chair for a three-year term. No more than four appointed members of the commission shall belong to the same political party. No more than three appointed members of the commission shall be residents of the same congressional district. All members of the commission shall be citizens of this state. Public members of the commission may not be licensed to practice law in West Virginia or any other jurisdiction.

(c) Of the initial appointments made to the commission, two public members and two attorney members shall be appointed for a term ending two years after the effective date of this section, one public member and one attorney member shall be appointed for a term ending four years after the effective date of this section, and one public member and one attorney member shall be appointed for a term ending six years after the effective date of this section.

(d) The Governor, or his or her designee, the President of the West Virginia State Bar and the Dean of the West Virginia University College of Law shall serve as ex officio members of the commission.

(e) Members of the commission shall serve without compensation, except that commission members are entitled to reimbursement of travel and other necessary expenses actually incurred while engaged in official commission activities in accordance with the guidelines of the Travel Management Office of the Department of Administration, or its successor entity. The Governor’s Office shall cooperate with the commission to ensure that all resources necessary to carrying out the official duties of the commission are provided, including staff assistance, equipment and materials.

(f) The commission shall adopt written policies that formalize and standardize all operating procedures and ethical practices of its members including, but not limited to, procedures for training commission members, publishing notice of judicial
vacancies, recruiting qualified individuals for consideration by
the commission, receiving applications from qualified
individuals, notifying the public of judicial vacancies, notifying
state or local groups and organizations of judicial vacancies and
soliciting public comment on judicial vacancies. The written
policies of the commission are not subject to the provisions of
chapter twenty-nine-a of this code, but shall be filed with the
Secretary of State.

(g) A majority of the commission plus one shall constitute
a quorum to do business.

(h) All organizational meetings of the commission shall be
open to the public and subject to the requirements of article
nine-a, chapter six of this code. An “organizational meeting”
means an initial meeting to discuss the commission’s procedures
and requirements for a judicial vacancy. The commission shall
hold at least one organizational meeting upon the occurrence of
a judicial vacancy. All other meetings of the commission are
exempt from article nine-a, chapter six of this code.

(i) The commission shall make available to the public copies
of any applications and any letters of recommendation written on
behalf of any applicants. All other documents or materials
created or received by the commission shall be confidential and
exempt from the provisions of chapter twenty-nine-b of this
code, except for the list of best-qualified persons or
accompanying memoranda submitted to the Governor in
accordance with the provisions of subsection (j) of this section,
which shall be available for public inspection, and the written
policies required to be filed with the Secretary of State in
accordance with subsection (f) of this section.

(j) The commission shall submit its list of best-qualified
persons to the Governor in alphabetical order. A memorandum
may accompany the list of best-qualified persons and state facts
concerning each of the persons listed. The commission shall make copies of any list of best-qualified persons and accompanying memoranda it submits to the Governor available for public inspection.

§3-10-4. Vacancies in representation in United States Congress.

(a) (1) If there is a vacancy in the representation from this state in the House of Representatives in the Congress of the United States, the Governor shall, within five days after the fact comes to his or her knowledge, issue a proclamation setting dates for a special general election that is not less than eighty-four nor more than one hundred twenty days from the date of the vacancy and requiring nomination of candidates as provided in subdivision (2) of this subsection: Provided, That no such proclamation may be made nor may a special election be held if the vacancy occurs after the eighty-fourth day prior to the regularly scheduled general election for a new full term of the office. The election shall follow the requirements of section one of this article that are not in conflict with this section.

(2) The party executive committees for the congressional district for which there is a vacancy shall each, within thirty days of the Governor's proclamation, nominate a candidate to stand at the general election required by subdivision (1) of this subsection.

(b) If there is a vacancy in the representation from this state in the Senate of the United States Congress, the vacancy shall be filled by the Governor of the state by appointment and:

(1) If the vacancy occurs on or before the primary cutoff date, then an election shall be held pursuant to section one of this article; or

(2) If the vacancy occurs after the primary cutoff date, but on or before the general cutoff date, then the Governor shall issue
a proclamation providing for: (A) A special filing period; (B) a special primary election to be held in conjunction with the upcoming general election; and (C) a special general election to be held not less than eighty-four nor more than one hundred twenty days following the date of the special primary election. Each election shall follow the requirements of section one of this article that are not in conflict with this section.

§3-10-5. Vacancies in State Legislature.

(a) Any vacancy in the office of State Senator or member of the House of Delegates shall be filled by appointment by the Governor, from a list of three legally qualified persons submitted by the party executive committee of the party with which the person holding the office immediately preceding the vacancy was affiliated. The list of qualified persons to fill the vacancy shall be submitted to the Governor within fifteen days after the vacancy occurs and the Governor shall duly make his or her appointment to fill the vacancy from the list of legally qualified persons within five days after the list is received. If the list is not submitted to the Governor within the fifteen-day period, the Governor shall appoint within five days thereafter a legally qualified person of the same political party as the person vacating the office.

(b) In the case of a member of the House of Delegates, the list shall be submitted by the party executive committee of the delegate district in which the vacating member resided at the time of his or her election or appointment. The appointment to fill a vacancy in the House of Delegates is for the unexpired term.

(c) In the case of a State Senator, the list shall be submitted by the party executive committee of the state senatorial district in which the vacating senator resided at the time of his or her election or appointment. The appointment to fill a vacancy in the
State Senate is for the unexpired term, unless section one of this article requires a subsequent election to fill the remainder of the term, which shall follow the procedure set forth in section one of this article.

§3-10-6. Vacancy in office of circuit court clerk.

(a) When a vacancy occurs in the office of clerk of the circuit court, the circuit court by a majority vote of the judges shall fill the same within thirty days of the vacancy by appointment of a person of the same political party as the officeholder vacating the office for the period required by section one of this article.

(b) Notwithstanding any code provision to the contrary, the chief judge may appoint a temporary successor to the office of clerk of the circuit court until the requirements of this section have been met. The temporary successor may serve no more than thirty days from the date of the vacancy.

(c) If an election is necessary, the circuit court, or the chief judge thereof in vacation, is responsible for the proper proclamation, by order and notice required by section one of this article.

(d) Section one of this article shall be followed with respect to any election needed to fill a vacancy, except that if the vacancy occurs after the primary cutoff date but not later than the general cutoff date, candidates to fill the vacancy shall be nominated by the county executive committee in the manner provided in section nineteen, article five of this chapter, as in the case of filling vacancies in nominations, and the names of the persons, so nominated and certified to the clerk of the county commission of the county, shall be placed upon the ballot to be voted at the next general election.
§3-10-7. Vacancies in offices of county commissioner and clerk of county commission.

(a) Any vacancy in the office of county commissioner or clerk of county commission shall be filled by the county commission of the county, unless the number of vacancies in a county commission deprive that body of a quorum, in which case the Governor of the state shall fill any vacancy in the county commission necessary to create a quorum thereof. Persons appointed shall be of the same political party as the officeholder vacating the office for the period stated by section one of this article. If a quorum of the county commission cannot agree upon a person to fill a vacancy in the office of county commissioner within thirty days of the date the vacancy first occurred, the county executive committee of the vacating county commissioner’s political party shall select and name a person to fill the vacancy from the membership of the vacating county commissioner’s political party. The clerk shall be appointed within thirty days of the vacancy.

(b) Notwithstanding any code provision to the contrary, a county commission may appoint a temporary successor to the office of clerk of the county commission until the requirements of this section have been met. The temporary successor may serve no more than thirty days from the date of the vacancy.

(c) If an election is necessary under section one of this article, the county commission, or the president thereof in vacation, shall be responsible for the proper proclamation, by order, and notice required by section one of this article.

(d) Section one of this article shall be followed with respect to any election needed to fill a vacancy, except that if the vacancy occurs after the primary cutoff date but not later than the general cutoff date, candidates to fill the vacancy shall be nominated by the county executive committee in the manner provided in section nineteen, article five of this chapter, as in the
case of filling vacancies in nominations, and the names of the persons, so nominated and certified to the clerk of the county commission of the county, shall be placed upon the ballot to be voted at the next general election.

(e) If the election for an unexpired term is held at the same time as the election for a full term for county commissioner, the full term shall be counted first and the unexpired term shall be counted second. If the candidate with the highest number of votes for the unexpired term resides in the same magisterial district as the candidate with the highest number of votes for the full term, the candidate for the full term shall be seated. The candidate with the next highest number of votes for the unexpired term residing in a different magisterial district shall be seated for the unexpired term.

§3-10-8. Vacancies in offices of prosecuting attorney, sheriff, assessor and surveyor.

(a) Any vacancy occurring in the office of prosecuting attorney, sheriff, assessor or county surveyor shall be filled by the county commission within thirty days of the vacancy by appointment of a person of the same political party as the officeholder vacating the office. The appointed person shall hold the office for the period stated by section one of this article.

(b) Notwithstanding any code provision to the contrary, a county commission may appoint a temporary successor to the office of prosecuting attorney, sheriff, assessor or county surveyor until the requirements of this section have been met. The temporary successor may serve no more than thirty days from the date of the vacancy.

(c) If an election is necessary under section one of this article, the county commission, or the president thereof in
vacation, shall be responsible for the proper proclamation, by
order, and notice required by section one of this article.

(d) Section one of this article shall be followed with respect
to any election needed to fill a vacancy, except that if the
vacancy occurs after the primary cutoff date but not later than
the general cutoff date, candidates to fill the vacancy shall be
nominated by the county executive committee in the manner
provided in section nineteen, article five of this chapter, as in the
case of filling vacancies in nominations, and the names of the
persons, so nominated and certified to the clerk of the county
commission of the county, shall be placed upon the ballot to be
voted at the next general election.

§3-10-9. Costs of special elections paid by state.

If an election as required by section two or four of this
article cannot be held in conjunction with the regular election
dates, then the cost of printing ballots and all other reasonable
and necessary expenses in holding and making the return of the
new election to fill a vacancy are obligations of the state incurred
by the ballot commissioners, clerks of the county commissions
and county commissions of the various counties as agents of the
state. All expenses of the new election are to be audited by the
Secretary of State. The Secretary of State shall prepare and
transmit to the county commissions forms on which the county
commissions shall certify all expenses of the new election to the
Secretary of State. If satisfied that the expenses as certified by
the county commissions are reasonable and were necessarily
incurred, the Secretary of State shall requisition the necessary
warrants from the Auditor of the state to be drawn on the State
Treasurer and shall mail the warrants directly to the vendors of
the new election services, supplies and facilities.
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 the Governor with the advice and consent of the Senate.
(1) No more than three members may be of the same political party.

(2) As each member’s term ends, a qualified successor shall be appointed by the Governor with the advice and consent of the Senate.

(3) Individuals appointed to the board shall be persons who by reason of previous training and experience are knowledgeable in the husbandry of the state’s water resources.

(4) At least one member shall have experience in industrial pollution control.

(c) (1) No member of the board shall receive or, during the two years next preceding the member of the board’s appointment, may have received a significant portion his or her income directly or indirectly from a national pollutant discharge elimination system permit holder or an applicant for a permit issued under article eleven, chapter twenty-two of this code.

(2) For the purposes of this subsection:

(A) The term “significant portion of the member of the board’s income” means ten percent of gross personal income for a calendar year, except that it means fifty percent of gross personal income for a calendar year if the recipient is over sixty years of age and is receiving such portion pursuant to retirement, a pension or similar arrangement;

(B) The term “income” includes retirement benefits, consultant fees and stock dividends;

(C) Income is not received “directly or indirectly” from “permit holders” or “applicants for a permit” where it is derived from mutual-fund payments or from other diversified
investments with respect to which the recipient does not know the identity of the primary sources of income; and

(D) The terms “permit holders” and “applicants for a permit” do not include any university or college operated by this state or political subdivision of this state or any department or agency of this state, other than the Department of Environmental Protection: Provided, That no board member may vote on any matter concerning a permit issued to a department or agency of the state by which the member is or has been employed.

(d) (1) The members of the board shall serve five year terms, staggered in accordance with prior enactments of this section.

(2) Any member whose term expires may be reappointed by the Governor.

(3) Members may serve until their successors are appointed and qualified.

(4) If a board member is unable to complete the term, the Governor shall appoint a person with similar qualification to complete the term.

(5) The successor of any board member appointed pursuant to this section must possess the qualification as prescribed in this section.

(6) Each vacancy occurring in the office of a member of the board shall be filled by appointment within sixty days after the 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.


(a) This article applies only to time-sharing plans consisting of more than seven time-sharing periods other than condominium fee ownership time-sharing plans, except that sections six, ten, eleven, twelve, thirteen, seventeen, twenty, twenty-one, twenty-three, twenty-four, twenty-five and twenty-six of this article shall apply to all time-sharing plans.

(b) All time-sharing accommodations or facilities which are located outside the state but offered for sale in this state shall be subject to all of the provisions of this article except sections eleven through sixteen and twenty through twenty-two.
(c) Notwithstanding other provisions of this article, either expressed or implied, to the contrary, it is the legislative intent that nothing herein be deemed to alter the existing procedure for the assessment and collection of ad valorem taxes on accommodations or facilities subject to a time-sharing plan.

§36-9-23. Regulation by division.

The division of land sales and condominiums is hereby created in the office of the State Auditor to administer the provisions of this article. The division has the power and authority to enforce and ensure compliance with the provisions of this article. In performing its duties, the division shall have the following powers and duties:

(a) To aid in the enforcement of this chapter, the division may make necessary public or private investigations within or outside this state to determine whether any person has violated or is about to violate this article;

(b) The division may require or permit any person to file a written statement under oath or otherwise, as the division determines, as to the facts and circumstances concerning a matter under investigation;

(c) For the purpose of any investigation under this chapter, the director of the division or any officer or employee designated by the director may administer oaths or affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the identity, existence, description, nature, custody, condition and location of any books, documents or other tangible things and the identity and location of persons having knowledge of relevant facts or any other matter reasonably calculated to lead to the discovery of material evidence. Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the division
may apply to the circuit court for an order compelling compliance;

(d) The division may prepare and disseminate a prospectus and other information to assist prospective purchasers, sellers and managing entities of time-sharing plans in assessing the rights, privileges and duties pertaining thereto; and

(e) Notwithstanding any remedies available to purchasers, if the division has reasonable cause to believe that a violation of this chapter has occurred, the division may institute enforcement proceedings in its own name against any developer, exchange program, seller, managing entity, association or other person as follows:

(1) The division may permit any person whose conduct or actions may be under investigation to waive formal proceedings and enter into a consent proceeding whereby an order, rule or letter of censure or warning, whether formal or informal, may be entered against that person;

(2) The division may issue an order requiring a developer, exchange program, seller, managing entity, association or other person, or other assignees or agents, to cease and desist from an unlawful practice under this article and take such affirmative action as in the judgment of the division will carry out the purposes of this article;

(3) The division may bring an action in circuit court for declaratory or injunctive relief and for other appropriate relief;

(4)(A) The division may impose a civil penalty against any developer, exchange program, seller, managing entity, association or other person for a violation of this chapter. A penalty may be imposed on the basis of each day of continuing violation, but in no event shall the penalty for any offense exceed $10,000. All accounts collected shall be deposited with the treasurer to the credit of the West Virginia real estate time-sharing trust fund;
(B) If a developer, exchange program, seller or other person fails to pay the civil penalty, the division shall thereupon issue an order directing that such developer, exchange program, seller or other person cease and desist from further operation until such time as the civil penalty is paid; or the division may pursue enforcement of the penalty in a court of competent jurisdiction.

If an association or managing entity fails to pay the civil penalty, the division shall thereupon pursue enforcement in a court of competent jurisdiction;

(5) In order to permit the developer, exchange program, seller, managing entity, association or other person an opportunity either to appeal such decision administratively or to seek relief in a court of competent jurisdiction, the order imposing the civil penalty or the cease and desist order shall not become effective until twenty days after the date of such order; and

(6) Any action commenced by the division shall be brought 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 lineup, photo lineup or showup.

3 (2) “Suspect” means the person believed by law enforcement to be the possible perpetrator of the crime.

4 (3) “Blind” means the administrator does not know the identity of the suspect.

5 (4) “Blinded” means the administrator may know who the suspect is, but does not know which lineup member is being viewed by the eyewitness.

6 (5) “Eyewitness” means a person whose identification of another person may be relevant in a criminal proceeding.

7 (6) “Filler” means either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure.
“Folder shuffle method” means a procedure for displaying a photo lineup with the following steps:

(A) Photos used in a photo lineup are placed in their own respective folder, and the folders are shuffled, numbered and then presented to an eyewitness such that the administrator cannot see or track which photo is being presented to the witness until after the procedure is completed;

(B) The procedure is completed only when the eyewitness has viewed the entire array of numbered folders, even if an affirmative identification is made prior to the eyewitness viewing all of the numbered folders;

(C) If an eyewitness requests a second viewing, the eyewitness must be shown all of the lineup members again, even if the eyewitness makes an identification during this second showing; and

(D) The eyewitness shall be allowed to review the folders only once after the initial viewing is complete.

“Lineup” means a live lineup or photo lineup of persons or photographs of persons matching as close as possible the eyewitness’s description of the perpetrator.

“Live lineup” means a procedure in which a group of people is displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of a crime.

“Photo lineup” means a procedure in which an array of photographs is displayed to an eyewitness for the purpose of determining if the eyewitness is able to identify the perpetrator of a crime.

“Sequential presentation” means presenting live or photo lineup persons to the eyewitness one-by-one rather than all at once.
(12) "Showup" means an identification procedure in which an eyewitness is presented with a single suspect for the purpose of determining whether the eyewitness identifies this individual as the perpetrator.


(a) Prior to a lineup or showup, law enforcement should record as complete a description as possible of the perpetrator provided by the eyewitness, in the eyewitness's own words. This statement should also include information regarding the conditions under which the eyewitness observed the perpetrator including location, time, distance, obstructions, lighting and weather conditions. The eyewitness should also be asked if he or she wears or has been prescribed glasses or contact lenses and whether he or she was wearing them at the time of the witnessed event. The administrator should record whether or not the eyewitness was wearing glasses or contact lenses at the time of the lineup or showup.

(b) After completing the requirements of subsection (a) of this section, but before a lineup or showup, the eyewitness should be given the following instructions:

(1) That the perpetrator may or may not be present in the lineup, or, in the case of a showup, may or may not be the person that is presented to the eyewitness;

(2) That the eyewitness is not required to make an identification;

(3) That it is as important to exclude innocent persons as it is to identify the perpetrator;

(4) That the investigation will continue whether or not an identification is made; and

(5) That the administrator does not know the identity of the perpetrator.
(c) Nothing should be said, shown or otherwise suggested to the eyewitness that might influence the eyewitness’s identification of any particular lineup or showup member, at any time prior to, during or following a lineup or showup.

(d) All lineups should be conducted blind unless to do so would place an undue burden on law enforcement or the investigation. If conducting a blind lineup would place an undue burden on law enforcement or the investigation, then the administrator shall use the folder shuffle method.

(e) All lineups should be conducted in a sequential presentation. When there are multiple suspects, each identification procedure shall include only one suspect.

(f) At least four fillers should be used in all lineups. The fillers shall resemble the description of the suspect as much as practicable and shall not unduly stand out.

(g) In a photo lineup, there should be no characteristics of the photos themselves or the background context in which they are placed which shall make any of the photos unduly stand out.

(h) In a live lineup, all lineup participants must be out of view of the eyewitness prior to the identification procedure.

(i) If there are multiple eyewitnesses for the same lineup:

(1) Each eyewitness should view the lineup or lineups separately;

(2) The suspect should be placed in a different position in the lineup for each eyewitness; and

(3) The eyewitnesses should not be permitted to communicate with each other until all identification procedures have been completed.
(j) Showups should only be performed using a live suspect and only in exigent circumstances that require the immediate display of a suspect to an eyewitness. A law-enforcement official shall not conduct a showup with a single photo; rather a photo lineup must be used.

(k) Law-enforcement officers should make a written or video record of a lineup which shall be provided to the prosecuting attorney in the event that any person is charged with the offense under investigation. The written record shall include all steps taken to comply with this article which shall include the following information:

1. The date, time and location of the lineup;

2. The names of every person in the lineup, if known, and all other persons present at the lineup;

3. The words used by the eyewitness in any identification, including words that describe the eyewitness's certainty or uncertainty in the identification at the time the identification is made;

4. Whether it was a photo lineup or live lineup;

5. The number of photos or individuals that were presented in the lineup;

6. Whether the lineup administrator knew which person in the lineup was the suspect;

7. Whether, before the lineup, the eyewitness was instructed that the perpetrator might or might not be presented in the lineup;

8. Whether the lineup was simultaneous or sequential;

9. The signature, or initials, of the eyewitness, or notation if the eyewitness declines or is unable to sign; and
(10) A video of the lineup and the eyewitness's response may be included.


The Superintendent of State Police may create educational materials and conduct training programs to instruct law-enforcement officers and recruits how to conduct lineups in compliance with this section. Any West Virginia law-enforcement agency, as defined in section one, article twenty-nine, chapter thirty of this code, conducting eyewitness identification procedures shall adopt specific written procedures for conducting photo lineups, live lineups and showups that 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.


(a) The family court judge will exercise any power or authority provided in this article, in chapter forty-eight of this code or as otherwise provided by general law. Additionally, the family court judge has the authority to:

(1) Manage the business before them;

(2) Summon witnesses and compel their attendance in court;

(3) Exercise reasonable control over discovery;

(4) Compel and supervise the production of evidence, including criminal background investigations when appropriate;

(5) Discipline attorneys;

(6) Prevent abuse of process; and

(7) Correct errors in a record.

(b) The family court judge has responsibility for the supervision and administration of the family court. A family court judge may promulgate local administrative rules governing the conduct and administration of the family court. In family court circuits with more than one family court judge, all family court judges must agree to the rules. If all of the family court judges in a family court circuit cannot agree, the chief judge of each circuit court in the counties in which the family court circuit is located shall promulgate the local administrative rules. If the chief judges of the circuit courts cannot agree, the Supreme Court of Appeals may promulgate the local administrative rules. Local administrative rules are subordinate and subject to the rules of the Supreme Court of Appeals or the
orders of the chief justice. Rules promulgated by the family or
circuit court are made by order entered upon the order book of
the circuit court and are effective when filed with the Clerk of
the Supreme Court of Appeals.

(c) Prior to the 2003 regular session of the Legislature and
annually thereafter, the Supreme Court of Appeals shall report
to the Legislature on the caseload in each family court circuit
and shall recommend changes to the management of the family
court as the Supreme Court of Appeals deems warranted or
necessary to improve the family court.

(d) The Supreme Court of Appeals shall promulgate a
procedural rule to establish time-keeping requirements for
family court judges, family case coordinators and secretary-
clerks of family court judges so as to assure the maximum
funding of incentive payments, grants and other funding sources
available to the state for the processing of cases filed for the
location of absent parents, the establishment of paternity and the
establishment, modification and enforcement of child support
orders.

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CHAPTER 81

(Com. Sub. for H. B. 2603 - By Delegates Morgan,
Stephens, Staggers, 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
Be it enacted by the Legislature of West Virginia:


ARTICLE 26. DOMESTIC VIOLENCE ACT.

PART II. DEFINITIONS.


1 “Advocacy” means assisting victims and survivors of domestic violence, dating violence, sexual assault, stalking or human trafficking, and their children, in securing rights, remedies and services, by directly providing for, or referring to public and private agencies to provide for, safety planning; shelter; housing; legal services; outreach; counseling; case management; information and referral; training; employment; child care; health care; transportation; financial literacy education, financial planning and related economic empowerment services; parenting and other educational services; and other support services.
§48-26-203. Batterer Intervention and Prevention Program defined.

"Batterer intervention and prevention program", previously referred to as a program of intervention for perpetrators, means a licensed educational program that provides classes to individuals who commit acts of domestic violence or abuse, offering nonviolent strategies and values that promote respect and equality in intimate partner relationships.

§48-26-204. Board defined.

"Board" means the Family Protection Services Board created pursuant to Chapter 53 of the Acts of the Legislature of 1989 and subsequently recodified by this article.

§48-26-205. Closure defined.

"Closure" means the temporary or permanent prohibition of specified services and the corresponding suspension of licensure of a program or program component that violates the standards established by the board or that threatens the health, well being or safety of its program participants or staff.

§48-26-206. Department defined.

"Department" means the Department of Health and Human Resources.

§48-26-207. Domestic Violence Legal Services Fund defined.

"Domestic Violence Legal Services Fund" means the special revenue account established by section six hundred three of this article for the purposes set forth in that section.

§48-26-208. Domestic violence program defined.

"Domestic violence program" means a licensed program of a locally controlled nonprofit organization, established primarily
for the purpose of providing advocacy services, comprising both a shelter component and an outreach component, to victims of domestic violence, dating violence, sexual assault, stalking or human trafficking, and their children: Provided, That the board may temporarily or permanently close either the shelter component or the outreach component of a domestic violence program.

§48-26-209. Family Protection Fund defined.

"Family Protection Fund" means the special revenue account established by Chapter 74 of the Acts of the Legislature of 1981, held by the department, for the purpose of collecting marriage license fees pursuant to section ten, article one, chapter fifty-nine of this code, divorce surcharge fees pursuant to section twenty-eight-a, article one, chapter fifty-nine of this code, fees for failure to present a premarital education course completion certificate pursuant to section ten, article one, chapter fifty-nine of this code and any other funding source, including any source created in another section of this code, and distributed to licensed domestic violence programs, in accordance with the formula designated by the board.

§48-26-210. Intimate partner defined.

"Intimate partner" means a current or former spouse, a person with whom one shares a child in common, a person with whom one is cohabiting or has cohabited, or a person with whom one is or has been in a relationship of a romantic or intimate nature.

§48-26-211. Licenses defined.

(a) "Conditional license" means a license issued for up to ninety days, to programs that have violations of safety or accountability standards that may threaten the health, well-being or safety of its program participants or staff, or the responsible
operation of the program, or that have a history or pattern of noncompliance with established standards.

(b) "Provisional license" means a license issued for up to one hundred and eighty days, to programs that are not in compliance with nonlife threatening safety, programmatic, facility or administrative standards, that may be extended for an additional six months, if the board determines that the program is making active progress toward compliance.

(c) "Full license" means a license issued for up to the maximum licensure period of three years, to programs that are in compliance with the standards established by the board and have no violations of safety or accountability standards that may threaten the health, well-being or safety of its program participants or staff, or the responsible operation of the program.

§48-26-212. Monitored parenting and exchange defined.

(a) "Monitored parenting" means the contact between a parent without custodial responsibility, guardian or other adult and one or more children, in the presence of a third person who monitors the contact to promote the safety of the participants.

(b) "Monitored exchange" means the observation of movement of a child or children from the custodial responsibility of one parent or guardian to the custodial responsibility of the other parent or other adult without allowing contact between the adults.

(c) "Monitored parenting and exchange program" means a licensed program offered by a locally controlled nonprofit organization for purposes of providing a neutral, safe and child-friendly environment to allow the child or children access to a parent or other adult without allowing contact between the adults.
§48-26-213. Outreach defined.

"Outreach" means a licensed domestic violence program’s community-based activities that increase awareness and availability of services, in every county within the program’s regional service area, to victims and survivors of domestic violence, dating violence, sexual assault, stalking or human trafficking, and their children.

§48-26-214. Shelter defined.

"Shelter" means residential services offered by a licensed domestic violence program on a temporary basis, to persons who are victims of domestic violence, dating violence, sexual assault, stalking or human trafficking, and their children.

PART III. FAMILY PROTECTION SERVICES BOARD.

§48-26-301. Family protection services board continued; terms.

(a) The family protection services board, is continued.

(b) Membership of the board is comprised of seven persons. The Governor, with the advice and consent of the Senate, shall appoint five members of the board who meet the following qualifications:

(1) One member must be a director of a licensed domestic violence program;

(2) One member must be a representative of the West Virginia Coalition Against Domestic Violence;

(3) One member must be a representative of a batterer intervention and prevention program licensed by the board;

(4) One member must be a representative of the West Virginia Supreme Court of Appeals who is familiar with monitored parenting and exchange program services; and
(5) One member must be a citizen who is a resident of this state and who is not employed by, under contract with or a volunteer for a program licensed by the board, and who is knowledgeable about services for victims and survivors of domestic violence;

(c) The secretary of the Department of Health and Human Resources, or his or her designee, and the chair of the Governor’s Committee on Crime, Delinquency and Correction, or his or her designee shall serve as ex officio voting members.

(d) The terms of the five members appointed by the Governor are for three years, staggered in accordance with prior enactments of this act.

(e) No person who is employed by, under contract with or volunteers for an organization that is licensed to operate any program under the provisions of this article may serve on the board at the same time as another person who is employed by, under contract with or volunteers for that organization.

(f) If a member resigns or is unable to complete his or her term or ceases to be qualified, the Governor shall appoint within ninety days a person who meets the qualifications of this section to serve the remainder of the unexpired term.

PART IV. DUTIES OF FAMILY PROTECTION SERVICES BOARD.


(a) The board shall:

(1) Propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article and any applicable federal guidelines;
(2) Receive and consider applications for licensure of domestic violence programs, batterer intervention and prevention programs and monitored parenting and exchange programs;

(3) Assess the need for domestic violence programs, batterer intervention and prevention programs and monitored parenting and exchange programs, including licensure preapplication and application processes;

(4) Conduct licensure renewal reviews of domestic violence programs, batterer intervention and prevention programs and monitored parenting and exchange programs, that will ensure the safety, well-being and health of the programs' participants and staff;

(5) For each fiscal year, expend from the Family Protection Fund a sum not to exceed fifteen percent for the costs of administering the provisions of this article, and direct the Department of Health and Human Resources to distribute one half of the remaining funds equally and the other half of the remaining funds in accordance with a formula determined by the board, to licensed domestic violence programs;

(6) Submit an annual report on the status of programs licensed under the provisions of this article to the Governor and the Joint Committee on Government and Finance;

(7) Conduct hearings as necessary under this article; and

(8) Collect data about licensed programs for use in the annual report of the board.

(b) The board may:

(1) Advise the Secretary of the Department of Health and Human Resources and the Chair of the Governor's Committee on Crime, Delinquency and Correction on matters of concern relative to their responsibilities under this article;
(2) Delegate to the Secretary of the Department of Health and Human Resources such powers and duties of the board as the board considers appropriate to delegate, including, but not limited to, the authority to approve, disapprove, revoke or suspend licenses;

(3) Advise administrators of state or federal funds of licensure violations and closures of programs; and

(4) Exercise all other powers necessary to implement the provisions of this article.

§48-26-402. Requirements, qualifications and terms of licensure; collaboration to assist programs.

(a) No domestic violence program, batterer intervention and prevention program or monitored parenting and exchange program may represent that it is licensed unless it is licensed by the board pursuant to the provisions of this article and the legislative rules promulgated pursuant to this article.

(b) The board shall establish preliminary application and full application forms for the initial licensing of domestic violence programs, batterer intervention and prevention programs and monitored parenting and exchange programs.

(1) To meet basic eligibility requirements an applicant for licensure must complete a preliminary application form to demonstrate local need for the proposed service, method of governance and accountability, administrative and programmatic design, and fiscal efficiency. The board shall respond in writing within sixty days of receipt of the preliminary application;

(2) If the board approves the preliminary application, the applicant may complete a full application form;

(3) The board shall determine whether all documentation set forth on the licensure checklist has been submitted, and may
request supplemental or clarifying information or documentation; and

(4) The board shall grant or deny a license within sixty days of the receipt of the completed full application form and all supplemental or clarifying information or documentation requested by the board.

(c) Licenses may be granted or renewed for periods not to exceed three years: Provided, That the board may conduct licensure reviews at any time during the licensure period, and may downgrade, suspend or revoke a license in accordance with the provisions of this article.

(d) The license granted by the board shall be prominently displayed by the licensees.

(e) The board may grant a provisional license for up to one hundred and eighty days, to a program that is not in compliance with non-life threatening safety, programmatic, facility or administrative standards. A provisional license may be extended for up to an additional one hundred and eighty days, if the board, in its sole discretion, determines that the program is making active progress toward compliance.

(f) The board may grant a conditional license for up to ninety days to a program that has violations of safety or accountability standards that may threaten the health, well-being or safety of its participants or staff, or the responsible operation of the program, or that have a history or pattern of noncompliance with established standards. If a program does not correct the violations within the conditional license period, the board may institute closure proceedings.

(g) The Department of Health and Human Resources, the Division of Justice and Community Services, the Family Protection Services Board, the WV Coalition Against Domestic
Violence, the West Virginia Supreme Court of Appeals and the
Division of Corrections may, collectively or in any combination
as appropriate to the program, collaborate to provide technical
assistance to prevent and resolve deficiencies in a program’s
ability to meet the standards to operate and maintain licensure.

(h) If the board obtains information that a person or persons
has engaged in, is engaging in or is about to engage in an act that
constitutes or will constitute a violation of the provisions of this
article or the legislative rules promulgated pursuant to this
article, it may issue a notice to the person or persons to cease and
desist the act, or apply to the circuit court for an order enjoining
the act. Upon a showing that the person has engaged, is engaging
or is about to engage in such an act, the court may order an
injunction, restraining order or other order as the court considers
appropriate.

§48-26-403. Legislative rules.

(a) The board shall propose rules for legislative approval in
accordance with the provisions of article three, chapter
twenty-nine-a of this code to effectuate the provisions of this
article.

(b) The rules shall include, at a minimum:

(1) Operating procedures of the board;

(2) Minimum standards, including, but not limited to,
governance, administration, safety, referral process, intake,
services, financial accountability, staffing, personnel policies,
communication, program participant records, service plans,
confidentiality, program evaluation, facility requirements,
reports, restrictions, and other requirements in this article, for
licensure of:

(A) Domestic violence programs, including requirements for
both shelter and outreach components;
16  (B) Community-based, local government and Division of
17  Corrections batterer intervention and prevention programs; and
18  
19  (C) Monitored parenting and exchange programs; and
20  
21  (3) A licensure checklist to determine the ability of
22  applicants and licensees to meet licensure standards, to
23  determine eligibility for a full license, provisional license,
24  conditional license or no license.
25  
26  (c) The rules in effect as of the effective date of the
27  reenactment of this section will remain in effect until modified,
28  amended or repealed provided that they are not inconsistent with
29  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  
8  (b) In order to close a domestic violence program or one of
9  its components, a batterer intervention and prevention program
10  or a monitored parenting and exchange program, the board must
11  vote unanimously in the affirmative.
12  
13  (c) If either the shelter component or the outreach
14  component of a domestic violence program is closed, the
15  remaining component of the program may continue to be
16  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
program’s governing body is entitled to a hearing before the board.

(b) Hearings shall be held in accordance with the provisions of article five, chapter twenty-nine-a of this code.

(c) The board may conduct the hearing or elect to have a hearing examiner or an administrative law judge conduct the hearing. If the hearing is conducted by a hearing examiner or an administrative law judge:

(1) The hearing examiner or administrative law judge shall be licensed to practice law in this state and shall conform to the Code of Conduct for Administrative Law Judges as set forth by the Ethics Commission in legislative rule;

(2) At the conclusion of a hearing, the hearing examiner or administrative law judge shall prepare a proposed written order containing recommended findings of fact and conclusions of law and may include recommended sanctions, including closure, if the board so directs;

(3) The board may accept, reject, modify or amend the recommendations of the hearing examiner or administrative law judge; and

(4) If the board rejects, modifies or amends the recommendations, the board shall state in the order a reasoned, articulate justification based on the record for the rejection, modification or amendment.

(d) Pursuant to the provisions of section one, article five, chapter twenty-nine-a of this code, informal disposition may also be made by the board by stipulation, agreed settlement, consent order or default. Further, the board may suspend its decision and place a license on conditional or provisional status.
(e) A licensee adversely affected by a decision of the board entered after a hearing may seek an appeal to the Circuit Court, in accordance with the provisions of section four, article five, chapter twenty-nine-a of this code, and may appeal a decision of the Circuit Court to the West Virginia Supreme Court of Appeals, in accordance with the provisions of article six, chapter twenty-nine-a of this code.

PART VI. FUNDING.

§48-26-603. Domestic Violence Legal Services Fund.

(a) There is continued in the State Treasury a special revenue account, designated as the “Domestic Violence Legal Services Fund,” that shall be an appropriated fund for receipt of grants, gifts, fees, or federal or state funds designated for legal services for domestic violence victims. Expenditures from the fund shall be limited to attorneys employed or contracted by licensed domestic violence programs, or employed or contracted by West Virginia’s federally designated legal services program, its successor organization or other nonprofit organization as determined by the department, that establish a collaborative relationship with a licensed domestic violence program, to provide civil legal services to victims of domestic violence.

(b) Any court of this state may order a nonprevailing party to pay an amount equivalent to the reasonable attorney’s fee to which the prevailing litigant would be entitled into the Domestic Violence Legal Services Fund, established in subsection (a) of this section, if the following circumstances occur:

1. A prevailing litigant is entitled by statute or common law to a reasonable attorney’s fee, and

2. The prevailing litigant’s legal counsel informs the court that no fee will be requested.
§48-26-604. Annual reports of licensed programs.

(a) All programs licensed pursuant to this article shall report specific information annually as required by the board.

(b) No information contained in a report may identify any person served by the program or enable any person to determine the identity of any such person.

PART VII. CONFIDENTIALITY.

§48-26-701. Confidentiality.

(a) No program licensed pursuant to this article may disclose, reveal or release or be compelled to disclose, reveal or release, any written records or personal or personally identifying information about a program participant created or maintained in providing services, regardless of whether the information has been encoded, encrypted, hashed, or otherwise protected, pursuant to this article except:

(1) Upon written consent, or upon oral consent in emergency situations defined by legislative rule, of the person seeking or who has sought services from the program;

(2) In any proceeding brought under sections four and five, article six, chapter nine of this code or article six, chapter forty-nine of this code;

(3) As mandated by article six-a, chapter forty-nine and article six, chapter nine of this code;

(4) Pursuant to an order of any court based upon a finding that said information is sufficiently relevant to a proceeding before the court to outweigh the importance of maintaining the confidentiality established by this section;
(5) To protect against a clear and substantial danger of imminent injury by a person receiving services to himself or herself or another; or

(6) As authorized by the releases signed by batterer intervention and prevention program participants pursuant to the provisions of subsection (b) of this section.

(b) Batterer intervention and prevention program participants shall authorize the release of information by signing the following releases:

(1) Allowing the provider to inform the victim or alleged victim and the victim’s advocates that the batterer is participating in a batterer intervention and prevention program with the provider and to provide information to the victim or alleged victim and her or his advocates, if necessary, for the victim’s or alleged victim’s safety;

(2) Allowing prior and current service providers to provide information about the batterer to the provider;

(3) Allowing the provider, for good cause, to provide information about the batterer to relevant legal entities, including courts, parole officers, probation officers, child protective services, adult protective services, law enforcement, licensed domestic violence programs, or other referral agencies;

(4) Allowing the provider to report to the court, if the participation was court ordered, and to the victim or alleged victim, if she or he requests and provides a method of notification, and to his or her advocate, any assault, failure to comply with program requirements, failure to attend the program, threat of harm by the batterer, reason for termination and recommendations for changes in the court order; and

(5) Allowing the provider to report to the victim or alleged victim, or his or her advocate, without the participant’s
authorization, all perceived threats of harm, the participant’s failure to attend and reason for termination.

(c) Monitored parenting and exchange programs may disclose to one parent or guardian, without the permission of the other parent or guardian, any perceived threat of harm or violation of the court order or violation of the monitored parenting and exchange program rules by the other parent or guardian.

(d) No monitored parenting and exchange program may release information about the child without consent of the parent with custodial responsibility or guardian.

(e) In addition to the provisions set forth in this section, the release of a victim’s personally-identifying information is subject to the provisions of 42 U.S.C. § 13925(b)(2).

(f) No consent or authorization for the transmission or disclosure of confidential information is effective unless it is signed by the program participant whose information is being disclosed. Every person signing an authorization shall be given a copy.

(g) A victim of domestic violence, dating violence, sexual assault, or stalking shall not be required to provide consent to release his or her personally identifying information as a condition of eligibility for the services, nor may any personally identifying information be shared in order to comply with federal or state reporting, evaluation, or data collection requirements: Provided, That nothing in this section prohibits a program from reporting suspected abuse or neglect, as defined by law, when the program is mandated by law to report suspected abuse or neglect.
§48-26-1001. Court orders; use of monitored parenting and exchange programs without court order.

(a) Judges and magistrates may order persons to apply to a licensed monitored parenting and exchange program for monitored parenting or monitored exchange of children: Provided, That a licensed monitored parenting and exchange program may not be required to perform duties that are beyond the program's capacity or scope of services.

(b) Judges and magistrates may require a person to pay a reasonable amount based on ability to pay and other relevant criteria for any fee charged by a monitored parenting and exchange program.

(c) Licensed monitored parenting and exchange programs may receive referrals from judges, magistrates, child protective services, attorneys and other agencies, for services under the terms and conditions of those services as set forth in rules promulgated by the board.

(d) Licensed monitored parenting and exchange programs may serve self-referrals when the adult parties agree to the use of the program.

§48-26-1002. Exclusions.

The provisions of this part do not apply to therapeutic or supervised visitation or exchanges or any activity conducted by the state or others in abuse and neglect proceedings pursuant to articles six and six-a, chapter forty-nine of this code in which assessment, evaluation, formulation of a treatment plan, case management, counseling, therapy or similar activities occur.
§48-26-1004. Contract by persons using program.

Every program shall require that the parent, guardian or other adult sign a written contract prior to using the program and that the use of the services provided by the program can be 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.

(a) The Fatality and Mortality Review Team is created under the Bureau for Public Health. The Fatality and Mortality Review Team is a multidisciplinary team created to oversee and coordinate the examination, review and assessment of:

(1) The deaths of all persons in West Virginia who die as a result of unintentional prescription or pharmaceutical drug overdoses;

(2) The deaths of children under the age of eighteen years;

(3) The deaths resulting from suspected domestic violence; and

(4) The deaths of all infants and all women who die during pregnancy, at the time of birth or within one year of the birth of a child.

(b) The Fatality and Mortality Review Team shall consist of the following members:

(1) The Chief Medical Examiner in the Bureau for Public Health or his or her designee, who is to serve as the chairperson
and who is responsible for calling and coordinating meetings of
the Fatality and Mortality Review Team and meetings of any
advisory panel created by the Fatality and Mortality Review
Team;

(2) The Commissioner of the Bureau for Public Health or his
or her designee;

(3) The Superintendent of the West Virginia State Police or
his or her designee; and

(4) A prosecuting attorney, as appointed by the Governor,
who shall serve for a term of three years unless otherwise
reappointed to a second or subsequent term. A prosecuting
attorney appointed to the team shall continue to serve until his or
her term expires or until his or her successor has been appointed.

(c) Each member shall serve without additional
compensation and may not be reimbursed for any expenses
incurred in the discharge of his or her duties under the provisions
of this article.

§61-12A-2. Responsibilities of the Fatality and Mortality Review
Team and Advisory Panels.

(a) The Fatality and Mortality Review Team shall establish
the following advisory panels to carry out the purposes of this
article including:

(1) An unintentional pharmaceutical drug overdose fatality
review panel to examine, analyze and review deaths resulting
from unintentional prescription or pharmaceutical drug
overdose;

(2) A child fatality review panel to examine, analyze and
review deaths of children under the age of eighteen years;
(3) A domestic violence fatality review panel to examine, analyze and review deaths resulting from suspected domestic violence;

(4) An infant and maternal mortality review panel to examine, analyze and review the deaths of infants and women who die during pregnancy, at the time of birth or within one year of the birth of a child.

(b) The members of the Fatality and Mortality Review Team shall serve as members of each of the advisory panels established pursuant to this article.

(c) The Commissioner of the Bureau for Public Health, in consultation with the Fatality and Mortality Review Team, shall propose rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code that the advisory panels shall follow. Those rules shall include, at a minimum:

(1) The representatives that shall be included on each advisory panel;

(2) The responsibilities of each of the advisory panels, including but not limited to, each advisory panel’s responsibility to:

(A) Review and analyze all deaths as required by this article;

(B) Ascertain and document the trends, patterns and risk factors; and

(C) Provide statistical information and analysis regarding the causes of certain fatalities;

(3) The standard procedures for the conduct of the advisory panels;
(4) The processes and protocols for the review and analysis of fatalities and mortalities of those who were not suffering from mortal diseases shortly before death;

(5) The processes and protocols to ensure confidentiality of records obtained by the advisory panel;

(6) That the advisory panels must submit a report to the Fatality and Mortality Review Team annually, the date the annual report must be submitted and the contents of the annual report;

(7) That the advisory panel may include any additional persons with expertise or knowledge in a particular field that it determines are needed in the review and consideration of a particular case as a result of a death in subsection (a), section one of this article;

(8) That the advisory panel may provide training for state agencies and local multidisciplinary teams on the matters examined, reviewed and analyzed by the advisory panel;

(9) The advisory panel’s responsibility to promote public awareness on the matters examined, reviewed and analyzed by the advisory panel;

(10) Actions the advisory panel may not take or engage in including:

(A) Call witnesses or take testimony from individuals involved in the investigation of a fatality;

(B) Contact a family member of the deceased;

(C) Enforce any public health standard or criminal law or otherwise participate in any legal proceeding; or
(D) Otherwise take any action which, in the determination of
a prosecuting attorney or his or her assistants, impairs the ability
of the prosecuting attorney, his or her assistants or any law-
enforcement officer to perform his or her statutory duties; and

(11) Other rules as may be deemed necessary to effectuate
the purposes of this article.

(d) The Fatality and Mortality Review Team shall submit an
annual report to the Governor and to the Legislative Oversight
Commission on Health and Human Resources Accountability
concerning its activities within the state and the activities of the
advisory panels. The report is due annually on December 1. The
report is to include statistical information concerning cases
reviewed during the year, trends and patterns concerning these
cases and the team’s recommendations to reduce the number of
fatalities and mortalities that occur in the state.

§61-12A-3. Access to information; other agencies of government
required to cooperate.

(a) Notwithstanding any other provision of this code to the
contrary, the Fatality and Mortality Review Team and the
advisory panels established by the team pursuant to this article
may request information and records as necessary to carry out its
responsibilities. Records and information that may be requested
under this section include:

(1) Medical, dental and mental health records;

(2) Substance abuse records to the extent allowed by federal
law; and

(3) Information and records maintained by any state, county
and local government agency, except as provided in subsection
(c), section two of this article.
(b) State, county and local government agencies shall provide the Fatality and Mortality Review Team and the advisory panels established by the team with any information requested in writing by the team or by an advisory panel.


(a) Proceedings, records and opinions of the Fatality and Mortality Review Team and the advisory panels established by the team pursuant to this article are confidential and are not subject to discovery, subpoena or introduction into evidence in any civil or criminal proceeding. This section does not limit or restrict the right to discover or use in any civil or criminal proceeding anything that is available from another credible source and entirely independent of the proceedings of the team or advisory panels.

(b) Members of the Fatality and Mortality Review Team and members of the advisory panels established by the team may not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a meeting of the team. This subsection does not prevent a member of the team or an advisory panel from testifying to information obtained independently of the team or advisory panel which is public information.

(c) Proceedings, records and opinions of the Fatality and Mortality Review Team and the advisory panels established by the team are exempt from disclosure under the Freedom of Information Act as provided in chapter twenty-nine-b of this 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.

This act shall be known and may be cited as the West Virginia Feed to Achieve Act.

§18-5D-2. Legislative findings; intent.

(a) The Legislature finds and declares that:

(1) Every child in school needs to have nutritious meals in order to achieve his or her potential. Providing the best schools and teachers alone does not ensure a child is mentally present and able to learn. A growing body of research establishes that a hungry child is less able to process the information provided and is less likely to be attentive to the lessons being taught.

(2) President Harry S. Truman began the national school lunch program in 1946 as a measure of national security to safeguard the health and well-being of the nation’s children and to encourage the domestic consumption of nutritious agricultural commodities and other food. Last year in West Virginia, 32.3 million school lunches were served to students in public schools.

(3) Research shows that healthy eating, proper nutrition and regular physical activity result in students who have: (A) Increased standardized achievement test scores; (B) improved attendance; (C) reduced tardiness; (D) improved academic, behavioral and emotional functioning; and (E) improved
nutrition, and for many students, the nutritious breakfast at school is essential.

(4) Schools that provide universal breakfast programs also report: (A) Decreases in discipline and psychological problems; (B) decreases in visits to school nurses; (C) decreases in tardiness; (D) increases in student attentiveness; (E) increases in attendance; and (F) improved learning environments, and these positive attributes are furthered through comprehensive healthy schools policies that include quality nutrition, integrating physical activity during the school day, and teaching children about the importance of embracing a healthy active lifestyle.

(5) An effective school breakfast program is not an interruption of the school day; it is an integral and vital part of the school day.

(6) The participation rate for the school breakfast program varies greatly among our counties. Those counties which have made a determined effort to increase participation by offering programs to best meet student needs, such as Grab-And-Go Breakfasts, providing Breakfast in the Classroom or providing Breakfast After First Period, are feeding significantly higher percentages of their students.

(7) The West Virginia Center on Budget and Policy reports that in 2011 more than 25 percent of the children in West Virginia lived in homes with a household income below the federal poverty line, which is $23,050 for a family of four. About 50 percent of West Virginia children live in homes with a household income below twice the federal poverty level, $46,100 for a family of four, which is approximately the level of the Work Force West Virginia self-sufficiency standard.

(8) The majority of students from families below the self-sufficiency standard are currently not eating breakfast at school.
On the average school day during the 2011-2012 school year, less than half of the West Virginia students eligible for a federally funded free breakfast actually received one. On that same average day, only about one third of the students eligible to receive a reduced price breakfast actually received one.

In order to maximize each child’s potential to learn and develop, the Legislature, schools and communities must partner to provide the most basic support for learning: nutritious meals.

In order to maximize student participation in school nutrition programs and to reduce the secondary adverse impacts of poverty, it is important that schools provide nutritious meals without a risk to students of being stigmatized as poor.

High rates of childhood hunger and childhood obesity occur simultaneously because children are not receiving healthy, nutritious food. According to the Data Resource Center for Child and Adolescent Health and others, in 2008 West Virginia ranked 44 in overall prevalence of childhood obesity, with 35.5 percent of children considered either overweight or obese.

According to the 2008 Pediatric Nutrition Surveillance System, which assesses weight status of children from low-income families participating in the Women, Infants and Children program, 28.3 percent of low income children age 2-5 are overweight or obese in West Virginia.

The Food Research and Action Center has found that providing a balanced school breakfast may protect against childhood obesity. School breakfast participation, particularly when combined with comprehensive efforts that include regular physical activity and promote healthy eating habits, is associated with a lower body mass index, a lower probability of being overweight and a lower probability of obesity, all of which help prevent a range of chronic diseases including Type II Diabetes,
high blood cholesterol, high blood pressure, heart disease and stroke.

(14) Participation in federally funded meals in child care, preschool, school, or summer settings is associated with a lower body mass index among young, low income children.

(15) Private and nonprofit sectors have shown a willingness to commit significant resources to addressing hunger in America, leveraging federal programs and enlisting their employees, customers and clients to improve the availability and accessibility of affordable, healthy food for those in need of assistance.

(16) Public schools in this state and others are adopting a continuum of policies to implement low cost, effective programs that include physical activity, physical education, proper nutrition and the promotion of healthy eating habits, along with involvement by school staff, families and communities, and a variety of resources to assist schools in adopting and implementing these programs are easily accessible on the internet and through the Office of Healthy Schools in the West Virginia Department of Education.

(b) In order to maximize the economies of scale and to access all available federal funds to support our school nutrition programs, the Feed to Achieve initiative directs schools to make available and to promote the federally approved and subsidized meals to all pre-kindergarten through twelfth grade students, to make them readily available and to consider reducing or eliminating the cost to students if sufficient funds become available.

(c) The Legislature intends to provide a framework for the State Board of Education and the county boards of education to provide, as effectively and as efficiently as possible, a minimum of two nutritious meals each school day to all students.
(d) The Legislature intends for the state and county boards of education to enter into public-private partnerships to eventually provide free nutritious meals for all pre-kindergarten through twelfth grade school children in West Virginia.

(e) The Legislature encourages county boards to examine the options available for comprehensive policies and programs to improve student health and promote academic achievement and to establish a comprehensive policy on healthy schools that best meets the needs of their student population.

(f) It is not the intention of the Legislature to allow or encourage parents to abdicate their parental responsibility related to providing healthy, nutritious meals for their children. However, it is the intent of the Legislature that no child be denied nutritious meals.

(g) It is the intent of the Legislature that healthy nutritious school lunches be made available to all students in a manner which maximizes participation and minimizes stigma attached to participating low income students.

§18-5D-3. School nutrition programs.

(a) Each county board of education shall establish and operate school nutrition programs under which, at a minimum, a nutritious breakfast and lunch are made effectively available to all students enrolled in the schools of the county in accordance with the State Board of Education standards. The standards shall include guidelines for determining the eligibility of students for paid, free and reduced meals. The standards shall also establish procedures and guidelines for the Feed to Achieve initiative to allow for the provision of healthy, nutritious meals to all elementary school students, without cost to students, where schools find it practical to do so.
(b) The Feed to Achieve initiative will be phased in for all elementary schools as sufficient funds become available, through donations, contributions and payments made by individuals, communities, businesses, organizations and parents or guardians on behalf of students. Nothing in this article prohibits any school from providing free meals to all of its students.

(c) Each county board of education shall:

(1) Require all schools to adopt a delivery system approved by the state Office of Child Nutrition, no later than the 2015 school year, that ensures all students are given an adequate opportunity to eat breakfast. These approved systems shall include, but are not limited to, Grab-And-Go Breakfasts, Breakfast in the Classroom or Breakfast After First Period; and

(2) Collaborate with the state Office of Child Nutrition to develop strategies and methods to increase the percentage of children participating in the school breakfast and lunch nutrition programs.

(d) In addition to other statistics, the county boards of education, in consultation with the state Office of Child Nutrition, shall determine the number of children in each school who are participating in each meal offered by the school; the number of children who are not eating each meal offered by the school; and the total daily attendance.

(e) The state Office of Child Nutrition shall report to the Joint Committee on Government and Finance, the Select Committee on Children and Poverty and the Legislative Oversight Commission on Education Accountability on or before December 31, 2015, and each year thereafter, on the impacts of the Feed to Achieve Act and any recommendations for legislation.
(f) County boards of education may utilize the nonprofit funds or foundations established in section four of this article or other available funds to offset the costs of providing free meals, after school and summer nutrition programs to elementary students.

(g) If at any time federal financial appropriations to this state for school nutrition programs are terminated, county boards of education are hereby authorized, but not required, to continue the programs at their own expense.

(h) Classroom teachers may not be required to participate in the operation of the school breakfast program as part of their regular duties.

§18-5D-4. Creating public-private partnerships; creating nonprofit foundation or fund; audit.

(a) The Department of Education and each county board of education shall promptly establish a fund that is restricted solely for the receipt and expenditure of gifts, grants and bequests for the purposes of this article and may establish in lieu thereof a nonprofit foundation for this purpose. The purpose of the fund or nonprofit foundation is to provide supplemental or matching funds to increase participation in the nutrition programs in the Feed to Achieve initiative set forth in subsection (c) of this section. The Department of Education shall utilize its fund or nonprofit foundation to assist county boards of education in counties whose fund or foundation lacks sufficient business, industry and individual contributors to fund the Feed to Achieve nutrition programs.

(b) Financial support for the fund or foundation may come from either public or private gifts, grants, contributions, bequests and endowments.
(c) Expenditures from the state or county funds or by the foundations shall be used for provision of food to students through any of the programs or initiatives approved by the Office of Child Nutrition, including the following programs: School Breakfast Program, National School Lunch Program, the Summer Food Service Program, the Fresh Fruit and Vegetable Program, the Child and Adult Care Food Program, the farm-to-school initiative and community gardens. Expenditures may also be made for initiatives developed with the Department of Health and Human Resources and public-private partnerships to provide outreach and nutritional meals when students are not in school.

(d) No administrative expenses or personnel expenses for any of the state departments implementing this act, the State Board of Education, any county board of education, school or program may be paid from the funds or by the foundations.

(e) Individuals or businesses that contribute to the funds or foundations may specify schools or nutrition programs for which the contribution is to be used.

(f) The Department of Education and county boards of education may establish public-private partnerships to enhance current or advance additional nutrition programs that provide nutritious food for children to take home for weekend meals.

(g) The Department of Education and county boards of education shall form or expand existing partnerships with the federal and state departments of agriculture, Department of Health and Human Resources, local master gardeners, county extension agents or other experts in the field of agriculture or gardening to develop community gardens, farm-to-school programs and other such programs that teach students how to grow and produce healthy food and provide healthy food to the students.
(h) The Department of Education shall collaborate with the Department of Health and Human Resources to develop effective strategies and programs such as after school nutrition outreach and programs that improve the healthy lifestyle of all students in pre-kindergarten through twelfth grade. The Department of Health and Human Resources may propose rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code to effectuate any programs so developed.

(i) All moneys contributed to a fund or foundation established pursuant to this section and all expenditures made therefrom shall be audited as part of the annual independent audit of the State Board of Education and the county boards of education.

CHAPTER 84


[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.

(a) In addition to any other prohibitions which may exist by law, it shall be unlawful for any person to shoot or discharge any firearms:

(1) Across or in any public road in this state, at any time;

(2) Within five hundred feet of any school or church; or

(3) Within five hundred feet of any dwelling house:

Provided, That a person who is a resident of a dwelling house, and his or her authorized guest, may shoot or discharge a firearm in a lawful manner within five hundred feet of the dwelling house where the person lives, if the firearm is being discharged with the express or implied knowledge and consent of all residents of that dwelling house, and no other dwelling houses are located within five hundred feet of where the firearm is discharged; or

(4) On or near any park or other place where persons gather for purposes of pleasure.

(b) Any person violating this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than fifty dollars nor more than $500 or confined in jail for not more than one hundred days, or both fined and confined.
Notwithstanding the provisions of subsection (a) of this section, any person operating a gun repair shop, licensed to do business in the State of West Virginia and duly licensed under applicable federal statutes, may be exempted from the prohibition established by this section and section twelve, article seven, chapter sixty-one of this code for the purpose of test firing a firearm. The director of the Division of Natural Resources shall prescribe such rules as may be necessary to carry out the purposes of the exemption under this section and section twelve, article seven, chapter sixty-one and shall ensure that any person residing in any dwelling home within five hundred feet of such gun repair shop be given an opportunity to protest the granting 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.

(a) The Racing Commission shall deposit moneys required to be withheld by an association or licensee in subsection (b), section nine of this article in a banking institution of its choice in a special account to be known as West Virginia Racing Commission Special Account – West Virginia Thoroughbred Development Fund: Provided, That after the West Virginia Lottery Commission has divided moneys between the West Virginia Thoroughbred Development Fund and the West Virginia Greyhound Breeding Development Fund, pursuant to the provisions of sections ten and ten-b, article twenty-two-a, chapter twenty-nine of this code, the Racing Commission shall, beginning October 1, 2005, deposit the remaining moneys required to be withheld from an association or licensee designated to the Thoroughbred Development Fund under the provisions of subsection (b), section nine of this article, subdivision (3), subsection (e), section twelve-b of this article, subsection (b), section twelve-c of this article, paragraph (B), subdivision (3), subsection (b), section thirteen-c of this article and sections ten and ten-b, article twenty-two-a, chapter twenty-nine of this code into accounts for each thoroughbred racetrack licensee with a banking institution of its choice with a separate account for each association or licensee. Each separate account shall be a special account to be known as West Virginia Racing Commission Special Account – West Virginia Thoroughbred Development Fund and shall name the licensee for which the
special account has been established: Provided, however, That the Racing Commission shall deposit all moneys paid into the Thoroughbred Development Fund by a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, from July 8, 2005, until the effective date of the amendment to this section passed during the fourth extraordinary session of the seventy-seventh Legislature shall be paid into the purse fund of that thoroughbred racetrack licensee: Provided further, That the moneys paid into the Thoroughbred Development Fund by a thoroughbred racetrack licensee that did not participate in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, shall be transferred into that licensee’s purse fund until April 1, 2006. Notice of the amount, date and place of the deposits shall be given by the Racing Commission, in writing, to the State Treasurer. The purpose of the funds is to promote better breeding and racing of thoroughbred horses in the state through awards and purses for accredited breeders/raisers, sire owners and thoroughbred race horse owners: Provided, That five percent of the deposits required to be withheld by an association or licensee in subsection (b), section nine of this article shall be placed in a special revenue account hereby continued in the State Treasury called the Administration and Promotion Account: Provided, however, That four and one-half percent of the deposits into the Thoroughbred Development Fund shall be placed in the Administration and Promotion Account, except that of this percentage, no more than $305,000 shall be placed in the account in any year.

(b) The Racing Commission is authorized to expend the moneys deposited in the administration and promotion account at times and in amounts as the commission determines to be necessary for purposes of administering and promoting the thoroughbred development program: Provided, That during any
fiscal year in which the commission anticipates spending any money from the account, the commission shall submit to the executive department during the budget preparation period prior to the Legislature convening before that fiscal year for inclusion in the executive budget document and budget bill the recommended expenditures, as well as requests of appropriations for the purpose of administration and promotion of the program. The commission shall make an annual report to the Legislature on the status of the administration and promotion account, including the previous year’s expenditures and projected expenditures for the next year.

(c) The fund or funds and the account or accounts established in subsection (a) of this section shall operate on an annual basis.

(d) Funds in the Thoroughbred Development Fund or funds in the separate accounts for each association or licensee as provided in subsection (a) of this section shall be expended for awards and purses except as otherwise provided in this section. Annually, the first $800,000 shall be available for distribution for a minimum of fourteen accredited stakes races at a racetrack which has participated in the West Virginia Thoroughbred Development Fund for a period of more than four consecutive calendar years prior to December 31, 1992. The weights for all accredited stakes races shall be weight for age. One of the stakes races shall be the West Virginia Futurity and the second shall be the Frank Gall Memorial Stakes. For the purpose of participating in the West Virginia Futurity only, all mares, starting with the breeding season beginning February 1 through July 31, 2004, and each successive breeding season thereafter, shall be bred back that year to an accredited West Virginia stallion only which is registered with the West Virginia Thoroughbred Breeders Association. The accredited stake races shall be chosen by the committee set forth in subsection (f) of this section.

(e) Awards and purses shall be distributed as follows:
(1) The breeders/raisers of accredited thoroughbred horses that earn a purse at a participating West Virginia meet shall receive a bonus award calculated at the end of the year as a percentage of the fund dedicated to the breeders/raisers, which shall be sixty percent of the fund available for distribution in any one year. The total amount available for the breeders'/raisers’ awards shall be distributed according to the ratio of purses earned by an accredited race horse to the total amount earned in the participating races by all accredited race horses for that year as a percentage of the fund dedicated to the breeders/raisers. However, no breeder/raiser may receive from the fund dedicated to breeders’/raisers’ awards an amount in excess of the earnings of the accredited horse at West Virginia meets. In addition, should a horse’s breeder and raiser qualify for the same award on the same horse, they will each be awarded one half of the proceeds. The bonus referred to in this subdivision may only be paid on the first $100,000 of any purse and not on any amounts in excess of the first $100,000.

(2) The owner of an accredited West Virginia sire of an accredited thoroughbred horse that earns a purse in any race at a participating West Virginia meet shall receive a bonus award calculated at the end of the year as a percentage of the fund dedicated to sire owners, which shall be fifteen percent of the fund available for distribution in any one year. The total amount available for the sire owners’ awards shall be distributed according to the ratio of purses earned by the progeny of accredited West Virginia stallions in the participating races for a particular stallion to the total purses earned by the progeny of all accredited West Virginia stallions in the participating races. However, no sire owner may receive from the fund dedicated to sire owners an amount in excess of thirty-five percent of the accredited earnings for each sire. The bonus referred to in this subdivision shall only be paid on the first $100,000 of any purse and not on any amounts in excess of the first $100,000.
(3) The owner of an accredited thoroughbred horse that earns a purse in any participating race at a West Virginia meet shall receive a restricted purse supplement award calculated at the end of the year, which shall be twenty-five percent of the fund available for distribution in any one year, based on the ratio of the earnings in the races of a particular race horse to the total amount earned by all accredited race horses in the participating races during that year as a percentage of the fund dedicated to purse supplements. However, the owners may not receive from the fund dedicated to purse supplements an amount in excess of thirty-five percent of the total accredited earnings for each accredited race horse. The bonus referred to in this subdivision shall only be paid on the first $100,000 of any purse and not on any amounts in excess of the first $100,000.

(4) In no event may purses earned at a meet held at a track which did not make a contribution to the Thoroughbred Development Fund out of the daily pool on the day the meet was held qualify or count toward eligibility for an award under this subsection.

(5) Any balance in the breeders/raisers, sire owners and purse supplement funds after yearly distributions shall first be used to fund the races established in subsection (f) of this section. Any amount not so used shall revert into the general account of the Thoroughbred Development Fund for each racing association or licensee for distribution in the next year. Distribution shall be made on the fifteenth day of each February for the preceding year’s achievements.

(f)(1) Each pari-mutuel thoroughbred horse track shall provide at least one restricted race per racing day: Provided, That sufficient horses and funds are available. For purposes of the one restricted race required by this subdivision, there are sufficient horses if there are at least seven single betting interests received for the race: Provided, however, That, if sufficient
horses and funds are available, any thoroughbred horse racetrack whose licensee participated in the Thoroughbred Development Fund for at least four consecutive calendar years prior to December 31, 1992, shall provide three restricted races per racing day, at least one of which may be split at the discretion of the racing secretary. For the purposes of a second restricted race there shall be at least seven single betting interests and for purposes of a third restricted race there must be at least nine single betting interests in one of the restricted races run that day. The restricted race required by this section must be included in the first nine races written in the condition book for that racing day.

(2) The restricted races established in this subsection shall be administered by a three-member committee at each track consisting of:

(A) The racing secretary at each track;

(B) A member appointed by the authorized representative of a majority of the owners and trainers at the thoroughbred track; and

(C) A member appointed by the West Virginia Thoroughbred Breeders Association.

(3) Restricted races shall be funded by each racing association from:

(A) Moneys placed in the general purse fund: *Provided, That* a thoroughbred horse racetrack which did not participate in the West Virginia Thoroughbred Development fund for a period of more than four consecutive years prior to December 31, 1992, may fund restricted races in an amount not to exceed $1,000,000 per year.

(B) Moneys as provided in subdivision (5), subsection (e) of this section, which shall be placed in a special fund called the West Virginia Accredited Race Fund.
(4) The racing schedules, purse amounts and types of races are subject to the approval of the West Virginia Racing Commission.

(g) As used in this section, “West Virginia-bred foal” means a horse that was born in the State of West Virginia.

(h) To qualify for the West Virginia Accredited Race Fund, the breeder must qualify under one of the following:

(1) The breeder of the West Virginia-bred foal is a West Virginia resident;

(2) The breeder of the West Virginia-bred foal is not a West Virginia resident, but keeps his or her breeding stock in West Virginia year round; or

(3) The breeder of the West Virginia-bred foal is not a West Virginia resident and does not qualify under subdivision (2) of this subsection, but either the sire of the West Virginia-bred foal is a West Virginia stallion, or the mare is covered only by a West Virginia accredited stallion or stallions before December 31 of the calendar year following the birth of that West Virginia-bred foal.

(i) From July 1, 2001, West Virginia accredited thoroughbred horses have preference for entry in all accredited races at a thoroughbred race track at which the licensee participates in the West Virginia Thoroughbred Development Fund.

(j) Beginning July 1, 2006, any racing association licensed by the Racing Commission to conduct thoroughbred racing and permitting and conducting pari-mutuel wagering under the provisions of this article must have a West Virginia Thoroughbred Racing Breeders Program.
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.


1 As used in this article:

2 (a) “Applicant” means any person applying for any video lottery license or permit.
(b) "Associated equipment" means any hardware located on a licensed racetrack's premises which is connected to the video lottery system for the purpose of performing communication, validation or other functions, but not including the video lottery terminals or the communication facilities of a regulated public utility.

(c) "Background investigation" means a security, criminal and credit investigation of a person, as defined in this section, who has applied for a video lottery license or permit, or who has been granted a video lottery license or permit.

(d) "Central computer," "central control computer" or "central site system" means any central site computer provided to and controlled by the commission to which video lottery terminals communicate for purposes of information retrieval and terminal activation and to disable programs.

(e) "Commission" or "State Lottery Commission" means the West Virginia Lottery Commission created by article twenty-two of this chapter.

(f) "Control" means the authority to direct the management and policies of an applicant or a license or permit holder.

(g) "Costs" means the expenses incurred by the commission in the testing and examination of video lottery terminals and the performance of background investigations and other related activities which are charged to and collected from applicants or license or permit holders.

(h) "Director" means the individual appointed by the Governor to provide management and administration necessary to direct the State Lottery Office.

(i) "Disable" or "terminal disable" means the process of executing a shutdown command from the central control
computer which causes video lottery terminals to cease functioning.

(j) "Display" means the visual presentation of video lottery game features on a video lottery terminal in the form of video images, actual symbols or both.

(k) "EPROM" and "erasable programmable read-only memory chips" means the electronic storage medium on which the operation software for all games playable on a video lottery terminal resides and which can also be in the form of CD-ROM, flash RAM or other new technology medium that the commission may from time to time approve for use in video lottery terminals. All electronic storage media are considered to be the property of the State of West Virginia.

(l) "Floor attendant" means a person, employed by a licensed racetrack, who holds a permit issued by the commission and who corrects paper jams and bill jams in video lottery terminals and also provides courtesy services for video lottery players.

(m) "Gross terminal income" means the total amount of cash, vouchers or tokens inserted into the video lottery terminals operated by a licensee, minus the total value of coins and tokens won by a player and game credits which are cleared from the video lottery terminals in exchange for winning redemption tickets.

(n) "License" or "video lottery license" means authorization granted by the commission to a racetrack which is licensed by the West Virginia Racing Commission to conduct thoroughbred or greyhound racing meetings pursuant to article twenty-three, chapter nineteen of this code permitting the racetrack to operate video lottery terminals authorized by the commission.

(o) "Lottery" means the public gaming systems or games established and operated by the State Lottery Commission.
(p) “Manufacturer” means any person holding a permit granted by the commission to engage in the business of designing, building, constructing, assembling or manufacturing video lottery terminals, the electronic computer components of the video lottery terminals, the random number generator of the video lottery terminals, or the cabinet in which it is housed, and whose product is intended for sale, lease or other assignment to a licensed racetrack in West Virginia, and who contracts directly with the licensee for the sale, lease or other assignment to a licensed racetrack in West Virginia.

(q) “Net terminal income” means gross terminal income minus an amount deducted by the commission to reimburse the commission for its actual costs of administering racetrack video lottery at the licensed racetrack. No deduction for any or all costs and expenses of a licensee related to the operation of video lottery games shall be deducted from gross terminal income.

(r) “Noncash prize” means merchandise which a video lottery player may be given the option to receive in lieu of cash in exchange for a winning redemption ticket and which shall be assigned a redemption value equal to the actual cost of the merchandise to the licensed racetrack.

(s) “Own” means any beneficial or proprietary interest in any property or business of an applicant or licensed racetrack.

(t) “Pari-mutuel racing facility,” “licensed racetrack,” “racetrack” or “track” means a facility where horse or dog race meetings are held and the pari-mutuel system of wagering is authorized pursuant to the provisions of article twenty-three, chapter nineteen of this code: Provided, That, for the purposes of this article, “pari-mutuel racing facility,” “licensed racetrack,” “racetrack” or “track” includes only a facility which was licensed prior to January 1, 1994, to hold horse or dog race meetings, and which conducts not less than two hundred twenty
live racing dates for each horse or dog race meeting or such
other number of live racing dates as may be approved by the
Racing Commission in accordance with the provisions of section
twelve-b, article twenty-three, chapter nineteen of this code.

(u) "Permit" means authorization granted by the commission
to a person to function as either a video lottery manufacturer,
service technician or validation manager.

(v) "Person" means any natural person, corporation,
association, partnership, limited partnership, or other entity,
regardless of its form, structure or nature.

(w) "Player" means a person who plays a video lottery game
on a video lottery terminal at a racetrack licensed by the
commission to conduct video lottery games.

(x) "Service technician" means a person, employed by a
licensed racetrack, who holds a permit issued by the commission
and who performs service, maintenance and repair on licensed
video lottery terminals in this state.

(y) "Video lottery game" means a commission approved,
owned and controlled electronically simulated game of chance
which is displayed on a video lottery terminal and which:

(1) Is connected to the commission's central control
computer by an on-line or dial-up communication system;

(2) Is initiated by a player's insertion of coins, currency,
vouchers or tokens into a video lottery terminal, which causes
game play credits to be displayed on the video lottery terminal
and, with respect to which, each game play credit entitles a
player to choose one or more symbols or numbers or to cause the
video lottery terminal to randomly select symbols or numbers;

(3) Allows the player to win additional game play credits,
coins or tokens based upon game rules which establish the
random selection of winning combinations of symbols or
numbers or both and the number of free play credits, coins or
tokens to be awarded for each winning combination of symbols
or numbers or both;

(4) Is based upon computer-generated random selection of
winning combinations based totally or predominantly on chance;

(5) Allows a player at any time to simultaneously clear all
game play credits and print a redemption ticket entitling the
player to receive the cash value of the free plays cleared from the
video lottery terminal; and

(z) “Validation manager” means a person who holds a permit
issued by the commission and who performs video lottery ticket
redemption services.

(aa) “Video lottery” means a lottery which allows a game to
be played utilizing an electronic computer and an interactive
computer terminal device, equipped with a video screen and
keys, a keyboard or other equipment allowing input by an
individual player, into which the player inserts coins, currency,
vouchers or tokens as consideration in order for play to be
available, and through which terminal device the player may
receive free games, coins, tokens or credit that can be redeemed
for cash, annuitized payments over time, a noncash prize or
nothing, as may be determined wholly or predominantly by
chance. “Video lottery” does not include a lottery game which
merely utilizes an electronic computer and a video screen to
operate a lottery game and communicate the results of the game,
such as the game “Travel,” and which does not utilize an
interactive electronic terminal device allowing input by an
individual player.

(bb) “Video lottery terminal” means a commission-approved
interactive electronic terminal device which is connected with
the commission’s central computer system, and which is used for the purpose of playing video lottery games authorized by the commission. A video lottery terminal may simulate the play of one or more video lottery games.

(cc) "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

ARTICLE 22B. LIMITED VIDEO LOTTERY.

§29-22B-332. Video lottery game defined.

"Video lottery game" means an electronically simulated game of chance that is approved, owned and controlled under this article by the commission, which is displayed on the screen or video monitor of a video lottery terminal and that:

(1) Is connected to the commission's central control computer by an on-line or dial-up communication system;

(2) Is initiated by a player's insertion of coins or currency into a video lottery terminal, which causes game play credits to be displayed on the video lottery terminal and, with respect to which, each game play credit entitles a player to choose one or more symbols or numbers or to cause the video lottery terminal to randomly select symbols or numbers;

(3) Allows the player to win additional game play credits based upon game rules which establish the random selection of winning combinations of symbols or numbers or both and the number of free-play credits to be awarded for each winning combination of symbols or numbers or both;

(4) Is based upon computer-generated random selection of winning combinations based totally or predominantly on chance;

(5) Allows a player at any time to simultaneously clear all game play credits and print a redemption ticket entitling the
player to receive the cash value of the free plays cleared from the video lottery terminal; and

ARTICLE 25. AUTHORIZED GAMING FACILITY.


As used in this article, unless the context otherwise requires, the following words and phrases have meanings indicated:

(a) “Applicant” means any person or entity applying for a license.

(b) “Adjusted gross receipts” means the gross receipts of a gaming facility from West Virginia Lottery table games less winnings paid to wagerers in such games.

(c) “Annual average gross receipts of the pari-mutuel racetracks with table games licenses” means the amount obtained by adding the adjusted gross receipts of all West Virginia pari-mutuel racetracks with table games licenses and then dividing that calculation by the number of West Virginia pari-mutuel racetracks with table games licenses.

(d) “Background investigation” means a security, criminal and credit investigation of an applicant who has applied for the issuance or renewal or a license pursuant to this article or a licensee who holds a current license.

(e) “Controlling interest” means:

(1) For a partnership, an interest as a general or limited partner holding more than five percent interest in the entity;

(2) For a corporation, an interest of more than five percent of the stock in the corporation; and

(3) For any other entity, an ownership interest of more than five percent in the entity.
(f) "Controlling person" means, with respect to another person, any person directly or indirectly owning or holding a controlling interest in that other person.

(g) "Commission" means the State Lottery Commission created in section four, article twenty-two of this chapter.

(h) "Designated gaming area" means one or more specific floor areas of a licensed gaming facility within which the commission has authorized operation of video lottery terminals or West Virginia Lottery table games, or the operation of both video lottery terminals and West Virginia Lottery table games.

(i) "Director" means the Director of the State Lottery Commission.

(j) "Erasable programmable read-only memory chips" or "EPROM" means the electronic storage medium on which the operation software for all games playable on a video lottery terminal resides and can also be in the form of CD ROM, flash ROM or other new technology medium that the commission may from time to time approve for use in video lottery terminals. All electronic storage media are considered to be property of the State of West Virginia.

(k) "Fringe benefits" means sickness and accident benefits and benefits relating to medical and pension coverage.

(l) "Gaming devices and supplies" mean gaming tables for all West Virginia Lottery table games, roulette wheels, wheels of fortune, video lottery terminals, cards, dice, chips, tokens, markers or any other mechanical, electronic or other device, mechanism or equipment or related supplies utilized in the operation of a West Virginia Lottery table game.

(m) "Gaming facility" means a designated area on the premises of an existing historic resort hotel in which West
Virginia Lottery table games are conducted by a gaming licensee.

(n) “Gaming licensee” means the licensed operator of a gaming facility.

(o) “Gross receipts” means the total amount of money exchanged for the purchase of chips, tokens or electronic cards by patrons of a gaming facility reduced by gross terminal income to the extent gross terminal income is included in the amount of money exchanged.

(p) “Gross terminal income”, as used in this article and as used in article twenty-two-a of this chapter, means the total amount of cash, vouchers or tokens inserted into the video lottery terminals operated by a licensee, minus promotional credits played, and minus the total value of coins and tokens won by a player and game credits which are cleared from the video lottery terminals in exchange for winning redemption tickets.

(q) “Historic resort hotel” means a resort hotel registered with the United States Department of the Interior as a national historic landmark in its National Registry of Historic Places having not fewer than five hundred guest rooms under common ownership and having substantial recreational guest amenities in addition to the gaming facility.

(r) “Historic Resort Hotel Fund” means the special fund in the State Treasury created in section twenty-two of this article.

(s) “Human Resource Benefit Fund” means the special fund in the State Treasury created in section twenty-two-a of this article.

(t) “Human Resource Benefit Advisory Board” or “board” means the advisory board created in section twenty-two-a of this article.
(u) "License" means a license issued by the commission, including:

(1) A license to operate a gaming facility;

(2) A license to supply gaming devices and supplies to a gaming facility;

(3) A license to be employed in connection with the operation of a gaming facility; or

(4) A license to provide management services under a contract to a gaming facility under this article.

(v) "Licensed gaming facility employee" means any individual licensed to be employed by a gaming licensee in connection with the operation of a gaming facility.

(w) "Licensed gaming facility supplier" means a person who is licensed by the commission to engage in the business of supplying gaming devices and gaming supplies to a gaming facility.

(x) "Licensee" means a gaming licensee, a licensed gaming facility supplier or a licensed gaming facility employee.

(y) "Manufacturer" means any person holding a license granted by the commission to engage in the business of designing, building, constructing, assembling or manufacturing video lottery terminals, the electronic computer components of the video lottery terminals, the random number generator of the video lottery terminals, or the cabinet in which it is housed, and whose product is intended for sale, lease or other assignment to a licensed gaming facility in West Virginia and who contracts directly with the licensee for the sale, lease or other assignment to a licensed gaming facility in West Virginia.
(z) "Net terminal income" means gross terminal income minus an amount deducted by the commission to reimburse the commission for its actual cost of administering video lottery at the licensed gaming facility. No deduction for any or all costs and expenses of a licensee related to the operation of video lottery games shall be deducted from gross terminal income.

(aa) "Person" means any natural person, corporation, association, partnership, limited partnership, limited liability company or other entity, regardless of its form, structure or nature.

(bb) "Premises of an existing historic resort hotel" means the historic resort hotel, attachments of the historic resort hotel, and the traditional, immediate grounds of the historic resort hotel.

(cc) "Promotional credits" means credits given by the licensed gaming facility or licensed racetrack to players allowing limited free play of video lottery terminals in total amounts and under conditions approved in advance by the commission.

(dd) "Video lottery game", as used in this article and as used in article twenty-two-a of this chapter, means a commission-approved, -owned and -controlled electronically simulated game of chance which is displayed on a video lottery terminal and which:

(1) Is connected to the commission’s central control computer by an online or dial-up communication system;

(2) Is initiated by a player’s insertion of cash, vouchers or tokens into a video lottery terminal, which causes game play credits to be displayed on the video lottery terminal and, with respect to which, each game play credits entitles a player to choose one or more symbols or numbers or to cause the video lottery terminal to randomly select symbols or numbers;
(3) Allows the player to win additional game play credits, coins or tokens based upon game rules which establish the random selection of winning combinations of symbols or numbers or both and the number of free play credits, coins or tokens to be awarded for each winning combination of symbols or numbers or both;

(4) Is based upon a computer-generated random selection of winning combinations based totally or predominantly on chance;

(5) Allows a player at any time to simultaneously clear all game play credits and print a redemption ticket entitling the player to receive the cash value of the free plays cleared from the video lottery terminal; and

(ee) "Wager" means a sum of money or thing of value risked on an uncertain occurrence.

(ff) "West Virginia Lottery table game" means any game played with cards, dice or any mechanical, electromechanical or electronic device or machine for money, credit or any representative of value, including, but not limited to, baccarat, blackjack, poker, craps, roulette, wheel of fortune or any variation of these games similar in design or operation and expressly authorized by rule of the commission, including multiplayer electronic table games, machines and devices, but excluding video lottery, punchboards, faro, numbers tickets, push cards, jar tickets, pull tabs or similar games.


(a) An individual may enter a designated gaming area or remain in a designated gaming area only if the individual:

(1) Is either;

(A) A registered overnight guest at the historic resort hotel on whose premises the gaming facility is located;
(B) A person who is a not a registered overnight guest, but is a registered participant at a convention or event being held at the historic resort hotel: Provided, That this paragraph does not apply on any calendar day when less than four hundred guest rooms are occupied at the historic resort hotel; or

(C) A member of a homeowner or facility association that entitles members to substantial privileges at the historic resort hotel on whose premises the gaming facility is located or an overnight guest or such a member: Provided, That the association was in existence as of April 1, 2009;

(2) Is at least twenty-one years of age;

(3) Is not visibly intoxicated;

(4) Has not been determined by the gaming facility operator or the commission to be unruly, disruptive or otherwise interfering with operation of the gaming facility; or to be likely to commit, or to attempt to commit, a violation of this article; and

(5) Has not been barred by the commission from entering a gaming facility.

(b) Notwithstanding any provisions of this code to the contrary, no employee of the commission or any member of his or her immediate household may wager at the gaming facility, and no licensed limited gaming facility employee may wager on any table game at the limited gaming facility.
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 any valid regulation or order issued thereunder is subject to a civil penalty to be imposed by the commission not to exceed $200,000 for each violation for each day the violation persists:

Provided, That the maximum aggregate civil penalty may not exceed $2 million for any related series of violations.
(b) Any civil penalty may be compromised by the commission. In determining the amount of penalty, or the amount agreed upon in compromise, the commission shall consider the appropriateness of the penalty to the size of the business of the person charged, the gravity of the violation, and the good faith of the person charged in attempting to achieve compliance after notification of the violation. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state to the person charged or may be recovered in a civil action in the state courts.

(c) Civil penalties collected by the commission under this section shall be submitted to the Treasurer for deposit into the General Revenue Fund.

(d) No civil penalty paid under this section may be considered by the commission in support of any application for 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.

(a) Every pipeline company shall pay a special license fee in addition to those now required by law. The amount of such fees shall be fixed by the Public Service Commission and levied by it upon each of such pipeline companies according to the number of three-inch equivalent pipeline miles included in its pipeline facilities and shall be apportioned among such pipeline companies upon the basis of the pipeline companies' reports submitted to the commission in such form as the commission may prescribe, so as to produce a revenue of not more than $385,000 per annum, which fees shall be paid on or before July 1 in each year.

(b) Such sums collected under subsection (a) of this section shall be paid into the State Treasury and kept as a special fund, designated the Public Service Commission Pipeline Safety Fund, to be appropriated as provided by law for the purpose of paying the salaries, compensation, costs and expenses of its employees to the extent of the employees' direct involvement in the enforcement of the provisions of this article. Any balance in said fund at the end of any fiscal year shall not revert to the Treasury, but shall remain in said fund and may be appropriated as provided in this subsection. All funds which heretofore were in the Public Service Commission Gas Pipeline Safety Fund shall be transferred to the Public Service Commission Pipeline Safety Fund.
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.

(a) Except as provided in subdivision (9), subsection (b), section three of this article, nothing in this article or the rules adopted pursuant to this article may be construed to authorize the licensure, supervision, regulation or control in any manner of the following:

(1) Private office practice of any one or more health professionals licensed to practice in this state pursuant to chapter thirty of this code: Provided, That such exemption from review of private office practice shall not be construed to include such practices where major medical equipment otherwise subject to review under this article is acquired, offered or developed: Provided, however, That such exemption from review of private
office practice shall not be construed to include the acquisition, offering or development of one or more health services, including ambulatory surgical facilities or centers, lithotripsy, magnetic resonance imaging and radiation therapy by one or more health professionals. The state agency shall adopt rules pursuant to section eight of this article which specify the health services acquired, offered or developed by health professionals which are subject to certificate of need review;

(2) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees: Provided, That such facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four hours;

(3) Establishments, such as motels, hotels and boardinghouses, which provide medical, nursing personnel and health-related services;

(4) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination;

(5) The creation of new primary care services located in communities that are underserved with respect to primary care services: Provided, That to qualify for this exemption, an applicant must be a community-based nonprofit organization with a community board that provides or will provide primary care services to people without regard to ability to pay: Provided, however, That the exemption from certificate of need review of new primary care services provided by this subdivision shall not include the acquisition, offering or development of major medical equipment otherwise subject to review under this article or to include the acquisition, offering or development of ambulatory surgical facilities, lithotripsy, magnetic resonance
imaging or radiation therapy. The Office of Community and Rural Health Services shall define which services constitute primary care services for purposes of this subdivision and shall, to prevent duplication of primary care services, determine whether a community is underserved with respect to certain primary care services within the meaning of this subdivision. Any organization planning to qualify for an exemption pursuant to this subdivision shall submit to the state agency a letter of intent describing the proposed new services and area of service; and

(6) The creation of birthing centers by nonprofit primary care centers that have a community board and provide primary care services to people in their community without regard to ability to pay or by nonprofit hospitals with less than one hundred licensed acute care beds: Provided, That to qualify for this exemption, an applicant shall be located in an area that is underserved with respect to low-risk obstetrical services: Provided, however, That if a primary care center attempting to qualify for this exemption is located in the same county as a hospital that is also eligible for this exemption, or if a hospital attempting to qualify for this exemption is located in the same county as a primary care center that is also eligible for this exemption, then at least one primary care center and at least one hospital from that county shall collaborate for the provision of services at a birthing center in order to qualify for this exemption: Provided further, That for purposes of this subsection, a “birthing center” is a short-stay ambulatory health care facility designed for low-risk births following normal uncomplicated pregnancy. Any primary care center or hospital planning to qualify for an exemption pursuant to this subdivision shall submit to the state agency a letter of intent describing the proposed birthing center and area of service.
(b) (1) A health care facility is not required to obtain a certificate of need for the acquisition of major medical equipment to be used solely for research, the addition of health services to be offered solely for research or the obligation of a capital expenditure to be made solely for research if the health care facility provides the notice required in subdivision (2) of this subsection and the state agency does not find, within sixty days after it receives such notice, that the acquisition, offering or obligation will or will have the effect to:

(A) Affect the charges of the facility for the provision of medical or other patient care services other than the services which are included in the research;

(B) Result in a substantial change to the bed capacity of the facility; or

(C) Result in a substantial change to the health services of the facility.

(2) Before a health care facility acquires major medical equipment to be used solely for research, offers a health service solely for research or obligates a capital expenditure solely for research, such health care facility shall notify in writing the state agency of such facility’s intent and the use to be made of such medical equipment, health service or capital expenditure.

(3) If major medical equipment is acquired, a health service is offered or a capital expenditure is obligated and a certificate of need is not required for such acquisition, offering or obligation as provided in subdivision (1) of this subsection, such equipment or service or equipment or facilities acquired through the obligation of such capital expenditure may not be used in such a manner as to have the effect or to make a change described in paragraphs (A), (B) and (C) of that subdivision.
unless the state agency issues a certificate of need approving such use.

(4) For purposes of this subsection, the term "solely for research" includes patient care provided on an occasional and irregular basis and not as part of a research program.

(c) (1) The state agency may adopt rules pursuant to section eight of this article to specify the circumstances under which a certificate of need may not be required for the obligation of a capital expenditure to acquire, either by purchase or under lease or comparable arrangement, an existing health care facility: Provided, That a certificate of need is required for the obligation of a capital expenditure to acquire, either by purchase or under lease or comparable arrangement, an existing health care facility if:

(A) The notice required by subdivision (2) of this subsection is not filed in accordance with that subdivision with respect to such acquisition; or

(B) The state agency finds, within thirty days after the date it receives a notice in accordance with subdivision (2) of this subsection, with respect to such acquisition, that the services or bed capacity of the facility will be changed by reason of that acquisition.

(2) Before any person enters into a contractual arrangement to acquire an existing health care facility, such person shall notify the state agency of his or her intent to acquire the facility and of the services to be offered in the facility and its bed capacity. Such notice shall be made in writing and shall be made at least thirty days before contractual arrangements are entered into to acquire the facility with respect to which the notice is given. The notice shall contain all information the state agency requires.
(d) The state agency shall adopt rules pursuant to section eight of this article to specify the circumstances under which and the procedures by which a certificate of need may not be required for shared services between two or more acute care facilities providing services made available through existing technology that can reasonably be mobile. The state agency shall specify the types of items in the rules and under what circumstances mobile MRI and mobile lithotripsy may be so exempted from review. In no case, however, will mobile cardiac catheterization be exempted from certificate of need review. In addition, if the shared services mobile unit proves less cost effective than a fixed unit, the acute care facility will not be exempted from certificate of need review.

On a yearly basis, the state agency shall review existing technologies to determine if other shared services should be included under this exemption.

(e) The state agency shall promulgate rules for legislative approval in accordance with article three, chapter twenty-nine-a of this code to specify the circumstances under which, and the procedures by which, a certificate of need may not be required for the construction, development, acquisition or other establishment by a hospital of an ambulatory health care facility. Certificate of need may not be required if:

(1) (A) The ambulatory health care facility is located in the same county as the hospital; or

(B) The ambulatory health care facility is located in the same zip code as the hospital, and the hospital is located in a zip code that crosses a county line, the hospital is the only hospital in the county, the hospital is located less than one-half mile from the county line in which it is located and the hospital is located less than one mile from a state bordering West Virginia;
(2) Employs five or less physicians licensed to practice in this state pursuant to either article three or article fourteen, chapter thirty of this code;

(3) The total capital expenditure does not exceed the expenditure minimum set forth in subsection two of this section;

(4) The construction, development, acquisition or other establishment of an ambulatory health care facility is not opposed by an affected person after substantive public notice pursuant to article three, chapter fifty-nine of this code has been given by the Health Care Authority.

(f) The Health Care Authority shall provide at least thirty days' notice to the public of the intent of a health care facility to construct, acquire or develop an ambulatory health care facility. The Health Care Authority shall cause a Class II legal advertisement to be published in a qualified newspaper of general circulation where the construction, acquisition or development of the ambulatory health care facility is or will be geographically located. The thirty-day notice shall commence with the first date of publication. Additionally, if the county in which the ambulatory health care facility is or will be geographically located contains a daily newspaper, a legal advertisement shall also be placed at least once in the daily newspaper. Any public notice shall include the name of the hospital seeking to develop, acquire or construct an ambulatory health care facility, the kind of practice to be developed, acquired or constructed, the geographic location of the ambulatory health care facility and the address where protests may be submitted or filed.

(g) The state agency shall promulgate emergency rules pursuant to chapter twenty-nine-a of this code by July 1, 2009, to establish an exemption process for such projects.

(h) The acquisition, development or establishment of a certified interoperable electronic health record or electronic
medical record system is not subject to certificate of need review.

(i) A health care facility is not required to obtain a certificate of need for any nonhealth-related project that does not exceed:

(1) $5 million for a hospital with less than one hundred licensed acute care beds;

(2) $10 million for a hospital with one hundred or more licensed acute care beds; or

(3) $5 million for any other project.

(j) A certificate of need is not required for a psychiatric hospital operated by state government for the purpose of constructing forensic beds.

(k) Any behavioral health care service selected by the Department of Health and Human Resources in response to its request for application for services intended to return children currently placed in out-of-state facilities to the state or to prevent placement of children in out-of-state facilities is not subject to a 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.

(a) (1) The Health Care Authority shall, in consultation with the Insurance Commissioner, develop and implement during the fiscal year beginning July 1, 2006, a pilot program that permits providers to market and sell prepaid memberships entitling subscribers to obtain preventive and primary health care from the participating providers.

(2) Participating providers shall not be allowed to offer their qualifying services at more than six separate sites.

(3) The pilot program shall expire on June 30, 2016.

(4) Those providers participating in the pilot program as of its expiration date may continue to operate pursuant to this article.

(5) The Health Care Authority shall report to the Legislative Oversight Commission on Health and Human Resources Accountability on the pilot program by December 1, 2015.

(b) Subject to this article, the Health Care Authority is vested with discretion to select providers using diversity in
practice organization, geographical diversity and other criteria it deems appropriate. The Health Care Authority also shall give consideration to providers located in rural areas or serving a high percentage or large numbers of uninsured.

(c) In furtherance of the objectives of this article, the Health Care Authority is authorized to accept any and all gifts, grants and matching funds whether in the form of money or services. However, no gifts, grants and matching funds shall be provided to the Health Care Authority by the State of West Virginia to 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 §16-5O-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, be amended and reenacted, and that said code be amended by adding thereto a new section, designated §16-5O-12, all to read as follows:

ARTICLE 5O. ADMINISTRATION OF MEDICATION AND PERFORMANCE OF HEALTH MAINTENANCE TASKS BY UNLICENSED PERSONNEL.

§16-5O-1. Short title.

This article may be cited as the “Ken Ervin Community Living Act.”

§16-5O-2. Definitions.

As used in this article the following definitions apply:

(a) “Administration of medication” means:

1. Assisting a person in the ingestion, application or inhalation of medications, including prescription drugs, or in the use of universal precautions or rectal or vaginal insertion of medication, according to the legibly written or printed directions of the attending physician or authorized practitioner, or as written on the prescription label; and

2. Making a written record of such assistance with regard to each medication administered, including the time, route and
amount taken. However, for purposes of this article, "administration" does not include judgment, evaluation, assessments, injections of medication, or monitoring of medication or self-administration of medications, such as prescription drugs and self-injection of medication by the resident.

(b) “Authorizing agency” means the office of Health Facility Licensure and Certification within the Department of Health and Human Resources.

(c) “Department” means the Department of Health and Human Resources.

(d) “Facility” means an intermediate care facility for individuals with an intellectual disability, assisted living, behavioral health group home, private residence in which health care services and health maintenance tasks are provided under the supervision of a registered professional nurse as defined in article seven, chapter thirty of this code.

(e) “Facility staff member” means an individual employed by a facility but does not include a health care professional acting within his or her scope of practice.

(f) “Health care professional” means a medical doctor or doctor of osteopathy, a podiatrist, registered professional nurse, practical nurse, advanced practice registered nurse, physician’s assistant, dentist, optometrist or respiratory care professional licensed under chapter thirty of this code.

(g) “Health maintenance tasks” means performing the following tasks according to the legibly written or printed directions of a physician licensed under the provisions of article two-A, chapter thirty of this code or article fourteen, chapter thirty of this code, or other authorized practitioner, or as written on the prescription label, and making a written record of that
assistance with regard to each health maintenance task administered, including the time, route and amount taken:

(1) Administering glucometer tests;

(2) Administering gastrostomy tube feedings;

(3) Administering enemas; and

(4) Performing ostomy care which includes skin care and changing appliances;

"Health maintenance tasks" do not include judgment, evaluation, assessments, injections of medication, or monitoring of medication or self-administration of medications, such as prescription drugs and self-injection of medication by the resident.

(h) "Location of medication administration or location where health maintenance tasks are performed" means a facility or location where the resident requires administration of medication or assistance in taking medications or the performance of health maintenance tasks.

(i) "Medication" means a drug, as defined in section one hundred one, article one, chapter sixty-a of this code, which has been prescribed by an authorized health care professional to be ingested through the mouth, applied to the outer skin, eye or ear, or applied through nose drops, vaginal or rectal suppositories.

(j) "Registered professional nurse" means a person who holds a valid license pursuant to article seven, chapter thirty of this code.

(k) "Resident" means a resident of a facility who for purposes of this article, is in a stable condition.

(l) "Secretary" means the Secretary of the Department of Health and Human Resources or his or her designee.
(m) "Self-administration of medication" means the act of a resident, who is independently capable of reading and understanding the labels of drugs ordered by a physician, in opening and accessing prepackaged drug containers, accurately identifying and taking the correct dosage of the drugs as ordered by the physician, at the correct time and under the correct circumstances.

(n) "Self-administration of medication with assistance" means assisting residents who are otherwise able to self administer their own medications except their physical disabilities prevent them from completing one or more steps in the process.

(p) "Stable" means the individual's medical condition is predictable and consistent as determined by the registered professional nurse.

(q) "Supervision of self-administration of medication" means a personal service which includes reminding residents to take medications, opening medication containers for residents, reading the medication label to residents, observing residents while they take medication, checking the self administered dosage against the label on the container and reassuring residents that they have obtained and are taking the dosage as prescribed.

§16-5O-3. Administration of medications; performance of health maintenance tasks; maintenance of liability insurance in facilities.

(a) The secretary shall establish and implement a program for the administration of medications and performance of health maintenance tasks in locations covered by this article. The program shall be developed and conducted in cooperation with the appropriate agencies, advisory bodies and boards.

(b) Administration of medication or performance of health maintenance tasks pursuant to this article shall be performed only by:
(1) Licensed health care professionals; or

(2) Facility staff members who have been trained and retrained every two years and who are subject to the supervision of and approval by a registered professional nurse.

c) After assessing the health status of an individual resident, a registered professional nurse, in collaboration with the resident’s attending physician and the facility staff member, may recommend that the facility authorize a facility staff member to administer medication or perform health maintenance tasks if the staff member:

(1) Has been trained pursuant to the requirements of this article;

(2) Is considered by the registered professional nurse to be competent;

(3) Consults with the registered professional nurse or attending physician on a regular basis; and

(4) Is monitored or supervised by the registered professional nurse.

d) An agency or facility employing a health care provider licensed pursuant to the provisions of chapter thirty of this code for the purposes of supervising the administration of medication or performance of health maintenance tasks shall maintain liability insurance for the licensed health care provider and any facility staff member who has been trained and is employed to administer medication or perform health maintenance tasks pursuant to this article.

e) Nothing in this article may be construed to prohibit any facility staff member from administering medications or performing health maintenance tasks, or providing any other
38 prudent emergency assistance to aid any person who is in acute physical distress or requires emergency assistance.

(f) Supervision of self-administration of medication by facility staff members who are not licensed health care professionals may be permitted in certain circumstances, when the substantial purpose of the setting is other than the provision of health care.

§16-50-4. Exemption from licensure; statutory construction.

1 (a) Any individual who is not otherwise authorized by law to administer medication or perform health maintenance tasks may administer medication or perform health maintenance tasks in locations covered by this article if he or she meets the requirements of this article and is exempt from the licensing requirements of chapter thirty of this code.

(b) Licensed health care professionals remain subject to their respective licensing laws.

(c) Notwithstanding any other provision of law to the contrary, this article shall not be construed to violate or be in conflict with articles seven or seven-a, chapter thirty of this code.

(d) Any parent or guardian may administer medication to, or perform health maintenance tasks for, his or her adult or minor child regardless of whether or not the parent or guardian receives compensation for caring for said child.

§16-50-5. Instruction and training.

1 (a) The Office of Health Facility Licensure and Certification shall establish a council of nurses to represent the facilities and registered professional nurses affected by this article. The council shall prepare a procedural manual and recommendations
regarding a training course to the secretary. The council shall meet every two years to review the training curricula, competency evaluation procedures and rules implemented by the secretary, and shall make recommendations as deemed necessary.

(b) The department shall develop and approve training curricula and competency evaluation procedures for facility staff members who administer medication or perform health maintenance tasks pursuant to this article. The department shall consider the recommendations of the council and shall consult with the West Virginia Board of Examiners for Registered Nurses in developing the training curricula and competency evaluation procedures.

(c) The program developed by the department shall require that any person who applies to act as a facility staff member authorized to administer medications or perform health maintenance tasks pursuant to this article shall:

(1) Hold a high school diploma or general education diploma;

(2) Be trained or certified in cardiopulmonary resuscitation and first aid;

(3) Participate in the initial training program developed by the department;

(4) Pass a competency evaluation developed by the department; and

(5) Participate in a retraining program every two years.

(d) Any facility may offer the training and competency evaluation program developed by the department to its facility staff members. The training and competency programs shall be provided by the facility through a registered professional nurse.
(e) A registered professional nurse who is authorized to train facility staff members to administer medications or perform health maintenance tasks in facilities shall:

(1) Possess a current active West Virginia license as set forth in article seven chapter thirty of this code in good standing to practice as a registered nurse;

(2) Have practiced as a registered professional nurse in a position or capacity requiring knowledge of medications and the performance of health maintenance tasks for the immediate two years prior to being authorized to train facility staff members; and

(3) Be familiar with the nursing care needs of residents of facilities as described in this article.

§16-5O-6. Availability of records; eligibility requirements of facility staff.

(a) Any facility which authorizes unlicensed staff members to administer medications or perform health maintenance tasks pursuant to this article shall make available to the authorizing agency a list of the individual facility staff members authorized to administer medications or perform health maintenance tasks.

(b) Any facility may permit a facility staff member to administer medications or perform health maintenance tasks in a single specific agency only after compliance with all of the following:

(1) The staff member has successfully completed a training program and received a satisfactory competency evaluation as required by this article;

(2) The facility determines there is no statement on the state administered nurse aide registry indicating that the staff member
has been the subject of finding of abuse or neglect of a long-term
care facility resident or convicted of the misappropriation of a
resident's property;

(3) The facility staff member has had a criminal background
check or if applicable, a check of the State Police abuse registry,
establishing that the individual has been convicted of no crimes
against persons or drug related crimes;

(4) The medication to be administered is received and
maintained by the facility staff member in the original container
in which it was dispensed by a pharmacist or the prescribing
health care professional; and

(5) The facility staff member has complied with all other
applicable requirements of this article, the legislative rules
adopted pursuant to this article and other criteria, including
minimum competency requirements, as are specified by the
authorizing agency.

§16-5O-7. Oversight of medication administration and
performance of health maintenance tasks by
unlicensed personnel.

(a) Any facility in which medication is administered or
health maintenance tasks performed by unlicensed personnel
shall establish an administrative monitoring system in
administrative policy. The specific requirements of the
administrative policy shall be established by the department,
through legislative rules. These rules shall be developed in
consultation with the West Virginia Board of Examiners for
Registered Nurses, the West Virginia Nurses Association, the
West Virginia Statewide Independent Living Council, and the
West Virginia Board of Respiratory Care. These rules are
required to include, at a minimum, instructions on protocols for
contacting an appropriate healthcare professional in situations
where a condition arises which may create a risk to the resident’s health and safety. These rules shall also include the type and frequency of monitoring and training requirements for management of these occurrences.

(b) Monitoring of facility staff members authorized pursuant to this article shall be performed by a registered professional nurse employed or contracted by the facility, who shall exercise judgment, evaluate and assess the patient, inject medicine, and monitor medications, self-administration of medications and self-injections by the resident in accordance with his or her scope of practice.


The registered professional nurse who monitors or supervises the facility staff members authorized to administer medication or perform health maintenance tasks may withdraw authorization for a facility staff member if the nurse determines that the facility staff member is not performing medication administration or health maintenance tasks in accordance with the training and written instructions. The withdrawal of the authorization shall be documented and shall be relayed to the facility and the department in order to remove the facility staff member from the list of authorized individuals.

§16-50-10. Limitations on medication administration or performance of health maintenance tasks.

The following limitations apply to the administration of medication or performance of health maintenance tasks by facility staff members:

(a) Injections or any parenteral medications may not be administered, except that prefilled insulin or insulin pens may be administered;
(b) Irrigations or debriding agents used in the treatment of a skin condition or minor abrasions may not be administered;

(c) No verbal medication orders may be accepted, no new medication orders shall be transcribed and no drug dosages may be converted and calculated; and

(d) No medications ordered by the physician or a health care professional with legal prescriptive authority to be given “as needed” may be administered unless the order is written with specific parameters which preclude independent judgment.


The department shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code as may be necessary to implement the provision of this article.

§16-5O-12. Advisory Committee.

(a) There is established an advisory committee to assist with the development polices and procedures regarding health maintenance care in order to safeguard the well-being and to preserve the dignity of persons who need assistance to live in their communities and avoid institutionalization.

(b) (1) The advisory committee shall consist of seven voting members as follows:

(A) The Olmstead Coordinator within the Department of Health and Human Resources, Office of Inspector General;

(B) One physician with expertise in respiratory medicine to be chosen by the West Virginia Board of Respiratory Care.

(C) The State Health Officer, as defined in section four, article three, chapter thirty of this code;
(D) A representative chosen by the West Virginia Statewide Independent Living Council;

(E) A representative chosen by the West Virginia Developmental Disability Council;

(F) A representative chosen by the West Virginia Board of Respiratory Care; and

(G) A representative chosen by the West Virginia Society for Respiratory Care.

(2) The advisory committee shall also include five non-voting members as follows:

(A) The co-chairs of the Joint Standing Committee on Health, or their designees;

(B) One representative of the West Virginia Board of Examiners for Registered Professional Nurses;

(C) One representative of the West Virginia Nurses Association;

(D) One representative of the Fair Shake Network; and

(E) The Office Director of the Office of Health Facility License and Certification within the Department of Health and Human Resources;

(c) A chairman shall be selected from the voting members of the advisory committee.

(d) The advisory committee shall meet at least four times annually and upon the call of the chairman. A simple majority of the members shall constitute a quorum.

(e) On or before December 31, 2013, the advisory committee shall prepare a report to the Legislative Oversight Commission
on Health and Human Resources Accountability. The report shall make recommendations on the need for further legislation, policies or procedures regarding health maintenance tasks.

(f) All members of the committee shall be reimbursed reasonable expenses pursuant to the rules promulgated by the Department of Administration for the reimbursement of expenses of state officials and employees and shall receive no 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 retiree 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 the context clearly requires a different meaning:

3 (a) “Accrued benefit” means on behalf of any member two and six-tenths percent per year of the member’s final average salary for the first twenty years of credited service. Additionally, two percent per year for twenty-one through twenty-five years
and one percent per year for twenty-six through thirty years will be credited with a maximum benefit of sixty-seven percent. A member’s accrued benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the provisions of section twelve of this article.

(1) The board may upon the recommendation of the board’s actuary increase the employees’ contribution rate to ten and five-tenths percent should the funding of the plan not reach seventy percent funded by July 1, 2012. The board shall decrease the contribution rate to eight and one-half percent once the plan funding reaches the seventy percent support objective as of any later actuarial valuation date.

(2) Upon reaching the seventy-five percent actuarial funded level, as of an actuarial valuation date, the board shall increase the two and six-tenths percent to two and three-quarter percent for the first twenty years of credited service. The maximum benefit will also be increased from sixty-seven percent to seventy percent.

(b) “Accumulated contributions” means the sum of all retirement contributions deducted from the compensation of a member, or paid on his or her behalf as a result of covered employment, together with regular interest on the deducted amounts.

(c) “Active military duty” means full-time active duty with any branch of the Armed Forces of the United States, including service with the National Guard or reserve military forces when the member has been called to active full-time duty and has received no compensation during the period of that duty from any board or employer other than the Armed Forces.

(d) “Actuarial equivalent” means a benefit of equal value computed upon the basis of the mortality table and interest rates
as set and adopted by the board in accordance with the provisions of this article.

(e) "Annual compensation" means the wages paid to the member during covered employment within the meaning of Section 3401(a) of the Internal Revenue Code, but determined without regard to any rules that limit the remuneration included in wages based upon the nature or location of employment or services performed during the plan year plus amounts excluded under Section 414(h)(2) of the Internal Revenue Code and less reimbursements or other expense allowances, cash or noncash fringe benefits or both, deferred compensation and welfare benefits. Annual compensation for determining benefits during any determination period may not exceed the maximum compensation allowed as adjusted for cost of living in accordance with section seven, article ten-d, chapter five of this code and Section 401(a)(17) of the Internal Revenue Code.

(f) "Annual leave service" means accrued annual leave.

(g) "Annuity starting date" means the first day of the month for which an annuity is payable after submission of a retirement application. For purposes of this subsection, if retirement income payments commence after the normal retirement age, "retirement" means the first day of the month following or coincident with the latter of the last day the member worked in covered employment or the member's normal retirement age and after completing proper written application for "retirement" on an application supplied by the board.

(h) "Board" means the Consolidated Public Retirement Board.

(i) "Contributing service" or "contributory service" means service rendered by a member while employed by a participating public employer for which the member made contributions to the plan.
(j) "County commission or political subdivision" has the meaning ascribed to it in this code.

(k) "Covered employment" means either: (1) Employment as a full-time emergency medical technician, emergency medical technician/paramedic or emergency medical services/registered nurse and the active performance of the duties required of emergency medical services officers; or (2) the period of time during which active duties are not performed but disability benefits are received under this article; or (3) concurrent employment by an emergency medical services officer in a job or jobs in addition to his or her employment as an emergency medical services officer where the secondary employment requires the emergency medical services officer to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to this code: Provided, That the emergency medical services officer contributes to the fund created in this article the amount specified as the member's contribution in section eight of this article.

(I) "Credited service" means the sum of a member's years of service, active military duty, disability service and accrued annual and sick leave service.

(m) "Dependent child" means either:

(1) An unmarried person under age eighteen who is:

(A) A natural child of the member;

(B) A legally adopted child of the member;

(C) A child who at the time of the member's death was living with the member while the member was an adopting parent during any period of probation; or
(D) A stepchild of the member residing in the member's household at the time of the member's death; or

(2) Any unmarried child under age twenty-three:

(A) Who is enrolled as a full-time student in an accredited college or university;

(B) Who was claimed as a dependent by the member for federal income tax purposes at the time of the member's death; and

(C) Whose relationship with the member is described in paragraph (A), (B) or (C), subdivision (1) of this subsection.

(n) "Dependent parent" means the father or mother of the member who was claimed as a dependent by the member for federal income tax purposes at the time of the member's death.

(o) "Disability service" means service received by a member, expressed in whole years, fractions thereof or both, equal to one half of the whole years, fractions thereof, or both, during which time a member receives disability benefits under this article.

(p) "Early retirement age" means age forty-five or over and completion of twenty years of contributory service.

(q) "Effective date" means January 1, 2008.

(r) "Emergency medical services officer" means an individual employed by the state, county or other political subdivision as a medical professional who is qualified to respond to medical emergencies, aids the sick and injured and arranges or transports to medical facilities, as defined by the West Virginia Office of Emergency Medical Services. This definition is construed to include employed ambulance providers and other
services such as law enforcement, rescue or fire department personnel who primarily perform these functions and are not provided any other credited service benefits or retirement plans. These persons may hold the rank of emergency medical technician/basic, emergency medical technician/paramedic, emergency medical services/registered nurse, or others as defined by the West Virginia Office of Emergency Medical Services and the Consolidated Public Retirement Board.

(s) "Employer error" means an omission, misrepresentation or violation of relevant provisions of the West Virginia Code or of the West Virginia Code of State Rules or the relevant provisions of both the West Virginia Code and of the West Virginia Code of State Rules by the participating public employer that has resulted in an underpayment or overpayment of contributions required. A deliberate act contrary to the provisions of this article by a participating public employer does not constitute employer error.

(t) "Final average salary" means the average of the highest annual compensation received for covered employment by the member during any five consecutive plan years within the member's last ten years of service while employed, prior to any disability payment. If the member did not have annual compensation for the five full plan years preceding the member's attainment of normal retirement age and during that period the member received disability benefits under this article, then "final average salary" means the average of the monthly salary determined paid to the member during that period as determined under section nineteen of this article multiplied by twelve. "Final average salary" does not include any lump sum payment for unused, accrued leave of any kind or character.

(u) "Full-time employment" means permanent employment of an employee by a participating public employer in a position which normally requires twelve months per year service and
requires at least one thousand forty hours per year service in that position.

(v) "Fund" means the West Virginia Emergency Medical Services Retirement Fund created by this article.

(w) "Hour of service" means:

(1) Each hour for which a member is paid or entitled to payment for covered employment during which time active duties are performed. These hours shall be credited to the member for the plan year in which the duties are performed; and

(2) Each hour for which a member is paid or entitled to payment for covered employment during a plan year but where no duties are performed due to vacation, holiday, illness, incapacity including disability, layoff, jury duty, military duty, leave of absence or any combination thereof and without regard to whether the employment relationship has terminated. Hours under this subdivision shall be calculated and credited pursuant to West Virginia Division of Labor rules. A member will not be credited with any hours of service for any period of time he or she is receiving benefits under section nineteen or twenty of this article; and

(3) Each hour for which back pay is either awarded or agreed to be paid by the employing county commission or political subdivision, irrespective of mitigation of damages. The same hours of service shall not be credited both under subdivision (1) or (2) of this subsection and under this subdivision. Hours under this paragraph shall be credited to the member for the plan year or years to which the award or agreement pertains, rather than the plan year in which the award, agreement or payment is made.

(x) "Member" means a person first hired as an emergency medical services officer by an employer which is a participating public employer of the Public Employees Retirement System or
the Emergency Medical Services Retirement System after the effective date of this article, as defined in subsection (p) (q) of this section, or an emergency medical services officer of an employer which is a participating public employer of the Public Employees Retirement System first hired prior to the effective date and who elects to become a member pursuant to this article. A member shall remain a member until the benefits to which he or she is entitled under this article are paid or forfeited.

(y) "Monthly salary" means the W-2 reportable compensation received by a member during the month.

(z) "Normal form" means a monthly annuity which is one twelfth of the amount of the member’s accrued benefit which is payable for the member’s life. If the member dies before the sum of the payments he or she receives equals his or her accumulated contributions on the annuity starting date, the named beneficiary shall receive in one lump sum the difference between the accumulated contributions at the annuity starting date and the total of the retirement income payments made to the member.

(aa) “Normal retirement age” means the first to occur of the following:

(1) Attainment of age fifty years and the completion of twenty or more years of regular contributory service, excluding active military duty, disability service and accrued annual and sick leave service;

(2) While still in covered employment, attainment of at least age fifty years and when the sum of current age plus regular contributory years of service equals or exceeds seventy years;

(3) While still in covered employment, attainment of at least age sixty years and completion of ten years of regular contributory service; or
(4) Attainment of age sixty-two years and completion of five or more years of regular contributory service.

(bb) "Participating public employer" means any county commission or political subdivision in the state which has elected to cover its emergency medical services officers, as defined in this article, under the West Virginia Emergency Medical Services Retirement System.

(cc) "Political subdivision" means a county, city or town in the state; any separate corporation or instrumentality established by one or more counties, cities or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities or towns; and any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns: Provided, That any public corporation established under section four, article fifteen, chapter seven of this code is considered a political subdivision solely for the purposes of this article.

(dd) "Plan" means the West Virginia Emergency Medical Services Retirement System established by this article.

(ee) "Plan year" means the twelve-month period commencing on January 1 of any designated year and ending the following December 31.

(ff) "Public Employees Retirement System" means the West Virginia Public Employee’s Retirement System created by West Virginia Code.

(gg) "Regular interest" means the rate or rates of interest per annum, compounded annually, as the board adopts in accordance with the provisions of this article.

(hh) "Required beginning date" means April 1 of the calendar year following the later of: (1) The calendar year in
which the member attains age seventy and one-half; or (2) the calendar year in which he or she retires or otherwise separates from covered employment.

(ii) "Retirant" means any member who commences an annuity payable by the plan.

(jj) "Retire" or "retirement" means a member's withdrawal from the employ of a participating public employer and the commencement of an annuity by the plan.

(kk) "Retirement income payments" means the monthly retirement income payments payable under the plan.

(II) "Spouse" means the person to whom the member is legally married on the annuity starting date.

(mm) "Surviving spouse" means the person to whom the member was legally married at the time of the member’s death and who survived the member.

(nn) " Totally disabled" means a member’s inability to engage in substantial gainful activity by reason of any medically determined physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than twelve months.

For purposes of this subsection:

(1) A member is totally disabled only if his or her physical or mental impairment or impairments is so severe that he or she is not only unable to perform his or her previous work as an emergency medical services officer but also cannot, considering his or her age, education and work experience, engage in any other kind of substantial gainful employment which exists in the state regardless of whether: (A) The work exists in the immediate area in which the member lives; (B) a specific job
vacancy exists; or (C) the member would be hired if he or she
applied for work. For purposes of this article, substantial gainful
employment is the same definition as used by the United States
Social Security Administration.

(2) "Physical or mental impairment" is an impairment that
results from an anatomical, physiological or psychological
abnormality that is demonstrated by medically accepted clinical
and laboratory diagnostic techniques. The board may require
submission of a member’s annual tax return for purposes of
monitoring the earnings limitation.

(oo) "Year of service" means a member shall, except in his
or her first and last years of covered employment, be credited
with years of service credit based upon the hours of service
performed as covered employment and credited to the member
during the plan year based upon the following schedule:

<table>
<thead>
<tr>
<th>Hours of Service</th>
<th>Year of Service Credited</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 500</td>
<td>0</td>
</tr>
<tr>
<td>500 to 999</td>
<td>1/3</td>
</tr>
<tr>
<td>1,000 to 1,499</td>
<td>2/3</td>
</tr>
<tr>
<td>1,500 or more</td>
<td>1</td>
</tr>
</tbody>
</table>

During a member’s first and last years of covered
employment, the member shall be credited with one twelfth of
a year of service for each month during the plan year in which
the member is credited with an hour of service for which
contributions were received by the fund. A member is not
entitled to credit for years of service for any time period during
which he or she received disability payments under section
nineteen or twenty of this article. Except as specifically
excluded, years of service include covered employment prior to
the effective date.
Years of service which are credited to a member prior to his or her receipt of accumulated contributions upon termination of employment pursuant to section eighteen of this article or section thirty, article ten, chapter five of this code, shall be disregarded for all purposes under this plan unless the member repays the accumulated contributions with interest pursuant to section eighteen of this article or has prior to the effective date made the repayment pursuant to section eighteen, article ten, chapter five of this code.

§16-SV-8. Members' contributions; employer contributions.

(a) There shall be deducted from the monthly salary of each member and paid into the fund an amount equal to eight and one-half percent of his or her monthly salary. An additional amount shall be paid to the fund by the county commission or political subdivision in which the member is employed in covered employment in an amount determined by the board: Provided, That in no year may the total of the employer contributions provided in this section, to be paid by the county commission or political subdivision, exceed ten and one-half percent of the total payroll for the members in the employ of the county commission or political subdivision.

(b) Any active member who has concurrent employment in an additional job or jobs and the additional employment requires the emergency medical services officer to be a member of another retirement system which is administered by the Consolidated Public Retirement Board pursuant to article ten-d, chapter five of this code shall contribute to the fund the sum of eight and one-half percent of his or her monthly salary earned as an emergency medical services officer as well as the sum of eight and one-half percent of his or her monthly salary earned from any additional employment which additional employment requires the emergency medical services officer to be a member of another retirement system which is administered by the
Consolidated Public Retirement Board pursuant to article ten-d, chapter five of this code. An additional percent of the monthly salary of each member shall be paid to the fund by the concurrent employer by which the member is employed in an amount determined by the board: Provided, That in no year may the total of the employer contributions provided in this section, to be paid by the concurrent employer, exceed ten and one-half percent of the payroll for the concurrent member employees.

(c) All required deposits shall be remitted to the board no later than fifteen days following the end of the calendar month for which the deposits are required. If the board upon the recommendation of the board actuary finds that the benefits provided by this article can be actuarially funded with a lesser contribution, then the board shall reduce the required member and employer contributions proportionally. Any county commission or political subdivision which fails to make any payment due the Emergency Medical Services Retirement Fund by the fifteenth day following the end of each calendar month in which contributions are due may be required to pay the actuarial rate of interest lost on the total amount owed for each day the payment is delinquent. Accrual of the loss of earnings owed by the delinquent county commission or political subdivision commences after the fifteenth day following the end of the calendar month in which contributions are due and continues until receipt of the delinquent amount. Interest compounds daily and the minimum surcharge is $50.

§16-5V-8a. Correction of errors; underpayments; overpayments.

(a) General rule: If any change or employer error in the records of any participating public employer or the plan results in any member, retirant or beneficiary receiving from the plan more or less than he or she would have been entitled to receive had the records been correct, the board shall correct the error. If correction of the error occurs after the effective retirement date
of a retirant, and as far as is practicable, the board shall adjust the payment of the benefit in a manner that the actuarial equivalent of the benefit to which the retirant was correctly entitled shall be paid.

(b) Underpayments: Any error resulting in an underpayment to the retirement system of required contributions may be corrected by the member or retirant remitting the required employee contribution and the participating public employer remitting the required employer contribution. Interest shall accumulate in accordance with the Legislative Rule 162 CSR 7 concerning retirement board refund, reinstatement, retroactive service, loan and employer error interest factors and any accumulating interest owed on the employee and employer contributions resulting from an employer error shall be the responsibility of the participating public employer. The participating public employer may remit total payment and the employee reimburse the participating public employer through payroll deduction over a period equivalent to the time period during which the employer error occurred. If the correction of an error involving an underpayment of required contributions to the retirement system will result in increased payments to a retirant, including increases to payments already made, any adjustments shall be made only after the board receives full payment of all required employee and employer contributions, including interest.

(c) Overpayments: (1) When mistaken or excess employer contributions, including any overpayments, have been made to the retirement system by a participating public employer, due to error or other reason, the board shall credit the participating public employer with an amount equal to the erroneous contributions, to be offset against the participating public employer’s future liability for employer contributions to the system. Earnings or interest shall not be credited to the employer.
(2) When mistaken or excess employee contributions, including any overpayments, have been made to the retirement system, due to error or other reason, the board shall have sole authority for determining the means of return, offset or credit to or for the benefit of the employee of the amounts, and may use any means authorized or permitted under the provisions of Section 401(a), et seq. of the Internal Revenue Code and guidance issued thereunder applicable to governmental plans. Alternatively, in its full and complete discretion, the board may require the participating public employer to pay the employee the amounts as wages, with the board crediting the participating public employer with a corresponding amount to offset against its future contributions to the plan: Provided, That the wages paid to the employee shall not be considered compensation for any purposes under this article. Earnings or interest shall not be returned, offset, or credited under any of the means utilized by the board for returning mistaken or excess employee contributions, including any overpayments, to an employee.

§16-5V-11. Retirement; commencement of benefits.

(a) Except for duty disability retirement, no member may retire before January 1, 2011.

(b) On or after the date a member attains early or normal retirement age, a member may retire and commence to receive retirement income payments on the first day of the calendar month following termination of employment and receipt of his or her written application for retirement in an amount as provided under this article: Provided, That retirement income payments under this plan are subject to the provisions of this article. Upon receipt of a request for estimation of benefits, the board shall promptly provide the member with an explanation of his or her optional forms of retirement benefits and the estimated gross monthly annuity. Upon receipt of properly executed retirement application forms from the member, the board shall
§16-5V-20. Awards and benefits for disability — Due to other causes.

(a) Any member with ten or more years of contributing service and who during covered employment: (1) Has been or becomes totally disabled from any cause other than those set forth in section nineteen of this article and not due to vicious habits, intemperance or willful misconduct on his or her part; and (2) in the opinion of two physicians after medical examination, one of whom shall be named by the board, he or she is by reason of the disability unable to perform adequately the duties required of an emergency medical services officer, is entitled to receive and shall be paid from the fund in monthly installments, the compensation set forth in, either subsection (b) or (c) of this section.

(b) If the member is totally disabled, he or she shall receive sixty-six and two-thirds percent of his or her average monthly compensation for the twelve-month period immediately preceding the disability award, or if the member has not worked all twelve months during the twelve month period immediately preceding the disability award, the average of the months in which compensation was received for the twelve month period shall be used.

(c) If the member remains totally disabled until attaining sixty years of age, then the member shall receive the retirement benefit provided in sections sixteen and seventeen of this article.

(d) The board shall propose legislative rules for promulgation in accordance with the provisions of article three, chapter twenty-nine-a of this code concerning member disability payments so as to ensure that the payments do not exceed one
hundred percent of the average current salary for the position last
held by the member.

(c) The disability benefit payments will begin the first day
of the month following termination of employment and receipt
of the disability retirement application by the Consolidated
Public Retirement Board.

§16-5V-21. Same — Physical examinations; termination of
disability.

(a) The board may require any member who has applied for
or is receiving disability benefits under this article to submit to
a physical examination, mental examination or both, by a
physician or physicians selected or approved by the board. All
costs incident to any examination by a board selected physician
shall be paid from the board’s expense fund. The costs may
include hospital, laboratory, X-ray, medical and physicians’ fees.
A report of the findings of any physician shall be submitted in
writing to the board for its consideration. If, from the report,
independent information, or from the report and any hearing on
the report, the board is of the opinion and finds that: (1) The
member has become reemployed as an emergency medical
services officer; (2) a physician who has examined the member
has found that considering the opportunities for emergency
medical services in West Virginia, the member could be so
employed as an emergency medical services officer; or (3) other
facts exist to demonstrate that the member is no longer totally
disabled, then the disability benefits shall cease the first day of
the month following board action.

(b) The board shall require recertification for a disabled
retirant, who has not attained age sixty, at least once each year
during the first five years following his or her retirement and at
least once in each three year period thereafter.
(c) If a retirant refuses to submit to a medical examination or submit a statement by his or her physician certifying continued disability in any period, his or her disability annuity may be discontinued by the board until the retirant complies. If the refusal continues for one year, all the retirant’s rights in and to the annuity may be revoked by the board.


(a) If a member who has been a member for at least ten years, while in covered employment after the effective date of this article, has died or dies from any cause other than those specified in section twenty-three of this article and not due to vicious habits, intemperance or willful misconduct on his or her part, the fund shall pay annually in equal monthly installments to the surviving spouse during his or her lifetime, a sum equal to the greater of: (1) One half of the annual compensation received in the preceding twelve-month employment period by the deceased member; or (2) if the member dies after his or her early or normal retirement age, the monthly amount which the spouse would have received had the member retired the day before his or her death, elected a one hundred percent joint and survivor annuity with the spouse as the joint annuitant, and then died. Where the member is receiving disability benefits under this article at the time of his or her death, the average monthly compensation received in the plan year prior to disability shall be substituted for the annual compensation in subdivision (1) of this subsection.

(b) Benefits for a surviving spouse received under this section, or other sections of this article are in lieu of receipt of any other benefits under this article for the spouse or any other person or under the provisions of any other state retirement system based upon the member’s covered employment.
§16-5V-35. Return to covered employment by retirant.

The annuity of any member who retires under the provisions of this article and who resumes service in covered employment shall be suspended while the member continues in covered employment. The monthly annuity payment for the month in which the service resumes shall be pro-rated to the date of commencement of service, and the member shall again become a contributing member during resumption of service. At the conclusion of resumed service in covered employment the member shall have his or her annuity recalculated to take into 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.

(a) Notwithstanding any provision of this article to the contrary, the governing boards of Marshall University and West Virginia University each may invest certain funds with its respective nonprofit foundation that has been established to receive contributions exclusively for that university and which exists on January 1, 2005. The investment is subject to the limitations of this section.

(b) A governing board, through its chief financial officer, may enter into agreements, approved as to form by the State Treasurer, for the investment by its foundation of certain funds subject to their administration. Any interest or earnings on the moneys invested is retained by the investing university.

(c) Moneys of a university that may be invested with its foundation pursuant to this section are those subject to the administrative control of the university that are collected under
an act of the Legislature for specific purposes and do not include any funds made available to the university from the State General Revenue Fund or the funds established in sections eighteen or eighteen-a, article twenty-two, chapter twenty-nine of this code. Moneys permitted to be invested under this section may be aggregated in an investment fund for investment purposes.

(d) Of the moneys authorized for investment by this section, Marshall University and West Virginia University each, respectively, may have invested with its foundation at any time not more than the greater of:

(1) $18 million for Marshall University and $25 million for West Virginia University; or

(2) Sixty-five percent of its unrestricted net assets as presented in the statement of net assets for the fiscal year end audited financial reports.

(3) Notwithstanding subdivisions (1) and (2) of this subsection, with the approval of the Higher Education Policy Commission, Marshall University may increase the amount invested to $60 million and West Virginia University may increase the amount invested to $70 million.

(e) Investments by foundations that are authorized under this section shall be made in accordance with and subject to the provisions of the Uniform Prudent Investor Act codified as article six-c, chapter forty-four of this code. As part of its fiduciary responsibilities, each governing board shall establish investment policies in accordance with the Uniform Prudent Investor Act for those moneys invested with its foundation. The governing board shall review, establish and modify, if necessary, the investment objectives as incorporated in its investment policies so as to provide for the financial security of the moneys
invested with its foundation. The governing boards shall give consideration to the following:

(1) Preservation of capital;

(2) Diversification;

(3) Risk tolerance;

(4) Rate of return;

(5) Stability;

(6) Turnover;

(7) Liquidity; and

(8) Reasonable cost of fees.

(f) A governing board shall report annually by December 31 to the Governor and to the Joint Committee on Government and Finance on the performance of investments managed by its foundation pursuant to this section.

(g) The amendments to this section in the second extraordinary session of the Legislature in 2010 apply retroactively so that the authority granted by this section shall be 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.

(a) Findings. --
The Legislature finds that the State of West Virginia is served best when the membership of each governing board includes the following:

1. The academic expertise and institutional experience of faculty members and a student of the institution governed by the board;

2. The technical or professional expertise and institutional experience of a classified employee of the institution governed by the board;

3. An awareness and understanding of the issues facing the institution governed by the board; and

4. The diverse perspectives that arise from a membership that is balanced in terms of gender and varied in terms of race and ethnic heritage.

(b) Boards of governors established. –

A board of governors is continued at each of the following institutions: Bluefield State College, Blue Ridge Community and Technical College, Bridgemont Community and Technical College, Concord University, Eastern West Virginia Community and Technical College, Fairmont State University, Glenville State College, Kanawha Valley Community and Technical College, Mountwest Community and Technical College, Marshall University, New River Community and Technical College, Pierpont Community and Technical College, Shepherd University, Southern West Virginia Community and Technical College, West Liberty University, West Virginia Northern Community and Technical College, the West Virginia School of Osteopathic Medicine, West Virginia State University, West Virginia University and West Virginia University at Parkersburg.
(c) **Board membership.** –

(1) An appointment to fill a vacancy on the board or reappointment of a member who is eligible to serve an additional term is made in accordance with the provisions of this section.

(2) The Board of Governors for Marshall University consists of sixteen persons. The Board of Governors for West Virginia University consists of seventeen persons. The boards of governors of the other state institutions of higher education consist of twelve persons.

(3) Each board of governors includes the following members:

   (A) A full-time member of the faculty with the rank of instructor or above duly elected by the faculty of the respective institution;

   (B) A member of the student body in good academic standing, enrolled for college credit work and duly elected by the student body of the respective institution; and

   (C) A member from the institutional classified employees duly elected by the classified employees of the respective institution;

(4) For the Board of Governors at Marshall University, thirteen lay members appointed by the Governor, by and with the advice and consent of the Senate, pursuant to this section;

(5) For the Board of Governors at West Virginia University, twelve lay members appointed by the Governor, by and with the advice and consent of the Senate, pursuant to this section, and additionally:
(A) The Chairperson of the Board of Visitors of West Virginia University Institute of Technology;

(B) A full-time faculty member representing the extension service at the institution or a full-time faculty member representing the health sciences, selected by the faculty senate.

(6) For each board of governors of the other state institutions of higher education, nine lay members appointed by the Governor, by and with the advice and consent of the Senate, pursuant to this section.

(A) Of the nine members appointed by the Governor, no more than five may be of the same political party. Of the thirteen members appointed by the Governor to the governing board of Marshall University, no more than eight may be of the same political party. Of the twelve members appointed by the Governor to the governing board of West Virginia University, no more than seven may be of the same political party.

(B) Of the nine members appointed by the Governor, at least five shall be residents of the state. Of the thirteen members appointed by the Governor to the governing board of Marshall University, at least eight shall be residents of the state. Of the twelve members appointed by the Governor to the governing board of West Virginia University, at least seven shall be residents of the state.

(7) In making lay appointments, the Governor shall consider the institutional mission and membership characteristics including the following:

(A) The need for individual skills, knowledge and experience relevant to governing the institution;

(B) The need for awareness and understanding of institutional problems and priorities, including those related to research, teaching and outreach;
(C) The value of gender, racial and ethnic diversity; and

(D) The value of achieving balance in gender and diversity in the racial and ethnic characteristics of the lay membership of each board.

(d) Board member terms. –

(1) The student member serves for a term of one year. Each term begins on July 1.

(2) The faculty member serves for a term of two years. Each term begins on July 1. Faculty members are eligible to succeed themselves for three additional terms, not to exceed a total of eight consecutive years.

(3) The member representing classified employees serves for a term of two years. Each term begins on July 1. Members representing classified employees are eligible to succeed themselves for three additional terms, not to exceed a total of eight consecutive years.

(4) The appointed lay citizen members serve terms of four years each and are eligible to succeed themselves for no more than one additional term, except that citizen members who are appointed to fill unexpired terms are eligible to succeed themselves for two full terms after completing an unexpired term.

(5) A vacancy in an unexpired term of a member shall be filled for the unexpired term within thirty days of the occurrence of the vacancy in the same manner as the original appointment or election. Except in the case of a vacancy, all elections are held and all appointments are made no later than June 30 preceding the commencement of the term. Each board of governors shall elect one of its appointed lay members to be chairperson in June.
of each year. A member may not serve as chairperson for more
than four consecutive years.

(6) The appointed members of the boards of governors serve
staggered terms of up to four years except that four of the initial
appointments to the governing boards of community and
technical colleges that became independent July 1, 2008, are for
terms of two years and five of the initial appointments are for
terms of four years.

(e) Board member eligibility, expenses. –

(1) A person is ineligible for appointment to membership on
a board of governors of a state institution of higher education
under the following conditions:

(A) For a baccalaureate institution or university, a person is
ineligible for appointment who is an officer, employee or
member of any other board of governors; an employee of any
institution of higher education; an officer or member of any
political party executive committee; the holder of any other
public office or public employment under the government of this
state or any of its political subdivisions; an employee of any
affiliated research corporation created pursuant to article twelve
of this chapter; an employee of any affiliated foundation
organized and operated in support of one or more state
institutions of higher education; or a member of the council or
commission. This subsection does not prevent the representative
from the faculty, classified employees, students or the
superintendent of a county board of education from being
members of the governing boards.

(B) For a community and technical college, a person is
ineligible for appointment who is an officer, employee or
member of any other board of governors; a member of a board
of visitors of any public institution of higher education; an
(2) Before exercising any authority or performing any duties as a member of a governing board, each member shall qualify as such by taking and subscribing to the oath of office prescribed by section five, article IV of the Constitution of West Virginia and the certificate thereof shall be filed with the Secretary of State.

(3) A member of a governing board appointed by the Governor may not be removed from office by the Governor except for official misconduct, incompetence, neglect of duty or gross immorality and then only in the manner prescribed by law for the removal of the state elective officers by the Governor.

(4) The members of the board of governors serve without compensation, but are reimbursed for all reasonable and necessary expenses actually incurred in the performance of official duties under this article upon presentation of an itemized sworn statement of expenses.

(5) The president of the institution shall make available resources of the institution for conducting the business of its board of governors. All expenses incurred by the board of
governors and the institution under this section are paid from funds allocated to the institution for that purpose.

§18B-2A-3. Supervision of governing boards; promulgation of rules; data collection and dissemination.

(a) The governing boards are subject to the supervision of the commission or the council, as appropriate, except in those instances where specific statutory exceptions are granted by law to the governing boards of Marshall University and West Virginia University.

(b) The governing boards of all state institutions of higher education are subject to the provisions of law that relate to the administration of personnel matters including, specifically, articles seven, eight, nine and nine-a of this chapter and to rules promulgated and adopted in accordance with these provisions.

(c) The Chancellor for Higher Education and the Chancellor for Community and Technical College Education, under the supervision of their respective boards, are responsible for the coordination of policies, purposes and rules of the governing boards and shall provide for and facilitate sufficient interaction among the governing boards and between the governing boards and the State Board of Education to meet the goals and objectives provided in the compacts and in section one-a, article one and article one-d of this chapter.

(d) The governing boards and the State Board of Education shall provide all information requested by the commission and the council, whether the request is made separately or jointly, in an appropriate format and in a timely manner.

(1) Each governing board shall cooperate with the West Virginia Network for Educational Telecomputing (WVNET) in designing appropriate interfaces with the databases of
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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:
(1) Organizations shall count faculty or classified employees, respectively, who retain the right to return to faculty or classified employee positions, in the employee category they are serving in at the time of reporting as required by subsections (a) and (b), section eight of this article. Such employees will be counted in their original category at such time as they exercise their return rights.

(2) Athletic coaches are excluded from calculation of the ratio. The commission and the council shall include consideration of this employee category in each review required by section nine of this article and shall monitor organizations' use of this category and include this information in the reports required by subsections (a) and (b), section eight of this article.

(c) An organization may place up to twenty-five percent of the total number of classified and nonclassified employees of that organization as defined by this section in the nonclassified category under the following conditions:

(1) The governing board of an institution votes to approve any percentage or fraction of a percentage number above twenty percent and seeks and receives the approval of the commission or council, as appropriate, before increasing the total above twenty percent.

(A) The commission and council each shall approve or disapprove the increase and shall include the vote, as well as details of the position and justification for placing the position in the nonclassified category, in its minute record.

(B) The number of nonclassified personnel may not be increased above twenty percent unless the increase is approved by both the commission and the council.

(2) Powers and duties of commission and council regarding nonclassified staff ratios.
(A) It is the duty of the commission and council jointly to establish criteria for the purpose of making decisions on approving or disapproving requests by organizations to exceed the twenty percent limit for personnel placed in the nonclassified category;

(B) The commission and council shall provide technical assistance to organizations under their respective jurisdictions in collecting and interpreting data to ensure that they fulfill the requirements established by this section. Consideration of these issues shall be made part of each review required by section nine of this article and information from the review included in the reports required by subsections (a) and (b), section eight of this article;

(C) The chancellors shall monitor the progress of the organizations in meeting the deadlines established in this section and shall report periodically to the council and commission. The commission and council shall make a preliminary compliance report to the Legislative Oversight Commission on Education Accountability by September 1, 2013, and a final report on organization compliance to that body by September 1, 2015.

(D) Subject to a joint recommendation by the commission and the council and subsequent affirmative action by the Legislature to extend the authority beyond the specified date of termination, the authority of an organization to place more than twenty percent of its personnel in the nonclassified category pursuant to this section expires on July 1, 2016.

(d) The current annual salary of a nonclassified employee may not be reduced if his or her position is redefined as a classified position solely to meet the requirements of this section. If such a nonclassified employee is reclassified, his or her salary does not constitute evidence of inequitable compensation in comparison to other employees in the same paygrade.
(e) For the purposes of this section only the commission and 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.

(a) The Legislature finds that while certain areas of the state currently lack a sufficient population or employer base to support an independent community and technical college, it is vital to the citizens and businesses of these areas to have access to comprehensive, high-quality community and technical education programs and services that are well articulated with the public schools, baccalaureate institutions and other community and technical colleges; that make the most efficient and effective use of facilities, faculty, staff, equipment and other available resources; that encourage students of all ages, ability levels and economic circumstances to pursue a lifetime of learning; that serve as engines of economic development; and that have the ability to adapt quickly to changing needs for workforce training.

(b) The Legislature further finds that a critical need exists to enhance the role of technical education in every area of the state; to encourage and strengthen collaborative and cooperative relationships between and among institutions in order to provide the highest quality programs and services most effectively; and to make the most efficient use of scarce resources while avoiding, to the extent practicable, duplication of administrative and programmatic costs. Establishment of multicampus institutions provides an excellent opportunity to implement more effective and efficient systems of program delivery and to
explore alternative organizational and management structures best suited to serving the needs of students, employers and the citizens of a geographic region. Reorganization offers an efficient and effective method to provide high-quality, comprehensive community and technical education in an area where two institutions serve the same community and technical college district or population center. Creating a consolidated multicampus institution will enhance the delivery of comprehensive community and technical college education to that entire geographical region.

§18B-3F-2. Definitions.

(a) General. — For the purposes of this article, terms have the meaning ascribed to them in section two, article one of this chapter, unless the context in which the term is used clearly requires a different meaning or a specific definition is provided in this section.

(b) Definitions. —

(1) "Administrative planning committee" or "planning committee" means the advisory group established pursuant to section seven of this article to advise the governing board of the reorganized multicampus community and technical college and to serve as liaison to the council.

(2) "Affected institution" means a community and technical college which is included in a reorganization.

(3) "Chancellor" means the chief executive officer of the council appointed pursuant to section three, article two-b of this chapter.

(4) "Consolidated institution" means a community and technical college formed by joining together one or more institutions to create a new multicampus college or integrating
two or more institutions into an existing institution to form one multicampus college. An institution that is included in a consolidation or integrated into an existing institution ceases to exist as an independent institution of higher education.

(5) “Institution” means any community and technical college under the jurisdiction of the council.

(6) “Multicampus institution” means a college that has more than one campus as defined and approved by the Higher Learning Commission of the North Central Association of Schools and Colleges. In the case of the consolidation of Bridgemont Community and Technical College and Kanawha Valley Community and Technical College, “multicampus institution” means the consolidated institution comprised of existing campuses in Montgomery and South Charleston and any other campuses that may be established in the future, in accordance with the Higher Learning Commission standards of accreditation.

(7) “Institutional reorganization” or “reorganization” means the process of combining institutions to form a consolidated community and technical college or integrating one institution into another.

(8) “Strategic reorganization plan” or “plan” means the document developed in accordance with section eight of this article consisting of strategies, procedures and guidelines to be used in implementing an institutional reorganization.

§18B-3F-3. Appointment of institutional board of governors.

(a) Effective June 30, 2013, Bridgemont Community and Technical College and Kanawha Valley Community and Technical College become one independent, multicampus community and technical college administered by its own governing board under the jurisdiction and authority of the
council and subject to all applicable provisions of this chapter and chapter eighteen-c of this code, and to continued fulfillment of institutional accreditation requirements. The boards of governors of Bridgemont Community and Technical College and Kanawha Valley Community and Technical College are abolished on June 30, 2013.

(1) The consolidated institution is comprised of existing campuses in Montgomery and South Charleston and any other campuses that may be established in the future, in accordance with the Higher Learning Commission standards of accreditation.

(2) The board of governors of the consolidated institution shall develop, implement and complete the reorganization by July 1, 2014.

(3) Beginning on July 1, 2013, and thereafter, any reference in this code to Bridgemont Community and Technical College or Kanawha Valley Community and Technical College means the multicampus institution created pursuant to this article.

(b) Initial appointments to the board of governors of the reorganized institution are made pursuant to the provisions of section one, article two-a of this chapter, except as follows:

(1) As soon after the effective date of this article as practicable, but before July 1, 2013, the Governor shall select lay citizen members of the board of governors for the consolidated institution from the former lay citizen members of each of the boards of governors of the affected institutions. The Governor shall appoint an equal number of lay citizen members from each of the boards of the affected institutions. One such member serves a one-year term only, after which that membership position is not reappointed.
§18B-3F-4. Powers and duties of board of governors.

(a) The actions of the board of governors appointed pursuant to section three of this article are subject to the terms and conditions prescribed in article two-a of this chapter. The board has all the powers and duties provided in section four, article two-a of this chapter.

(b) The programs of the consolidated institution are operated under the rules and procedures of the institution’s board of governors, which, initially, shall adopt rules from one or both of the affected institutions until the time when new or revised rules
are proposed and approved pursuant to section six, article one of this chapter.

(1) The administrative planning committee shall make recommendations to the board of governors regarding which of the rules of the affected institutions should be adopted.

(2) Nothing in this section requires the initial rules of the board of governors to be promulgated again under the rule adopted by the Council for Community and Technical College Education pursuant to section six, article one of this chapter unless the rules are rescinded, revised, amended or otherwise altered.

c) It is the duty of the board of governors of the consolidated institution to adopt rules and procedures that authorize, support and encourage the consolidated institution to fulfill its core mission. It is further the specific duty of the board of governors to facilitate delivery of a comprehensive program of community and technical college education in all the counties that are served by the multicampus consolidated institution. To that end, the board shall expend from the appropriations allocated to the affected institutions such funds as are necessary or expedient to operate and conduct programs, to acquire clear title to any real property and to make necessary capital improvements.

d) In addition to the powers and duties set forth in this section and in article two-a of this chapter, the board of governors shall perform the following duties:

(1) Choose a name for the consolidated multicampus institution from the recommendations submitted by the administrative planning committee pursuant to section seven of this article.
(2) Choose the president of one of the affected institutions to serve as president of the consolidated institution pursuant to section five of this article;

(3) Determine which positions of the affected institutions are to be abolished and notify employees as required by section nine of this article; and

(4) Serve as the designated board of advisors for the Advantage Valley Advanced Technology Center created by section fourteen, article three-c of this chapter.

§18B-3F-5. Appointment of institutional president; other officers.

(a) The board of governors shall designate the president of one of the affected institutions to serve as president of the consolidated multicampus institution. The other president shall serve as provost or chief executive officer of his or her respective campus. The salary and benefits of an individual who is serving as an institutional president at the time of a reorganization may not be reduced solely as a result of the reorganization. Provosts and chief executive officers report directly to the president of the consolidated institution.

(b) After the initial contract period ends or at the expiration of a president’s current contract, the board of governors of the consolidated multicampus institution shall appoint and evaluate the president in accordance with section six, article one-b of this chapter.

§18B-3F-6. Budget; transfer of financial assets, property, liability, orders, policies, procedures, etc.

When a consolidated institution is formed:

(1) The operating budget of each affected institution is integrated under the authority and jurisdiction of the board of governors of the consolidated institution.
(2) All financial assets, including state fund balances, and liabilities are transferred from the authority of the board of governors of each affected institution to the authority of the board of governors of the consolidated institution.

(3) Any capital debt service payment formerly the responsibility of an affected institution or the affected institution's share of any capital debt service payment of its former sponsoring institution continues in the required amount and is the responsibility of the board of governors of the consolidated institution.

(4) The titles to all real property, facilities and equipment of, as well as each valid agreement and obligation undertaken by, the affected institutions are transferred to the board of governors of the consolidated institution, which shall exercise general determination, control, supervision and management of the financial, business and education policies and affairs of the consolidated multicampus institution.

(5) The title to all property purchased for the use of an affected institution is vested in the board of governors of the consolidated multicampus institution.

§18B-3F-7. Administrative planning committee; purpose; membership; duties; termination.

(a) On the effective date of this article, or as soon thereafter as practicable, the council shall establish an administrative planning committee to advise in the reorganization of Bridgemont and Kanawha Valley Community and Technical Colleges.

(b) Membership. – The administrative planning committee consists of the following members:

(1) The president of each affected institution;
(2) The chair of the board of governors of each affected institution;

(3) The chair of the council;

(4) The vice chancellor for administration, appointed pursuant to section two, article four of this chapter, or a designee; and

(5) The chancellor, who chairs the planning committee.

(c) The administrative planning committee serves in an advisory capacity to the board of governors in developing the strategic reorganization plan and serves as liaison to the council during the reorganization period.

d) The administrative planning committee shall submit to the board of governors a list of at least three names from which the board shall choose a name for the consolidated, multicampus community and technical college at their first meeting as soon after June 30, 2013, as feasible.

(e) The planning committee shall report to the council at least quarterly, or more often if requested, on development of the strategic reorganization plan and the progress of the board of governors in implementing the reorganization.

(f) The administrative planning committee is created specifically to assist in the reorganization of Bridgemont and Kanawha Valley Community and Technical Colleges and ceases to exist on July 1, 2014, or on the date when the council determines the reorganization has been completed, whichever occurs first.

§18B-3F-8. Strategic reorganization plan.

(a) The board of governors, with the advice of the administrative planning committee, shall develop a strategic
reorganization plan for Bridgemont and Kanawha Valley Community and Technical Colleges, including all campuses and instruction sites of each institution. The board of governors shall develop, implement and complete the reorganization by July 1, 2014.

(b) The reorganization plan includes, but is not limited to, the following elements:

(1) A timeline showing specific steps for completing the reorganization by July 1, 2014;

(2) A procedure to assure that all employees of the affected institutions are notified of their employment status pursuant to section nine of this article;

(3) A statement of assurance showing specific steps to be taken to safeguard the rights, privileges and benefits of faculty, classified employees and nonclassified employees of the affected institutions including provisions for fulfilling contracts and protecting earned benefits;

(4) A description of the instructional benefits expected from the reorganization including a detailed explanation of enhancements to academic program offerings, workforce development programs for employers and services to students;

(5) A description of the fiscal benefits expected from the reorganization including a detailed explanation of management efficiencies, enhanced leadership skills, better coordination of instruction and student support services and efficiencies in expenditures per full-time equivalent student;

(6) A statement of assurance that student access to high-quality education programming will be enhanced and/or maintained; and
A strategy to secure regional accreditation of the 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.

(a) When a consolidated institution is formed, the faculty, classified employees and nonclassified employees of the affected institutions become the faculty, classified employees and nonclassified employees of the consolidated institution, subject to the provisions of this article.

(b) By December 31, 2013, the board of governors of the consolidated institution, in consultation with the president, shall determine which, if any, positions existing at the affected institutions on the effective date of this article are to be abolished.

(1) In the case of positions which the board chooses to retain, but which exist at both affected institutions, when there is an overlap of duties and responsibilities of employees who occupy those positions, the board of governors, in consultation with the president, shall determine which position or positions shall be abolished.

(2) A classified employee who holds a position scheduled to be abolished is afforded all rights and benefits provided by this article and by section three, article seven of this chapter.

(c) Official notification to employees. –

(1) The president shall provide official notice of employment status to each classified employee, faculty member and nonclassified employee of the affected institutions not later than thirty days after the board’s decision. For an employee whose position is to be abolished, the official notice shall specify his or her date of termination. The termination date shall be within three to six months following the date of official notification.
(2) Any person who was employed full time by an affected institution on the effective date of this article and whose employment continues in any capacity with the board of governors of the consolidated institution is considered to have no break in service for calculation of years of service, seniority, participation in health and retirement plans or continued employment by the state.

(3) The board of governors, created pursuant to this article, is an organization as defined in section two, article nine-a of this chapter and is subject to all the terms and conditions that apply to higher education organizations as provided in this chapter and chapter eighteen-c of this code. Specifically, the board is subject to section three, article seven of this chapter when making reductions in force of classified employees.

§18B-3F-10. Transfer of students.

When a consolidated institution is formed, the students of the affected institutions become the students of the consolidated institution, subject to the provisions of section eight, article one of this chapter.
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.

(a) Legislative findings. — The Legislature finds that veterans of the Armed Forces of the United States that attend institutions of higher education in this state have many unique needs, issues and concerns that most traditional students do not have. Many of these veterans have had or will be subject to multiple deployments to active duty, including overseas deployment, resulting in challenges to their pursuit of higher education.

(b) Legislative intent. — It is the intent of the Legislature that state institutions of higher education provide adequate services and facilities for student veterans in order to better serve their unique needs and to make West Virginia’s state institutions of higher education veteran-friendly.

(c) The commission, council and each state institution of higher education shall establish and implement measures to assure that veterans enrolled in the institutions receive services and are provided facilities appropriate for their needs, that student veterans complete programs of study and earn degrees, and that the institutions become veteran-friendly by actively and effectively providing academic and social support and assistance to student veterans. The measures shall include, but are not limited to, the following:

(1) Establishing veteran-friendly community and technical college degree programs which recognize and award academic
credit toward degrees for various types of technical and vocational military training and experience;

(2) Developing policies for each state institution of higher education to grant academic credit for Armed Forces experiences;

(3) Developing programs to encourage student veterans to share their specialized experience and knowledge gained through military service by making presentations in class, public school programs and local community organizations;

(4) Establishing and sponsoring an organization for student veterans on campus and encouraging other veteran-friendly organizations;

(5) Appointing and training specific faculty within each degree program or major as liaisons and contacts for student veterans;

(6) Providing information about programs that grant credit for prior learning to student veterans and potential student veterans;

(7) Coordinating existing disability services on campus with veteran disability services available from the United States Department of Veterans Affairs, other federal and state agencies, and private resources;

(8) Designating individuals to provide financial and psychological counseling services on each campus who are trained to effectively respond to the needs of veterans and to provide services or referrals to services to fulfill these needs for student veterans, and to the extent practicable, providing those services and programs in one location;

(9) Developing training materials on responding to student veteran needs to be available for continued professional development of counselors to student veterans;
(10) Facilitating regular statewide meetings for all personnel at state institutions of higher education who regularly provide specific services to student veterans to discuss and develop best practices, exchange ideas and experiences, and hear presentations by individuals with generally accepted expertise in areas of the various needs of student veterans;

(11) Gathering data on the status of student veterans, including their graduation rates, comparing that rate with the graduation rate of other students in the institution, and reporting those results to appropriate state and federal agencies, including the West Virginia Legislature;

(12) Establishing a program to create a collaborative relationship between student veterans and alumni of the institution, and with prospective employers to facilitate and provide employment as well as social opportunities to graduating student veterans;

(13) Developing and facilitating communications between state institutions of higher education and various veteran organizations in the state to advance veteran causes that benefit student veterans; and

(14) Coordinating among all relevant departments within each state institution of higher education including but not limited to admissions, the registrar, the bursar, the veterans advocate and financial aid to ensure that relevant deadlines or time-lines are met for certifying veterans’ enrollment as early as practicable to ensure that assistance is received from the U.S. Department of Veterans Affairs (DVA) in a timely fashion. Measures to achieve greater coordination shall include but are not limited to:

(A) Identifying applicants who are veterans as early as possible;

(B) Taking affirmative steps to reach out to veteran applicants to inform them of relevant policies, time-lines or deadlines for receiving veterans assistance;
(C) Developing a communications plan between departments, applicants and students to ensure that deadlines or time-lines are being met;

(D) Developing plans to assist students when U.S. Department of Veterans Affairs benefits are not received in a timely fashion. Such plans could include forbearance of payment deadlines, short-term loans, grants, or a revolving fund.

(E) Making every effort to provide sufficient class sections to meet the needs of students for classes which are required for graduation, including where appropriate, giving student veterans priority registration.

(d) Veterans Advocates. — Each state institution of higher education shall appoint or designate and train a person, preferably a veteran, to serve as a veterans advocate on its campus. The commission and council shall also provide training for veterans advocates at each of the institutions under their respective jurisdictions. The veterans advocate shall serve as the primary point of contact and campus advocate for current and prospective students who are veterans of the Armed Forces of the United States or are current members of the Armed Forces of the United States, including reserve components of the National Guard of this state or any other state. The duties and responsibilities of the veterans advocate include, but are not limited to the following:

(1) Assist and facilitate student veterans in utilizing services, resources and facilities available at the institution; and

(2) To the extent resources are available for such purposes, provide services, programs and assistance to current and prospective student veterans designed to encourage, promote and facilitate the recruitment, retention and academic success of such students.

(e) The commission and council jointly shall submit a report to the Legislature on September 1, annually, on the progress toward implementing this section.