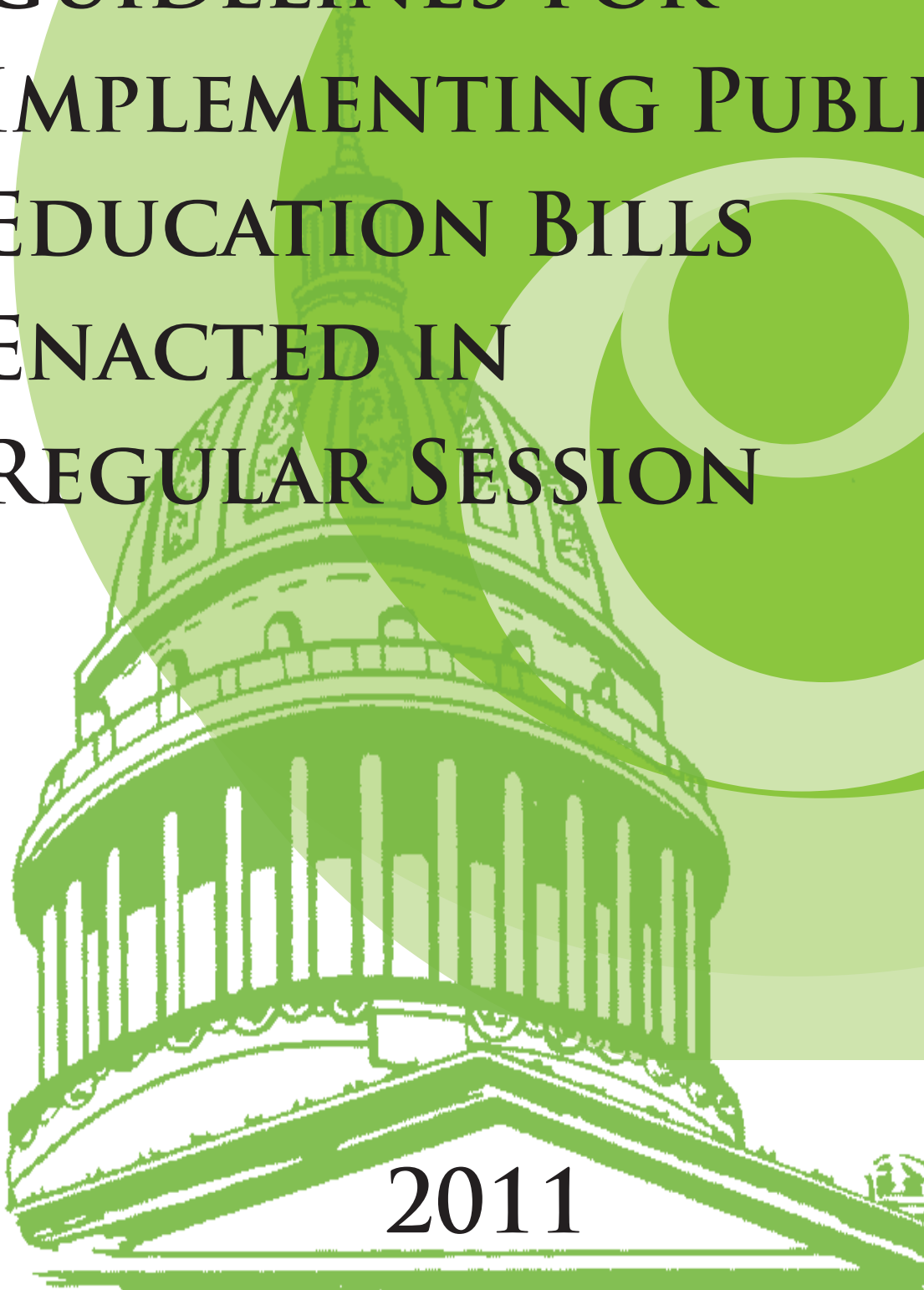


*West Virginia Department of Education*

**INFORMAL  
GUIDELINES FOR  
IMPLEMENTING PUBLIC  
EDUCATION BILLS  
ENACTED IN  
REGULAR SESSION**



**2011**



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2010-2011

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## FOREWORD

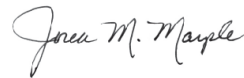
The West Virginia Department of Education is pleased to prepare Informal Guidelines for Implementing Public Education Bills Enacted in the Regular Session – 2011 as a document to assist educators and others in understanding and implementing education bills enacted by this year's Legislature.

This document should be placed with your most current copy of the School Laws of West Virginia as it contains new language/laws that must be reviewed in conjunction with the School Laws book.

For each of the acts included in this publication, the format is as follows: effective date, date signed by the Governor, code reference, title and major new provisions. As time constraints have not permitted an in-depth analysis of these bills from the regular session, it must be emphasized that the information provided in this document must not be considered as official interpretations of the State Superintendent of Schools. Formal interpretations to specific questions will be provided upon request.

The Informal Guidelines for Implementing Public Education Bills Enacted in the Regular Session – 2011 will be of considerable value during the coming school year. Suggestions for improving this document as a service to the Department's clientele are always welcome. This document is also available online at <http://wvde.state.wv.us/legislature/2011greenbook.pdf>.

Please feel free to call or write if you need additional information regarding bills enacted during the 2011 regular session of the West Virginia Legislature.



Jorea Marple, Ed.D.  
State Superintendent of Schools

**CODE CHANGES**

NEW CODE		REPEALED	REVISED CODE		
18-5A-3a	30-30-22	18A-4-5c	3-10-2	18A-4-2	50-1-3
18-5B-11	30-30-23	18A-4-5d	6-7-2a	18A-4-5	51-1-10a
18-9D-4c	30-30-24	30-30-8a	15-1F-1	18A-4-8a	51-2-13
18-9D-19a	30-30-25		15-2-5	18B-3D-5	51-2A-6
18-9F-9	30-30-26		18-2C-2	20-7-1c	
18-10F-1	30-30-27		18-2C-3	30-30-1	
18-10F-2	30-30-28		18-5-9a	30-30-2	
18B-3D-6	30-30-29		18-5A-5	30-30-3	
30-30-13			18-5A-6	30-30-4	
30-30-14			18-5B-10	30-30-5	
30-30-15			18-5B-11	30-30-6	
30-30-16			18-8-3	30-30-7	
30-30-17			18-8-6	30-30-8	
30-30-18			18-9D-15	30-30-9	
30-30-19			18-9F-1	30-30-10	
30-30-20			18-28-2	30-30-11	
30-30-21			18A-2-3	30-30-12	



HB 3225	Expanding the definition of harassment, intimidation or bullying.....	106
	§18-2C-2            §18-2C-3	
SB 228	Creating Local Solution Dropout Prevention and Recovery Act .....	109
	§18-5B-11           §18-8B-3            §18-8B-6	
SB 255	Making supplementary appropriation of unappropriated moneys to various accounts.....	122
SB 373	Requiring School Building Authority allocate and expend certain moneys for vocational programs at comprehensive middle schools .....	126
	§18-9D-4c           §18-9D-15           §18-9D-19a	
SB 382	Specifying activities entitling certain members of National Guard or reserve to leave of absence .....	135
	§15-1F-1	
SB 538	Creating Learn and Earn Cooperative Education Program .....	138
	§18B-3D-5           §18B-3D-6	
SB 592	Requiring schools have crisis response plans .....	141
	§18-9F-1            §18-9F-9            §18-28-2	
SB 612	Exempting certain schools and school districts from certain statutory provisions .....	147
	§18-5A-3a           §18-5B-10	

## House Bill 2525

Effective Date: March 18, 2011

Signed by Governor: April 5, 2011

Code Reference: Repeals §30-30-8a  
Amends §30-30-1, §30-30-2, §30-30-3, §30-30-4, §30-30-5, §30-30-6, §30-30-7, §30-30-8, §30-30-9, §30-30-10, §30-30-11 and §30-30-12  
Adds §30-30-13, §30-30-14, §30-30-15, §30-30-16, §30-30-17, §30-30-18, §30-30-19, §30-30-20, §30-30-21, §30-30-22, §30-30-23, §30-30-24, §30-30-25, §30-30-26, §30-30-27, §30-30-28 and §30-30-29

Title: Relating to the practice of social work

Major Provisions:

- Makes it unlawful for any person to practice social work in the State without being licensed or permitted by the West Virginia Board of Social Work.
- Specifies that the following persons are exempt from licensure or permit, unless specifically stated in writing by an employer:
  - o A person employed as the director or administrative head of a social service agency or division;
  - o Licensed or qualified members of other professions, such as physicians, psychologists, lawyers, counselors, clergy, educators, or the general public engaged in social work-like activities, if they do not hold themselves out to the public by a title or description incorporating the words “licensed social worker”, or a variation, thereof;
  - o An employer from performing social work-like activities performed solely for the benefit of employees;
  - o Activities and services of a student, intern, or resident in social work pursuing a course of study at an accredited university or college or working in a generally recognized training center, if the activities constitute a part of a supervised course of study; and,

- Pending disposition of an application for a license, activities and services by a person who has recently become a resident of this state, has applied for a license within 90 days of taking up residence, and is licensed to perform the activities in the state of former residence.
- Specifies that the Board of Social Work shall consist of the following members who are appointed by the Governor:
  - One independent clinical social worker;
  - Two certified social workers;
  - One graduate social worker;
  - Two social workers;
  - One citizen member.
- Specifies the minimum requirements for applying for a license or permit.
- Provides that any person found guilty of violating the provisions of the statute shall be fined not less than \$100 or more than \$5,000, or confined in jail for not more than six months, or both.



**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**H. B. 2525**

(By Delegates Morgan, Stephens, Hatfield,  
Martin, Staggers, Swartzmiller and C. Miller)

[Passed March 8, 2011; in effect from passage.]

AN ACT to repeal §30-30-8a of the Code of West Virginia, 1931, as amended; to amend and reenact §30-30-1, §30-30-2, §30-30-3, §30-30-4, §30-30-5, §30-30-6, §30-30-7, §30-30-8, §30-30-9, §30-30-10, §30-30-11 and §30-30-12 of said code; and to amend said code by adding thereto seventeen new sections, designated §30-30-13, §30-30-14, §30-30-15, §30-30-16, §30-30-17, §30-30-18, §30-30-19, §30-30-20, §30-30-21, §30-30-22, §30-30-23, §30-30-24, §30-30-25, §30-30-26, §30-30-27, §30-30-28 and §30-30-29, all relating to the practice of social work; prohibiting the practice of social work without a license; defining terms; providing for board composition; setting forth the powers and duties of the board; clarifying rulemaking authority; continuing a special revenue account; establishing license requirements; providing for licensure for persons licensed in another state; establishing renewal requirements; providing permit requirements; setting forth grounds for disciplinary actions; allowing for specific disciplinary actions; providing procedures for investigation of complaints; providing for judicial review and appeals of decisions; setting forth hearing and notice requirements; providing for civil causes of action; and providing criminal penalties.

*Be it enacted by the Legislature of West Virginia:*

That §30-30-8a of the Code of West Virginia, 1931, as amended, be repealed; that §30-30-1, §30-30-2, §30-30-3, §30-30-4, §30-30-5, §30-30-6, §30-30-7, §30-30-8, §30-30-9, §30-30-10, §30-30-11 and §30-30-12 of said code be amended and reenacted; and that said code be amended by adding thereto seventeen new sections, designated §30-30-13, §30-30-14, §30-30-15, §30-30-16, §30-30-17, §30-30-18, §30-30-19, §30-30-20, §30-30-21, §30-30-22, §30-30-23, §30-30-24, §30-30-25, §30-30-26, §30-30-27, §30-30-28 and §30-30-29, all to read as follows:

**ARTICLE 30. SOCIAL WORKERS.**

**§30-30-1. Purpose Unlawful acts.**

~~The Legislature finds that the profession of social work profoundly affects the lives of the people of this state.~~

The profession of social work exists to provide humane and effective social services to individuals, families, groups, communities and society in order that social functioning may be enhanced and the quality of life improved.

Social workers are involved with individuals who are hurt, vulnerable and having difficulty in areas of their lives which are extremely sensitive. Failure to help these individuals, whether through incompetence or irresponsibility, is a serious matter. These individual citizens have the potential to be greatly harmed by the services of ill-prepared and incapable persons acting as social workers. The economic burden of social services which do not give effective aid is a serious social problem.

It is the purpose of this article to protect the public by setting standards of qualification, education, training and experience for those who seek to engage in the practice of social work and to promote high standards of professional performance for those engaged in the profession of social work.

(a) It is unlawful for any person to practice or offer to practice social work in this state without a license or permit issued under this article, or advertise or use any title or description tending to convey the impression that the person is a social worker, unless the person has been licensed or permitted under this article, and the license or permit has not expired, been suspended or revoked.

(b) No business entity, except through a licensee, may render any service or engage in any activity which if rendered or engaged in by an individual, would constitute the practices regulated under this article.

#### **§30-30-2. Definitions General provisions.**

(a) "Board" means the state board of social work examiners established by this article.

(b) "Social work" means the profession that provides the formal knowledge base, theoretical concepts, specific functional skills and essential social values which are used to implement society's mandate to provide safe, effective and constructive social services through the professional activities of helping individuals, groups or communities enhance or restore their capacity for social functioning, and preventing or controlling social problems and altering societal conditions as a means towards enabling people to attain their maximum potential.

(c) "Social worker" means a person who represents himself or herself to the public by the title "social worker", and under this title offers to render or renders services involving the application of principles, methods and procedures of the profession of social work to individuals, families, corporations or the public for financial compensation: **Provided,** That social workers, as defined by this article does not mean any person who may voluntarily serve in an advisory capacity in situations dealing with social and family matters while not holding himself or herself out to the public as a social worker.

(d) "Social work practice" means the professional application of social work values, principles and techniques to one or more of the following ends: Enhancing the developmental, problem-solving and coping capacities of people; promoting the effective and humane operations of systems that provide resources and services to people; linking people with systems that provide them with resources, services and opportunities; contributing to the development and improvement of social policy; engaging in research related to these ends and principles; and organizations or agencies engaged in such practice. Such social work interventions are provided to individuals, families, small groups, organizations, neighborhoods and communities. The

practice of social work is guided by knowledge of social resources, social systems, human behavior and social, economic and cultural institutions and the interaction of all such factors.

(e) "Clinical social work practice" means the professional application of social work theory and methods to the diagnosis, treatment and prevention of psychological dysfunction, disability or impairment, including emotional and mental disorders and developmental disabilities. Clinical social work practice is based on knowledge of one or more theories of biological, psychological and social development, normal human behavior, psychopathology, the causes and effects of physical illness and disability, unconscious motivation, interpersonal relationships, family dynamics, environmental stress, social systems and cultural diversity with particular attention to the person existing as a combination of biological, psychological and social elements in his or her environment. Clinical social work includes interventions directed to interpersonal interactions, intrapsychic dynamics and life-support and management issues. Clinical social work services consist of assessment, diagnosis, treatment, including psychotherapy and counseling, client-centered advocacy, consultation and evaluation. The process of clinical social work is undertaken within the objectives of the social work profession and the principles and values of its code of ethics.

The practices regulated under this article and the Board of Social Work are subject to article one of this chapter, this article, and any rules promulgated hereunder.

**§30-30-3. Board of social work examiners Definitions.**

(a) For the purpose of carrying out the provisions of this article, there is hereby created a West Virginia board of social work examiners, consisting of seven members who shall be appointed by the governor, subject to the following requirements:

(1) No person may be excluded from serving on the board by reason of race, sex or national origin;

(2) One member shall be an independent clinical social worker, two members shall be certified social workers, one member shall be a graduate social worker and two members shall be social workers. All such members must be licensed under the provisions of this article in accordance with their respective titles. In addition, there shall be one member of the board chosen from the general public: *Provided*, That those members who are appointed by the governor to serve as the first board after the effective date of this article shall be persons eligible for the licensing required under this article: *Provided, however*, That the member from the general public shall never be required to be eligible for licensing;

(3) The members of the first board to serve after the effective date of this article shall be appointed within ninety days thereof;

(4) The term of office for each member of the board shall be three years: *Provided*, That one of the members of the first board to serve after the effective date of this article shall serve a term of two years, three of them shall serve a term of three years and the remaining three shall serve a term of four years; and

(5) The governor shall, whenever there is a vacancy on the board due to circumstances other than the expiration of the term of a member, appoint another member with the same qualifications as the member who has vacated to serve the duration of the unexpired term.

~~For the purpose of accepting nominations for the replacement of a member, the governor shall cause a notice of the vacancy to be published at least thirty days prior to an announcement of the replacement member, as a Class I-O legal advertisement, in accordance with the provisions of section two, article three, chapter fifty-nine of this code. The publication area shall be statewide.~~

~~If the governor fails to make appointment in ninety days after expiration of any term, the board shall make the necessary appointment. Each member shall hold office until the expiration of the term for which such member is appointed and until a successor shall have been duly appointed and qualified.~~

~~(b) Any members of the board may be removed from office for cause, in accordance with procedures set forth in this code for the removal of public officials from office.~~

~~(c) The board shall pay each member the same compensation as is paid to members of the Legislature for their interim duties as recommended by the citizens legislative compensation commission and authorized by law for each day or portion thereof engaged in the discharge of official duties and shall reimburse each member for actual and necessary expenses incurred in the discharge of official duties: *Provided*, That such compensation and such expenses shall not exceed the amount received by the board from licensing fees and penalties imposed under subdivision (4), subsection (e) of this section.~~

~~(d) The board shall hold an annual election for the purpose of electing a chairman, vice chairman and secretary. The requirements for meetings and management of the board shall be established in regulations promulgated by the board as required by this article.~~

~~(e) In addition to the duties set forth in other provisions of this article, the board shall:~~

~~(1) Recommend to the Legislature any proposed modifications to this article;~~

~~(2) Report to county prosecutors any suspected violations of this article: *Provided*, That no report shall be made until the board has given the suspected violator ninety days written notice of the suspected violation and the violator has, within such ninety-day period, been afforded an opportunity to respond to the board with respect to the allegation;~~

~~(3) Publish an annual report and a roster listing the names and addresses of all persons who have been licensed in accordance with the provisions of this article as an independent clinical social worker, certified social worker, graduate social worker or social worker;~~

~~(4) Establish a fee schedule by legislative rule, pursuant to the provisions of chapter twenty-nine-a of this code, which schedule may include fees for the initial examination, license fee, license renewal, license replacement, reciprocal license, license classification change, continuing education provider approval and monitoring, mailing lists and requests for information and reports; fees for requests for information and reports shall not be greater than the cost of personnel, time and supplies incurred by the board and shall not be applied to the annual report;~~

~~(5) Establish standards and requirements by legislative rule, pursuant to the provisions of chapter twenty-nine-a of this code, for continuing education. In establishing these requirements the board shall consult with professional groups and organizations representing all levels of practice provided for in this article and the board shall consider recognized staff development programs, continuing education programs offered by colleges and universities having social work programs approved or accredited by the~~

~~council on social work education, and continuing education programs offered by recognized state and national social work bodies: *Provided*, That such standards and requirements for continuing education shall not be construed to alter or affect in any way the standards and requirements for licensing as set forth elsewhere in this article;~~

~~(6) Establish standards and requirements for the practice of social work and the differentiation of qualifications, education, training, experience, supervision, responsibilities, rights, duties and privileges at the independent clinical social worker, certified social worker, graduate social worker and social worker license levels. In establishing these standards and requirements the board shall consult with professional groups and organizations representing all levels of practice provided for in this article. Standards and requirements may include, but are not limited to, practice standards, practice parameters, quality indicators, minimal standards of acceptance, advanced training and certification and continuing education: *Provided*, That such standards and requirements for practice may not be construed to alter or affect in any way the standards and requirements for licensing as set forth elsewhere in this article;~~

~~(7) Conduct its proceedings in accordance with provisions of article nine-a, chapter six of this code; and~~

~~(8) Employ, direct and define the duties of administrative clerical support staff.~~

~~(f) After having conducted a regulatory board evaluation through its joint committee on government operations, pursuant to article ten, chapter four of this code, the Legislature hereby finds and declares that the board of social work examiners be continued and reestablished. Accordingly, notwithstanding the provisions of said article, the board of social work examiners shall continue to exist until the first day of July, two thousand five.~~

As used in this article:

(1) "Applicant" means any person making application for a license or a permit under this article.

(2) "Board" means the Board of Social Work.

(3) "Business entity" means any firm, partnership, association, company, corporation, limited partnership, limited liability company or other entity providing social work services.

(4) "Code of Ethics" means the Code of Ethics of the National Association of Social Workers.

(5) "General Supervision" means the supervising social worker provides instructions and oversight for services and is easily accessible.

(6) "Indirect supervision" means the performance of an action after instruction from a supervising social worker.

(7) "License" means a license issued under this article. A license does not mean a provisional license issued under this article.

(8) "Licensee" means a person holding a license under this article. A licensee does not mean a person provisionally licensed under this article.

(9) "Permit" means a temporary permit to practice social work issued by the board.

(10) "Permittee" means a person holding a permit issued under this article.

(11) "Supervising social worker" means a social worker, who meets the requirements of this article, who assumes responsibility for the professional care given by a person authorized by this article to work under his or her general or indirect supervision.

**§30-30-4. License required; penalties; exceptions Board of Social Work.**

~~(a) After twenty four months have passed from the effective date of this article, no person may represent that he or she is a social worker by using such titles as independent clinical social worker, certified social worker, graduate social worker, social worker or any other title that includes a facsimile of such words unless he or she is duly licensed under the provisions of this article or specifically exempted hereunder; nor may any person represent himself or herself to be a certified social worker, graduate social worker or other type of social worker by adding the letters ICSW, CSW, GSW, SW or any other letters, words or insignia which induce or tend to induce the belief that the person is qualified to engage in the practice of social work unless the person is licensed in accordance with the provisions of this article.~~

~~(b) After twenty four months have passed from the effective date of this article, no person may engage in the private, independent practice of social work unless he or she is already licensed under this article.~~

~~(c) Any person violating the provisions of subsection (a) or (b) of this section is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five hundred dollars, or imprisoned in the county jail for a term not to exceed one year, or both fined and imprisoned.~~

~~(d) Nothing in this article shall be construed to prevent duly licensed physicians, surgeons, psychologists, attorneys, members of the clergy or any other professional from working within the standards and ethics of their respective professions and fulfilling their professional responsibilities: **Provided**, That no such professional may represent to the public, either by title or training, that he or she is engaged in the practice of social work: **Provided, however**, That any student enrolled in a recognized program of study leading to a social work degree may practice only under the supervision of a social worker duly licensed in accordance with the provisions of this article. Nothing in this article shall be construed to prevent any person from volunteering his or her services in a manner as defined in subsection (c), section two of this article~~

(a) The State Board of Social Work Examiners is continued. On July 1, 2011, the State Board of Social Work Examiners is renamed the Board of Social Work. The members of the board in office on July 1, 2011, shall, unless sooner removed, continue to serve until their respective terms expire and until their successors have been appointed and qualified.

(b) The board shall consist of the following seven members who are appointed by the Governor with the advice and consent of the Senate:

(1) One independent clinical social worker;

(2) Two certified social workers;

(3) One graduate social worker;

(4) Two social workers; and

(5) One citizen member.

(c) The terms shall be for five years.

(d) Each licensed member of the board, at the time of his or her appointment, must have held a license in this state for at least five years;

(e) Each member of the board must be a resident of this state during the appointment term.

(f) A member may not serve more than two consecutive full terms. A member having served two consecutive full terms may not be appointed for one year after completion of

his or her second full term. A member may continue to serve until a successor has been appointed and has qualified.

(g) A vacancy on the board shall be filled by appointment by the Governor for the unexpired term of the member whose office shall be vacant and the appointment shall be made within sixty days of the vacancy.

(h) The Governor may remove any member from the board for neglect of duty, incompetency or official misconduct.

(i) Any member of the board immediately and automatically forfeits his or her membership if his or her license to practice is suspended or revoked by the board, is convicted of a felony under the laws of any jurisdiction, or becomes a nonresident of this state.

(j) The board shall elect annually one of its members as chairperson who serves at the will of the board.

(k) Each member of the board is entitled to compensation and expense reimbursement in accordance with article one of this chapter.

(l) A majority of the members of the board constitutes a quorum.

(m) The board shall hold at least two meetings annually. Other meetings may be held at the call of the chairperson or upon the written request of four members, at the time and place as designated in the call or request.

(n) Prior to commencing his or her duties as a member of the board, each member shall take and subscribe to the oath required by section five, article four of the Constitution of this state.

**§30-30-5. License classification; qualification Powers and duties of the board.**

~~The board shall issue a license as an independent clinical social worker, certified social worker, graduate social worker or social worker.~~

~~(a) The board shall issue a license as an independent clinical social worker to an applicant who:~~

~~(1) Has a doctorate or master's degree from a school of social work accredited by the council on social work education that included a concentration of clinically oriented course work as defined by the board; and~~

~~(2) Has completed a supervised clinical field placement at the graduate level, or post-master's clinical training that is found by the board to be equivalent;~~

~~(3) Has practiced clinical social work for at least two years in full-time employment, or three thousand hours under the supervision of an independent clinical social worker, or clinical supervision that is found by the board to be equivalent; and~~

~~(4) Has passed an examination approved by the board for certification purposes; or~~

~~(5) Has received certification as a "diplomat in clinical social work" by the national association of social workers, or as a "board certified diplomat in clinical social work" by the American board of examiners in clinical social work; and~~

~~(6) Has satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant and a sworn statement from the applicant indicating he or she has never been convicted of a felony involving moral turpitude.~~

~~(b) The board shall issue a license as a certified social worker to an applicant who:~~

~~(1) Has a doctorate or master's degree from a school of social work accredited by the council on social work education;~~

- (2) Has completed a minimum of two years experience in the practice of social work after having received a master's degree in social work;
- (3) Has received certification by the academy of certified social workers or has passed an examination approved by the board for certification purposes;
- (4) Has satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant and a sworn statement from the applicant indicating he or she has never been convicted of a felony involving moral turpitude; and
- (5) In lieu of the foregoing requirements, any person who has been continuously employed for seven years as a social worker under the supervision of any certified social worker; has satisfactorily completed fifty-six hours of graduate social work study as accredited by the council on social work education; has passed an examination approved by the board for certification purposes; and has satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant and a sworn statement from the applicant indicating that he or she has never been convicted of a felony involving moral turpitude, may be licensed by the board as a certified social worker: **Provided**, That the board may exempt any applicant for licensing from specific hours of social work curriculum where the applicant has demonstrated to the satisfaction of the board a proficient knowledge of the subject matter contained in the particular course of social work curriculum to be exempted.
- (c) The board shall issue a license as a graduate social worker to an applicant who:
- (1) Has a master's degree in social work from a school of social work accredited by the council on social work education;
- (2) Has passed an examination approved by the board;
- (3) Has satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant and a sworn statement from the applicant indicating he or she has never been convicted of a felony involving moral turpitude; and
- (4) In lieu of the foregoing requirements, any person who has been continuously employed for five years as an apprentice social worker under the supervision of any certified social worker; has satisfactorily completed forty-five graduate hours of social work study as accredited by the council on social work education; has passed an examination approved by the board; and has satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant and a sworn statement from the applicant indicating he or she has never been convicted of a felony involving moral turpitude, may be licensed by the board as a graduate social worker: **Provided**, That the board may exempt any applicant for licensing from specific hours of social work curriculum where the applicant has demonstrated to the satisfaction of the board a proficient knowledge of the subject matter contained in the particular course of social work curriculum to be exempted.
- (d) The board shall issue a license as a social worker to an applicant who:
- (1) Has a baccalaureate degree in social work from a program accredited by the council on social work education;
- (2) Has passed an examination approved by the board;



(3) Has satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation by persons not related to the applicant and a sworn statement from the applicant indicating he or she has never been convicted of a felony involving moral turpitude; and

(4) In lieu of the foregoing requirements, any person who has been continuously employed for four years as a social worker under the supervision of any certified social worker; has satisfactorily completed thirty-six hours of social work study as accredited by the council on social work education; has passed an examination approved by the board; and has satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant and a sworn statement from the applicant indicating he or she has never been convicted of a felony involving moral turpitude, may be licensed by the board as a social worker: **Provided**, That the board may exempt any applicant for licensing from specific hours of social work curriculum where the applicant has demonstrated to the satisfaction of the board a proficient knowledge of the subject matter contained in the particular course of social work curriculum to be exempted.

(a) The board has all the powers and duties set forth in this article, by rule, in article one of this chapter and elsewhere in law.

(b) The board shall:

(1) Hold meetings;

(2) Establish requirements for licenses and permits;

(3) Establish procedures for submitting, approving and rejecting applications for licenses and permits;

(4) Determine the qualifications of an applicant for licenses and permits;

(5) Maintain records of the examinations the board or a third party administers, including the number of persons taking the examinations and the pass and fail rate;

(6) Hire, discharge, establish the job requirements and fix the compensation of the executive director;

(7) Maintain an office, and hire, discharge, establish the job requirements and fix the compensation of employees, investigators and contracted employees necessary to enforce this article;

(8) Investigate alleged violations of this article, legislative rules, orders and final decisions of the board;

(9) Conduct disciplinary hearings of persons regulated by the board;

(10) Determine disciplinary action and issue orders;

(11) Institute appropriate legal action for the enforcement of this article;

(12) Maintain an accurate registry of names and addresses of all persons regulated by the board;

(13) Keep accurate and complete records of its proceedings, and certify the same as may be necessary and appropriate;

(14) Establish the continuing education requirements for licensees;

(15) Issue, renew, combine, deny, suspend, revoke or reinstate licenses and permits;

(16) Establish a fee schedule;

(17) Propose rules in accordance with article three, chapter twenty-nine-a of this code to implement this article; and

(18) Take all other actions necessary and proper to implement this article.

(c) The board may:

- (1) Contract with third parties to administer the examinations required under this article;
- (2) Sue and be sued in its official name as an agency of this state; and
- (3) Confer with the Attorney General or his or her assistant in connection with legal matters and questions.

**§30-30-6. Exemptions from requirements Rulemaking.**

~~(a) From the effective date of this article to twenty-four months hence, an applicant shall be exempt from the education and examination requirements for licensure as a certified social worker, as required by this section and section four of this article, if he or she satisfies the board that he or she holds a doctorate or master's degree in social work, or a doctorate or master's degree in a field related to social work, and that he or she has been engaged, for at least two years of the five years immediately preceding the date of the license application, in the practice for which the examination would otherwise be required, then the applicant shall become so licensed without additional educational and examination requirements.~~

~~(b) From the effective date of this article to twenty-four months hence, an applicant shall be exempt from the education and examination requirements for licensure as a social worker, as required by this section and section four of this article, if he or she satisfies the board that he or she has been actively engaged, for at least two years of the five years immediately preceding the date of the license application, in the practice for which the examination would otherwise be required, then the applicant shall become so licensed without additional educational and examination requirements.~~

~~(c) An applicant shall be exempted from the requirement of any examination provided herein if:~~

~~(1) The applicant satisfies the board that he or she is licensed under the laws of a state or territory of the United States that impose substantially the same requirements as this article; or~~

~~(2) The applicant has taken and passed an examination similar to that for which exemption hereunder is sought, pursuant to the laws of a state or territory of the United States.~~

~~(d) All social workers employed by county boards of education shall not be subject to the licensing requirements of this article, but shall continue to be certified by the state board of education.~~

(a) The board shall propose rules for legislative approval, in accordance with article three, chapter twenty-nine-a of this code, to implement this article, including:

(1) Additional standards and requirements for licenses and permits;

(2) Requirements for third parties to prepare and/or administer examinations and reexaminations;

(3) Educational and experience requirements;

(4) Standards for approval of courses and curriculum;

(5) Procedures for the issuance and renewal of licenses and permits;

(6) A fee schedule;

(7) Continuing education requirements for licensees;

(8) Qualifications for supervisors; providing type of required supervision; requirements that shall be included within a supervisory plan; and detailed periodic documentation and successful completion of supervision required;

- (9) Baccalaureate degrees related to social work;
- (10) Establish critical social work workforce shortage positions, setting, areas or fields of practice;
- (11) Establishing credentialing guidelines identifying advanced social work practice in existing and emerging specializations, skills and settings;
- (12) The procedures for denying, suspending, revoking, reinstating or limiting the practice of licensees and permittees;
- (13) Requirements for inactive or revoked licenses and permits; and
- (14) Any other rules necessary to implement this article.
- (b) All of the board's rules in effect on January 1, 2011, shall remain in effect until they are amended or repealed, and references to former enactments of this article are interpreted to be consistent with this article.

**§30-30-7. Grounds for disciplinary proceedings Fees; special revenue account; administrative fines.**

~~(a) The board may refuse to issue or renew a license, or may suspend or revoke an existing license. The determination shall be made after a hearing and an opportunity to be heard has been afforded the applicant or licensee. The determination may be made by the board upon proof that the person has engaged in unprofessional conduct within the last five years, including, but not limited to, the following:~~

- ~~(1) Has been convicted of a felony;~~
- ~~(2) Is unable to perform the functions of his or her licensed title by reason of mental or physical illness or some other infirmity or impairment;~~
- ~~(3) Has been grossly negligent or exhibited unprofessional or unethical conduct in the practice of social work;~~
- ~~(4) Has assisted or participated with a person not licensed under this article in the false representation that the person is licensed;~~
- ~~(5) Has failed to obtain a license renewal after expiration or revocation of same but has continued to represent that he or she is duly licensed hereunder;~~
- ~~(6) Has been found guilty by the board of unprofessional conduct in accordance with the rules and regulations promulgated by the board;~~
- ~~(7) Has obtained or attempted to obtain a license or renewal thereof by bribery or false representations;~~
- ~~(8) Has knowingly made a false statement in connection with any application required under this article; or~~
- ~~(9) Has knowingly made a false statement on any form or written statement submitted to the board.~~

~~(b) Although the board has the authority to refuse to issue or renew, or to revoke or suspend a license, the intention of this article is not to prohibit the practice of social work by competent and qualified individuals, but rather the intention is to protect the general public from the unprofessional practice of social work.~~

(a) All fees in effect, shall remain in effect until they are amended or repealed by legislative rule or statute.

(b) All fees and other moneys, except administrative fines, received by the board shall be deposited in a separate special revenue fund in the State Treasury designated the "Board of Social Work Fund", which is continued. The fund is used by the board for the administration of this article. Except as may be provided in article one of this chapter, the

board retains the amount in the special revenue account from year to year. No compensation or expense incurred under this article is a charge against the General Revenue Fund.

(c) Any amount received as fines, imposed pursuant to this article, shall be deposited into the General Revenue Fund of the State Treasury.

**§30-30-8. Disciplinary proceedings License to practice as an independent clinical social worker.**

~~All hearings with respect to any disciplinary action shall be conducted by the board and any decisions shall be made upon a majority vote of the board members. All hearings shall be stenographically recorded. The applicant or licensee shall be given twenty days notice of the hearing date and the issue pending before the board. This notice shall be by registered mail, return receipt requested, or by personal service. For purposes of the hearing, the applicant or licensee shall be afforded: (1) The right to representation by legal counsel; (2) the right to cross-examine witnesses; and (3) the right to present evidence in his or her behalf, including the right to call witnesses and present documentary evidence. For purposes of the hearing, the board has the power to subpoena witnesses and documentation. The applicant or licensee may apply to the board for the issuance of a subpoena to secure the attendance of a witness or to secure any documentary evidence for the hearing. The board shall notify the applicant or licensee of its decision within a reasonable time after the hearing. The decision shall be in writing and shall be forwarded to the applicant or licensee by registered mail, return receipt requested.~~

~~Any party adversely affected by the final determination of the board shall be entitled to judicial review in accordance with articles five and six, chapter twenty-nine-a of this code.~~

To be eligible for a license to practice as an independent clinical social worker, the applicant must:

- (1) Submit an application to the board;
- (2) Be at least eighteen years of age;
- (3) Be of good moral character;
- (4) Have obtained a master's degree from a school of social work accredited by the council on social work education that included a concentration of clinically oriented course work as defined by the board;
- (5) Have completed a supervised clinical field placement at the graduate level, or post-master's clinical training that is found by the board to be equivalent;
- (6) Have practiced clinical social work for at least two years in full-time employment, or three thousand hours under the supervision of an independent clinical social worker, or clinical supervision that is found by the board to be equivalent;
- (7) Have passed an examination approved by the board;
- (8) Have satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant
- (9) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article one-a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program may be considered;

(10) Not have been convicted of a felony in any jurisdiction within five years preceding the date of application for license which conviction remains unreversed;

(11) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of social work, which conviction remains unreversed; and

(12) Meet any other requirements established by the board.

**~~§30-30-8a. Reporting unethical conduct and unlicensed practice.~~**

~~A person who has knowledge of any conduct constituting grounds for disciplinary action relating to licensure or the unlicensed practice of the profession of social work under this article may report the violation to the board.~~

~~Institutions, professional societies, licensed professionals, insurers authorized to sell insurance within this state, and courts in this state shall report to the board any of the following actions taken by the agency, institution, organization, professional society, insurer, court administrator, judge or other court of competent jurisdiction:~~

~~(a) Revocation, suspension, restriction or other condition a licensee's privilege to practice or treat patients or clients, or as part of the organization, or any other disciplinary action for conduct that might constitute grounds for disciplinary action;~~

~~(b) Termination, revocation or suspension of membership or any other disciplinary action taken against a licensee;~~

~~(c) Conduct that the licensed health professional reasonably believes constitutes grounds for disciplinary action under this chapter by any licensee, including conduct that the licensee may be medically incompetent, or may be medically or physically unable to engage safely in the provision of services;~~

~~(d) Malpractice settlements or awards made by an insurer to a plaintiff where the settlement or award involved a licensee or unlicensed practitioner claiming to be a social worker; and~~

~~(e) Judgments or other determinations of the court that adjudges or includes a finding that a licensee is mentally ill, mentally incompetent, guilty of a felony, guilty of a violation of federal or state narcotics laws or controlled substances acts, or guilty of an abuse or fraud under medicare or medicaid, or that appoints a guardian of the licensee, or commits a licensee to involuntary treatment, probation or prison.~~

~~Any person, official, society, licensed professional, insurer or institution participating in good faith in any act permitted or required by this section is immune from any civil or criminal liability that otherwise might result by reason of the action or actions.~~

**~~§30-30-9. Temporary permit to practice social work~~ Scope of practice for an independent clinical social worker.**

~~All licenses are effective on the date of issuance from the board and shall expire in twenty-four months and the number of days remaining in the month after the date the license was issued. A license may be renewed upon payment of the renewal fee set by the board and upon execution of a sworn statement on a form provided by the board indicating the license has not been revoked and is not currently suspended. At the time of renewal, each applicant shall submit satisfactory evidence that he or she has completed the continuing educational requirements as specified by the board during the tenure of his or her license: **Provided**, That the board may waive these requirements upon a showing that the applicant suffered from a prolonged illness during the license~~

period or upon proof of other extenuating circumstances which hindered the completion of the requirement: **Provided, however,** That no waiver may be granted in succession. The application for renewal of a license must be made within sixty days after a license has expired or within sixty days of a termination or suspension period.

A clinical social worker may:

(1) Perform all duties within the scope of practice of a licensed certified social worker, licensed graduate social worker, and licensed social worker.

(2) Apply social work theory, methods, assessment, ethics and the professional use of self to the diagnosis, treatment and prevention of psychological dysfunction, disability or impairment, including emotional and mental disorders and developmental disabilities.

(3) Clinical social work practice is based on knowledge of one or more theories of biological, psychological and social development, normal human behavior, psychopathology, the causes and effects of physical illness and disability, unconscious motivation, interpersonal relationships, family dynamics, environmental stress, social systems and cultural diversity with particular attention to the person existing as a combination of biological, psychological and social elements in his or her environment.

(4) Clinical social work includes interventions directed to interpersonal interactions, intrapsychic dynamics and life-support and management issues.

(5) Clinical social work services consist of assessment, diagnosis, treatment, including psychotherapy and counseling, client-centered advocacy, consultation and evaluation.

The process of clinical social work is undertaken within the objectives of the social work profession and the principles and values of its code of ethics.

### **§30-30-10. Renewal of license License to practice as a certified social worker.**

~~All licenses are effective on the date of issuance from the board and shall expire in twenty-four months and the number of days remaining in the month after the date the license was issued. A license may be renewed upon payment of the renewal fee set by the board and upon execution of a sworn statement on a form provided by the board indicating the license has not been revoked and is not currently suspended. At the time of renewal, each applicant shall submit satisfactory evidence that he or she has completed the continuing educational requirements as specified by the board during the tenure of his or her license: **Provided,** That the board may waive these requirements upon a showing that the applicant suffered from a prolonged illness during the license period or upon proof of other extenuating circumstances which hindered the completion of the requirement: **Provided, however,** That no waiver may be granted in succession. The application for renewal of a license must be made within sixty days after a license has expired or within sixty days of a termination or suspension period.~~

(a) To be eligible for a license to practice as certified social worker, the applicant must:

(1) Submit an application to the board;

(2) Be at least eighteen years of age;

(3) Be of good moral character;

(4) Have obtained a master's degree from a school of social work accredited by the council on social work education;

(5) Have practiced social work for at least two-years post-master's experience in full-time employment or earned three thousand hours of post-masters social work experience;

(6) Have passed an examination approved by the board;

(7) Have satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant;

(8) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article one-a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program may be considered;

(9) Not have been convicted of a felony in any jurisdiction within five years preceding the date of application for license which conviction remains unreversed;

(10) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of social work, which conviction remains unreversed; and

(11) Meet other additional requirements as established by the board.

(b) A certified social worker may engage in the practice of clinical social work, if that certified social worker has:

(1) Obtained a master's degree from a school of social work accredited by the council on social work education that included a concentration of clinically oriented course work as defined by the board;

(2) Has completed a supervised clinical field placement at the graduate level, or post-master's clinical training that is found by the board to be equivalent;

(3) Has contracted, in writing, with a licensed clinical social worker who shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of legislative rules;

(4) Is an employee of an institution or organization in which the certified social worker has no direct or indirect interest other than employment.

(c) A certified social worker may not practice clinical social work until his or her contract has been approved by the board, and shall cease the practice of clinical social work immediately upon the termination of the contract. At the termination of the contract, the certified social worker shall apply for licensure as a licensed clinical social worker or request an extension of the contract from the board.

**§30-30-11. Fees; contributions Scope of practice for a licensed certified social worker.**

~~All fees shall be established and published by the board of examiners. All fees collected under this article are not refundable and shall be deposited in an operating fund of the board, created in the state treasury. The fund shall be a revolving fund from which all operation and administration expenses of the board shall be paid.~~

~~The board may accept contributions and bequests from individuals, organizations and corporations. These funds shall be deposited by the board into the operating fund heretofore created.~~

A licensed certified social worker may:

(1) Perform all duties within the scope of practice of a licensed graduate social worker and licensed social worker;

(2) Apply social work theory and methods to the diagnosis, treatment and prevention of psychological dysfunction, disability or impairment, including emotional and mental disorders and developmental disabilities; and

(3) Determine behavioral health diagnosis, using diagnostic taxonomies commonly accepted across disciplines among behavioral health professionals.

**§30-30-12. Privileged communications License to practice as a licensed graduate social worker.**

~~(a) No person licensed under this statute or an employee of the licensee may disclose any confidential information he or she may have acquired from persons consulting him or her in his or her professional capacity except:~~

~~(1) With the written consent of the person or persons, or in the case of death or disability, of his or her personal representative, other person authorized to sue or the beneficiary of an insurance policy on his or her life, health or physical condition;~~

~~(2) When a communication reveals the contemplation of a crime or harmful act;~~

~~(3) When the person waives the privilege by initiating formal charges against the independent clinical social worker, certified social worker, graduate social worker or social worker;~~

~~(4) When the person is a minor under the laws of this state and the information acquired by the independent clinical social worker, certified social worker, graduate social worker or social worker indicates that the minor has been the victim or subject of a crime, and the independent clinical social worker, certified social worker, graduate social worker or social worker may be required to testify fully in any examination, trial or other proceeding in which the commission of a crime is the subject of inquiry; or~~

~~(5) Where otherwise required by law.~~

~~(b) Nothing in this section shall be construed, however, to prohibit any board licensee from testifying in juvenile proceedings concerning matters of adoption, child abuse, child neglect or other matters pertaining to the welfare of children.~~

(a) To be eligible for a license to practice as a graduate social worker, the applicant must:

(1) Submit an application to the board;

(2) Be at least eighteen years of age;

(3) Be of good moral character;

(4) Have obtained a master's degree from a school of social work accredited by the council on social work education.

(5) Have passed an examination approved by the board;

(6) Have satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant;

(7) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article one-a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program may be considered;

(8) Not have been convicted of a felony in any jurisdiction within five years preceding the date of application for license which conviction remains unreversed;

(9) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of social work, which conviction remains unreversed; and

(10) Meet any other requirements established by the board.



(b) A licensed graduate social worker may engage in the practice of clinical social work, if he or she has:

(1) Obtained a master's degree from a school of social work accredited by the council on social work education that included a concentration of clinically oriented course work as defined by the board;

(2) Has completed a supervised clinical field placement at the graduate level, or post-master's clinical training that is found by the board to be equivalent;

(3) Has contracted, in writing, with a licensed clinical social worker who shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of legislative rules;

(4) Be employed by an institution or organization in which the graduate social worker has no direct or indirect interest other than employment.

(c) A graduate social worker may not practice clinical social work until this contract has been approved by the board, and shall cease the practice of clinical social work immediately upon the termination of the contract. At the termination of the contract, the graduate social worker shall apply for licensure as a licensed independent clinical social worker or request an extension of the contract from the board.

**§30-30-13. Scope of practice for a licensed graduate social worker.**

A licensed graduate social worker may perform all duties within the scope of practice of a licensed social worker and provisional social worker as well as:

(1) Appropriately conduct social work education, formally teaching social work theory and methodology to bachelor's and master's level social work students.

(2) Conduct clinical or psychotherapeutic services, under the clinical supervision of another experienced and credentialed behavioral health professional, including individual, family and group methodologies.

**§30-30-14. License to practice as a social worker.**

To be eligible for a license to practice as a social worker, the applicant must:

(1) Submit an application to the board;

(2) Be at least eighteen years of age;

(3) Be of good moral character;

(4) Have a baccalaureate degree in social work from a program accredited by the council on social work education;

(5) Have passed an examination approved by the board;

(6) Have satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant;

(7) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article one-a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program may be considered;

(8) Not have been convicted of a felony in any jurisdiction within five years preceding the date of application for license which conviction remains unreversed;

(9) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of social work, which conviction remains unreversed; and

(10) Meet any other requirements established by the board.

**§30-30-15. Scope of Practice for a Social Worker.**

(a) A licensed social worker may perform all duties within the scope of practice of a provisional social worker as well as:

(1) Apply social work theory, knowledge, methods, ethics and the professional use of self in social work practice including assessment, planning, intervention, counseling, evaluation, and case management supervision;

(2) Provide social advocacy activities, designed to influence social service systems and social policies in the direction of reduced disparities in social and distributive justice, especially for at risk and socially or economically disadvantaged populations;

(3) Community organization activities, designed to assist client systems at the community level to achieve desirable social or policy change toward goals of enhanced civic functioning and improved environmental responsiveness to client quality of life issues;

(4) Administration and program development, designed to develop, structure and, oversee social service systems at the organizational level; and

(5) Training activities, designed to assist clients or client systems with skill development deemed desirable to restore or enhance social functioning or adaptation; or, to assist less experienced social workers with professional skill development.

(b) A licensed social worker with a baccalaureate degree or master's degree in social work from a program accredited by the council on social work education and two years of experience, may supervise a provisionally licensed social worker.

**§30-30-16. Provisional License to practice as a social worker.**

(a) To be eligible for a provisional license to practice as a social worker, the applicant must:

(1) Submit an application to the board;

(2) Be at least eighteen years of age;

(3) Be of good moral character;

(4) Have a baccalaureate degree in a related field, as provided by legislative rule;

(5) Have obtained regular supervised employment, or the reasonable promise of regular supervised employment contingent upon receiving a provisional license, in a critical social work workforce shortage position, area or setting requiring a social work license; Provided, that such employment shall not as an independent practitioner, contracted employee, sole proprietor, consultant, or other nonregular employment;

(6) Have satisfied the board that he or she merits the public trust by providing the board with three letters of recommendation from persons not related to the applicant;

(7) Not be an alcohol or drug abuser, as these terms are defined in section eleven, article one-a, chapter twenty-seven of this code: *Provided*, That an applicant in an active recovery process, which may, in the discretion of the board, be evidenced by participation in an acknowledged substance abuse treatment and/or recovery program may be considered;

(8) Not have been convicted of a felony in any jurisdiction within five years preceding the date of application for license which conviction remains unreversed;

(9) Not have been convicted of a misdemeanor or felony in any jurisdiction if the offense for which he or she was convicted related to the practice of social work, which conviction remains unreversed; and

(10) Meet any other requirements established by the board.

(b) A provisionally licensed social worker may become a licensed social worker, by completing the following:

(1) Be continuously employed for four years as a social worker and supervised. The board shall promulgate by legislative rule the supervision requirements;

(2) Complete twelve credit hours of core social work study from a program accredited by the council on social work education, as defined by legislative rule, within the four-year provisional license period;

(3) Complete continuing education as required by legislative rule; and

(4) Pass an examination approved by the board.

(c) A provisionally licensed social worker or a person previously licensed as a provisionally licensed social worker may not reapply for licensure through this process if the process is not completed.

**§30-30-17. Scope of practice for a provisionally licensed social worker.**

A provisionally licensed social worker may perform all of the following functions and social work services under supervision:

(1) Multi-dimensional assessment of client or client system strengths and problems with functioning or psychosocial adaptation, not including formal mental health diagnosis.

(2) Service planning and contracting with clients or clients systems to outline proposed interventive strategies for clients or client systems in order to restore or enhance social, psychosocial, or biopsychosocial functioning;

(3) Implementing service plans and problem solving methodologies to restore or enhance social, psychosocial or biospsychosocial functioning of clients or client systems;

(4) Supportive and palliative counseling activities, designed to offer comfort and social encouragement to clients or client systems, not including psychotherapy;

(5) Preventive strategies such as psychoeducation and consciousness raising for at-risk systems or populations, designed to forestall difficulties with functioning and psychosocial adaptation;

(6) Case management activities designed to assist clients or client systems with gaining access to needed resources and services and to assist with coordination of services in situations where multiple providers may be involved with client care;

(7) Information and referral services; and

(8) Personal practice assessment designed to assess and document outcomes and effectiveness of one's practice.

**§30-30-18. Exemptions from this article.**

The following persons are exempt from licensure, unless specifically stated in writing by the employer:

(1) A person employed as the director or administrative head of a social service agency or division, or applicants for employment to be licensed;

(2) Licensed or qualified members of other professions, such as physicians, psychologists, lawyers, counselors, clergy, educators, or the general public engaged in social work-like activities, from doing social work consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "licensed social worker" or "licensed clinical social worker" or a variation thereof;

(3) An employer from performing social work-like activities performed solely for the benefit of employees;

(4) Activities and services of a student, intern, or resident in social work pursuing a course of study at an accredited university or college or working in a generally recognized training center if the activities and services constitute a part of the supervised course of study; and

(5) Pending disposition of the application for a license, activities and services by a person who has recently become a resident of this state, has applied for a license within ninety days of taking up residency in this state, and is licensed to perform the activities and services in the state of former residence.

**§30-30-19. Renewal of license.**

(a) All licenses are effective on the date of issuance from the board and shall expire in twenty-four months and the number of days remaining in the month after the date the license was issued.

(b) The board shall charge a fee for each renewal of a license and shall charge a late fee for any renewal not paid by the due date.

(c) The board shall require as a condition of renewal that each licensee complete continuing education.

(d) The board may deny an application for renewal for any reason which would justify the denial of an original application for a license.

(e) A provisional licensee shall provide all information and document progress in completing all requirements for the board to renew his or her provisional license.

**§30-30-20. Delinquent and expired license requirements.**

(a) If a license is not renewed when due, then the board shall automatically place the licensee on delinquent status. A licensee on delinquent status may not practice social work in this state.

(b) The fee for a person on delinquent status shall increase at a rate, determined by the board, for each month or fraction thereof that the renewal fee is not paid, up to a maximum of thirty-six months.

(c) Within thirty-six months of being placed on delinquent status, if a licensee wants to return to active practice, he or she must complete all the continuing education requirements and pay all the applicable fees as set by rule.

(d) After thirty-six months of being placed on delinquent status, a license is automatically placed on expired status and cannot be renewed. A person whose license has expired must reapply for a new license.

**§30-30-21. Inactive license requirements.**

(a) A licensee who does not want to continue an active practice must submit an application and the applicable fee to be granted inactive status.

(b) A person granted inactive status is not subject to the payment of any fee and may not practice social work in this state.

(c) When the person wants to return to the practice of social work, the person shall submit an application for renewal along with all applicable fees as set by rule.

**§30-30-22. Temporary permit to practice social work.**

(a) Upon completion of the application and payment of the nonrefundable fees, the board may issue a temporary permit, for a period not to exceed six months, to an applicant to practice in this state, if the applicant has completed the educational requirements set out in this article, pending the examination and who works under a supervising social worker with the scope of the supervision to be defined by legislative

rule. The applicant may renew the permit if the licensee receives a failing score on the examination.

(b) A temporary permit may be revoked by a majority vote of the board.

**§30-30-23. Display of license.**

(a) The board shall prescribe the form for a license and permit, and may issue a duplicate license or permit upon payment of a fee.

(b) Any person regulated by the article shall conspicuously display his or her license or permit at his or her principal business location.

**§30-30-24. Privileged communications.**

(a) A licensee may not disclose any information acquired provided by a client or from persons consulting the licensee in a professional capacity, except that which may be voluntarily disclosed under these following circumstances:

(1) In the course of formally reporting, conferring or consulting with administrative superiors, colleagues or consultants who share professional responsibility, in which instance all recipients of such information are similarly bound to regard the communication as privileged;

(2) With the written consent of the person who provided the information;

(3) In case of death or disability, with the written consent of a personal representative, other person authorized to sue, or the beneficiary of an insurance policy on the person's life, health or physical condition;

(4) When a communication reveals the intended commission of a crime or harmful act and such disclosure is judged necessary by the social worker to protect any person from a clear, imminent risk of serious mental or physical harm or injury, or to forestall a serious threat to the public safety; or

(5) When the person waives the privilege by bringing any public charges against the licensee.

(b) When the person is a minor and the information acquired by the licensee indicates the minor was the victim of or witness to a crime, the licensee may be required to testify in any judicial proceedings in which the commission of that crime is the subject of inquiry and when the court determines that the interests of the minor in having the information held privileged are outweighed by the requirements of justice.

(c) Any person having access to records or anyone who participates in providing social work services or who, in providing any human services, is supervised by a licensee, is similarly bound to regard all information and communications as privileged in accord with this section.

(d) Nothing shall be construed to prohibit a licensee from voluntarily testifying in court hearings concerning matters of adoption, child abuse, child neglect or other matters pertaining to children, elderly, and physically and mentally impaired adults, except as prohibited under the applicable state and federal laws.

**§30-30-25. Actions to enjoin violations.**

(a) If the board obtains information that any person has engaged in, is engaging in or is about to engage in any act which constitutes or will constitute a violation of this article, the rules promulgated pursuant to this article, or a final order or decision of the board, it may issue a notice to the person to cease and desist in engaging in the act and/or apply to the circuit court in the county of the alleged violation for an order enjoining the act.

(b) The circuit courts of this state may issue a temporary injunction pending a decision on the merits, and may issue a permanent injunction based on its findings in the case.  
(c) The judgment of the circuit court on an application permitted by this section is final unless reversed, vacated or modified on appeal to the West Virginia Supreme Court of Appeals.

**§30-30-26. Complaints; investigations; due process procedure; grounds for disciplinary action.**

(a) The board may upon its own motion based on credible information, and shall upon the written complaint of any person, cause an investigation to be made to determine whether grounds exist for disciplinary action under this article or the legislative rules promulgated pursuant to this article.

(b) Upon initiation or receipt of the complaint, the board shall provide a copy of the complaint to the licensee or permittee.

(c) After reviewing any information obtained through an investigation, the board shall determine if probable cause exists that the licensee or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article.

(d) Upon a finding that probable cause exists that the licensee or permittee has violated subsection (g) of this section or rules promulgated pursuant to this article, the board may enter into a consent decree or hold a hearing for the suspension or revocation of the license or permit or the imposition of sanctions against the licensee or permittee. Any hearing shall be held in accordance with this article.

(e) Any member of the board or the administrator of the board may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person regulated by the article.

(f) Any member of the board or its administrator may sign a consent decree or other legal document on behalf of the board.

(g) The board may, after notice and opportunity for hearing, deny or refuse to renew, suspend, restrict or revoke the license or permit of, or impose probationary conditions upon or take disciplinary action against, any licensee or permittee for any of the following reasons once a violation has been proven by a preponderance of the evidence:

(1) Obtaining a license or permit by fraud, misrepresentation or concealment of material facts;

(2) Being convicted of a felony or other crime involving moral turpitude;

(3) Being guilty of unprofessional conduct which placed the public at risk, as defined by legislative rule of the board;

(4) Intentional violation of a lawful order or legislative rule of the board;

(5) Having had a license or other authorization revoked or suspended, other disciplinary action taken, or an application for licensure or other authorization revoked or suspended by the proper authorities of another jurisdiction;

(6) Aiding or abetting unlicensed practice; or

(7) Engaging in an act while acting in a professional capacity which has endangered or is likely to endanger the health, welfare or safety of the public.

(h) For the purposes of subsection (g) of this section, effective July 1, 2011, disciplinary action may include:

(1) Reprimand;

(2) Probation;

(3) Restrictions;

(4) Administrative fine, not to exceed \$1,000 per day per violation;

(5) Mandatory attendance at continuing education seminars or other training;

(6) Practicing under supervision or other restriction; or

(7) Requiring the licensee or permittee to report to the board for periodic interviews for a specified period of time.

(i) In addition to any other sanction imposed, the board may require a licensee or permittee to pay the costs of the proceeding.

**§30-30-27. Procedures for hearing; right of appeal.**

(a) Hearings are governed by section eight, article one of this chapter.

(b) The board may conduct the hearing or elect to have an administrative law judge conduct the hearing.

(c) If the hearing is conducted by an administrative law judge, at the conclusion of a hearing he or she shall prepare a proposed written order containing findings of fact and conclusions of law. The proposed order may contain proposed disciplinary actions if the board so directs. The board may accept, reject or modify the decision of the administrative law judge.

(d) Any member or the administrator of the board has the authority to administer oaths, examine any person under oath and issue subpoenas and subpoenas duces tecum.

(e) If, after a hearing, the board determines the licensee or permittee has violated this article or the board's rules, a formal written decision shall be prepared which contains findings of fact, conclusions of law and a specific description of the disciplinary actions imposed.

**§30-30-28. Judicial review.**

Any licensee or permittee adversely affected by a decision of the board entered after a hearing may obtain judicial review of the decision in accordance with section four, article five, chapter twenty-nine-a of this code, and may appeal any ruling resulting from judicial review in accordance with article six, chapter twenty-nine-a of this code.

**§30-30-29. Criminal proceedings; penalties.**

(a) When, as a result of an investigation under this article or otherwise, the board has reason to believe that a licensee or permittee has committed a criminal offense under this article, the board may bring its information to the attention of an appropriate law-enforcement official.

(b) A person violating section one of this article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$100 nor more than \$5,000 or confined in jail not more than six months, or both fined and confined.

## House Bill 2550

Effective Date: June 10, 2011

Signed by Governor: March 23, 2011

Code Reference: Adds §18-10F-1 and §18-10F-2

Title: Interstate Compact on Educational Opportunity for Military Children

### Major Provisions:

- Provides for West Virginia to become the 36<sup>th</sup> state to join the Interstate Compact.
- The Interstate Compact applies to the children of active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders; members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and members of the uniformed services who die on active duty for a period of one year after death.
- The Compact is designed to ease the transition of students into new schools as their parents are transferred from location to location around the country.
- The Compact specifically addresses processes and opportunities the member state provides to:
  - o Facilitate the timely enrollment of children of military families so they are not placed at a disadvantage due to difficulty in the transfer of education records such as transcripts, immunizations, and enrollment at current grade level.
  - o Facilitate student placement process so children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.
  - o Facilitate qualification and eligibility for enrollment, educational programs and participation in extracurricular academic, athletic and social activities.



- Facilitate the on-time graduation of children of military families.
  - Provide for uniform collection and sharing of information between and among member states, schools and military families.
- Establishes the West Virginia Commission for Educational Opportunities for Military Children. The Commission is authorized to address future interstate problems and issues as they arise; to create and enforce rules governing the compact's operation; and to promote training and compliance with the compact's requirements.

**ENROLLED**  
**COMMITTEE SUBSTITUTE**  
**FOR**  
**H. B. 2550**

(By Delegates Iaquina, Fleischauer, Longstreth,  
Stephens, Walker and Azinger)

[Passed March 10, 2011; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §18-10F-1 and §18-10F-2, all relating to the enactment of the Interstate Compact on Educational Opportunity for Military Children; establishing the West Virginia Council for Educational Opportunity for Military Children; designating membership; and establishing powers and duties.

*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 §18-10F-1 and §18-10F-2, all to read as follows:

**ARTICLE 10F. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.**

**§18-10F-1. Interstate Compact on Educational Opportunity for Military Children.**

This article is known and may be cited as the “Interstate Compact on Educational Opportunity for Military Children”.

**§18-10F-2. Enactment of Interstate Compact.**

The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into law and entered into by the State of West Virginia with any and all states legally joining therein in accordance with its terms, in the form substantially as follows:

**INTERSTATE COMPACT ON EDUCATIONAL  
OPPORTUNITY FOR MILITARY CHILDREN**  
**ARTICLE I. PURPOSE**

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

(a) Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from a previous school district or variations in entrance or age requirements;

- (b) Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment;
- (c) Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic and social activities;
- (d) Facilitating the on-time graduation of children of military families;
- (e) Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;
- (f) Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact;
- (g) Promoting coordination between this compact and other compacts affecting military children; and
- (h) Promoting flexibility and cooperation between the educational system, parents and students in order to achieve educational success for students.

## ARTICLE II. DEFINITIONS

As used in this article and compact, unless the context clearly requires a different meaning:

- (a) "Active duty" means full-time duty status in any of the active uniformed services of the United States, including service in the National Guard and Reserve pursuant to active duty orders in accordance with 10 U.S.C. Sections 1209 and 1211;
- (b) "Child of a military family" means any school-aged child enrolled in any of grades kindergarten through twelfth who is in the household of an active duty uniformed services member;
- (c) "Compact commissioner" means the voting representative of a compacting state appointed pursuant to Article VIII of this compact;
- (d) "Deployment" means the time period beginning one month prior to a uniformed services member's departure from his or her home station on military orders and ending six months after return to his or her home station;
- (e) "Education records" means all documents, files, data and official records directly related to a student and maintained by a school or county board. This includes all material kept in the student's cumulative file, such as but not limited to generally-identifying data, attendance records, academic work completion records, achievement records, evaluative test results, health data, disciplinary records, test protocols, and individualized education program or service records;
- (f) "Extracurricular activities" means voluntary activities sponsored by a school, a county board or an organization sanctioned by a county board or the state board of education. Extracurricular activities include, but are not limited to, preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, organizations and clubs;
- (g) "Interstate Commission on Educational Opportunity for Military Children" or "Interstate Commission" means the Commission that is created by Article IX of this compact;
- (h) "County board" means a county board of education, which is the public entity legally constituted by this state as an administrative agency to provide control of and direction

for grades kindergarten through twelfth in the public schools in the county in which it operates;

(i) "Member state" means a state that has enacted this compact;

(j) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands or any other United States Territory. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects;

(k) "Non-member state" means a state that has not enacted this compact;

(l) "Receiving state" means a state to which a child of a military family is sent, brought, or caused to be sent or brought;

(m) "Rule" means a written statement by the Interstate Commission which:

(1) Is promulgated pursuant to Article XII of this compact;

(2) Is of general applicability;

(3) Implements, interprets or prescribes a policy or provision of this compact, or an organizational, procedural, or practice requirement of the Interstate Commission;

(4) Has the force and effect of statutory law in a member state; and

(5) May be amended, repealed, or suspended by act of the Interstate Commission;

(n) "Sending state" means a state from which a child of a military family is sent, brought, or caused to be sent or brought;

(o) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other United States Territory;

(p) "Student" means a child of a military family who is formally enrolled in any of grades kindergarten through twelfth and for whom a county board receives public funding;

(q) "Transition" means:

(1) The formal and physical process of transferring from one school to another; or

(2) The period of time during which a student moves from one school in a sending state to another school in the receiving state;

(r) "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, and the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services;

(s) "Veteran" means a person who performed active duty service and was discharged or released therefrom under conditions other than dishonorable; and

(t) "The West Virginia Council for Educational Opportunity for Military Children" or "West Virginia Council" means the state coordinating council established in Article VIII of this compact.

### ARTICLE III. APPLICABILITY

(a) This compact applies to:

(1) Each county board of education; and

(2) The children of:

(A) Active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209 and 1211;

(B) Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

(C) Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

(b) Except as provided in subsection (a) of this Article III, this compact does not apply to the children of:

(1) Inactive members of the National Guard or military reserves;

(2) Retired members of the uniformed services;

(3) Veterans of the uniformed services;

(4) Other United States Department of Defense personnel; nor

(5) Any other federal agency civilian or contract employees not defined as active duty members of the uniformed services.

#### ARTICLE IV. EDUCATIONAL RECORDS & ENROLLMENT

(a) Unofficial or "hand-carried" education records ---

In the event that official education records cannot be released to a student's parents or legal guardians for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parents a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. As quickly as possible upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records.

(b) Official education records/transcripts --

Simultaneous with the enrollment and conditional placement of a student, the school in the receiving state shall request the student's official education records from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official education records to the school in the receiving state within ten days or such other time period as is determined reasonable under the rules promulgated by the Interstate Commission.

(c) Immunizations --

(1) A county board shall allow a student thirty days from the date of enrollment to obtain any required immunizations, or such other time period as is determined reasonable under the rules promulgated by the Interstate Commission.

(2) In any case where a series of immunizations is required, the student shall obtain the initial vaccination within thirty days of enrollment, or such other time period as is determined reasonable under the rules promulgated by the Interstate Commission.

(d) Enrollment at current grade level --

(1) A student shall be permitted to enroll in the grade level in this state, including kindergarten, which is commensurate with the grade level in which he or she was enrolled in the sending state at the time of transition, regardless of his or her age.

(2) A student that has satisfactorily completed the prerequisite grade level in the sending state is eligible for enrollment in the next highest grade level in this state, regardless of his or her age.

## ARTICLE V. PLACEMENT & ATTENDANCE

### (a) Course placement --

(1) When a student transfers to this state before or during the school year, the school in this state shall initially place the student in educational courses based on the courses in which he or she was enrolled in the sending state, educational assessments conducted at the school in the sending state, or both, if the courses are offered at the school to which the student is transferring. This course placement provision includes, but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses.

(2) A school shall give paramount consideration to continuing a student's academic program from the previous school, and promoting placement in academically and career-challenging courses, when considering course placement.

(3) A school is not precluded from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in any course.

### (b) Educational program placement --

When a student transfers to this state, the school shall initially place the student in educational programs based on current educational assessments conducted at the school in the sending state or participation or placement in like programs in the sending state. Such programs include, but are not limited to gifted and talented programs and English as a second language (ESL). A school is not precluded from performing subsequent evaluations to ensure appropriate placement of the student.

### (c) Special education services --

(1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq, a school in this state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program (IEP); and

(2) In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794 (Section 504), and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. Sections 12131-12165 (Title II), any school in this state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing Section 504 or Title II plan, to provide the student with equal access to education. The school is not precluded from performing subsequent evaluations to ensure appropriate placement of the student.

### (d) Placement flexibility --

County board administrative officials have flexibility in waiving course and program prerequisites, or other preconditions for placement in courses or programs offered under the authority of the county board.

### (e) Absence as related to deployment activities --

A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional

excused absences at the discretion of the county superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

## ARTICLE VI. ELIGIBILITY

### (a) Eligibility for enrollment --

(1) Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law is sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

(2) A county board may not charge local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a school district other than that of the custodial parent.

(3) A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a school district other than that of the custodial parent, may continue to attend the school in which he or she was enrolled while residing with the custodial parent.

### (b) Eligibility for extracurricular participation --

The State Board of Education and county boards shall facilitate the opportunity for transitioning military children to be included in extracurricular activities, regardless of application deadlines, to the extent the children are otherwise qualified.

## ARTICLE VII. GRADUATION

In order to facilitate the on-time graduation of children of military families the State Board of Education and each county board shall incorporate the following procedures:

### (a) Waiver requirements --

County board administrative officials shall either waive specific courses required for graduation if a student has satisfactorily completed similar course work in another local education agency, or provide reasonable justification for denial. If a waiver is not granted to a student who would qualify to graduate from the sending school, the county board shall provide an alternative means of acquiring required coursework so that the student may graduate on time.

### (b) Exit exams --

Any school in this state shall accept:

(1) Exit or end-of-course exams required for graduation from the sending state;

(2) National norm-referenced achievement tests; or

(3) Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event that the alternatives in this subsection cannot be accommodated by a school for a student transferring in his or her senior year, then the provisions of subsection (c) of Article VII of this compact apply.

### (c) Transfers during senior year --

If a student transferring at the beginning of or during his or her senior year is ineligible to graduate from a school in this state after all alternatives have been considered, the county board and the local education agency in the sending state shall ensure that the student receives a diploma from the sending state, if the student meets the graduation requirements of the local education agency in the sending state. In the event that one of

the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections (a) and (b) of this Article VII.

#### ARTICLE VIII. STATE COORDINATION

(a) The West Virginia Council for Educational Opportunity for Military Children is hereby established for the purpose of coordinating entities in this state regarding participation in the Interstate Compact on Educational Opportunity for Military Children.

(b) Membership of the Council consists of at least six members as follows:

(1) The State Superintendent of Schools;

(2) The superintendent of a county board in the state which has a high concentration of military children, appointed by the Governor. If the Governor determines there is not a county school district that contains a high concentration of military children, he or she may appoint a superintendent from any county school district to represent county boards on the State Council;

(3) An individual representing a military installation in this state appointed by the Governor by and with the advice and consent of the Senate. This member serves a term of four years, except that the term of the individual initially appointed expires June 30, 2015. Each subsequent term begins on July 1 in the year of appointment.

(4) An individual representing the executive branch of government, appointed by the Governor;

(5) One member of the West Virginia Senate, appointed by the President of the West Virginia Senate; and

(6) One member of the West Virginia House of Delegates, appointed by the Speaker of the West Virginia House of Delegates.

(c) The Governor shall appoint a Compact Commissioner who is responsible for administering and managing the state's participation in the compact. The Governor may select the Commissioner from members appointed to the Council as provided in subsection (b) of this Article VIII, or may appoint another individual to serve in this capacity. A individual who is not already a full voting member of the Council becomes an ex officio member of the Council if appointed as Commissioner.

(d) The West Virginia Council has and may exercise all powers necessary or appropriate to carry out and effectuate the purpose and intent of this compact, including, but not limited to the following:

(1) Facilitate coordination among state agencies and governmental entities of West Virginia, including county boards and military installations, concerning the state's participation in, and compliance with, this compact and Interstate Commission activities; and

(2) Appoint or designate a military family education liaison to assist military families and the state in facilitating implementation of the compact. This individual becomes an ex officio member of the West Virginia Council if he or she is not already a full voting member of the Council when so appointed or designated.

#### ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN



(a) The member states hereby create the “Interstate Commission on Educational Opportunity for Military Children.” The activities of the Interstate Commission are the formation of public policy and are a discretionary state function.

(b) The Interstate Commission:

(1) Is a body corporate and joint agency of the member states and has all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective Legislatures of the member states in accordance with the terms of this compact;

(2) Consists of one Interstate Commission voting representative from each member state who is that state’s Compact Commissioner.

(A) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

(B) A majority of the total member states constitutes a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission.

(C) A representative may not delegate a vote to another member state. In the event a Compact Commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council of the Compact Commissioner’s state may delegate voting authority to another person from that state for a specified meeting.

(D) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication;

(3) Consists of ex-officio, nonvoting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include, but are not limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the United States Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members;

(4) Meets at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings;

(5) Establishes an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as established in the bylaws. Each member of the executive committee serves a one year term. Each member of the executive committee is entitled to one vote. The executive committee has the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the daily activities of the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules, and such other duties as it determines are necessary. A representative of the United States Department of Defense serves as an ex-officio, nonvoting member of the executive committee;

(6) Establishes bylaws and rules that provide for conditions and procedures under which the Interstate Commission makes its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure

information or official records to the extent they would adversely affect personal privacy rights or proprietary interests;

(7) Gives public notice of all meetings. All meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, where it determines by two-thirds vote that an open meeting would be likely to:

(A) Relate solely to the Interstate Commission's internal personnel practices and procedures;

(B) Disclose matters specifically exempted from disclosure by federal and state statute;

(C) Disclose trade secrets or commercial or financial information which is privileged or confidential;

(D) Involve accusing a person of a crime, or formally censuring a person;

(E) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(F) Disclose investigative records compiled for law enforcement purposes; or

(G) Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding;

(8) Causes its legal counsel or designee to certify that a meeting may be closed, and reference each relevant exemptable provision for any meeting or portion of a meeting which is closed pursuant to this provision. The Interstate Commission shall maintain a minute record of each meeting which shall fully and clearly describe all matters discussed in the meeting. The minute record shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in the minute record. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

(9) Collects standardized data concerning the educational transition of the children of military families under this compact as directed through its rules. The rules shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules; and

(10) Creates a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This subdivision does not create a private right of action against the Interstate Commission or any member state.

## ARTICLE X. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission has the following powers:

(a) To provide for dispute resolution among member states;

(b) To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules have the force and effect of

statutory law and are binding in the compact states to the extent and in the manner provided in this compact;

(c) To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules and actions;

(d) To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;

(e) To establish and maintain offices which shall be located within one or more of the member states;

(f) To purchase and maintain insurance and bonds;

(g) To borrow, accept, hire or contract for services of personnel;

(h) To establish and appoint committees including, but not limited to, an executive committee as required by Article IX of this compact, which have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder;

(i) To elect or appoint such officers, attorneys, employees, agents or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

(j) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of such;

(k) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;

(l) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;

(m) To establish a budget and make expenditures;

(n) To adopt a seal and bylaws governing the management and operation of the Interstate Commission;

(o) To report annually to the Legislatures, Governors, judiciary, and state councils of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports also shall include any recommendations that may have been adopted by the Interstate Commission;

(p) To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents involved in such activity;

(q) To establish uniform standards for reporting, collecting and exchanging data;

(r) To maintain corporate books and records in accordance with the bylaws;

(s) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact; and

(t) To provide for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

## ARTICLE XI. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall, by a majority of the members present and voting, within twelve months after the first Interstate Commission meeting, adopt bylaws to

govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(1) Establishing the fiscal year of the Interstate Commission;

(2) Establishing an executive committee, and such other committees as may be necessary;

(3) Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;

(4) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each meeting;

(5) Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

(6) Providing a mechanism for concluding the operations of the Interstate Commission and the returning surplus funds that may exist upon termination of the compact after the payment and reserving of all of its debts and obligations; and

(7) Providing start-up rules for initial administration of the compact.

(b) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected serve without compensation or remuneration from the Interstate Commission. Subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

(c) *Executive Committee, Officers and Personnel --*

(1) The executive committee has such authority and duties as may be set forth in the bylaws, including but not limited to:

(A) Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

(B) Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

(C) Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Interstate Commission.

(2) The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director serves as secretary to the Interstate Commission, but is not a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

(d) The Interstate Commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission

employment, duties, or responsibilities. The executive director and employees are not protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(1) The liability of the Interstate Commission's executive director and employees or Interstate Commission representatives, acting within the scope of employment or duties for acts, errors, or omissions occurring within his or her state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect the executive director or employees from suit or liability for damage, loss, injury, or liability caused by his or her intentional or willful and wanton misconduct.

(2) The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the individual arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that the individual had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the individual.

## ARTICLE XII. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

### (a) Rulemaking Authority --

The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate Commission is invalid and has no force nor effect.

### (b) Rulemaking Procedure --

Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

(c) Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule. Filing such a petition does not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and may not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

(d) If a majority of the Legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then that rule has no further force nor effect in any compacting state.

### ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

(a) Oversight --

(1) The executive, legislative and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of this compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission.

(3) The Interstate Commission is entitled to receive all service of process in any such proceeding, and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission renders a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

(b) Default, Technical Assistance, Suspension and Termination --

If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

(1) Provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default; and

(2) Provide remedial training and specific technical assistance regarding the default.

(3) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the member states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(4) Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting state's Legislature, and each of the member states.

(5) The state which has been suspended or terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of suspension or termination including obligations, the performance of which extends beyond the effective date of suspension or termination.

(6) The Interstate Commission does not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(7) The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(c) Dispute Resolution --

(1) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states and between member and nonmember states.

(2) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(d) Enforcement --

(1) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

(2) The Interstate Commission may by majority vote of the members initiate legal action in the United State District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(3) The remedies herein are not the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

#### ARTICLE XIV. FINANCING OF THE INTERSTATE COMMISSION

(a) The Interstate Commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(b) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

(c) The Interstate Commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the Interstate Commission pledge the credit of any of the member states, except by and with the authority of the member state.

(d) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited annually by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

#### ARTICLE XV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

(a) Any state is eligible to become a member state.

(b) This compact became effective and binding upon legislative enactment of the compact into law by ten states in July 2008. It becomes effective and binding as to any other member state upon enactment of the compact into law by that state. The Governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

(c) The Interstate Commission may propose amendments to the compact for enactment by the member states. An amendment does not become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

#### ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

(a) *Withdrawal* --

(1) Once effective, the compact continues in force and remains binding upon each member state. A member state may withdraw from the compact upon repealing the specific statute that enacted the compact into law.

(2) Withdrawal from the compact occurs by repeal of the enacting statute, but withdrawal does not take effect until one year after the effective date of the repealing legislation and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member state.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of any legislation to repeal this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's potential to withdraw within sixty days of receiving notice.

(4) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of a member state shall occur if the withdrawing state reenacts the compact or upon such later date as may be determined by the Interstate Commission.

(b) *Dissolution of Compact* --

(1) This compact shall dissolve effective upon the date of the withdrawal or default of any member state which reduces the membership in the compact to one member state.



(2) Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

#### ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

(a) The provisions of this compact are severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact are enforceable.

(b) The provisions of this compact shall be liberally construed to effectuate its purposes.

(c) Nothing in this compact prohibits the applicability of any other interstate compact to which the states are members.

#### ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

(a) *Other Laws --*

(1) Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

(2) All member states' laws conflicting with this compact are superseded to the extent of the conflict.

(b) *Binding Effect of the Compact --*

(1) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

(2) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(3) In the event any provision of this compact exceeds the constitutional limits imposed on the Legislature of any member state, that provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

## House Bill 2556

Effective Date: February 23, 2011

Signed by Governor: February 25, 2011

Code Reference: Amends §18A-2-3

Title: Employment of Retired Teachers as Substitutes

Major Provisions:

- Extends the expiration date from June 30, 2010 to June 30, 2014 for the provision in WVC §18A-2-3 that allows county boards to employ retired teachers as substitute teachers in areas of critical need for an unlimited number of days.
- Requires each county board to report the following additional information about the number of retired teachers employed under the provisions of this Code section:
  - o The number of retired teachers, by critical need and shortage area, employed beyond the 140 statutory limit;
  - o The date that each retired teacher notified county board of his/her intent to retire; and
  - o The effective date of the teacher's retirement.
- In addition to the Consolidated Public Retirement Board, the bill adds the State Board as an agency to which the county superintendent must submit an affidavit stating the name of the county, the fact that the county has adopted a policy to employ retired teachers as substitutes to address areas of critical need and shortage, and the names of the retired teachers employed pursuant to the policy, in addition to the additional information discussed in the preceding paragraph.
- Continues the requirement that until this section of the Code expires, the State Board is to submit an annual report to the Joint Committee on Government and Finance prior to February 1 of each year.
- Specifies that the report must contain information indicating the effectiveness of the provisions of this section to address areas of critical need and shortage, to include, but not limited to, the number of retired teachers, by critical need and shortage area, employed by

county board beyond the 140 day post-retirement limit established by the Consolidated Public Retirement Board, the date that every teacher gave notice to the county board of their intent to retire, and the effective date of those teachers' retirement.

## ENROLLED

### H. B. 2556

(By Delegates Perry, M. Poling, Shaver, Lawrence, Stowers, Moye, Romine and Duke)

[Passed February 22, 2011; in effect from passage.]

AN ACT to amend and reenact §18A-2-3 of the Code of West Virginia, 1931, as amended, relating to resetting the expiration date of provisions that allow the employment of retired teachers as substitutes beyond the post-retirement employment limit in certain circumstances; requiring certain additional information be included in the affidavit submitted to the Consolidated Public Retirement Board; requiring the affidavit be submitted to the State Board of Education; and requiring certain additional information be included in the report to the Joint Committee on Government and Finance and the Legislative Oversight Commission on Education Accountability.

*Be it enacted by the Legislature of West Virginia:*

That §18A-2-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

#### **ARTICLE 2. SCHOOL PERSONNEL.**

##### **§18A-2-3. Employment of substitute teachers and retired teachers as substitutes in areas of critical need and shortage; employment of prospective employable professional personnel.**

(a) The county superintendent, subject to approval of the county board, may employ and assign substitute teachers to any of the following duties: (1) To fill the temporary absence of any teacher or an unexpired school term made vacant by resignation, death, suspension or dismissal; (2) to fill a teaching position of a regular teacher on leave of absence; and (3) to perform the instructional services of any teacher who is authorized by law to be absent from class without loss of pay, providing the absence is approved by the board of education in accordance with the law. The substitute shall be a duly certified teacher.

(b) Notwithstanding any other provision of this code to the contrary, a substitute teacher who has been assigned as a classroom teacher in the same classroom continuously for more than one half of a grading period and whose assignment remains in effect two weeks prior to the end of the grading period, shall remain in the assignment until the grading period has ended, unless the principal of the school certifies that the regularly employed teacher has communicated with and assisted the substitute with the preparation of lesson plans and monitoring student progress or has been approved to return to work by his or her physician. For the purposes of this section, teacher and substitute teacher, in the singular or plural, mean professional educator as defined in section one, article one of this chapter.

(c) (1) The Legislature hereby finds and declares that due to a shortage of qualified substitute teachers, a compelling state interest exists in expanding the use of retired

teachers to provide service as substitute teachers in areas of critical need and shortage. The Legislature further finds that diverse circumstances exist among the counties for the expanded use of retired teachers as substitutes. For the purposes of this subsection, "area of critical need and shortage" means an area of certification and training in which the number of available substitute teachers in the county who hold certification and training in that area and who are not retired is insufficient to meet the projected need for substitute teachers.

(2) A person receiving retirement benefits under the provisions of article seven-a, chapter eighteen of this ~~chapter~~ code or who is entitled to retirement benefits during the fiscal year in which that person retired may accept employment as a substitute teacher for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retirant is otherwise entitled if the following conditions are satisfied:

(A) The county board adopts a policy recommended by the superintendent to address areas of critical need and shortage;

(B) The policy sets forth the areas of critical need and shortage in the county in accordance with the definition of area of critical need and shortage set forth in subdivision (1) of this subsection;

(C) The policy provides for the employment of retired teachers as substitute teachers during the school year on an expanded basis in areas of critical need and shortage as provided in this subsection;

(D) The policy provides that a retired teacher may be employed as a substitute teacher in an area of critical need and shortage on an expanded basis as provided in this subsection only when no other teacher who holds certification and training in the area and who is not retired is available and accepts the substitute assignment;

(E) The policy is effective for one school year only and is subject to annual renewal by the county board;

(F) The state board approves the policy and the use of retired teachers as substitute teachers on an expanded basis in areas of critical need and shortage as provided in this subsection; and

(G) Prior to employment of a substitute teacher beyond the post-retirement employment limitations established by the Consolidated Public Retirement Board, the superintendent of the affected county submits to the Consolidated Public Retirement Board and the state board, in a form approved by the retirement board, an affidavit signed by the superintendent stating the name of the county, the fact that the county has adopted a policy to employ retired teachers as substitutes to address areas of critical need and shortage, ~~and~~ the name or names of the person or persons to be employed pursuant to the policy, the critical need and shortage area position filled by each person, the date that the person gave notice to the county board of the person's intent to retire, and the effective date of the person's retirement.

(3) Any person who retires and begins work as a substitute teacher within the same employment term shall lose those retirement benefits attributed to the annuity reserve, effective from the first day of employment as a retiree substitute in that employment term and ending with the month following the date the retiree ceases to perform service as a substitute.

(4) Retired teachers employed to perform expanded substitute service pursuant to this subsection are considered day-to-day, temporary, part-time employees. The substitutes

are not eligible for additional pension or other benefits paid to regularly employed employees and shall not accrue seniority.

(5) When a retired teacher is employed as a substitute to fill a vacant position, the county board shall continue to post the vacant position until it is filled with a regularly employed teacher.

(6) Until this subsection is expired pursuant to subdivision (7) of this subsection, the state board, annually, shall report to the Joint Committee on Government and Finance prior to ~~the first day of~~ February 1 of each year. Additionally, a copy shall be provided to the Legislative Oversight Commission on Education Accountability. The report shall contain information indicating the effectiveness of the provisions of this subsection on expanding the use of retired substitute teachers to address areas of critical need and shortage including, but not limited to, the number of retired teachers, by critical need and shortage area position filled and by county, employed beyond the post-retirement employment limit established by the Consolidated Public Retirement Board, the date that each person gave notice to the county board of the person's intent to retire, and the effective date of the person's retirement.

(7) The provisions of this subsection shall expire on ~~the thirtieth day of June 30, two thousand ten~~ 2014.

(d) (1) Notwithstanding any other provision of this code to the contrary, each year a county superintendent may employ prospective employable professional personnel on a reserve list at the county level subject to the following conditions:

(A) The county board adopts a policy to address areas of critical need and shortage as identified by the state board. The policy shall include authorization to employ prospective employable professional personnel;

(B) The county board posts a notice of the areas of critical need and shortage in the county in a conspicuous place in each school for at least ten working days; and

(C) There are not any potentially qualified applicants available and willing to fill the position.

(2) Prospective employable professional personnel may only be employed from candidates at a job fair who have or will graduate from college in the current school year or whose employment contract with a county board has or will be terminated due to a reduction in force in the current fiscal year.

(3) Prospective employable professional personnel employed are limited to three full-time prospective employable professional personnel per one hundred professional personnel employed in a county or twenty-five full-time prospective employable professional personnel in a county, whichever is less.

(4) Prospective employable professional personnel shall be granted benefits at a cost to the county board and as a condition of the employment contract as approved by the county board.

(5) Regular employment status for prospective employable professional personnel may be obtained only in accordance with the provisions of section seven-a, article four of this chapter.

(e) The state board annually shall review the status of employing personnel under the provisions of subsection (d) of this section and annually shall report to the Legislative Oversight Commission on Education Accountability on or before ~~the first day of~~ November 1 of each year. The report shall include, but not be limited to, the following:

(A) The counties that participated in the program;

- (B) The number of personnel hired;
- (C) The teaching fields in which personnel were hired;
- (D) The venue from which personnel were employed;
- (E) The place of residency of the individual hired; and
- (F) The state board's recommendations on the prospective employable professional personnel program.

## House Bill 2557

Effective Date: February 14, 2011

Signed by Governor: February 23, 2011

Code Reference: Special Act of the Legislature

Title: Extending the time for the Board of Education of Upshur County to meet as levying body for election to consider the question of a bond levy

Major Provisions:

- Extends the time that the Upshur County Board of Education has to meet as a levying body to set its levy rates until the last day of May 2011 for the purpose of submitting to the voters of that county an election on the question of a special levy for the payment of principal and interest on bonded indebtedness.



**ENROLLED**

**H. B. 2557**

(By Delegates M. Poling, Hamilton and Smith)

[Passed February 14, 2011; in effect from passage.]

AN ACT to extend the time for the Board of Education of Upshur County, West Virginia, to meet as a levying body for the purpose of submitting to the voters of that county an election on the question of the approval of a special levy for the payment of principal and interest on bond indebtedness authorized pursuant to Section 10, Article X of the West Virginia Constitution until the last day in May, 2011, that is not a Saturday, Sunday or legal holiday.

*Be it enacted by the Legislature of West Virginia:*

**§1. Extending the time for the Board of Education of Upshur County to meet as levying body for election to consider the question of a bond levy.**

Notwithstanding the provisions of article eight, chapter eleven of the Code of West Virginia, 1931, as amended, to the contrary, the Board of Education of Upshur County, West Virginia, is authorized to extend the time for its meeting as a levying body, setting the levying rate and certifying its actions to the Auditor until the last day in May, 2011, that is not a Saturday, Sunday or legal holiday, for the purpose of submitting to the voters of that county an election on the question of the approval of a special levy for the payment of principal and interest on bond indebtedness authorized pursuant to Section 10, Article X of the West Virginia Constitution.

## House Bill 2648

Effective Date: July 1, 2011

Signed by Governor: March 18, 2011

Code Reference: Amends §18-5A-5

Title: Faculty senate Allotment

Major Provisions:

- Increases the faculty senate allotment for classroom teachers and librarians from \$50 to \$100. (The bill does not change the \$200 annual allotment; it just increases the amount from that allotment that goes to teachers and librarians).

## ENROLLED

### H. B. 2648

(By Delegate Iaquina, Anderson, M. Poling,  
Crosier and Fragale)

[Passed March 8, 2011; in effect July 1, 2011.]

AN ACT to amend and reenact §18-5A-5 of the Code of West Virginia, 1931, as amended, relating to increasing the faculty senate allotment for classroom teachers and librarians from \$50 to \$100, to be spent on academic materials, supplies or equipment to enhance instruction.

*Be it enacted by the Legislature of West Virginia:*

That §18-5A-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

#### **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 of education 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 deems 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 such funds, each classroom teacher and librarian shall be allotted ~~fifty dollars~~ \$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 senate: *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 faculty members to interview new prospective professional educators and paraprofessional employees at the school and submit recommendations regarding employment to the principal, who may also make independent recommendations, for submission to the county superintendent: *Provided*, That such process shall be chaired by the school principal and must permit the timely employment of persons to perform necessary duties.

(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 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 a two-hour block of time on each instructional support and enhancement day scheduled by the board for instructional activities for students and professional activities for teachers pursuant to section forty-five, article five of this chapter. A faculty senate may meet for an unlimited block of time per month 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 utilized 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 of education 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 community 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 diminishing 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 classroom teachers who serve students with exceptional needs in integrated classrooms.

## House Bill 2709

Effective Date: March 1, 2011

Signed by Governor: March 11, 2011

Code Reference: Amends §18-5-9a

Title: Energy-saving contracts

Major Provisions:

- Extends the maximum time limit that boards of education can enter into energy savings contracts from 10 years to 15 years to make it consistent with the limit for other types of governmental entities.

**ENROLLED**

**Committee Substitute**

**for**

**H. B. 2709**

(By Delegates Canterbury, Hamilton, Perry,

Shaver,

Walker and Hartman)

[Passed March 1, 2011; in effect from passage.]

AN ACT to amend and reenact §18-5-9a of the Code of West Virginia, 1931, as amended, relating to lease purchase contracts for energy saving measures and energy-saving contracts entered into by county boards; and allowing these contracts to have a term of up to fifteen years.

*Be it enacted by the Legislature of West Virginia:*

That §18-5-9a of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-9a. Energy-savings contracts.**

(a) For the purposes of this section:

(1) "Energy-conservation measures" means goods or services, or both, to reduce energy consumption operating costs of school facilities. ~~They~~ These include, but are not limited to, installation of two or more of the following:

(A) Insulation of a building structure and systems within a building;

(B) Storm windows or doors, caulking or weather stripping, multi-glazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems or other window or door modifications that reduce energy consumption;

(C) Automatic energy control systems;

(D) Heating, ventilating or air conditioning systems, including modifications or replacements;

(E) Replacement or modification of lighting fixtures to increase energy efficiency;

(F) Energy recovery systems;

(G) Co-generation systems that produce steam or another form of energy for use by the county board of education in a building or complex of buildings owned by the Board of Education; or

(H) Energy-conservation maintenance measures that provide long-term operating cost reductions of the building's present cost of operation.

(2) "Energy-savings contract" means a contract for the evaluation and recommendation of energy operations conservation measures, and for implementation of one or more such measures. The contract shall provide that payments, except obligations upon termination of the contract before its expiration, are to be made over time. A county board of education may supplement these payments with federal, state or local funds to reduce the annual cost or to lower the initial amount to be financed.

(3) "Qualified provider" means a person, firm or corporation experienced in the design, implementation and installation of energy-conservation measures.

(b) County boards of education are hereby authorized to enter into performance-based contracts with qualified providers of energy-conservation measures for the purpose of reducing energy operating costs of school buildings.

(c) A board of education may enter into an energy-savings contract with a qualified provider to ~~reduce energy operating costs~~ significantly reduce energy operating costs. Before entering into such a contract or before the installation of equipment, modifications or remodeling to be furnished under such a contract, the qualified provider shall first issue a proposal summarizing the scope of work to be performed. Such a proposal shall contain estimates of all costs of installation, modifications or remodeling, including the costs of design, engineering, installation, maintenance, repairs or debt service, as well as estimates of the amounts by which energy operating costs will be reduced. If the board finds, after receiving the proposal, that the proposal includes more than one energy-conservation measure designed to save energy operating costs, the board may enter into a contract with the provider pursuant to this section.

(d) An energy-savings contract ~~must~~ shall include the following:

(1) A guarantee of a specific minimum amount of money that the board will save in energy operating costs each year during the term of the contract; and

(2) A statement of all costs of energy-conservation measures including the costs of design, engineering, installation, maintenance, repairs and operations.

(e) An energy-savings contract which is performance-based and includes a guarantee of savings and a comprehensive approach of energy-conservation measures for improving comfort is subject to competitive bidding requirements. ~~Provided That~~ The requirements of article five-a, chapter twenty-one of this code as to prevailing wage rates shall apply to the construction and installation work performed under such a contract.

(f) A board may enter into a "lease with an option to purchase" contract for the purchase and installation of energy-conservation measures if the term of the lease does not exceed ~~ten~~ fifteen years, and the lease contract includes the provisions hereinafter contained in subsection (g), and meets federal tax requirements for tax-exempt municipal leasing or long-term financing.

(g) An energy-savings contract may extend beyond the fiscal year in which it first becomes effective; ~~Provided,~~ except that such a contract may not exceed a ten fifteen-year term; ~~Provided, however, That such long term contract shall be void unless and shall be void unless~~ such agreement ~~shall provide~~ provides the board the option ~~thereunder to terminate the agreement~~ during each fiscal year of the contract ~~to terminate the agreement~~. The board may include in its annual budget for each fiscal year any amounts payable under long-term energy-savings contracts during that fiscal year; ~~Provided further,~~



That.

(h) Nothing contained herein shall be deemed to require or permit in this section requires or permits the replacement of jobs performed by service personnel employed by the local school board pursuant to sections eight and eight-a, article four, chapter eighteen-a of the code, as amended.

## House Bill 2853

Effective Date: February 2, 2011

Signed by Governor: February 7, 2011

Code Reference: Amends §3-10-2

Title: Providing for a special primary and general election to fill a vacancy in the office of Governor

### Major Provisions:

- Provides for a special primary and general election to fill the unexpired term of Governor.
- Sets the upcoming Primary Election for May 14, 2011 and the upcoming General Election for October 4, 2011.
- Also requires that within 30 days from the date a vacancy occurs in the Office of Governor, the person acting as Governor shall issue a proclamation fixing the time for a new statewide election to fill the vacancy.
- Requires that the proclamation provide for a special primary election to nominate candidates for the special general election.
- Requires that the proclamation also provide for a special general election.
- Requires that the special primary election take place no sooner than 90 days after the proclamation and no later than 140 days from the date that the vacancy in the Office of Governor occurred.
- Requires that the special general election take place no sooner than 90 days after the special primary election and no later than 280 days from the date that the vacancy in the Office of Governor occurred.

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**H. B. 2853**

(By Delegates By Mr. Speaker, (Mr. Thompson) and Delegate Armstead)

[Passed February 2, 2011; in effect from passage.]

AN ACT to amend and reenact §3-10-2 of the Code of West Virginia, 1931, as amended, relating to filling a vacancy in the office of Governor; revising contingencies creating a vacancy in the office of Governor to comport with the West Virginia Constitution; providing for election of Governor if vacancy occurs within first three years of term; providing one time new special elections to fill an existing vacancy in the office of Governor; providing requirements for special elections; providing that provisions relating to special general election do not affect political party creation; prescribing time frames for when new election must take place; providing for the person acting as Governor to issue proclamations relating to new elections; requiring the state to pay costs incurred in connection with any special elections; requiring the person acting as Governor to issue a proclamation setting a special primary election; requiring the proclamations issued by the person acting as Governor to be published; providing that the provisions of the law relating to elections shall apply to the special general election and special primary election unless inconsistent; modifying certain statutory time periods relating to declaration of candidacy; modifying procedures relating to payment of filing fees and drawing of ballot positions; clarifying the eligibility of certain minors to vote in special primary election; modifying statutory provisions relating to minimum number of ballots to be printed; providing that polling places shall not be changed except for certain situations; providing that constitutionally required redistricting to have no effect until after new special election in 2011 is complete; modifying procedures for persons without party affiliations to nominate candidates; authorizing the Secretary of State to issue administrative orders and to establish procedures and deadlines; providing the provisions applying to the new special elections expire; authorizing Saturday early voting in the special primary election; and requiring Secretary of State to report to Joint Committee on Government and Finance.

*Be it enacted by the Legislature of West Virginia:*

That §3-10-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 10. FILLING VACANCIES.**

**§3-10-2. Vacancy in office of Governor.**

(a) In case of the death, conviction or 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 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. 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. If Within thirty days from the date the vacancy shall occur occurs, more than thirty days next preceding a general election, the vacancy shall be filled as such election and the person acting as Governor for the time being pursuant to the state constitution shall issue a proclamation accordingly, fixing the time for a new statewide election to fill the vacancy in the office of Governor, which shall be published prior to such election as a Class II-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. But if it shall occur less than thirty days next preceding such general election, and more than one year before the expiration of the term, shall issue a proclamation fixing a time for a special election to fill such vacancy, which shall be published as hereinbefore provided. The proclamation issued by the person acting as Governor pursuant to the state constitution shall provide for a special primary election to nominate candidates for the special general election. The special primary election 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.

~~If the vacancy is to be filled at a general election and shall occur before the primary election to nominate candidates to be voted for at such general election, candidates to fill the vacancy shall be nominated at such primary election in accordance with the time requirements and the provisions and procedures prescribed in article five of this chapter. When nominations to fill such vacancy cannot be so accomplished at such primary election, and in all cases wherein the vacancy is to be filled at a special election, candidates to be voted for at such general or special elections shall be nominated by a state convention to be called, convened and held under the resolutions, rules and regulations of the political party executive committees of the state. The laws prescribing the manner of calling, constituting and holding conventions to nominate candidates for presidential electors shall, insofar as applicable, govern conventions to nominate candidates to fill any vacancy in any office to be filled by the voters of the state as a whole, except that, in lieu of the magisterial district conventions in the several counties, the county executive committee shall call and convene a county convention at the county seat with delegates thereto apportioned to and representative of the several magisterial districts of~~

~~the county as provided in section twenty-one of article five of this chapter. The county convention shall proceed to select the county's prescribed number of state convention delegates from the several magisterial districts thereof and the chairman and secretary of the convention shall promptly certify the names and addresses of the persons so selected as delegates to the state convention to the chairman of the state executive committee of the political party.~~

(b) The compensation of election officers, cost of printing ballots and all other reasonable and necessary expenses in holding and making the return of the new election provided in this section to fill a vacancy in the office of Governor 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 provided in this section 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.

(c) Notwithstanding the provisions of subsection (a) of this section to the contrary, for purposes of filling the vacancy that occurred in the office of Governor on November 15, 2010, a new election shall occur as follows:

(1) Upon the effective date of this subsection, the person acting as Governor pursuant to the state constitution shall immediately issue a proclamation calling for a special primary and general election as provided for in this subsection. For purposes of this subsection, the new elections so provided in the proclamation mean the special primary and general elections as set forth in this subsection.

(2) The special primary election shall be held on May 14, 2011 and the special general election shall be held on October 4, 2011.

(3) The proclamation for the special primary election and special general election shall be published prior to the special primary election and special general elections, respectively, as a Class II-0 legal advertisement in accordance with article three, chapter fifty-nine of this code and the publication area for the publication is each county of the state. The notice shall be filed with the Secretary of State who shall cause the document to be published within each county in accordance with this section.

(4) The provisions of this chapter apply to the special primary election and special general election to the extent that those provisions are consistent with the provisions of this section. Statutory time deadlines for the purpose of the new election provided in this subsection are modified as follows:

(A) A notarized declaration of candidacy and filing fee shall be filed and received in hand by the Secretary of State by 5:00 p.m. on the fifth calendar day following the proclamation of the special primary election. The declaration of candidacy may be filed in person, by United States mail, electronic means or any other means authorized by the Secretary of State;

(B) The Secretary of State may issue emergency administrative orders to undertake other ministerial actions that are otherwise authorized pursuant to this code when necessary to assure the preservation of the voting rights of the citizens of this state and avoid fraudulent

voting and election activities and otherwise assure the orderly and efficient conduct of the new election provided in this subsection: *Provided*, That emergency administrative orders may not contravene the provisions of this section;

(C) For petition in lieu of payment of filing fees, a candidate seeking nomination for the vacancy in the office of Governor may utilize the process set forth in section eight-a, article five of this chapter: *Provided*, That the minimum number of signatures required is one thousand five hundred;

(D) Drawing for special 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. Ballot position for the special general election shall be determined pursuant to subdivision (3), subsection (c), section two, article six of this chapter;

(E) A registered voter who has not reached eighteen years of age may vote in the May 14, 2011 special primary election: *Provided*, That the voter will attain eighteen years of age at the time of the special general election provided in this subsection;

(F) When paper or optical scan ballots are the primary voting method used at any county, the total number of regular official ballots printed shall equal at a minimum fifty percent of the number of registered voters eligible to vote that ballot;

(G) When paper ballots are used in conjunction with a direct recording electronic voting system, the total number of regular official ballots printed shall equal at a minimum thirty percent of the registered voters eligible to vote that ballot;

(H) Regularly scheduled locations of polling places may not be changed, except for situations as provided in sections seven-e and seven-f, article one of this chapter: *Provided*, That if multiple precincts voted in one polling location for the November 2, 2010, regularly scheduled general election, these precincts may be consolidated into a single precinct. Locations for consolidated precincts shall provide Internet access, insofar as possible, for the sole purpose of utilizing the statewide Voter Registration System (SVRS) as an electronic poll book. However, constitutionally mandated redistricting may not take effect until the special primary election and special general election provided in this subsection are complete; and

(I) Citizens having no party organization or affiliation may nominate candidates as provided by sections twenty-three and twenty-four of article five of this chapter: *Provided*, That the number of signatures required to be submitted shall be equal to not less than one-quarter of one percent of the entire vote cast at the last preceding general election for governor. Notwithstanding the provisions of sections twenty three and twenty four of article five of this chapter, the signatures, notarized declaration of candidacy, and filing fee must be submitted no later than seven calendar days following the special primary election provided in this subsection.

(J) For the special primary election to be held pursuant to this subsection, early voting will also be conducted from 9 a.m. to 5 p.m. on the Saturday immediately prior to the end of early voting.

(5) The provisions of this subsection shall expire upon the election and qualification of the Governor following the October 4, 2011 special general election.

(d) The Secretary of State shall by January 10, 2012 report to the Joint Committee on Government and Finance findings regarding of the operation of the new election undertaken pursuant to subsection (c) of this section. This report shall provide analysis of the direct and indirect costs to the state associated with the conduct of the new election.

## House Bill 2879

Effective Date: March 12, 2011

Signed by Governor: March 24, 2011

Code Reference: Repeals §18A-4-5c and §18A-4-5d  
Amends §6-7-2a, §15-2-5, §18A-4-2, §18A-4-5,  
§18A-4-8a, §20-7-1c, §50-1-3, §51-1-10a, §51-2-13 and  
§51-2A-6

Title: Salary Increases

Major Provisions:

- Provides salary increases for the state Adjutant General, state troopers, teachers, school service personnel, certain natural resources officers, Supreme Court justices, circuit court judges, and family court judges.
- Specifically provides a permanent salary increase of \$1,488 for teachers and a 2% increase, with a \$500 minimum, for service personnel.
- Also increases State required equity for service personnel from \$115/month to \$152/month, a \$37/month increase. Because state equity is based on each county board's salary supplement in place in 1984, the base year, the salary increase for service personnel will vary, depending on what each county board's 1984 county supplement was:
  - o For the county boards whose 1984 county supplement was less than \$115/month, their service personnel will receive the full \$37 per month (49 county boards);
  - o For the county boards whose 1984 county supplement was between \$115 and \$152, their service personnel will receive the difference between the \$152/month and their 1984 supplement amount (4 county boards);
  - o For the county boards whose 1984 county supplement exceeded \$152/month, their employees will not receive any salary increase as a result of this equity increase (2 county boards).



- In addition, effective July 1, 2013, the bill changes the definition of salary equity among the fifty-five county boards for both teachers and service personnel by requiring that the calculation compare each county board's salary schedule to the average of the ten county boards offering the highest salaries, rather than the average of the top five, to ascertain whether each board's salary schedule is within 90% of the average.

**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**H. B. 2879**

(By Mr. Speaker, Mr. Thompson, and Delegate Armstead)

[By Request of the Executive]

[Passed March 12, 2011; in effect from passage]

AN ACT to repeal §18A-4-5c and §18A-4-5d of the Code of West Virginia, 1931, as amended; to amend and reenact §6-7-2a of said code; to amend and reenact §15-2-5 of said code; to amend and reenact §18A-4-2, §18A-4-5 and §18A-4-8a of said code; to amend and reenact §20-7-1c of said code; to amend and reenact §50-1-3 of said code; to amend and reenact §51-1-10a of said code; to amend and reenact §51-2-13 of said code; and to amend and reenact §51-2A-6 of said code, all relating generally to increasing compensation for certain public officials and public employees.

*Be it enacted by the Legislature of West Virginia:*

That both houses recede from their respective positions as to the amendment of the Senate striking out everything after the enacting clause and inserting new language, and agree to the same as follows:

That §18A-4-5c and §18A-4-5d of the code of West Virginia, 1931, as amended, be repealed; that §6-7-2a of said code be amended and reenacted; that §15-2-5 of said code be amended and reenacted; that §18A-4-2, §18A-4-5 and §18A-4-8a of said code be amended and reenacted; that §20-7-1c of said code be amended and reenacted; that §50-1-3 of said code be amended and reenacted; that §51-1-10a of said code be amended and reenacted; that §51-2-13 of said code be amended and reenacted; and that §51-2A-6 of said code be amended and reenacted, all to read as follows:

**CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.**

**ARTICLE 7. COMPENSATION AND ALLOWANCES.**

**§6-7-2a. Terms of certain appointive state officers; appointment; qualifications; powers and salaries of such officers.**

(a) Each of the following appointive state officers named in this subsection shall be appointed by the Governor, by and with the advice and consent of the Senate. Each of the appointive state officers serves at the will and pleasure of the Governor for the term for

which the Governor was elected and until the respective state officers' successors have been appointed and qualified. Each of the appointive state officers are subject to the existing qualifications for holding each respective office and each has and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respecting each office.

Prior to the first day of July ~~two thousand six~~ 1, 2006, each such named appointive state officer shall continue to receive the annual salaries they were receiving as of the effective date of the enactment of this section in ~~two thousand six~~ 2006 and thereafter, notwithstanding any other provision of this code to the contrary, the annual salary of each named appointive state officer shall be as follows:

Commissioner, Division of Highways, ~~ninety-two thousand five hundred dollars~~ \$92,500; Commissioner, Division of Corrections, ~~eighty thousand dollars~~ \$80,000; Director, Division of Natural Resources, ~~seventy-five thousand dollars~~ \$75,000; Superintendent, State Police, ~~eighty-five thousand dollars~~ \$85,000; Commissioner, Division of Banking, ~~seventy-five thousand dollars~~ \$75,000; Commissioner, Division of Culture and History, ~~sixty-five thousand dollars~~ \$65,000; Commissioner, Alcohol Beverage Control Commission, ~~seventy-five thousand dollars~~ \$75,000; Commissioner, Division of Motor Vehicles, ~~seventy-five thousand dollars~~ \$75,000; Chairman, Health Care Authority, ~~eighty thousand dollars~~ \$80,000; members, Health Care Authority, ~~seventy-five thousand dollars~~ \$75,000; Director, Human Rights Commission, ~~fifty-five thousand dollars~~ \$55,000; Commissioner, Division of Labor, ~~seventy thousand dollars~~ \$70,000; Director, Division of Veterans' Affairs, ~~sixty-five thousand dollars~~ \$65,000; Chairperson, Board of Parole, ~~fifty-five thousand dollars~~ \$55,000; members, Board of Parole, ~~fifty thousand dollars~~ \$50,000; members, Employment Security Review Board, ~~seventeen thousand dollars~~ \$17,000; and Commissioner, Bureau of Employment Programs, ~~seventy-five thousand dollars~~ \$75,000. Secretaries of the departments shall be paid an annual salary as follows: Health and Human Resources, ~~ninety-five thousand dollars~~ \$95,000; Transportation, ~~ninety-five thousand dollars~~ \$95,000: *Provided*, That if the same person is serving as both the Secretary of Transportation and the Commissioner of Highways, he or she shall be paid ~~one hundred twenty thousand dollars~~ \$120,000; Revenue, ~~ninety-five thousand dollars~~ \$95,000; Military Affairs and Public Safety, ~~ninety-five thousand dollars~~ \$95,000; Administration, ~~ninety-five thousand dollars~~ \$95,000; Education and the Arts, ~~ninety-five thousand dollars~~ \$95,000; Commerce, ~~ninety-five thousand dollars~~ \$95,000; and Environmental Protection, ~~ninety-five thousand dollars~~ \$95,000: *Provided, however*, That any increase in the salary of any current appointive state officer named in this subsection pursuant to the reenactment of this subsection during the regular session of the Legislature in ~~two thousand six~~ 2006 that exceeds ~~five thousand dollars~~ \$5,000 shall be paid to such officer or his or her successor beginning on the first day of July, ~~two thousand six~~ 1, 2006, in annual increments of ~~five thousand dollars~~ \$5,000 per fiscal year, up to the maximum salary provided in this subsection: *Provided further*, That if the same person is serving as both the Secretary of Transportation and the Commissioner of Highways, then the annual increments of ~~five thousand dollars~~ \$5,000 per fiscal year do not apply.

(b) Each of the state officers named in this subsection shall continue to be appointed in the manner prescribed in this code and, prior to the first day of July, ~~two thousand six~~ 1, 2006, each of the state officers named in this subsection shall continue to receive the annual salaries he or she was receiving as of the effective date of the enactment of this section in

~~two thousand six 2006~~ and shall thereafter, notwithstanding any other provision of this code to the contrary, be paid an annual salary as follows:

Director, Board of Risk and Insurance Management, ~~eighty thousand dollars~~ \$80,000; Director, Division of Rehabilitation Services, ~~seventy thousand dollars~~ \$70,000; Director, Division of Personnel, ~~seventy thousand dollars~~ \$70,000; Executive Director, Educational Broadcasting Authority, ~~seventy five thousand dollars~~ \$75,000; Secretary, Library Commission, ~~seventy two thousand dollars~~ \$72,000; Director, Geological and Economic Survey, ~~seventy five thousand dollars~~ \$75,000; Executive Director, Prosecuting Attorneys Institute, ~~seventy thousand dollars~~ \$70,000; Executive Director, Public Defender Services, ~~seventy thousand dollars~~ \$70,000; Commissioner, Bureau of Senior Services, ~~seventy five thousand dollars~~ \$75,000; Director, State Rail Authority, ~~sixty five thousand dollars~~ \$65,000; Executive Director, Women's Commission, ~~fifty five thousand dollars~~ \$55,000; Director, Hospital Finance Authority, ~~thirty five thousand dollars~~ \$35,000; member, Racing Commission, ~~twelve thousand dollars~~ \$12,000; Chairman, Public Service Commission, ~~eighty five thousand dollars~~ \$85,000; members, Public Service Commission, ~~eighty five thousand dollars~~ \$85,000; Director, Division of Forestry, ~~seventy five thousand dollars~~ \$75,000; Director, Division of Juvenile Services, ~~eighty thousand dollars~~ \$80,000; and Executive Director, Regional Jail and Correctional Facility Authority, ~~eighty thousand dollars~~ \$80,000; *Provided*, That any increase in the salary of any current appointive state officer named in this subsection pursuant to the reenactment of this subsection during the regular session of the Legislature in ~~two thousand six 2006~~ that exceeds ~~five thousand dollars~~ \$5,000 shall be paid to such officer or his or her successor beginning on the first day of July ~~two thousand six 1, 2006~~, in annual increments of ~~five thousand dollars~~ \$5,000 per fiscal year, up to the maximum salary provided in this subsection.

(c) Each of the following appointive state officers named in this subsection shall be appointed by the Governor, by and with the advice and consent of the Senate. Each of the appointive state officers serves at the will and pleasure of the Governor for the term for which the Governor was elected and until the respective state officers' successors have been appointed and qualified. Each of the appointive state officers are subject to the existing qualifications for holding each respective office and each has and is hereby granted all of the powers and authority and shall perform all of the functions and services heretofore vested in and performed by virtue of existing law respecting each office.

Prior to the first day of July ~~two thousand six 1, 2006~~, each such named appointive state officer shall continue to receive the annual salaries they were receiving as of the effective date of the enactment of this section in ~~two thousand six 2006~~ and thereafter, notwithstanding any other provision of this code to the contrary, the annual salary of each named appointive state officer shall be as follows:

Commissioner, State Tax Division, ~~ninety two thousand five hundred dollars~~ \$92,500; Commissioner, Insurance Commission, ~~ninety two thousand five hundred dollars~~ \$92,500; Director, Lottery Commission, ~~ninety two thousand five hundred dollars~~ \$92,500; Director, Division of Homeland Security and Emergency Management, ~~sixty five thousand dollars~~ \$65,000; and Adjutant General, ~~ninety two thousand five hundred dollars~~ \$125,000.

(d) No increase in the salary of any appointive state officer pursuant to this section shall be paid until and unless the appointive state officer has first filed with the State Auditor and the Legislative Auditor a sworn statement, on a form to be prescribed by the Attorney General, certifying that his or her spending unit is in compliance with any general law

providing for a salary increase for his or her employees. The Attorney General shall prepare and distribute the form to the affected spending units..

**CHAPTER 15. PUBLIC SAFETY.**

**ARTICLE 2. WEST VIRGINIA STATE POLICE.**

**§15-2-5. Career progression system; salaries; exclusion from wages and hour law, with supplemental payment; bond; leave time for members called to duty in guard or reserves.**

(a) The superintendent shall establish within the West Virginia State Police a system to provide for: The promotion of members to the supervisory ranks of sergeant, first sergeant, second lieutenant and first lieutenant; the classification of nonsupervisory members within the field operations force to the ranks of trooper, senior trooper, trooper first class or corporal; the classification of members assigned to the forensic laboratory as criminalist I-~~VII~~ VIII; and the temporary reclassification of members assigned to administrative duties as administrative support specialist I-VIII.

(b) The superintendent may propose legislative rules for promulgation in accordance with article three, chapter twenty-nine-a of this code for the purpose of ensuring consistency, predictability and independent review of any system developed under the provisions of this section.

(c) The superintendent shall provide to each member a written manual governing any system established under the provisions of this section and specific procedures shall be identified for the evaluation and testing of members for promotion or reclassification and the subsequent placement of any members on a promotional eligibility or reclassification recommendation list.

(d) Beginning on the first day of July two thousand seven 1, 2008, until and including the through thirtieth day of June , two thousand eight 30, 2011, members shall receive annual salaries as follows:

**ANNUAL SALARY SCHEDULE (BASE PAY)**

**SUPERVISORY AND NONSUPERVISORY RANKS**

Cadet During Training. . . . .	\$ <del>2,550.50</del> <u>2,752</u> Mo. <del>\$30,606</del> <u>\$ 33,024</u>
Cadet Trooper After Training. . . . .	<del>3,138.17</del> <u>3,357.33</u> Mo. <del>37,658</del> <u>40,288</u>
Trooper Second Year. . . . .	<del>39,122</del> <u>41,296</u>
Trooper Third Year. . . . .	<del>39,494</del> <u>41,679</u>
Senior Trooper. . . . .	<del>39,882</del> <u>42,078</u>
Trooper First Class. . . . .	<del>40,740</del> <u>42,684</u>
Corporal. . . . .	<del>41,058</del> <u>43,290</u>
Sergeant. . . . .	<del>45,234</del> <u>47,591</u>
First Sergeant. . . . .	<del>47,322</del> <u>49,742</u>
Second Lieutenant. . . . .	<del>49,410</del> <u>51,892</u>
First Lieutenant. . . . .	<del>51,498</del> <u>54,043</u>
Captain. . . . .	<del>53,586</del> <u>56,194</u>
Major. . . . .	<del>55,674</del> <u>58,344</u>
Lieutenant Colonel. . . . .	<del>57,762</del> <u>60,495</u>

**ANNUAL SALARY SCHEDULE (BASE PAY)**

**ADMINISTRATION SUPPORT**

**SPECIALIST CLASSIFICATION**

I. ....	\$ 39,494	<u>41,679</u>
II .....	<del>39,882</del>	<u>42,078</u>
III.....	40,470	<u>42,684</u>
IV .....	<del>41,058</del>	<u>43,290</u>
V.....	45,234	<u>47,591</u>
VI .....	<del>47,322</del>	<u>49,742</u>
VII.....	49,410	<u>51,892</u>
VIII .....	<del>51,498</del>	<u>54,043</u>

**ANNUAL SALARY SCHEDULE (BASE PAY)**

**CRIMINALIST CLASSIFICATION**

I. ....	\$ 39,494	<u>41,679</u>
II .....	<del>39,882</del>	<u>42,078</u>
III.....	40,470	<u>42,684</u>
IV .....	<del>41,058</del>	<u>43,290</u>
V.....	45,244	<u>47,591</u>
VI .....	<del>47,322</del>	<u>49,742</u>
VII.....	49,410	<u>51,892</u>
VIII .....	<del>51,498</del>	<u>54,043</u>

Beginning on the first day of July two thousand eight 1, 2011, and continuing thereafter, members shall receive annual salaries as follows:

**ANNUAL SALARY SCHEDULE (BASE PAY)**

**SUPERVISORY AND NONSUPERVISORY RANKS**

Cadet During Training. ....	\$ 2,752	<u>2,833</u>	Mo. \$ <del>33,024</del>	<u>33,994</u>
Cadet Trooper After Training. ....	<del>3,357</del>	<u>3,438</u>	Mo. \$ 40,228	
Trooper Second Year. ....	41,296	<u>42,266</u>		
Trooper Third Year. ....	41,679	<u>42,649</u>		
Senior Trooper. ....	42,078	<u>43,048</u>		
Trooper First Class. ....	42,684	<u>43,654</u>		
Corporal. ....	43,290	<u>44,260</u>		
Sergeant. ....	47,591.	<u>48,561</u>		
First Sergeant. ....	49,472	<u>50,712</u>		
Second Lieutenant. ....	51,892	<u>52,862</u>		
First Lieutenant. ....	54,043	<u>55,013</u>		
Captain. ....	56,194	<u>57,164</u>		
Major. ....	58,344	<u>59,314</u>		
Lieutenant Colonel. ....	<del>60,495</del>	<u>61,465</u>		

**ANNUAL SALARY SCHEDULE (BASE PAY)**

**ADMINISTRATION SUPPORT**

**SPECIALIST CLASSIFICATION**

I. ....	41,679	<u>42,266</u>
II .....	42,078	<u>43,048</u>
III.....	42,684	<u>43,654</u>
IV .....	43,290	<u>44,260</u>
V.....	47,591	<u>48,561</u>
VI .....	49,742	<u>50,712</u>

VII. ....	51,892	<u>52,862</u>
VIII. ....	54,043	<u>55,013</u>

**ANNUAL SALARY SCHEDULE (BASE PAY)**

**CRIMINALIST CLASSIFICATION**

I. ....	41,679	<u>42,266</u>
II. ....	42,078	<u>43,048</u>
III. ....	42,684	<u>43,654</u>
IV. ....	43,290	<u>44,260</u>
V. ....	47,591	<u>48,561</u>
VI. ....	49,742	<u>50,712</u>
VII. ....	51,892	<u>52,862</u>
VIII. ....	54,043	<u>55,013</u>

Each member of the West Virginia State Police whose salary is fixed and specified in this annual salary schedule is entitled to the length of service increases set forth in subsection (e) of this section and supplemental pay as provided in subsection (g) of this section.

(e) Each member of the West Virginia State Police whose salary is fixed and specified pursuant to this section shall receive, and is entitled to, an increase in salary over that set forth in subsection (d) of this section for grade in rank, based on length of service, including that service served before and after the effective date of this section with the West Virginia State Police as follows: At the end of two years of service with the West Virginia State Police, the member shall receive a salary increase of ~~four hundred dollars~~ \$400 to be effective during his or her next year of service and a like increase at yearly intervals thereafter, with the increases to be cumulative.

(f) In applying the salary schedules set forth in this section where salary increases are provided for length of service, members of the West Virginia State Police in service at the time the schedules become effective shall be given credit for prior service and shall be paid the salaries the same length of service entitles them to receive under the provisions of this section.

(g) The Legislature finds and declares that because of the unique duties of members of the West Virginia State Police, it is not appropriate to apply the provisions of state wage and hour laws to them. Accordingly, members of the West Virginia State Police are excluded from the provisions of state wage and hour law. This express exclusion shall not be construed as any indication that the members were or were not covered by the wage and hour law prior to this exclusion.

In lieu of any overtime pay they might otherwise have received under the wage and hour law, and in addition to their salaries and increases for length of service, members who have completed basic training and who are exempt from federal Fair Labor Standards Act guidelines may receive supplemental pay as provided in this section.

The authority of the superintendent to propose a legislative rule or amendment thereto for promulgation in accordance with article three, chapter twenty-nine-a of this code to establish the number of hours per month which constitute the standard work month for the members of the West Virginia State Police is hereby continued. The rule shall further establish, on a graduated hourly basis, the criteria for receipt of a portion or all of supplemental payment when hours are worked in excess of the standard work month. The superintendent shall certify monthly to the West Virginia State Police's payroll officer the names of those members who have worked in excess of the standard work month and the

amount of their entitlement to supplemental payment. The supplemental payment may not exceed ~~two hundred thirty six dollars~~ \$236 monthly. The superintendent and civilian employees of the West Virginia State Police are not eligible for any supplemental payments.

(h) Each member of the West Virginia State Police, except the superintendent and civilian employees, shall execute, before entering upon the discharge of his or her duties, a bond with security in the sum of ~~five thousand dollars~~ \$5,000 payable to the State of West Virginia, conditioned upon the faithful performance of his or her duties, and the bond shall be approved as to form by the Attorney General and as to sufficiency by the Governor.

(i) In consideration for compensation paid by the West Virginia State Police to its members during those members' participation in the West Virginia State Police Cadet Training Program pursuant to section eight, article twenty-nine, chapter thirty of this code, the West Virginia State Police may require of its members by written agreement entered into with each of them in advance of such participation in the program that, if a member should voluntarily discontinue employment any time within one year immediately following completion of the training program, he or she shall be obligated to pay to the West Virginia State Police a pro rata portion of such compensation equal to that part of such year which the member has chosen not to remain in the employ of the West Virginia State Police.

(i) Any member of the West Virginia State Police who is called to perform active duty training or inactive duty training in the National Guard or any reserve component of the armed forces of the United States annually shall be granted, upon request, leave time not to exceed thirty calendar days for the purpose of performing the active duty training or inactive duty training and the time granted may not be deducted from any leave accumulated as a member of the West Virginia State Police.

#### **CHAPTER 18A. SCHOOL PERSONNEL.**

#### **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

##### **§18A-4-2. State minimum salaries for teachers.**

(a) Effective July 1, 2007, through June 30, 2008, each teacher shall receive the amount prescribed in the 2007-08 State Minimum Salary Schedule as set forth in this section, specific additional amounts prescribed in this section or article and any county supplement in effect in a county pursuant to section five-a of this article during the contract year.

Effective July 1, 2008, through June 30, 2011, each teacher shall receive the amount prescribed in the 2008-09 State Minimum Salary Schedule as set forth in this section, specific additional amounts prescribed in this section or article and any county supplement in effect in a county pursuant to section five-a of this article during the contract year.

Beginning July 1, 2011, and continuing thereafter, each teacher shall receive the amount prescribed in the 2011-12 State Minimum Salary Schedule as set forth in this section, specific additional amounts prescribed in this section or article and any county supplement in effect in a county pursuant to section five-a of this article during the contract year.



**2007-08 MINIMUM SALARY SCHEDULE**

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Years Exp.	4th Class	3rd Class	2nd Class	-	A.B. +15	-	M.A. +15	M.A. +30	M.A. +45	Dec- terate
-	-	-	-	A.B.	-	M.A.	-	-	-	-
0	24,051	24,711	24,975	26,227	26,988	28,755	29,516	30,277	31,038	32,073
1	24,379	25,039	25,303	26,745	27,506	29,274	30,035	30,795	31,556	32,591
2	24,708	25,367	25,631	27,264	28,025	29,792	30,553	31,314	32,075	33,110
3	25,036	25,695	25,959	27,783	28,543	30,311	31,072	31,832	32,593	33,628
4	25,608	26,267	26,531	28,545	29,306	31,074	31,835	32,595	33,356	34,391
5	25,936	26,595	26,859	29,064	29,825	31,592	32,353	33,114	33,875	34,910
6	26,264	26,923	27,187	29,582	30,343	32,111	32,872	33,632	34,393	35,428
7	26,592	27,252	27,515	30,101	30,862	32,629	33,390	34,151	34,912	35,947
8	26,920	27,580	27,844	30,619	31,380	33,148	33,909	34,669	35,430	36,465
9	27,248	27,908	28,172	31,138	31,899	33,666	34,427	35,188	35,949	36,984
10	27,577	28,236	28,500	31,657	32,417	34,185	34,946	35,706	36,467	37,502
11	27,905	28,564	28,828	32,175	32,936	34,704	35,464	36,225	36,986	38,021

12	28,233	28,892	29,156	32,694	33,454	35,222	35,983	36,744	37,504	38,539
13	28,561	29,220	29,484	33,212	33,973	35,741	36,501	37,262	38,023	39,058
14	28,561	29,548	29,812	33,731	34,491	36,259	37,020	37,781	38,541	39,576
15	28,561	29,876	30,140	34,249	35,010	36,778	37,538	38,299	39,060	40,095
16	28,561	29,876	30,468	34,768	35,528	37,296	38,057	38,818	39,578	40,613
17	28,561	29,876	30,796	35,286	36,047	37,815	38,575	39,336	40,097	41,132
18	28,561	29,876	30,796	35,805	36,566	38,333	39,094	39,855	40,615	41,650
19	28,561	29,876	30,796	36,323	37,084	38,852	39,613	40,373	41,134	42,169
20	28,561	29,876	30,796	36,842	37,603	39,370	40,131	40,892	41,653	42,688
21	28,561	29,876	30,796	36,842	37,603	39,889	40,650	41,410	42,171	43,206
22	28,561	29,876	30,796	36,842	37,603	40,407	41,168	41,929	42,690	43,725
23	28,561	29,876	30,796	36,842	37,603	40,926	41,687	42,447	43,208	44,243
24	28,561	29,876	30,796	36,842	37,603	40,926	41,687	42,966	43,727	44,762
25	28,561	29,876	30,796	36,842	37,603	40,926	41,687	43,484	44,245	45,280
26	28,561	29,876	30,796	36,842	37,603	40,926	41,687	44,003	44,764	45,799
27	28,561	29,876	30,796	36,842	37,603	40,926	41,687	44,003	44,764	45,799
28	28,561	29,876	30,796	36,842	37,603	40,926	41,687	44,003	44,764	45,799

29	28,889	30,204	31,125	37,360	38,124	41,445	42,205	44,522	45,282	46,317
30	29,217	30,533	31,453	37,879	38,640	41,963	42,724	45,040	45,801	46,836
31	29,545	30,861	31,781	38,397	39,158	42,482	43,242	45,559	46,319	47,354
32	29,873	31,189	32,109	38,916	39,677	43,000	43,761	46,077	46,838	47,873
33	30,201	31,517	32,437	39,435	40,195	43,519	44,279	46,596	47,356	48,391
34	30,529	31,845	32,765	39,953	40,714	44,037	44,798	47,114	47,875	48,910
35	30,857	32,173	33,093	40,472	41,232	44,556	45,316	47,633	48,393	49,428

**2008-09 STATE MINIMUM SALARY SCHEDULE**

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Years Exp.	4th Class	3rd Class	2nd Class	A.B.	A.B. +15	M.A.	M.A. +15	M.A. +30	M.A. +45	Doc-torate
0	25,651	26,311	26,575	27,827	28,588	30,355	31,116	31,877	32,638	33,673
1	25,979	26,639	26,903	28,345	29,106	30,874	31,635	32,395	33,156	34,191
2	26,308	26,967	27,231	28,864	29,625	31,392	32,153	32,914	33,675	34,710
3	26,636	27,295	27,559	29,383	30,143	31,911	32,672	33,432	34,193	35,228
4	27,208	27,867	28,131	30,145	30,906	32,674	33,435	34,195	34,956	35,991
5	27,536	28,195	28,459	30,664	31,425	33,192	33,953	34,714	35,475	36,510
6	27,864	28,523	28,787	31,182	31,943	33,711	34,472	35,232	35,993	37,028

7	28,192	28,852	29,115	31,701	32,462	34,229	34,990	35,751	36,512	37,547
8	28,520	29,180	29,444	32,219	32,980	34,748	35,509	36,269	37,030	38,065
9	28,848	29,508	29,772	32,738	33,499	35,266	36,027	36,788	37,549	38,584
10	29,177	29,836	30,100	33,258	34,018	35,786	36,547	37,308	38,068	39,103
11	29,505	30,164	30,428	33,776	34,537	36,305	37,065	37,826	38,587	39,622
12	29,833	30,492	30,756	34,295	35,055	36,823	37,584	38,345	39,105	40,140
13	30,161	30,820	31,084	34,813	35,574	37,342	38,102	38,863	39,624	40,659
14	30,489	31,148	31,412	35,332	36,092	37,860	38,621	39,382	40,142	41,177
15	30,817	31,476	31,740	35,850	36,611	38,379	39,139	39,900	40,661	41,696
16	31,145	31,804	32,068	36,369	37,129	38,897	39,658	40,419	41,179	42,214
17	31,473	32,133	32,396	36,887	37,648	39,416	40,177	40,937	41,698	42,733
18	31,801	32,461	32,725	37,406	38,167	39,934	40,695	41,456	42,217	43,252
19	32,129	32,789	33,053	37,924	38,685	40,453	41,214	41,974	42,735	43,770
20	32,457	33,117	33,381	38,443	39,204	40,971	41,732	42,493	43,254	44,289
21	32,786	33,445	33,709	38,961	39,722	41,490	42,251	43,011	43,772	44,807
22	33,114	33,773	34,037	39,480	40,241	42,008	42,769	43,530	44,291	45,326
23	33,442	34,101	34,365	39,999	40,759	42,527	43,288	44,048	44,809	45,844
24	33,770	34,429	34,693	40,517	41,278	43,046	43,806	44,567	45,328	46,363
25	34,098	34,757	35,021	41,036	41,796	43,564	44,325	45,086	45,846	46,881
26	34,426	35,085	35,349	41,554	42,315	44,083	44,843	45,604	46,365	47,400
27	34,754	35,413	35,677	42,073	42,833	44,601	45,362	46,123	46,883	47,918

28	35,082	35,742	36,005	42,591	43,352	45,120	45,880	46,641	47,402	48,437
29	35,410	36,070	36,334	43,110	43,870	45,638	46,399	47,160	47,920	48,955
30	35,738	36,398	36,662	43,628	44,389	46,157	46,917	47,678	48,439	49,474
31	36,067	36,726	36,990	44,147	44,908	46,675	47,436	48,197	48,957	49,992
32	36,395	37,054	37,318	44,665	45,426	47,194	47,955	48,715	49,476	50,511
33	36,723	37,382	37,646	45,184	45,945	47,712	48,473	49,234	49,995	51,030
34	37,051	37,710	37,974	45,702	46,463	48,231	48,992	49,752	50,513	51,548
35	37,379	38,038	38,302	46,221	46,982	48,749	49,510	50,271	51,032	52,067

<b>2011-12 STATE MINIMUM SALARY SCHEDULE</b>										
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>	<b>(5)</b>	<b>(6)</b>	<b>(7)</b>	<b>(8)</b>	<b>(9)</b>	<b>(10)</b>	<b>(11)</b>
Years Exp.	4th Class	3rd Class	2nd Class	A.B.	A.B. +15	M.A.	M.A. +15	M.A. +30	M.A. +45	Doctorate
0	<u>26,917</u>	<u>27,606</u>	<u>27,872</u>	<u>29,315</u>	<u>30,076</u>	<u>31,843</u>	<u>32,604</u>	<u>33,365</u>	<u>34,126</u>	<u>35,161</u>
1	<u>27,245</u>	<u>27,934</u>	<u>28,200</u>	<u>29,833</u>	<u>30,594</u>	<u>32,362</u>	<u>33,123</u>	<u>33,883</u>	<u>34,644</u>	<u>35,679</u>
2	<u>27,574</u>	<u>28,262</u>	<u>28,528</u>	<u>30,352</u>	<u>31,113</u>	<u>32,880</u>	<u>33,641</u>	<u>34,402</u>	<u>35,163</u>	<u>36,198</u>
3	<u>27,902</u>	<u>28,590</u>	<u>28,856</u>	<u>30,871</u>	<u>31,631</u>	<u>33,399</u>	<u>34,160</u>	<u>34,920</u>	<u>35,681</u>	<u>36,716</u>
4	<u>28,474</u>	<u>29,162</u>	<u>29,428</u>	<u>31,633</u>	<u>32,394</u>	<u>34,162</u>	<u>34,923</u>	<u>35,683</u>	<u>36,444</u>	<u>37,479</u>
5	<u>28,802</u>	<u>29,490</u>	<u>29,756</u>	<u>32,152</u>	<u>32,913</u>	<u>34,680</u>	<u>35,441</u>	<u>36,202</u>	<u>36,963</u>	<u>37,998</u>
6	<u>29,130</u>	<u>29,818</u>	<u>30,084</u>	<u>32,670</u>	<u>33,431</u>	<u>35,199</u>	<u>35,960</u>	<u>36,720</u>	<u>37,481</u>	<u>38,516</u>

7	<u>29,458</u>	<u>30,147</u>	<u>30,412</u>	<u>33,189</u>	<u>33,950</u>	<u>35,717</u>	<u>36,478</u>	<u>37,239</u>	<u>38,000</u>	<u>39,035</u>
8	<u>29,786</u>	<u>30,475</u>	<u>30,741</u>	<u>33,707</u>	<u>34,468</u>	<u>36,236</u>	<u>36,997</u>	<u>37,757</u>	<u>38,518</u>	<u>39,553</u>
9	<u>30,114</u>	<u>30,803</u>	<u>31,069</u>	<u>34,226</u>	<u>34,987</u>	<u>36,754</u>	<u>37,515</u>	<u>38,276</u>	<u>39,037</u>	<u>40,072</u>
10	<u>30,443</u>	<u>31,131</u>	<u>31,397</u>	<u>34,746</u>	<u>35,506</u>	<u>37,274</u>	<u>38,035</u>	<u>38,796</u>	<u>39,556</u>	<u>40,591</u>
11	<u>30,771</u>	<u>31,459</u>	<u>31,725</u>	<u>35,264</u>	<u>36,025</u>	<u>37,793</u>	<u>38,553</u>	<u>39,314</u>	<u>40,075</u>	<u>41,110</u>
12	<u>31,099</u>	<u>31,787</u>	<u>32,053</u>	<u>35,783</u>	<u>36,543</u>	<u>38,311</u>	<u>39,072</u>	<u>39,833</u>	<u>40,593</u>	<u>41,628</u>
13	<u>31,427</u>	<u>32,115</u>	<u>32,381</u>	<u>36,301</u>	<u>37,062</u>	<u>38,830</u>	<u>39,590</u>	<u>40,351</u>	<u>41,112</u>	<u>42,147</u>
14	<u>31,755</u>	<u>32,443</u>	<u>32,709</u>	<u>36,820</u>	<u>37,580</u>	<u>39,348</u>	<u>40,109</u>	<u>40,870</u>	<u>41,630</u>	<u>42,665</u>
15	<u>32,083</u>	<u>32,771</u>	<u>33,037</u>	<u>37,338</u>	<u>38,099</u>	<u>39,867</u>	<u>40,627</u>	<u>41,388</u>	<u>42,149</u>	<u>43,184</u>
16	<u>32,411</u>	<u>33,099</u>	<u>33,365</u>	<u>37,857</u>	<u>38,617</u>	<u>40,385</u>	<u>41,146</u>	<u>41,907</u>	<u>42,667</u>	<u>43,702</u>
17	<u>32,739</u>	<u>33,428</u>	<u>33,693</u>	<u>38,375</u>	<u>39,136</u>	<u>40,904</u>	<u>41,665</u>	<u>42,425</u>	<u>43,186</u>	<u>44,221</u>
18	<u>33,067</u>	<u>33,756</u>	<u>34,022</u>	<u>38,894</u>	<u>39,655</u>	<u>41,422</u>	<u>42,183</u>	<u>42,944</u>	<u>43,705</u>	<u>44,740</u>
19	<u>33,395</u>	<u>34,084</u>	<u>34,350</u>	<u>39,412</u>	<u>40,173</u>	<u>41,941</u>	<u>42,702</u>	<u>43,462</u>	<u>44,223</u>	<u>45,258</u>
20	<u>33,723</u>	<u>34,412</u>	<u>34,678</u>	<u>39,931</u>	<u>40,692</u>	<u>42,459</u>	<u>43,220</u>	<u>43,981</u>	<u>44,742</u>	<u>45,777</u>
21	<u>34,052</u>	<u>34,740</u>	<u>35,006</u>	<u>40,449</u>	<u>41,210</u>	<u>42,978</u>	<u>43,739</u>	<u>44,499</u>	<u>45,260</u>	<u>46,295</u>
22	<u>34,380</u>	<u>35,068</u>	<u>35,334</u>	<u>40,968</u>	<u>41,729</u>	<u>43,496</u>	<u>44,257</u>	<u>45,018</u>	<u>45,779</u>	<u>46,814</u>
23	<u>34,708</u>	<u>35,396</u>	<u>35,662</u>	<u>41,487</u>	<u>42,247</u>	<u>44,015</u>	<u>44,776</u>	<u>45,536</u>	<u>46,297</u>	<u>47,332</u>
24	<u>35,036</u>	<u>35,724</u>	<u>35,990</u>	<u>42,005</u>	<u>42,766</u>	<u>44,534</u>	<u>45,294</u>	<u>46,055</u>	<u>46,816</u>	<u>47,851</u>
25	<u>35,364</u>	<u>36,052</u>	<u>36,318</u>	<u>42,524</u>	<u>43,284</u>	<u>45,052</u>	<u>45,813</u>	<u>46,574</u>	<u>47,334</u>	<u>48,369</u>
26	<u>35,692</u>	<u>36,380</u>	<u>36,646</u>	<u>43,042</u>	<u>43,803</u>	<u>45,571</u>	<u>46,331</u>	<u>47,092</u>	<u>47,853</u>	<u>48,888</u>
27	<u>36,020</u>	<u>36,708</u>	<u>36,974</u>	<u>43,561</u>	<u>44,321</u>	<u>46,089</u>	<u>46,850</u>	<u>47,611</u>	<u>48,371</u>	<u>49,406</u>
28	<u>36,348</u>	<u>37,037</u>	<u>37,302</u>	<u>44,079</u>	<u>44,840</u>	<u>46,608</u>	<u>47,368</u>	<u>48,129</u>	<u>48,890</u>	<u>49,925</u>
29	<u>36,676</u>	<u>37,365</u>	<u>37,631</u>	<u>44,598</u>	<u>45,358</u>	<u>47,126</u>	<u>47,887</u>	<u>48,648</u>	<u>49,408</u>	<u>50,443</u>
30	<u>37,004</u>	<u>37,693</u>	<u>37,959</u>	<u>45,116</u>	<u>45,877</u>	<u>47,645</u>	<u>48,405</u>	<u>49,166</u>	<u>49,927</u>	<u>50,962</u>

31	<u>37,333</u>	<u>38,021</u>	<u>38,287</u>	<u>45,635</u>	<u>46,396</u>	<u>48,163</u>	<u>48,924</u>	<u>49,685</u>	<u>50,445</u>	<u>51,480</u>
32	<u>37,661</u>	<u>38,349</u>	<u>38,615</u>	<u>46,153</u>	<u>46,914</u>	<u>48,682</u>	<u>49,443</u>	<u>50,203</u>	<u>50,964</u>	<u>51,999</u>
33	<u>37,989</u>	<u>38,677</u>	<u>38,943</u>	<u>46,672</u>	<u>47,433</u>	<u>49,200</u>	<u>49,961</u>	<u>50,722</u>	<u>51,483</u>	<u>52,518</u>
34	<u>38,317</u>	<u>39,005</u>	<u>39,271</u>	<u>47,190</u>	<u>47,951</u>	<u>49,719</u>	<u>50,480</u>	<u>51,240</u>	<u>52,001</u>	<u>53,036</u>
35	<u>38,645</u>	<u>39,333</u>	<u>39,599</u>	<u>47,709</u>	<u>48,470</u>	<u>50,237</u>	<u>50,998</u>	<u>51,759</u>	<u>52,520</u>	<u>53,555</u>

(b) Six hundred dollars shall be paid annually to each classroom teacher who has at least twenty years of teaching experience. The payments: (i) Shall be in addition to any amounts prescribed in the applicable state minimum salary schedule; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

**§18A-4-5. Salary equity among the counties; state salary supplement.**

(a) For the purposes of this section, salary equity among the counties means that the salary potential of school employees employed by the various districts throughout the state does not differ by greater than ten percent between those offering the highest salaries and those offering the lowest salaries. In the case of professional educators, the difference shall be calculated utilizing the average of the professional educator salary schedules, degree classifications B.A. through doctorate and the years of experience provided for in the most recent state minimum salary schedule for teachers, in effect in the five counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty-five counties. In the case of school service personnel, the difference shall be calculated utilizing the average of the school service personnel salary schedules, pay grades "A" through "H" and the years of experience provided for in the most recent state minimum pay scale pay grade for service personnel, in effect in the five counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty-five counties. Effective July 1, 2013, for both professional educators and school service personnel, the differences shall be calculated as otherwise required by this subsection except that the ten counties offering the highest salary schedules shall be compared to the lowest salary schedule in effect among the fifty-five counties.

~~For the school year beginning the first day of July, one thousand nine hundred ninety-four, and thereafter, in the counties that jointly support a multicounty vocational school, salary equity funding shall be distributed to nonfiscal agent counties based on: (1) Calculating the amount of salary equity funding each nonfiscal agent county would receive for the employees for which it is charged in the public school support program, as provided in section four, article nine-a, chapter eighteen of this code, if this salary equity funding were distributed to nonfiscal agent counties; and (2) deducting the salary equity funding to be received by the fiscal agent county in the public school support program for those employees for which the nonfiscal agent county is charged in the public school support program.~~

(b) To assist the state in meeting its objective of salary equity among the counties, as defined in subsection (a) of this section, on and after ~~the first day of July one thousand nine hundred eighty-four~~ 1, 1984, subject to available state appropriations and the conditions set forth herein, each teacher and school service personnel shall receive a supplemental amount in addition to the amount from the state minimum salary schedules provided for in this article.

(c) State funds for this purpose shall be paid within the West Virginia public school support plan in accordance with article nine-a, chapter eighteen of this code. The amount allocated for salary equity shall be apportioned between teachers and school service personnel in direct proportion to that amount necessary to support the professional salaries and service personnel salaries statewide under sections four and five and eight, article nine-a, chapter eighteen of this code: ~~Provided, That in making this division an adequate amount of state equity funds shall be reserved to finance the appropriate~~



~~foundation allowances and staffing incentives provided for in article nine-a, chapter eighteen of this code.~~

~~(d) Pursuant to this section, each teacher and school service personnel shall receive the amount that is the difference between their authorized state minimum salary and ninety-five percent of the maximum salary schedules prescribed in section five-a and five-b of this article, indicated on the applicable State Equity Supplement Schedule or Pay Scale for 2010-11, maintained by the West Virginia Department of Education, reduced by any amount provided by the county as a salary supplement for teachers and school service personnel on the first day of January of the fiscal year immediately preceding that in which the salary equity appropriation is distributed 1, 1984: *Provided, That effective July 1, 2011, the amounts indicated on the State Equity Supplement Pay Scale for service personnel is increased by \$37 across-the-board.*~~

~~(e) The amount received pursuant to this section shall not be decreased as a result of any county supplement increase instituted after the first day of January one thousand nine hundred eighty-four 1, 1984 until the objective of salary equity is reached: *Provided, however,* That any amount received pursuant to this section may be reduced proportionately based upon the amount of funds appropriated for this purpose. No county may reduce any salary supplement that was in effect on the first day of January one thousand nine hundred eight-four 1, 1984, except as permitted by sections five-a and five-b of this article.~~

~~(f) During its 2011 interim meetings, the Legislative Oversight Commission on Education Accountability shall conduct a study on whether a recommendation should be made to the Legislature for establishing the State Equity Supplement Schedule and the State Equity Supplement Pay Scale in statute.~~

**§18A-4-8a. Service personnel minimum monthly salaries.**

~~(a) 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 section: shall be as follows:~~

~~(1) Effective July 1, 2010, through June 30, 2011, 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 2010-2011 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 2010-2011 State Minimum Pay Scale Pay Grade set forth in this subdivision.~~

~~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 2011-2012 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 2011-2012 State Minimum Pay Scale Pay Grade set forth in this section subdivision.~~

STATE MINIMUM PAY SCALE PAY GRADE

Years Exp.	Pay Grade							
	A	B	C	D	E	F	G	H
0	1,577	1,598	1,639	1,691	1,743	1,805	1,836	1,908
1	1,609	1,630	1,671	1,723	1,775	1,837	1,868	1,940
2	1,641	1,662	1,703	1,755	1,807	1,869	1,900	1,972
3	1,673	1,694	1,735	1,787	1,839	1,901	1,932	2,004
4	1,705	1,726	1,767	1,819	1,871	1,933	1,964	2,037
5	1,737	1,758	1,799	1,851	1,903	1,965	1,996	2,069
6	1,769	1,790	1,832	1,883	1,935	1,997	2,028	2,101
7	1,802	1,822	1,864	1,915	1,967	2,029	2,060	2,133
8	1,834	1,854	1,896	1,947	1,999	2,061	2,092	2,165
9	1,866	1,886	1,928	1,980	2,031	2,093	2,124	2,197
10	1,898	1,919	1,960	2,012	2,063	2,126	2,157	2,229
11	1,930	1,951	1,992	2,044	2,095	2,158	2,189	2,261
12	1,962	1,983	2,024	2,076	2,128	2,190	2,221	2,293
13	1,994	2,015	2,056	2,108	2,160	2,222	2,253	2,325
14	2,026	2,047	2,088	2,140	2,192	2,254	2,285	2,357
15	2,058	2,079	2,120	2,172	2,224	2,286	2,317	2,389
16	2,090	2,111	2,152	2,204	2,256	2,318	2,349	2,422
17	2,122	2,143	2,185	2,236	2,288	2,350	2,381	2,454
18	2,154	2,175	2,217	2,268	2,320	2,382	2,413	2,486
19	2,187	2,207	2,249	2,300	2,352	2,414	2,445	2,518
20	2,219	2,239	2,281	2,333	2,384	2,446	2,477	2,550
21	2,251	2,271	2,313	2,365	2,416	2,478	2,509	2,582
22	2,283	2,304	2,345	2,397	2,448	2,511	2,542	2,614

23	2,315	2,336	2,377	2,429	2,481	2,543	2,574	2,646
24	2,347	2,368	2,409	2,461	2,513	2,575	2,606	2,678
25	2,379	2,400	2,441	2,493	2,545	2,607	2,638	2,710
26	2,411	2,432	2,473	2,525	2,577	2,639	2,670	2,742
27	2,443	2,464	2,505	2,557	2,609	2,671	2,702	2,774
28	2,475	2,496	2,537	2,589	2,641	2,703	2,734	2,807
29	2,507	2,528	2,570	2,621	2,673	2,735	2,766	2,839
30	2,540	2,560	2,602	2,653	2,705	2,767	2,798	2,871
31	2,572	2,592	2,634	2,685	2,737	2,799	2,830	2,903
32	2,604	2,624	2,666	2,718	2,769	2,831	2,862	2,935
33	2,636	2,656	2,698	2,750	2,801	2,863	2,895	2,967
34	2,668	2,689	2,730	2,782	2,833	2,896	2,927	2,999
35	2,700	2,721	2,762	2,814	2,866	2,928	2,959	3,031
36	2,732	2,753	2,794	2,846	2,898	2,960	2,991	3,063
37	2,764	2,785	2,826	2,878	2,930	2,992	3,023	3,095
38	2,796	2,817	2,858	2,910	2,962	3,024	3,055	3,127
39	2,828	2,849	2,890	2,942	2,994	3,056	3,087	3,159
40	2,860	2,881	2,922	2,974	3,026	3,088	3,119	3,192

2010-2011 STATE MINIMUM PAY SCALE PAY GRADE

Years								
Exp.	Pay Grade							
	A	B	C	D	E	F	G	H
0	1,577	1,598	1,639	1,691	1,743	1,805	1,836	1,908
1	1,609	1,630	1,671	1,723	1,775	1,837	1,868	1,940
2	1,641	1,662	1,703	1,755	1,807	1,869	1,900	1,972
3	1,673	1,694	1,735	1,787	1,839	1,901	1,932	2,004
4	1,705	1,726	1,767	1,819	1,871	1,933	1,964	2,037
5	1,737	1,758	1,799	1,851	1,903	1,965	1,996	2,069
6	1,769	1,790	1,832	1,883	1,935	1,997	2,028	2,101
7	1,802	1,822	1,864	1,915	1,967	2,029	2,060	2,133
8	1,834	1,854	1,896	1,947	1,999	2,061	2,092	2,165
9	1,866	1,886	1,928	1,980	2,031	2,093	2,124	2,197
10	1,898	1,919	1,960	2,012	2,063	2,126	2,157	2,229
11	1,930	1,951	1,992	2,044	2,095	2,158	2,189	2,261
12	1,962	1,983	2,024	2,076	2,128	2,190	2,221	2,293
13	1,994	2,015	2,056	2,108	2,160	2,222	2,253	2,325
14	2,026	2,047	2,088	2,140	2,192	2,254	2,285	2,357
15	2,058	2,079	2,120	2,172	2,224	2,286	2,317	2,389
16	2,090	2,111	2,152	2,204	2,256	2,318	2,349	2,422
17	2,122	2,143	2,185	2,236	2,288	2,350	2,381	2,454
18	2,154	2,175	2,217	2,268	2,320	2,382	2,413	2,486
19	2,187	2,207	2,249	2,300	2,352	2,414	2,445	2,518
20	2,219	2,239	2,281	2,333	2,384	2,446	2,477	2,550
21	2,251	2,271	2,313	2,365	2,416	2,478	2,509	2,582
22	2,283	2,304	2,345	2,397	2,448	2,511	2,542	2,614
23	2,315	2,336	2,377	2,429	2,481	2,543	2,574	2,646
24	2,347	2,368	2,409	2,461	2,513	2,575	2,606	2,678
25	2,379	2,400	2,441	2,493	2,545	2,607	2,638	2,710
26	2,411	2,432	2,473	2,525	2,577	2,639	2,670	2,742

27	2,443	2,464	2,505	2,557	2,609	2,671	2,702	2,774
28	2,475	2,496	2,537	2,589	2,641	2,703	2,734	2,807
29	2,507	2,528	2,570	2,621	2,673	2,735	2,766	2,839
30	2,540	2,560	2,602	2,653	2,705	2,767	2,798	2,871
31	2,572	2,592	2,634	2,685	2,737	2,799	2,830	2,903
32	2,604	2,624	2,666	2,718	2,769	2,831	2,862	2,935
33	2,636	2,656	2,698	2,750	2,801	2,863	2,895	2,967
34	2,668	2,689	2,730	2,782	2,833	2,896	2,927	2,999
35	2,700	2,721	2,762	2,814	2,866	2,928	2,959	3,031
36	2,732	2,753	2,794	2,846	2,898	2,960	2,991	3,063
37	2,764	2,785	2,826	2,878	2,930	2,992	3,023	3,095
38	2,796	2,817	2,858	2,910	2,962	3,024	3,055	3,127
39	2,828	2,849	2,890	2,942	2,994	3,056	3,087	3,159
40	2,860	2,881	2,922	2,974	3,026	3,088	3,119	3,192

2011-2012 STATE MINIMUM PAY SCALE PAY GRADE

Years

Exp.      Pay Grade

	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
<u>0</u>	<u>1,627</u>	<u>1,648</u>	<u>1,689</u>	<u>1,741</u>	<u>1,793</u>	<u>1,855</u>	<u>1,886</u>	<u>1,958</u>
<u>1</u>	<u>1,659</u>	<u>1,680</u>	<u>1,721</u>	<u>1,773</u>	<u>1,825</u>	<u>1,887</u>	<u>1,918</u>	<u>1,990</u>
<u>2</u>	<u>1,691</u>	<u>1,712</u>	<u>1,753</u>	<u>1,805</u>	<u>1,857</u>	<u>1,919</u>	<u>1,950</u>	<u>2,022</u>
<u>3</u>	<u>1,723</u>	<u>1,744</u>	<u>1,785</u>	<u>1,837</u>	<u>1,889</u>	<u>1,951</u>	<u>1,982</u>	<u>2,054</u>
<u>4</u>	<u>1,755</u>	<u>1,776</u>	<u>1,817</u>	<u>1,869</u>	<u>1,921</u>	<u>1,983</u>	<u>2,014</u>	<u>2,087</u>
<u>5</u>	<u>1,787</u>	<u>1,808</u>	<u>1,849</u>	<u>1,901</u>	<u>1,953</u>	<u>2,015</u>	<u>2,046</u>	<u>2,119</u>
<u>6</u>	<u>1,819</u>	<u>1,840</u>	<u>1,882</u>	<u>1,933</u>	<u>1,985</u>	<u>2,047</u>	<u>2,078</u>	<u>2,151</u>
<u>7</u>	<u>1,852</u>	<u>1,872</u>	<u>1,914</u>	<u>1,965</u>	<u>2,017</u>	<u>2,079</u>	<u>2,110</u>	<u>2,183</u>
<u>8</u>	<u>1,884</u>	<u>1,904</u>	<u>1,946</u>	<u>1,997</u>	<u>2,049</u>	<u>2,111</u>	<u>2,142</u>	<u>2,215</u>
<u>9</u>	<u>1,916</u>	<u>1,936</u>	<u>1,978</u>	<u>2,030</u>	<u>2,081</u>	<u>2,143</u>	<u>2,174</u>	<u>2,247</u>
<u>10</u>	<u>1,948</u>	<u>1,969</u>	<u>2,010</u>	<u>2,062</u>	<u>2,113</u>	<u>2,176</u>	<u>2,207</u>	<u>2,279</u>
<u>11</u>	<u>1,980</u>	<u>2,001</u>	<u>2,042</u>	<u>2,094</u>	<u>2,145</u>	<u>2,208</u>	<u>2,239</u>	<u>2,311</u>
<u>12</u>	<u>2,012</u>	<u>2,033</u>	<u>2,074</u>	<u>2,126</u>	<u>2,178</u>	<u>2,240</u>	<u>2,271</u>	<u>2,343</u>
<u>13</u>	<u>2,044</u>	<u>2,065</u>	<u>2,106</u>	<u>2,158</u>	<u>2,210</u>	<u>2,272</u>	<u>2,303</u>	<u>2,375</u>

14	<u>2,076</u>	<u>2,097</u>	<u>2,138</u>	<u>2,190</u>	<u>2,242</u>	<u>2,304</u>	<u>2,335</u>	<u>2,407</u>
15	<u>2,108</u>	<u>2,129</u>	<u>2,170</u>	<u>2,222</u>	<u>2,274</u>	<u>2,336</u>	<u>2,367</u>	<u>2,439</u>
16	<u>2,140</u>	<u>2,161</u>	<u>2,202</u>	<u>2,254</u>	<u>2,306</u>	<u>2,368</u>	<u>2,399</u>	<u>2,472</u>
17	<u>2,172</u>	<u>2,193</u>	<u>2,235</u>	<u>2,286</u>	<u>2,338</u>	<u>2,400</u>	<u>2,431</u>	<u>2,504</u>
18	<u>2,204</u>	<u>2,225</u>	<u>2,267</u>	<u>2,318</u>	<u>2,370</u>	<u>2,432</u>	<u>2,463</u>	<u>2,536</u>
19	<u>2,237</u>	<u>2,257</u>	<u>2,299</u>	<u>2,350</u>	<u>2,402</u>	<u>2,464</u>	<u>2,495</u>	<u>2,568</u>
20	<u>2,269</u>	<u>2,289</u>	<u>2,331</u>	<u>2,383</u>	<u>2,434</u>	<u>2,496</u>	<u>2,527</u>	<u>2,601</u>
21	<u>2,301</u>	<u>2,321</u>	<u>2,363</u>	<u>2,415</u>	<u>2,466</u>	<u>2,528</u>	<u>2,559</u>	<u>2,634</u>
22	<u>2,333</u>	<u>2,354</u>	<u>2,395</u>	<u>2,447</u>	<u>2,498</u>	<u>2,561</u>	<u>2,593</u>	<u>2,666</u>
23	<u>2,365</u>	<u>2,386</u>	<u>2,427</u>	<u>2,479</u>	<u>2,531</u>	<u>2,594</u>	<u>2,625</u>	<u>2,699</u>
24	<u>2,397</u>	<u>2,418</u>	<u>2,459</u>	<u>2,511</u>	<u>2,563</u>	<u>2,627</u>	<u>2,658</u>	<u>2,732</u>
25	<u>2,429</u>	<u>2,450</u>	<u>2,491</u>	<u>2,543</u>	<u>2,596</u>	<u>2,659</u>	<u>2,691</u>	<u>2,764</u>
26	<u>2,461</u>	<u>2,482</u>	<u>2,523</u>	<u>2,576</u>	<u>2,629</u>	<u>2,692</u>	<u>2,723</u>	<u>2,797</u>
27	<u>2,493</u>	<u>2,514</u>	<u>2,555</u>	<u>2,608</u>	<u>2,661</u>	<u>2,724</u>	<u>2,756</u>	<u>2,829</u>
28	<u>2,525</u>	<u>2,546</u>	<u>2,588</u>	<u>2,641</u>	<u>2,694</u>	<u>2,757</u>	<u>2,789</u>	<u>2,863</u>
29	<u>2,557</u>	<u>2,579</u>	<u>2,621</u>	<u>2,673</u>	<u>2,726</u>	<u>2,790</u>	<u>2,821</u>	<u>2,896</u>
30	<u>2,591</u>	<u>2,611</u>	<u>2,654</u>	<u>2,706</u>	<u>2,759</u>	<u>2,822</u>	<u>2,854</u>	<u>2,928</u>
31	<u>2,623</u>	<u>2,644</u>	<u>2,687</u>	<u>2,739</u>	<u>2,792</u>	<u>2,855</u>	<u>2,887</u>	<u>2,961</u>
32	<u>2,656</u>	<u>2,676</u>	<u>2,719</u>	<u>2,772</u>	<u>2,824</u>	<u>2,888</u>	<u>2,919</u>	<u>2,994</u>
33	<u>2,689</u>	<u>2,709</u>	<u>2,752</u>	<u>2,805</u>	<u>2,857</u>	<u>2,920</u>	<u>2,953</u>	<u>3,026</u>
34	<u>2,721</u>	<u>2,743</u>	<u>2,785</u>	<u>2,838</u>	<u>2,890</u>	<u>2,954</u>	<u>2,986</u>	<u>3,059</u>
35	<u>2,754</u>	<u>2,775</u>	<u>2,817</u>	<u>2,870</u>	<u>2,923</u>	<u>2,987</u>	<u>3,018</u>	<u>3,092</u>
36	<u>2,787</u>	<u>2,808</u>	<u>2,850</u>	<u>2,903</u>	<u>2,956</u>	<u>3,019</u>	<u>3,051</u>	<u>3,124</u>
37	<u>2,819</u>	<u>2,841</u>	<u>2,883</u>	<u>2,936</u>	<u>2,989</u>	<u>3,052</u>	<u>3,083</u>	<u>3,157</u>
38	<u>2,852</u>	<u>2,873</u>	<u>2,915</u>	<u>2,968</u>	<u>3,021</u>	<u>3,084</u>	<u>3,116</u>	<u>3,190</u>
39	<u>2,885</u>	<u>2,906</u>	<u>2,948</u>	<u>3,001</u>	<u>3,054</u>	<u>3,117</u>	<u>3,149</u>	<u>3,222</u>
40	<u>2,917</u>	<u>2,939</u>	<u>2,980</u>	<u>3,033</u>	<u>3,087</u>	<u>3,150</u>	<u>3,181</u>	<u>3,256</u>

(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:

CLASS TITLE	PAY GRADE
Accountant I. ....	D
Accountant II. ....	E
Accountant III. ....	F

Accounts Payable Supervisor. . . . .	G
Aide I. . . . .	A
Aide II. . . . .	B
Aide III. . . . .	C
Aide IV. . . . .	D
Audiovisual Technician. . . . .	C
Auditor. . . . .	G
Autism Mentor. . . . .	F
Braille or Sign Language Specialist. . . . .	E
Bus Operator. . . . .	D
Buyer. . . . .	F
Cabinetmaker. . . . .	G
Cafeteria Manager. . . . .	D
Carpenter I. . . . .	E
Carpenter II. . . . .	F
Chief Mechanic. . . . .	G
Clerk I. . . . .	B
Clerk II. . . . .	C
Computer Operator. . . . .	E
Cook I. . . . .	A
Cook II. . . . .	B
Cook III. . . . .	C
Crew Leader. . . . .	F
Custodian I. . . . .	A
Custodian II. . . . .	B
Custodian III. . . . .	C
Custodian IV. . . . .	D
Director or Coordinator of Services. . . . .	H
Draftsman. . . . .	D
Electrician I. . . . .	F
Electrician II. . . . .	G
Electronic Technician I. . . . .	F
Electronic Technician II. . . . .	G
Executive Secretary. . . . .	G
Food Services Supervisor. . . . .	G
Foreman. . . . .	G
General Maintenance. . . . .	C
Glazier. . . . .	D
Graphic Artist. . . . .	D
Groundsman. . . . .	B
Handyman. . . . .	B
Heating and Air Conditioning Mechanic I. . . . .	E
Heating and Air Conditioning Mechanic II. . . . .	G
Heavy Equipment Operator. . . . .	E
Inventory Supervisor. . . . .	D
Key Punch Operator. . . . .	B

Licensed Practical Nurse. . . . .	F
Locksmith. . . . .	G
Lubrication Man. . . . .	C
Machinist. . . . .	F
Mail Clerk. . . . .	D
Maintenance Clerk. . . . .	C
Mason. . . . .	G
Mechanic. . . . .	F
Mechanic Assistant. . . . .	E
Office Equipment Repairman I. . . . .	F
Office Equipment Repairman II. . . . .	G
Painter. . . . .	E
Paraprofessional. . . . .	F
Payroll Supervisor. . . . .	G
Plumber I. . . . .	E
Plumber II. . . . .	G
Printing Operator. . . . .	B
Printing Supervisor. . . . .	D
Programmer. . . . .	H
Roofing/Sheet Metal Mechanic. . . . .	F
Sanitation Plant Operator. . . . .	G
School Bus Supervisor. . . . .	E
Secretary I. . . . .	D
Secretary II. . . . .	E
Secretary III. . . . .	F
Supervisor of Maintenance. . . . .	H
Supervisor of Transportation. . . . .	H
Switchboard Operator-Receptionist. . . . .	D
Truck Driver. . . . .	D
Warehouse Clerk. . . . .	C
Watchman. . . . .	B
Welder. . . . .	F

WVEIS Data Entry and Administrative Clerk. . B

(b) An additional ~~twelve~~ \$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 ~~eleven~~ \$11 per month also shall be added to the minimum monthly pay of ~~for~~ 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;
- (8) 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;
- (9) 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;
- (10) 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 ~~forty dollars~~ \$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 ~~eleven dollars~~ \$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) 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 ~~ten~~ \$10 per month and one half of the pay shall be paid with local funds.
- (g) 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.
- (h) 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.
- (i) 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.
- (j) 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 personnel employee 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.

(k) 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 ~~three dollars~~ **\$3** per hour or no less than ~~five dollars~~ **\$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 ~~thirty dollars~~ **\$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.

(l) 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 certified professional personnel 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 certified professional personnel" means that certified professional personnel is present, with and accompanying the aide.

## **CHAPTER 20. NATURAL RESOURCES.**

### **ARTICLE 7. LAW ENFORCEMENT, MOTORBOATING, LITTER.**

#### **§20-7-1c. Natural resources police officer, ranks, salary schedule, base pay, exceptions.**

(a) Notwithstanding any provision of this code to the contrary, the ranks within the law-enforcement section of the Division of Natural Resources are colonel, lieutenant colonel, major, captain, lieutenant, sergeant, corporal, natural resources police officer first class, senior natural resources police officer, natural resources police officer and natural resources police officer-in-training. Each officer while in uniform shall wear the insignia of rank as provided by the chief natural resources police officer.

(b) Beginning on July 1, 2002, ~~and continuing thereafter,~~ through June 30, 2011, natural resources police officers shall be paid the minimum annual salaries based on the following schedule:

ANNUAL SALARY SCHEDULE (BASE PAY)  
 SUPERVISORY AND NONSUPERVISORY RANKS

Natural Resources Police Officer In Training (first year until end of probation) . . . . .	\$26,337
Natural Resources Police Officer (second year) . . . . .	\$29,768
Natural Resources Police Officer (third year) . . . . .	\$30,140
Senior Natural Resources Police Officer (fourth and fifth year) . . . . .	\$30,440
Senior Natural Resources Police Officer First Class (after fifth year) . . . . .	\$32,528
Senior Natural Resources Police Officer (after tenth year) . . . . .	\$33,104
Senior Natural Resources Police Officer (after fifteenth year) . . . . .	\$33,528
Corporal (after sixteenth year) . . . . .	\$36,704
Sergeant . . . . .	\$40,880
First Sergeant . . . . .	\$42,968
Lieutenant . . . . .	\$47,144
Captain . . . . .	\$49,232
Major . . . . .	\$51,320
Lieutenant Colonel . . . . .	\$53,408
Colonel . . . . .	

Beginning July 1, 2011, and continuing thereafter, natural resources police officers shall be paid the minimum annual salaries based on the following schedule:

ANNUAL SALARY SCHEDULE (BASE PAY)  
SUPERVISORY AND NONSUPERVISORY RANKS

<u>Natural Resources Police Officer In Training (first year until end of probation) . . . . .</u>	<u>\$31,222</u>
<u>Natural Resources Police Officer (second year) . . . . .</u>	<u>\$34,881</u>
<u>Natural Resources Police Officer (third year) . . . . .</u>	<u>\$35,277</u>
<u>Senior Natural Resources Police Officer (fourth and fifth year) . . . . .</u>	<u>\$35,601</u>
<u>Senior Natural Resources Police Officer First Class (after fifth year) . . . . .</u>	<u>\$37,797</u>
<u>Senior Natural Resources Police Officer (after tenth year) . . . . .</u>	<u>\$38,397</u>
<u>Senior Natural Resources Police Officer (after fifteenth year) . . . . .</u>	<u>\$38,833</u>
<u>Corporal (after sixteenth year) . . . . .</u>	<u>\$42,105</u>
<u>Sergeant . . . . .</u>	<u>\$46,401</u>
<u>First Sergeant . . . . .</u>	<u>\$48,549</u>
<u>Lieutenant . . . . .</u>	<u>\$52,857</u>
<u>Captain . . . . .</u>	<u>\$55,005</u>
<u>Major . . . . .</u>	<u>\$57,153</u>
<u>Lieutenant Colonel . . . . .</u>	<u>\$59,301</u>
<u>Colonel . . . . .</u>	

Natural resources police officers in service at the time the amendment to this section becomes effective shall be given credit for prior service and shall be paid salaries the same length of service entitles them to receive under the provisions of this section.

(c) This section does not apply to special or emergency natural resources police officers appointed under the authority of section one of this article.

(d) Nothing in this section prohibits other pay increases as provided under section two, article five, chapter five of this code: *Provided*, That any across-the-board pay increase granted by the Legislature or the Governor will be added to, and reflected in, the minimum salaries set forth in this section; and that any merit increases granted to an officer over and above the annual salary schedule listed in subsection (b) of this section are retained by an officer when he or she advances from one rank to another: *Provided, however, That any natural resources police officer who receives an increase in compensation pursuant to the amendment and reenactment of this section in 2011 shall not receive any across-the-board pay increase granted by the Legislature or the Governor in 2011.*

## **CHAPTER 50. MAGISTRATE COURTS.**

### **ARTICLE 1. COURTS AND OFFICERS.**

#### **§50-1-3. Salaries of magistrates.**

(a) The Legislature finds and declares that:

(1) The West Virginia Supreme Court of Appeals has held that a salary system for magistrates which is based upon the population that each magistrate serves does not violate the equal protection clause of the Constitution of the United States;

(2) The West Virginia Supreme Court of Appeals has held that a salary system for magistrates which is based upon the population that each magistrate serves does not violate section thirty-nine, article VI of the Constitution of West Virginia;

(3) The utilization of a two-tiered salary schedule for magistrates is an equitable and rational manner by which magistrates should be compensated for work performed;

(4) Organizing the two tiers of the salary schedule into one tier for magistrates serving less than eight thousand four hundred in population and the second tier for magistrates serving eight thousand four hundred or more in population is rational and equitable given current statistical information relating to population and caseload; and

(5) That all magistrates who fall under the same tier should be compensated equally.

(b) The salary of each magistrate shall be paid by the state. Magistrates who serve fewer than eight thousand four hundred in population shall be paid annual salaries of thirty thousand six hundred twenty-five dollars and magistrates who serve eight thousand four hundred or more in population shall be paid annual salaries of thirty-seven thousand dollars: *Provided*, That on and after the first day of July, two thousand three, magistrates who serve fewer than eight thousand four hundred in population shall be paid annual salaries of thirty-three thousand six hundred twenty-five dollars and magistrates who serve eight thousand four hundred or more in population shall be paid annual salaries of forty thousand dollars: *Provided, however*, That on and after the first day of July, two thousand five, magistrates who serve fewer than eight thousand four hundred in population shall be paid annual salaries of forty-three thousand six hundred twenty-five dollars and magistrates who serve eight thousand four hundred or more in population shall be paid annual salaries of fifty thousand dollars. *Provided further*, That on and after the first day of July, 2011, magistrates who serve fewer than eight thousand four hundred in population

shall be paid annual salaries of \$51,125 and magistrates who serve eight thousand four hundred or more in population shall be paid annual salaries of \$57,500.

(c) For the purpose of determining the population served by each magistrate, the number of magistrates authorized for each county shall be divided into the population of each county. For the purpose of this article, the population of each county is the population as determined by the last preceding decennial census taken under the authority of the United States government.

## **CHAPTER 51. COURTS AND THEIR OFFICERS. ARTICLE 1. SUPREME COURT OF APPEALS.**

### **§51-1-10a. Salary of justices.**

The salary of each of the justices of the Supreme Court of Appeals shall be ~~ninety-five thousand dollars~~ \$95,000 per year: *Provided*, That beginning ~~the first day of July two thousand five, 1, 2005,~~ the salary of each of the justices of the Supreme Court shall be ~~one hundred twenty-one thousand dollars~~ \$121,000: *Provided, however*, That beginning July 1, 2011, the annual salary of a justice of the Supreme Court shall be \$136,000.

## **ARTICLE 2. CIRCUIT COURTS; CIRCUIT JUDGES.**

### **§51-2-13. Salaries of judges of circuit courts.**

The salaries of the judges of the various circuit courts shall be paid solely out of the State Treasury. No county, county commission, board of commissioners or other political subdivision shall supplement or add to such salaries.

The annual salary of all circuit judges shall be ~~ninety thousand dollars~~ \$90,000 per year: *Provided*, That beginning ~~the first day of July, two thousand five 1, 2005,~~ the annual salary of all circuit judges shall be ~~one hundred sixteen thousand dollars~~ \$116,000 per year: *Provided, however*, That beginning July 1, 2011, the annual salary of a circuit court judge shall be \$126,000.

## **ARTICLE 2A. FAMILY COURTS.**

### **§51-2A-6. Compensation and expenses of family court judges and their staffs.**

(a) A family court judge is entitled to receive as compensation for his or her services an annual salary of ~~sixty-two thousand five hundred dollars~~ \$62,500: *Provided*, That beginning ~~the first day of July, two thousand five 1, 2005,~~ a family court judge is entitled to receive as compensation for his or her services an annual salary of ~~eighty-two thousand five hundred dollars~~ \$82,500: *Provided, however*, That beginning July 1, 2011, the annual salary of a family court judge shall be \$94,500.

(b) The secretary-clerk of the family court judge is appointed by the family court judge and serves at his or her will and pleasure. The secretary-clerk of the family court judge is entitled to receive an annual salary of ~~twenty-seven thousand thirty-six dollars~~ \$27,036: *Provided*, That on and after ~~the first day of July, two thousand six 1, 2006,~~ the annual salary of the secretary-clerk shall be established by the administrative director of the Supreme Court of Appeals, but may not exceed ~~thirty-five thousand dollars~~ \$35,000. In addition, any person employed as a secretary-clerk to a family court judge on the effective date of the enactment of this section during the sixth extraordinary session of the Legislature in the year ~~two thousand one 2001~~ who is receiving an additional ~~five hundred dollars~~ \$500 per year up to ten years of a certain period of prior employment under the provisions of the prior enactment of section eight of this article during the second extraordinary session of the Legislature in the year ~~one thousand nine hundred ninety-nine~~

1999 shall continue to receive such additional amount. Further, the secretary-clerk will receive such percentage or proportional salary increases as may be provided by general law for other public employees and is entitled to receive the annual incremental salary increase as provided in article five, chapter five of this code.

(c) The family court judge may employ not more than one family case coordinator who serves at his or her will and pleasure. The annual salary of the family case coordinator of the family court judge shall be established by the Administrative Director of the Supreme Court of Appeals but may not exceed ~~thirty-six thousand dollars~~ \$36,000: *Provided*, That on and after ~~the first day of July, two thousand six~~ 1, 2006, the annual salary of the family case coordinator of the family court judge may not exceed ~~forty-six thousand sixty dollars~~ \$46,060. The family case coordinator will receive such percentage or proportional salary increases as may be provided by general law for other public employees and is entitled to receive the annual incremental salary increase as provided in article five, chapter five of this code.

(d) The sheriff or his or her designated deputy shall serve as a bailiff for a family court judge. The sheriff of each county shall serve or designate persons to serve so as to assure that a bailiff is available when a family court judge determines the same is necessary for the orderly and efficient conduct of the business of the family court.

(e) Disbursement of salaries for family court judges and members of their staffs are made by or pursuant to the order of the Director of the Administrative Office of the Supreme Court of Appeals.

(f) Family court judges and members of their staffs are allowed their actual and necessary expenses incurred in the performance of their duties. The expenses and compensation will be determined and paid by the Director of the Administrative Office of the Supreme Court of Appeals under such guidelines as he or she may prescribe, as approved by the Supreme Court of Appeals.

(g) Notwithstanding any other provision of law, family court judges are not eligible to participate in the retirement system for judges under the provisions of article nine of this chapter.

## House Bill 3116

<u>Effective Date:</u>	March 12, 2011
<u>Signed by Governor:</u>	April 1, 2011
<u>Code Reference:</u>	Amends §18-5A-6
<u>Title:</u>	Relating to the authority of school curriculum teams and local school collaborative processes

### Major Provisions:

House Bill 3116 amends §18-5A-6, Local School Improvement, relating to the authority of school curriculum teams and local school collaborative processes with respect to selection and use of testing and assessment instruments not required by statute or state board when certain conditions are met; providing purposes of section; clarifying duties and removing conflicting language; specific exceptions; providing discretionary use of certain assessments, instructional strategies and programs for certain teams when certain conditions are met; vesting powers and duties of curriculum teams with certain collaborative processes if formed; and authorizing collaborative process to incorporate functions of other committees required by rule eliminate the committees at the school.

### Specifically:

- Outlines membership requirements for school curriculum teams as follows:
  - o The school principal, the counselor designated to serve that school and no fewer than three teachers representative of the grades taught at the school and chosen by the faculty senate
  - o In instances where the counselor is assigned to an elementary school or a combination elementary and middle school on less than a one-half time basis, a school curriculum team established at that school may meet on days when the counselor is not at the school and the principal shall consult with the counselor on the issues relevant to the meeting agenda.
- Goals:
  - o Provide professional opportunities for teachers, administrators and other school personnel that allow them to have a direct voice in the operation of their schools and to create a culture of shared decision-making focused on the ultimate goal of raising student achievement;

- Encourage the use of different, high-quality models of teaching, scheduling and other aspects of educational delivery that meet a variety of student needs;
  - Provide public schools with increased school-level freedom and flexibility to achieve these purposes when they have achieved exceptional levels of results-driven accountability.
- Powers and duties of the school curriculum team:
- Establish for use at the school the programs and methods to be used to implement a curriculum based on state-approved content standards that meet the needs of students at the individual school.
    - The curriculum shall focus on reading, composition, mathematics, science and technology.
    - The curriculum thus established shall be submitted to the county board which may approve for implementation at the school or may return to the curriculum team for reconsideration.
  - Review the list of other, non-required testing and assessment instruments provided by the state board through the statewide assessment program as provided in section five, article two-e of this chapter. The curriculum team may select one or more tests or assessment instruments that are applicable to the grade levels at the school for use at the school to improve student learning.
  - Establish for use at the school the assessments, instructional strategies and programs that it determines are best suited to promote student achievement and to achieve content standards for courses required by the state board. The curriculum team shall submit the established assessments, instructional strategies and programs to the county board which shall approve the recommendations for implementation at the school or shall return them to the curriculum team for reconsideration.
- The school curriculum team established at a school that has achieved adequate yearly progress or has achieved an accreditation status of distinction or exemplary in accordance with section five, article two-e of this chapter, may use the assessments and implement the



instructional strategies and programs consistent with the approved curriculum that it determines are best suited to promote student achievement at the school.

- The school may not be required to assess students using any specific assessment except the state summative assessment known as the WESTEST2 or any successor tests, the Alternative Performance Task Assessment, the Online Writing Assessment, and the National Assessment of Educational Progress (NAEP); and
  - The school may not be required to employ any specific instructional strategy or program to achieve content standards for courses required by the state board, except as approved by the school curriculum team.
- If a school fails to achieve adequate yearly progress or if it receives any school approval level other than distinction or exemplary, the curriculum team may not exercise the options provided until the school has regained one or more of these credentials.
  - Nothing in this section exempts a school from assessments required by statute or state board policy including, but not limited to, the state summative assessment known as the WESTEST2 or any successor tests, the Alternative Performance Task Assessment, the Online Writing Assessment, and the National Assessment of Educational Progress (NAEP).
  - The school curriculum team may apply for a waiver for instructional resources approved and adopted if, in the judgment of the team, the instructional resources necessary for the implementation of the instructional strategies and programs best suited to teach the school's curriculum are not available through the normal adoption process.
  - The school curriculum team may apply for a grant from the state board to develop and/or implement remedial and accelerated programs to meet the needs of the students at the individual school.
  - Process for teacher collaboration
    - A school that has achieved adequate yearly progress or has achieved a school accreditation status of distinction or exemplary, the faculty senate, with approval of the principal, may establish a process for teacher collaboration to improve instruction and learning.

- The collaborative process may be established in addition to, or as an alternative to, the school curriculum team.
  - The mission of the collaboration process is to review student academic performance based on multiple measures, to identify strategies to improve student performance and make recommendations for improvement to be implemented subject to approval of the principal.
  - The teacher collaborative includes members the faculty senate determines are necessary to address the needed improvements in the academic performance of students at the school. If applicable, the collaborative may consist of multiple subject area subcommittees which may meet independently.
- If a collaborative process is established as an alternative to the school curriculum team, the teacher collaborative has all the powers and duties assigned to school curriculum teams.
- The collaborative process also may incorporate the functions of the Strategic Planning Committee, the Technology Team, and/or the School Support Team.
  - When the functions of any or all of these committees are incorporated into the collaborative process, the school is not required to establish a separate committee for any one whose functions have been assumed by the collaborative.

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## ENROLLED

### H. B. 3116

(By Delegates Shaver, M. Poling, Perry, Pethtel, Lawrence, Ennis, Smith, Pasdon and Moyer SPONSOR)

[Passed March 12, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §18-5A-6 Bill Title of the code of West Virginia, 1931, as amended, relating to the authority of school curriculum teams and local school collaborative processes with respect to selection and use of testing and assessment instruments not required by statute or state board when certain conditions are met; providing purposes of section; clarifying duties and removing conflicting language; specific exceptions; providing discretionary use of certain assessments, instructional strategies and programs for certain teams when certain conditions are met; vesting powers and duties of curriculum teams with certain collaborative processes if formed; and authorizing collaborative process to incorporate functions of other committees required by rule eliminate the committees at the school. Title Language

*Be it enacted by the Legislature of West Virginia:*

That §18-5A-6 Enacting Section of the code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

#### **ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.**

##### **§18-5A-6. Establishment of school curriculum teams; process for teacher collaboration to improve learning.**

(a) There shall be established at each school in the state a school curriculum team composed of the school principal, the counselor designated to serve that school and no fewer than three teachers representative of the grades taught at the school and chosen by the faculty senate: In instances where the counselor is assigned to an elementary school or a combination elementary and middle school on less than a one-half time basis, a school curriculum team established at that school may meet on days when the counselor is not at the school and the principal shall consult with the counselor on the issues relevant to the meeting agenda.

(b) The purposes of this section are to implement the following goals:

(1) Provide professional opportunities for teachers, administrators and other school personnel that allow them to have a direct voice in the operation of their schools and to create a culture of shared decision-making focused on the ultimate goal of raising student achievement;

(2) Encourage the use of different, high-quality models of teaching, scheduling and other aspects of educational delivery that meet a variety of student needs;

(3) Increase high-quality educational opportunities for all students that close achievement

gaps between high-performing and low-performing groups of public school students; and  
(4) Provide public schools with increased school-level freedom and flexibility to achieve these purposes when they have achieved exceptional levels of results-driven accountability

(c) Powers and duties of the school curriculum team. –

(1) Establish for use at the school the programs and methods to be used to implement a curriculum based on state-approved content standards ~~based on~~ that meet the needs of students at the individual school.

(A) The curriculum shall focus on reading, composition, mathematics, science and technology.

(B) The curriculum thus established shall be submitted to the county board which may approve for implementation at the school or may return to the curriculum team for reconsideration.

(2) Review the list of other, non-required testing and assessment instruments provided by the state board through the statewide assessment program as provided in section five, article two-e of this chapter. The curriculum team may select one or more tests or assessment instruments that are applicable to the grade levels at the school for use at the school to improve student learning.

(3) Establish for use at the school the assessments, instructional strategies and programs that it determines are best suited to promote student achievement and to achieve content standards for courses required by the state board. The curriculum team shall submit the established assessments, instructional strategies and programs to the county board which shall approve the recommendations for implementation at the school or shall return them to the curriculum team for reconsideration.

(d) Notwithstanding subsection (c) of this section, the school curriculum team established at a school that has achieved adequate yearly progress or has achieved an accreditation status of distinction or exemplary in accordance with section five, article two-e of this chapter, may use the assessments and implement the instructional strategies and programs consistent with the approved curriculum that it determines are best suited to promote student achievement at the school.

(1) The school may not be required to assess students using any specific assessment except the state summative assessment known as the WESTEST2 or any successor tests, the Alternative Performance Task Assessment, the Online Writing Assessment, and the National Assessment of Educational Progress (NAEP); and

(2) The school may not be required to employ any specific instructional strategy or program to achieve content standards for courses required by the state board, except as approved by the school curriculum team.

(e) If a school fails to achieve adequate yearly progress or if it receives any school approval level other than distinction or exemplary as set forth in section five, article two-e of this chapter, the curriculum team may not exercise the options provided in subsections (d) and (i) of this article until the school has regained one or more of these credentials.

(f) Nothing in this section exempts a school from assessments required by statute or state board policy including, but not limited to, the state summative assessment known as the WESTEST2 or any successor tests, the Alternative Performance Task Assessment, the Online Writing Assessment, and the National Assessment of Educational Progress (NAEP).

(g) The school curriculum team may apply for a waiver for instructional resources approved

and adopted pursuant to article two-a of this chapter if, in the judgment of the team, the instructional resources necessary for the implementation of the instructional strategies and programs best suited to teach the school's curriculum are not available through the normal adoption process.

(h) The school curriculum team may apply for a grant from the state board to develop and/or implement remedial and accelerated programs to meet the needs of the students at the individual school.

(i) *Process for teacher collaboration.* –

(1) Notwithstanding the application and approval process established by article five-c of this chapter, at a school that has achieved adequate yearly progress or has achieved a school accreditation status of distinction or exemplary in accordance with section five, article two-e of this chapter, the faculty senate, with approval of the principal, may establish a process for teacher collaboration to improve instruction and learning.

(A) The collaborative process may be established in addition to, or as an alternative to, the school curriculum team provided for in subsection (a) of this section.

(B) The mission of the collaboration process is to review student academic performance based on multiple measures, to identify strategies to improve student performance and make recommendations for improvement to be implemented subject to approval of the principal.

(C) The teacher collaborative includes members the faculty senate determines are necessary to address the needed improvements in the academic performance of students at the school. If applicable, the collaborative may consist of multiple subject area subcommittees which may meet independently.

(2) If a collaborative process is established as an alternative to the school curriculum team, the teacher collaborative has all the powers and duties assigned to school curriculum teams.

(A) The collaborative process also may incorporate the functions of the Strategic Planning Committee, the Technology Team, and/or the School Support Team.

(B) When the functions of any or all of these committees are incorporated into the collaborative process, the school is not required to establish a separate committee for any one whose functions have been assumed by the collaborative.

## House Bill 3225

Effective Date: June 10, 2011

Signed by Governor: April 1, 2011

Code Reference: Amends §18-2C-2 and §18-2C-3

Title: Harassment, Intimidation or Bullying Prohibition

Major Provisions:

- Amends the definition of “harassment, intimidation or bullying” to include electronic communications and transmissions.
- Amends the definition to include the effect of disrupting or interfering with the orderly operation of the school.
- Amends the requirement for county board policies prohibiting harassment, intimidation or bullying to encompass “school property, the school bus, school bus stop or school sponsored events”.
- Requires county boards to have procedures for:
  - 1) reporting incidents,
  - 2) notifying parents/guardians of any student involved,
  - 3) responding to and investigating reported incidents,
  - 4) documenting substantiated incidents in WVEIS,
  - 5) protecting the victim from retaliation,
  - 6) administering discipline,
  - 7) assuring confidentiality.
- Requires county boards to adopt policies regarding these requirements and submit them to the State Superintendent by December 1, 2011.
- Requires notice of county board policies in any student handbook and/or county board publication regarding rules, procedures and standards of conduct for the school.
- Requires the WVDE to develop a model policy by September 1, 2011.

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**H. B. 3225**

(By Delegates M. Poling, Paxton, Perry, Ennis,  
Pethtel, Shaver, Moye, Smith,  
Lawrence and L. Phillips)

[Passed March 12, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §18-2C-2 and §18-2C-3 of the Code of West Virginia, 1931, as amended, all relating to harassment, intimidation or bullying of students; expanding the definition of harassment, intimidation or bullying; expanding the areas where harassment, intimidation and bullying are prohibited to include school buses and school bus stops; requiring county board and West Virginia Department of Education policies regarding harassment, intimidation or bullying; and establishing reporting requirements.

*Be it enacted by the Legislature of West Virginia:*

That §18-2C-2 and §18-2C-3 of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 2C. HARASSMENT, INTIMIDATION OR BULLYING PROHIBITION.**

**§18-2C-2. Definitions.**

(a) As used in this article, "harassment, intimidation or bullying" means any intentional gesture, or any intentional electronic, written, verbal or physical act, communication, transmission or threat that:

(a) (1) A reasonable person under the circumstances should know will have the effect of any one or more of the following:

(1) (A) Physically harming a student;

(2) (B) Damaging a student's property;

(3) (C) Placing a student in reasonable fear of harm to his or her person; or

(4) (D) Placing a student in reasonable fear of damage to his or her property;

(b) (2) Is sufficiently severe, persistent or pervasive that it creates an intimidating, threatening or emotionally abusive educational environment for a student; or

(3) Disrupts or interferes with the orderly operation of the school.

(b) As used in this article, an electronic act, communication, transmission or threat includes but is not limited to one which is administered via telephone, wireless phone, computer,

pager or any electronic or wireless device whatsoever, and includes but is not limited to transmission of any image or voice, email or text message using any such device.

**§18-2C-3. Policy prohibiting harassment, intimidation or bullying.**

(a) Each county board of ~~education~~ shall establish a policy prohibiting harassment, intimidation or bullying. Each county board has control over the content of its policy as long as the policy contains, at a minimum, the requirements of subdivision (b) of this section. The policy shall be adopted through a process that includes representation of parents or guardians, school employees, school volunteers, students and community members.

(b) Each county board policy shall, at a minimum, include the following components:

(1) A statement prohibiting harassment, intimidation or bullying of any student on school property, a school bus, at a school bus stop or at school sponsored events;

(2) A definition of harassment, intimidation or bullying no less inclusive than that in section two of this article;

(3) A procedure for reporting prohibited incidents;

(4) A requirement that school personnel report prohibited incidents of which they are aware;

(5) A requirement that parents or guardians of any student involved in an incident prohibited pursuant to this article be notified;

(6) A procedure for documenting any prohibited incident that is reported;

(7) A procedure for responding to and investigating any reported incident;

(8) A strategy for protecting a victim from additional harassment, intimidation or bullying, and from retaliation following a report;

(9) A disciplinary procedure for any student guilty of harassment, intimidation or bullying;

(10) A requirement that any information relating to a reported incident is confidential, and exempt from disclosure under the provisions of chapter twenty-nine-b of this code; and

(11) A requirement that each county board shall input into the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in section twenty-six, article two of this chapter, and compile an annual report regarding the means of harassment, intimidation or bullying that have been reported to them, and the reasons therefor, if known. The West Virginia Department of Education shall compile the information and report it annually beginning July 1, 2012, to the Legislative Oversight Committee on Education Accountability.

(c) Each county board shall adopt the policy and submit a copy to the State Superintendent of Schools by December 1, ~~2004~~ 2011.

(d) To assist county boards in developing their policies, the West Virginia Department of Education shall develop a model policy applicable to grades kindergarten through twelfth. The model policy shall be issued by September 1, ~~2004~~ 2011.

(e) Notice of the county board's policy shall appear in any student handbook, and in any county board publication that sets forth the comprehensive rules, procedures and standards of conduct for the school.



## Senate Bill 228

Effective Date: March 12, 2011

Signed by Governor: April 1, 2011

Code Reference: Amends §18-8-3 & §18-8-6  
Adds §18-5B-11

Title: Creating Local Solution Dropout Prevention and Recovery Act

### Major Provisions:

- Creates the Local Solution Dropout Prevention and Recovery Act and the High School Graduation Improvement Act.
- States that the purpose of the Local Solution Dropout Prevention and Recovery Act is to:
  - o Provide for the establishment of Local Solution Dropout Prevention and Recovery Innovation Zones to increase graduation rates and reduce the number of dropouts;
  - o Provide schools and communities with opportunities for greater collaboration to plan and implement systemic approaches that include evidence-based solutions for increasing graduation rates and reducing the number of drop-outs;
  - o Provide a testing ground for innovative graduation programs, incentives and approaches to reduce drop-outs;
  - o Provide information regarding the effects of specific innovations, collaborations and policies on graduation rates and dropout prevention and recovery; and,
  - o Document educational strategies that increase graduation rates, prevent dropouts, and enhance student success.
- Requires the State Board to propose rules for legislative promulgation to implement the creation of Local Solution Dropout Prevention and Recovery Innovation Zones.
- Allows a school, a group of schools or a school district to apply for designation as a Local Solution Dropout Prevention and Recovery Innovation Zone.

- Defines the term “school, a group of schools, or a school district”, for purposes of the Act to mean a high school, a group of schools comprised of a high school and any elementary or middle school whose students will attend the high school, or a school district whose graduation rate in the year in which the application is made is less than 90%, based on the latest available data.
- Provides that upon approval of an application for designation as a Local Solution Dropout Prevention and Recovery Innovation Zone by the State Board and State Superintendent, all exceptions to county and State Board rules, policies and interpretations listed within the plan are granted.
- Specifically states that waivers cannot be requested or granted for the following:
  - o An assessment program administered by the State Department of Education;
  - o Any provision of law or policy required by the No Child Left Behind Act of 2001, Public Law No. 107-110, or other federal law; and
  - o WVC §18-2-7, WVC §18A-4-7a, WVC §18A-4-7b, WVC §18A-4-8, and WVC §18A-4-8b, except as provided in WVC §18-5B-8.
- Creates in the State Treasury a special revenue fund to be known as the “Local Solutions Dropout Prevention and Recovery Fund” to be administered by the State Board. The fund is to consist of all moneys received from whatever source to further the purpose of this Act.
- Adds the proviso in WVC §18-8-3 that if the position of attendance director has been posted and no fully certified applicant applies, the county may employ a person who holds a professional administrative certificate and meets the special and professional qualifications established by the county board as attendance director and that person shall not be required to obtain attendance director certification.
- States that the purpose of the High School Graduation Improvement Act is to require:
  - o The State to continue to explore diverse instructional delivery strategies to accommodate various learning styles and to focus on a state-wide dropout intervention and prevention program to provide support for students having academic difficulty;

- The implementation of a statewide general credit recovery program, including delivery through West Virginia virtual schools;
  - The State Board to continue to improve the way career-technical education is offered, including expansion of the Techademics program;
  - The State to establish up to five additional juvenile drug courts by January 1, 2012;
  - The State to invest additional state funds and other resources in strategies and programs that engage disconnected and discouraged students in appositive learning environment as a critical first step to ensuring that students persist and graduate;
  - County boards to develop plans to demonstrate how they will use available funds to implement the intent of this Act;
  - The State Board to develop a statewide system in electronic format that will provide schools with easily identifiable early warning indicators of students at risk of not graduating from high school. The indicators are to be delivered through WVEIS and must, at a minimum, incorporate data on attendance, academic performance, and disciplinary infractions of individual students.
- Requires each county board to include in its alternative education program plan, a plan to improve student retention and increase the graduation rate in the county; identify at the earliest age possible those students who are at risk of dropping out of school prior to graduation; and provide additional options for delivering at risk students academic credentials and career-technical training if appropriate or desired by the student.
  - Requires the State Superintendent to purse designation of West Virginia as a “GED Option” state by the American Council on Education.
  - Requires the State Board to continue to expand:
    - The Techademics program to include each major academic subject and increase the academic credits available through the program;

- The Health Sciences and Technology Academy to ensure that the program is available for any school containing any of the grade levels of eligible students.
- Requires the State Board to ensure that the dropout information is provided annually to the Mountaineer Challenge Academy.
- Allows for exceptions to be made for those career and technical education programs that limit enrollment to students in certain upper high school grade levels to include at risk students who are in grades nine and above.

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 228**

(BY SENATORS KESSLER (ACTING PRESIDENT) AND HALL,  
BY REQUEST OF THE EXECUTIVE)

[Passed March 12, 2011; in effect from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5B-11; and to amend and reenact §18-8-3 and §18-8-6 of said code, all relating to school attendance; creating the Local Solution Dropout Prevention and Recovery Act; providing legislative findings and purpose; requiring the state board to propose legislative and emergency rules; defining terms; providing application process, contents, factors to be considered in evaluating the applications and standards for review for designation of schools or school districts; exempting certain persons from certification as attendance directors under specific circumstances; requiring the state board to implement a statewide electronic system through the uniform integrated regional computer information system with early warning indicators; creating special revenue fund in State Treasury entitled the Local Solution Dropout Prevention and Recovery Fund.

*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 §18-5B-11; and that §18-8-3 and §18-8-6 of said code be amended and reenacted, all to read as follows:

**ARTICLE 5B. SCHOOL INNOVATION ZONES ACT.**

**§18-5B-11. Local Solution Dropout Prevention and Recovery Innovation Zone Act.**

(a) Legislative findings, intent and purpose.

The Legislature finds that:

(1) High school graduation is an essential milestone for all West Virginia students and impacts the future success of the individual, community and state;

(2) There are significant correlations between educational attainment and labor market outcomes, greater labor force participation rate, increased employment rates, improved health, and decreased levels of poverty and crime. The negative impact on these linkages is most evident in the absence of high school completion;

(3) Dropping out of school is a process, not an event, with factors building and compounding over time;

(4) Students at risk of not completing high school can be identified as early as sixth grade using the indicators of attendance, behavior and course failures. Therefore, a comprehensive graduation plan must include a comprehensive systemic approach that emphasizes early interventions;

(5) Research identifies a number of effective strategies for engaging students that have the most positive impact on improving high school graduation rates. Some of these strategies are school-community collaboration, safe learning environments, family engagement, early literacy development, mentoring and tutoring services, service learning opportunities, alternative and nontraditional schooling, offering multiple pathways and settings for attaining high school diplomas, after-school opportunities, individualized instruction and career and technical education;

(6) Schools cannot solve the dropout problem alone. Research shows when educators, parents, elected officials, business leaders, faith-based leaders, human service personnel, judicial personnel and civic leaders collectively work together they are often able to find innovative solutions to address school and community problems; and

(7) Increasing high school graduation rates is an important factor in preparing a college and career-ready citizenry. Higher education institutions, including community and technical colleges, are essential partners in creating local and statewide solutions.

(b) Therefore, the intent of the Legislature is to provide a separate category of innovation zones designated “Local Solution Dropout Prevention and Recovery Innovation Zones” intended to achieve the following purposes:

(1) Provide for the establishment of Local Solution Dropout Prevention and Recovery Innovation Zones to increase graduation rates and reduce the number of dropouts from West Virginia schools;

(2) Provide schools and communities with opportunities for greater collaboration to plan and implement systemic approaches that include evidence-based solutions for increasing graduation rates and reducing the number of dropouts;

(3) Provide a testing ground for innovative graduation programs, incentives and approaches to reducing the number of dropouts;

(4) Provide information regarding the effects of specific innovations, collaborations and policies on graduation rates and dropout prevention and recovery; and

(5) Document educational strategies that increase graduation rates, prevent dropouts and enhance student success.

(c) *Local Solution Dropout Prevention and Recovery Innovation Zones.*

A school, a group of schools or a school district may be designated as a Local Solution Dropout Prevention and Recovery Innovation Zone in accordance with the provisions of this article, subject to the provisions of this section. The state board shall propose rules for legislative promulgation, including an emergency rule if necessary, in accordance with article three-b chapter twenty-nine of this code to implement the provisions of this section. All provisions of this article apply to Local Solution Dropout Prevention and Recovery Innovation Zones, including but not limited to, the designation, application, approval, waiver of statutes, policies, rule and interpretations, employee approval, employee transfers, progress reviews, reports and revocations, and job postings, subject to the following:

(1) For purposes of this section, a “school, a group of schools or a school district” means a high school, a group of schools comprised of a high school and any of the elementary and middle schools whose students will attend the high school, or a school district whose

graduation rate in the year in which an application is made is less than ninety percent based on the latest available school year data published by the Department of Education;

(2) The contents of the application for designation as a Local Solution Dropout Prevention and Recovery Innovation Zone must include a description of the dropout prevention and recovery strategies and that the school, group of schools or school district plans to implement if designated as a Local Solution Dropout Prevention and Recovery Innovation Zone, and any other information the state board requires. The application also shall include a list of all county and state board rules, policies and interpretations, and all statutes, if any, identified as prohibiting or constraining the implementation of the plan, including an explanation of the specific exceptions to the rules, policies and interpretations and statutes required for plan implementation. A school, a group of schools, or school district may not request an exception nor may an exception be granted from any of the following:

(i) An assessment program administered by the West Virginia Department of Education;

(ii) Any provision of law or policy required by the No Child Left Behind Act of 2001, Public Law No. 107-110 or other federal law; and

(iii) Section seven, article two and sections seven-a, seven-b, eight and eight-b, article four, chapter eighteen-a of this code, except as provided in section eight of this article;

(3) The factors to be considered by the state board when evaluating an application shall include, but are not limited to, the following:

(A) Evidence that other individuals or entities and community organizations are involved as partners to collectively work with the applicant to achieve the purposes as outlined in the dropout prevention and recovery plan. These individuals or entities and community organizations may include, but are not limited to, individuals or entities and community organizations such as parents, local elected officials, business leaders, faith-based leaders, human service personnel, judicial personnel, civic leaders community and technical colleges Higher education institutions;

(B) The level of commitment and support of staff, parents, students, the county board of education, the local school improvement council and the school's business partners as determined in accordance with this article apply to become a Local Solutions Dropout Prevention and Recovery Innovation Zone;

(C) The potential for an applicant to be successful in building community awareness of the high school dropout problem and developing and implementing its dropout prevention and recovery plan; and

(D) Implementation of the statewide system of easily identifiable early warning indicators of students at risk of not completing high school developed by the state board in accordance with section six, article eight of this chapter, known as The High School Graduation Improvement Act, along with a plan of interventions to increase the number of students earning a high school diploma;

(4) The rule shall provide standards for the state board to review applications for designation as a Local Solutions Dropout Prevention and Recovery Innovation Zones;

(5) The application for designation as a Local Solutions Dropout Prevention and Recovery Innovation Zone under this section is subject to approval in accordance with sections five and six of this article. In addition to those approval stages, the application, if approved by the school employees, shall be presented to the local school improvement council for approval prior to submission to county superintendent and board. Approval by the local school improvement council is obtain when at least eighty percent of the local school

improvement council members present and voting after a quorum is established vote in favor of the application; and

(6) Upon approval by the state board and state superintendent of the application, all exceptions to county and state board rules, policies and interpretations listed within the plan are granted. The applicant school, group of schools or school district shall proceed to implement the plan as set forth in the approved application and no further plan submissions or approval are required, except that if an innovation zone plan, or a part thereof, may not be implemented unless an exception to a statute is granted by Act of the Legislature, the state board and state superintendent may approve the plan, or the part thereof, only upon the condition that the Legislature acts to grant the exception as provided in this article.

(d) *Local solutions dropout prevention and recovery fund.*

There is hereby created in the State Treasury a special revenue fund to be known as the "Local Solutions Dropout Prevention and Recovery Fund." The fund shall consist of all moneys received from whatever source to further the purpose of this article. The fund shall be administered by the state board solely for the purposes of this section. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. 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 that moneys deposited in the fund may be used pursuant to this section.

#### **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

##### **§18-8-3. Employment of county director of school attendance and assistants; qualifications; salary and traveling expenses; removal.**

(a) The county board of education of every county, not later than ~~the first day of~~ August 1, of each year, shall employ the equivalent of a full-time county director of school attendance if such county has a net enrollment of more than four thousand pupils, at least a half-time director of school attendance if such county has a net enrollment equal to or less than four thousand pupils and such assistant attendance directors as deemed necessary. All persons to be employed as attendance directors shall have the written recommendation of the county superintendent.

(b) The county board of education may establish special and professional qualifications for attendance directors and assistants as are deemed expedient and proper and are consistent with regulations of the state Board of Education relating thereto: *Provided, That if the position of attendance director has been posted and no fully certified applicant applies, the county may employ a person who holds a professional administrative certificate and meets the special and professional qualifications established by the county board as attendance director and that person shall not be required to obtain attendance director certification.*

(c) The attendance director or assistant director shall be paid a monthly salary as fixed by the county board. The attendance director or assistant director shall prepare attendance reports, and such other reports as the county superintendent may request.

(d) The county board of education shall reimburse the attendance directors or assistant directors for their necessary traveling expenses upon presentation of a monthly, itemized, sworn statement approved by the county superintendent.

##### **§18-8-6. The High School Graduation Improvement Act.**



(a) This section is known and may be cited as “The High School Graduation Improvement Act.”

(b) The Legislature makes the following findings:

(1) West Virginia has a dire need to implement a comprehensive approach to addressing the high school drop-out crisis, and to develop policies and strategies that successfully assist at-risk students to stay in school, earn a high school diploma, and ultimately become productively contributing members of society;

(2) The current demands for a highly skilled workforce require a high school diploma at the very minimum;

(3) The state has several dynamic programs that are capable of actively engaging students in learning, providing students with a sense of relevancy in academics, and motivating students to succeed in school and ultimately earn a high school diploma;

(4) Raising the compulsory school attendance age alone will neither increase the graduation rate nor decrease the drop-out rate. It is imperative that the state shift the focus from merely compelling students to attend school to instead providing vibrant and engaging programs that allow students to recognize the value of a high school diploma or workforce credential and inspire students to graduate from high school, especially those students who are at risk of dropping out of school;

(5) Investing financially in this focus shift will result in the need for fewer resources to be committed to enforcing compulsory attendance laws and fewer incidents of disruptive student behavior;

(6) Absenteeism is proven to be the highest predictor of course failure. Truant students face low self-confidence in their ability to succeed in school because their absences cause them to fall behind their classmates, and the students find dropping out easier than catching up;

(7) There is a strong relationship between truancy and dropping out of high school. Frequent absences are one of the most common indicators that a student is disengaging from the learning process and likely to drop out of school early. Intervention after fewer absences is likely to have a positive impact on a student’s persistence to graduation;

(8) Students cite many reasons for dropping out of school, some of which include engaging in drug culture, lack of positive influence, role model or parental involvement, absence of boundaries and direction, lack of a positive home environment, peer pressure, and poor community expectations;

(9) Dropping out of school has a profound negative impact on an individual’s future, resulting in limited job choices, substantially lower wages and less earned over a life-time than high school graduates, and a greater likelihood of depending on public assistance and engaging in criminal activity;

(10) Career-technical education is a dynamic system in West Virginia which offers numerous concentrations that provide students with industry-recognized credentials, while also preparing them for post-secondary education;

(11) All career-technical education students in the state have an opportunity to earn free college credit through the Earn a Degree-Graduate Early (EDGE) program;

(12) The current high school graduation rate for secondary career-technical education completers is significantly higher than the state graduation rate;

(13) Students involved in career-technical education learn a marketable skill, are likely to find jobs, and become prepared for post-secondary education;

- (14) A significant number of students who could benefit from participating in a career-technical program are denied access due to a number of factors, such as dropping out of high school prior to enrolling in career-technical education, requirements that students repeat academic courses that they have failed, and scheduling conflicts with the high schools;
- (15) There has been a dramatic change over the years from vocational education, which was very basic and lacked high level skills, to the career-technical programs of today which are computer based, require national tests and certification, and often result in jobs with high salaries;
- (16) West Virginia's employers and technical education job placement rates show that the state needs graduates with technical skills to compete in the current and future job markets;
- (17) The job placement rate for students graduating from career-technical programs statewide is greater than ninety-five percent;
- (18) Among the reasons students cite for dropping out of school are feelings of hopelessness when they have failed classes and can not recover credits in order to graduate;
- (19) The state offers full-day programs consisting of credit recovery, hands on experiences in career-technical programs and basic education, which are valuable resources for re-engaging students who have dropped out of school, or have a potential for or are at risk of dropping out;
- (20) A student is significantly more likely to graduate from high school if he or she completes four units of training in technical education;
- (21) Learning is increased and retained at a higher level if the content is taught through a relevant and applied experience, and students who are able to experience academics through real life projects have a higher probability of mastering the appropriate concepts;
- (22) Programs such as "GED Option" and "Techademics" are valuable resources for providing relevant and applied experience for students;
- (23) The Techademics programs administered by the department of education has embedded math competencies in career-technical program curricula whereby students simultaneously earn credit for mastery of math competencies and career-technical courses;
- (24) Students would greatly benefit if West Virginia were designated as a "GED Option" state. Currently a student is ineligible to take the General Educational Development (GED) exam if he or she is enrolled in school, which requires the student to drop out of high school in order to participate in a GED preparation program or take the exam, even if the student desires to remain enrolled;
- (25) A GED Option state designation by the American Council on Education would allow students in this state to remain enrolled in school and continue acquiring academic and career-technical credits while pursuing a GED diploma. The GED Option would be blended with the West Virginia virtual schools or a career-technical education pathway. Upon completion, rather than being a dropout, the student would have a GED diploma and a certification in the chosen career-technical or virtual school pathway;
- (26) The Mountaineer Challenge Academy is a positive option for students at risk of dropping out of school, as it provides students with structure, stability, and a focus on positive change, all in an environment where negative influences and distractions can be left behind;

- (27) Students attending the Mountaineer Challenge Academy would greatly benefit if the GED Option were implemented at the Academy;
- (28) The Health Sciences and Technology Academy (HSTA) program prepares rural, minority and economically disadvantaged students for college and careers in the health sciences, and demonstrates tremendous success in its high percentage of students who graduate from high school and participate in post-secondary education.
- (29) The West Virginia GEAR UP (Gaining Early Awareness and Readiness for Undergraduate Programs) program is aimed at increasing the academic performance and rigorous preparation of students, increasing the number of high-poverty, at-risk students who are prepared to enter and succeed in post-secondary education, and increasing the high school graduation rate;
- (30) The GEAR UP program successfully aids students in planning, applying and paying for education and training beyond high school;
- (31) Each dropout involved in drugs or crime or dependent on public assistance creates a huge fiscal burden on society;
- (32) The intense treatment and individual monitoring provided through the state's juvenile drug courts have proven to be highly effective in treating drug addictions, and rehabilitating drug addicted youth and improving their educational outcomes;
- (33) Services provided by juvenile drug courts include substance abuse treatment, intervention, assessment, juvenile and family counseling, heavy supervision by probation officers including school-based probation officers who provide early intervention and diversion services, and addressing some of the underlying reasons why students are not successful in school;
- (34) School participation and attendance are required for students participating in juvenile drug courts, and along with academic progress are closely monitored by the courts;
- (35) Juvenile drug courts are an important strategy to improve substance abuse treatment outcomes, and serve to save the state significant cost on incarceration of the juveniles, along with the future costs to society of individuals who remain substance abusers;
- (36) Juvenile drug courts produce greater cost benefits than other strategies that address criminal activity related to substance abuse and addiction that bring individuals into the criminal justice system;
- (37) Funding for the increased number of students enrolled in school during the 2010-2011 school year due to the compulsory school attendance age increase established by this act will not be reflected in the state aid formula allocation until the 2011-2012 school year, which will require additional funds to be provided to county boards for the 2010-2011 school year to accommodate the increased enrollment;
- (38) The state will benefit both fiscally and through improved quality of life if scarce state resources are targeted toward programs that result in providing a competitive advantage as adults for those students who are at risk of dropping out of school;
- (39) Funds invested toward education and ensuring that students complete high school pay tremendous dividends through the moneys saved on incarceration, unemployment and underemployment as those students reach adulthood; and
- (40) Increasing the compulsory school attendance age will have little effect in aiding students to complete high school if additional resources, both fiscal and programmatic, are not dedicated to supporting student achievement, providing real-life relevancy in curriculum, and engaging students in learning, particularly for those students who have

become so disengaged from school and learning that they are at risk of dropping out of school; and

(41) Schools cannot solve the dropout problem alone. Research shows when educators, parents, elected officials, business leaders, faith-based leaders, human service personnel, judicial personnel and civic leaders collectively work together they are often able to find innovative solutions to address school and community problems. (c) The Legislature intends as follows:

(1) The state will continue to explore diverse instructional delivery strategies to accommodate various learning styles and will focus on a state-wide dropout intervention and prevention program to provide support for students having academic difficulty;

(2) A general credit recovery program shall be implemented statewide, including delivery through West Virginia virtual schools;

(3) The state board will continue to improve the way career-technical education is offered, including expansion of the Techademics program;

(4) Up to five additional juvenile drug courts shall be established by January 1, 2012;

(5) The state will invest additional state funds and other resources in strategies and programs that engage disconnected and discouraged students in a positive learning environment as a critical first step to ensuring that students persist and graduate; and

(6) County boards will develop plans to demonstrate how they will use available funds to implement the intent of this section; and

(7) The state board shall develop a statewide system in electronic format that will provide schools with easily identifiable early warning indicators of students at risk of not graduating from high school. The system shall be delivered through the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) and shall at a minimum incorporate data on the attendance, academic performance and disciplinary infractions of individual students. The state board shall require implementation of the system in Local Solution Dropout Prevention and Recovery Innovation Zones along with a plan of interventions to increase the number of students earning a high school diploma, and may utilize the zones as a pilot test of the system.

(d) Each county board shall include in its alternative education program plan required by section six, article two, of this chapter a plan to improve student retention and increase the graduation rate in the county. The plan is subject to approval of the state board, and shall include strategies the county board will implement to achieve the following goals:

(1) Increasing the graduation rate for the county;

(2) Identifying at the earliest age possible those students who are at risk of dropping out of school prior to graduation; and

(3) Providing additional options for delivering to at-risk students academic credentials and career-technical training if appropriate or desired by the student. The options may include such programs as Techademics, Earn a Degree-Graduate Early (EDGE), Health Sciences and Technology Academy (HSTA), Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP), truancy diversion, early intervention, dropout prevention, prevention resource officers, GED option, credit recovery, alternative learning environments, or any other program or strategy approved by the state board.

(e) As soon as is practicable the state superintendent or his or her designee shall pursue designation of West Virginia as a "GED Option" state by the American Council on Education. If so designated, the state board shall:

- (1) Develop and implement a program whereby a student may pursue a GED diploma while remaining enrolled in high school; and
  - (2) Ensure that the GED Option is offered to students attending the Mountaineer Challenge Academy.
- (f) The state board shall continue to expand:
- (1) The Techademics program to include each major academic subject and increase the academic credit available through the program to students; and
  - (2) The Health Sciences and Technology Academy to ensure that the program is available for any school containing any of the grade levels of eligible students.
- (g) The state board shall ensure that the dropout information required by section twenty-four, article one-b, chapter fifteen of this code is provided annually to the Mountaineer Challenge Academy.
- (h) Some career and technical education programs only ~~except~~ accept students in certain upper high school grade levels due to lack of capacity to accept the students in the lower high school grade levels. This can be detrimental to efforts to keep students identified as at risk of dropping out of school prior to graduation in school. Therefore, those career and technical education programs that ~~only limit enrollment to~~ students in certain upper high school grade levels may make exceptions for those at risk students and enroll any of those at risk students who are in grades nine and above.

## Senate Bill 255

Effective Date: February 14, 2011

Signed by Governor: February 25, 2011

Code Reference: Chapter 8, Acts of the Legislature, related to the 2011 Budget Bill

Title: Making supplementary appropriation of unappropriated moneys to various accounts

Major Provisions:

- Provides the following supplemental appropriations of federal funds, including \$55,000,000 for the Governor's Office to be able to distribute the Education Jobs (Ed Jobs) funding to the various county boards of education:
  - o Governor's Office - \$55,000,000 (Education Jobs Funds);
  - o Department of Education and the Arts, Division of Rehabilitation Services - \$19,000,000;
  - o Department of Health and Human Services, West Virginia Health Care Authority - \$ 2,000,000;
  - o Department of Health and Human Services, Division of Human Services - \$170,000,000;
  - o Department of Transportation, Public Port Authority - \$1,044,000.

**ENROLLED**

**Senate Bill No. 255**

(BY SENATORS KESSLER (ACTING PRESIDENT) AND HALL, BY REQUEST OF THE EXECUTIVE)

[Passed February 14, 2011; in effect from passage.]

AN ACT making a supplementary appropriation of federal funds from the balance of moneys remaining unappropriated for the fiscal year ending June 30, 2011, to a new item of appropriation designated to the Governor’s Office, fund 8742, fiscal year 2011, organization 0100, to the Department of Education and the Arts - State Board of Rehabilitation - Division of Rehabilitation Services, fund 8734, fiscal year 2011, organization 0932, to the Department of Health and Human Resources - West Virginia Health Care Authority, fund 8851, fiscal year 2011, organization 0507, to the Department of Health and Human Resources - Division of Human Services, fund 8722, fiscal year 2011, organization 0511, and to the Department of Transportation - Public Port Authority, fund 8830, fiscal year 2011, organization 0806, by supplementing and amending Chapter 8, Acts of the Legislature, Regular Session, 2010, known as the Budget Bill.

WHEREAS, The Governor has established the availability of federal funds now available for expenditure in the fiscal year ending June 30, 2011, which are hereby appropriated by the terms of this supplementary appropriation bill; therefore

*Be it enacted by the Legislature of West Virginia:*

That Chapter 8, Acts of the Legislature, Regular Session, 2010, known as the Budget Bill, be supplemented and amended by adding to Title II, section six thereof, the following:

**TITLE II--APPROPRIATIONS.**

**Sec. 6. Appropriations of Federal Funds.**

**EXECUTIVE**

*283a-Governor’s Office*  
(WV Code Chapter 5)  
Fund 8742 FY 2011 Org 0100

	<b>Activity</b>	<b>Federal Funds</b>
1 Unclassified - Total.	096	\$55,000,000

And, That the total appropriation for the fiscal year ending June 30, 2011, to the fund 8734, fiscal year 2011, organization 0932, 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**

*310-State Board of Rehabilitation -  
Division of Rehabilitation Services  
(WV Code Chapter 18)  
Fund 8734 FY 2011 Org 0932*

	<b>Activity</b>	<b>Federal Funds</b>
1 Unclassified - Total	096	\$ 19,000,000

And, That the total appropriation for the fiscal year ending June 30, 2011, to fund 8851, fiscal year 2011, organization 0507, 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**

*316-West Virginia Health Care Authority  
(WV Code Chapter 16)  
Fund 8851 FY 2011 Org 0507*

	<b>Activity</b>	<b>Federal Funds</b>
2 Federal Economic Stimulus	891	\$ 2,000,000

And, That the total appropriation for the fiscal year ending June 30, 2011, to fund 8722, fiscal year 2011, organization 0511, 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**

*318-Division of Human Services  
(WV Code Chapters 9, 48 and 49)  
Fund 8722 FY 2011 Org 0511*



	<b>Activity</b>	<b>Federal Funds</b>
2 Medical Services	189	\$170,000,000

And, That the total appropriation for the fiscal year ending June 30, 2011, to fund 8830, fiscal year 2011, organization 0806, be supplemented and amended by increasing an existing item of appropriation as follows:

TITLE II--APPROPRIATIONS.

**Sec. 6. Appropriations of Federal Funds.**

**DEPARTMENT OF TRANSPORTATION**

*333-Public Port Authority*  
 (WV Code Chapter 17)  
 Fund 8830 FY 2011 Org 0806

	<b>Activity</b>	<b>Federal Funds</b>
1 Unclassified – Total	096	\$ 1,044,000

The purpose of this supplementary appropriation bill is to supplement, amend, add a new item and increase existing items of appropriation in the aforesaid accounts for the designated spending units for expenditure during the fiscal year 2011.

## **Senate Bill 373**

Effective Date: July 1, 2011

Signed by Governor: April 1, 2011

Code Reference: Amends §18-9D-15  
Adds §18-9D-4c, §18-9D-19a

Title: Requiring School Building Authority allocate and expend certain moneys for vocational programs at comprehensive middle schools

Major Provisions:

- Provides the SBA the ability to temporarily finance project costs and expenditures for public schools through loans; notes or other financing;
- Limiting the amount of outstanding loans, notes or other financing;
- Providing the principal, interest and premium on loans, notes and other financing must be paid from certain sources;
- Allowing upon application by a county board of education, the SBA to allocate and expend certain monies for school major improvement projects for career and technical programs at comprehensive middle schools;
- Providing for a definition of a comprehensive middle/high school by State Board rule;
- Requiring the SBA, when planning the construction of a middle or junior high school, to provide funding that includes comprehensive career and technical education facilities on the same site, where feasible;
- Requiring the SBA, upon application by a county board of education, to construct comprehensive career and technical facilities at an existing middle or junior high school; and
- Providing for technical assistance to counties in developing plans for the construction of comprehensive career and technical facilities and specifying the criteria the SBA is to use in considering funding.

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 373**

(By Senators Kessler (Acting President) and Hall, By Request of the Executive)

[Passed March 12, 2011; to take effect July 1, 2011.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-9D-4c; to amend and reenact §18-9D-15 of said Code; and to amend said code by adding thereto a new section, designated §18-9D-19a, all relating to funding and financing comprehensive middle schools and other School Building Authority projects and expenditures; providing the School Building Authority the ability to temporarily finance project costs and expenditures for public schools through loans, notes or other financing; limiting the amount of outstanding loans, notes or other financing; providing that principal, interest and premium on loans, notes or other financing must be paid from certain sources; allowing, upon application by a county board of education, the School Building Authority to allocate and expend certain moneys for school major improvement projects for vocational programs at comprehensive middle schools; providing legislative findings; providing for definition of "comprehensive middle high school" by state board rule; providing minimum contents of rule; requiring the authority, when planning the construction of a middle or junior high school, to provide funding for a comprehensive middle school that includes comprehensive career technical education facilities to be located, when feasible, on the same site as the middle or junior high school under certain conditions; requiring the authority, upon application of a county board to construct comprehensive career technical education facilities that would allow an existing middle or junior high school to become a comprehensive middle school, to provide technical assistance to the county in developing a plan for construction of the comprehensive career technical education facility; and requiring, upon development of the plan, the authority to consider funding based on certain criteria.

*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 §18-9D-4c; that §18-9D-15 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18-9D-19a, all to read as follows:

**ARTICLE 9D. SCHOOL BUILDING AUTHORITY.**

**§18-9D-4c. School Building Authority authorized to temporarily finance projects through the issuance of loans, notes or other evidences of indebtedness.**

The School Building Authority may by resolution, in accordance with the provisions of this article, temporarily finance the cost of projects and other expenditures permitted under this article for public schools, including, but not limited to, comprehensive high schools and comprehensive middle schools as defined in this article, in this state through the issuance of loans, notes or other evidences of indebtedness: *Provided*, That the principal amount of loans, notes or other evidences of indebtedness outstanding at any one time shall not exceed \$16 million: *Provided, however*, That the principal of, interest and premium, if any, on and fees associated with any such temporary financing shall be payable solely from the sources from which the principal of, interest and premium, if any, on bonds is payable under this article or from the proceeds of bonds.

**§18-9D-15. Legislative intent; allocation of money among categories of projects; lease-purchase options; limitation on time period for expenditure of project allocation; county maintenance budget requirements; project disbursements over period of years; preference for multicounty arrangements; submission of project designs; set-aside to encourage local participation.**

(a) It is the intent of the Legislature to empower the School Building Authority to facilitate and provide state funds and to administer all federal funds provided for the construction and major improvement of school facilities so as to meet the educational needs of the people of this state in an efficient and economical manner. The authority shall make funding determinations in accordance with the provisions of this article and shall assess existing school facilities and each facility's school major improvement plan in relation to the needs of the individual student, the general school population, the communities served by the facilities and facility needs statewide.

(b) An amount that is not more than three percent of the sum of moneys that are determined by the authority to be available for distribution during the then current fiscal year from:

(1) Moneys paid into the School Building Capital Improvements Fund pursuant to section ten, article nine-a of this chapter;

(2) The issuance of revenue bonds for which moneys in the School Building Debt Service Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

(3) Moneys paid into the School Construction Fund pursuant to section six of this article; and

(4) Any other moneys received by the authority, except moneys paid into the School Major Improvement Fund pursuant to section six of this article and moneys deposited into the School Access Safety Fund pursuant to section five, article nine-f of this chapter, may be allocated and may be expended by the authority for projects authorized in accordance with the provisions of section sixteen of this article that service the educational community statewide or, upon application by the state board, for educational programs that are under the jurisdiction of the state board. In addition, upon application by the state board or the administrative council of an area vocational educational center established pursuant to article two-b of this chapter, the authority may allocate and expend under this subsection moneys for school major improvement projects authorized in accordance with the provisions of section sixteen of this article proposed by the state board or an administrative

council for school facilities under the direct supervision of the state board or an administrative council, respectively. Furthermore, upon application by a county board, the authority may allocate and expend under this subsection moneys for school major improvement projects for vocational programs at comprehensive high schools, vocational programs at comprehensive middle schools, vocational schools cooperating with community and technical college programs, or both any combination of the three. Each county board is encouraged to cooperate with community and technical colleges in the use of existing or development of new vocational technical facilities. All projects eligible for funds from this subsection shall be submitted directly to the authority which shall be solely responsible for the project's evaluation, subject to the following:

(A) The authority may not expend any moneys for a school major improvement project proposed by the state board or the administrative council of an area vocational educational center unless the state board or an administrative council has submitted a ten-year facilities plan; and

(B) The authority shall, before allocating any moneys to the state board or the administrative council of an area vocational educational center for a school improvement project, consider all other funding sources available for the project.

(c) An amount that is not more than two percent of the moneys that are determined by the authority to be available for distribution during the current fiscal year from:

(1) Moneys paid into the School Building Capital Improvements Fund pursuant to section ten, article nine-a of this chapter;

(2) The issuance of revenue bonds for which moneys in the School Building Debt Service Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

(3) Moneys paid into the School Construction Fund pursuant to section six of this article; and

(4) Any other moneys received by the authority, except moneys deposited into the School Major Improvement Fund and moneys deposited into the School Access Safety Fund pursuant to section five, article nine-f of this chapter, shall be set aside by the authority as an emergency fund to be distributed in accordance with the guidelines adopted by the authority.

(d) An amount that is not more than five percent of the moneys that are determined by the authority to be available for distribution during the current fiscal year from:

(1) Moneys paid into the School Building Capital Improvements Fund pursuant to section ten, article nine-a of this chapter;

(2) The issuance of revenue bonds for which moneys in the School Building Debt Service Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

(3) Moneys paid into the School Construction Fund pursuant to section six of this article; and

(4) Any other moneys received by the authority, except moneys deposited into the School Major Improvement Fund and moneys deposited into the School Access Safety Fund pursuant to section five, article nine-f of this chapter, may be reserved by the authority for multiuse vocational-technical education facilities projects that may include post-secondary programs as a first priority use. The authority may allocate and expend under this subsection moneys for any purposes authorized in this article on multiuse vocational-technical education facilities projects, including equipment and equipment updates at the facilities, authorized in accordance with the provisions of section sixteen of this article. If

the projects approved under this subsection do not require the full amount of moneys reserved, moneys above the amount required may be allocated and expended in accordance with other provisions of this article. A county board, the state board, an administrative council or the joint administrative board of a vocational-technical education facility which includes post- secondary programs may propose projects for facilities or equipment, or both, which are under the direct supervision of the respective body: *Provided*, That the authority shall, before allocating any moneys for a project under this subsection, consider all other funding sources available for the project.

(e) The remaining moneys determined by the authority to be available for distribution during the then current fiscal year from:

(1) Moneys paid into the School Building Capital Improvements Fund pursuant to section ten, article nine-a of this chapter;

(2) The issuance of revenue bonds for which moneys in the School Building Debt Service Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

(3) Moneys paid into the School Construction Fund pursuant to section six of this article; and

(4) Any other moneys received by the authority, except moneys deposited into the School Major Improvement Fund and moneys deposited into the School Access Safety Fund pursuant to section five, article nine-f of this chapter, shall be allocated and expended on the basis of need and efficient use of resources for projects funded in accordance with the provisions of section sixteen of this article.

(f) If a county board proposes to finance a project that is authorized in accordance with section sixteen of this article through a lease with an option to purchase leased premises upon the expiration of the total lease period pursuant to an investment contract, the authority may not allocate moneys to the county board in connection with the project:

*Provided*, That the authority may transfer moneys to the state board which, with the authority, shall lend the amount transferred to the county board to be used only for a one-time payment due at the beginning of the lease term, made for the purpose of reducing annual lease payments under the investment contract, subject to the following conditions:

(1) The loan shall be secured in the manner required by the authority, in consultation with the state board, and shall be repaid in a period and bear interest at a rate as determined by the state board and the authority and shall have any terms and conditions that are required by the authority, all of which shall be set forth in a loan agreement among the authority, the state board and the county board;

(2) The loan agreement shall provide for the state board and the authority to defer the payment of principal and interest upon any loan made to the county board during the term of the investment contract, and annual renewals of the investment contract, among the state board, the authority, the county board and a lessor, subject to the following:

(A) In the event a county board which has received a loan from the authority for a one-time payment at the beginning of the lease term does not renew the lease annually until performance of the investment contract in its entirety is completed, the county board is in default and the principal of the loan, together with all unpaid interest accrued to the date of the default, shall, at the option of the authority, in consultation with the state board, become due and payable immediately or subject to renegotiation among the state board, the authority and the county board;

(B) If a county board renews the lease annually through the performance of the investment

contract in its entirety, the county board shall exercise its option to purchase the leased premises;

(C) The failure of the county board to make a scheduled payment pursuant to the investment contract constitutes an event of default under the loan agreement;

(D) Upon a default by a county board, the principal of the loan, together with all unpaid interest accrued to the date of the default, shall, at the option of the authority, in consultation with the state board, become due and payable immediately or subject to renegotiation among the state board, the authority and the county board; and

(E) If the loan becomes due and payable immediately, the authority, in consultation with the state board, shall use all means available under the loan agreement and law to collect the outstanding principal balance of the loan, together with all unpaid interest accrued to the date of payment of the outstanding principal balance; and

(3) The loan agreement shall provide for the state board and the authority to forgive all principal and interest of the loan upon the county board purchasing the leased premises pursuant to the investment contract and performance of the investment contract in its entirety.

(g) To encourage county boards to proceed promptly with facilities planning and to prepare for the expenditure of any state moneys derived from the sources described in this section, any county board or other entity to whom moneys are allocated by the authority that fails to expend the money within three years of the allocation shall forfeit the allocation and thereafter is ineligible for further allocations pursuant to this section until it is ready to expend funds in accordance with an approved facilities plan: *Provided*, That the authority may authorize an extension beyond the three-year forfeiture period not to exceed an additional two years. Any amount forfeited shall be added to the total funds available in the School Construction Fund of the authority for future allocation and distribution. Funds may not be distributed for any project under this article unless the responsible entity has a facilities plan approved by the state board and the School Building Authority and is prepared to commence expenditure of the funds during the fiscal year in which the moneys are distributed.

(h) The remaining moneys that are determined by the authority to be available for distribution during the then current fiscal year from moneys paid into the School Major Improvement Fund pursuant to section six of this article shall be allocated and distributed on the basis of need and efficient use of resources for projects authorized in accordance with the provisions of section sixteen of this article, subject to the following:

(1) The moneys may not be distributed for any project under this section unless the responsible entity has a facilities plan approved by the state board and the authority and is to commence expenditures of the funds during the fiscal year in which the moneys are distributed;

(2) Any moneys allocated to a project and not distributed for that project shall be deposited in an account to the credit of the project, the principal amount to remain to the credit of and available to the project for a period of two years; and

(3) Any moneys which are unexpended after a two-year period shall be redistributed on the basis of need from the School Major Improvement Fund in that fiscal year.

(i) Local matching funds may not be required under the provisions of this section. However, this article does not negate the responsibilities of the county boards to maintain school facilities. To be eligible to receive an allocation of school major improvement funds from

the authority, a county board must have expended in the previous fiscal year an amount of county moneys equal to or exceeding the lowest average amount of money included in the county board's maintenance budget over any three of the previous five years and must have budgeted an amount equal to or greater than the average in the current fiscal year:

*Provided*, That the state board shall promulgate rules relating to county boards' maintenance budgets, including items which shall be included in the budgets.

(j) Any county board may use moneys provided by the authority under this article in conjunction with local funds derived from bonding, special levy or other sources. Distribution to a county board, or to the state board or the administrative council of an area vocational educational center pursuant to subsection (b) of this section, may be in a lump sum or in accordance with a schedule of payments adopted by the authority pursuant to guidelines adopted by the authority.

(k) Funds in the School Construction Fund shall first be transferred and expended as follows:

(1) Any funds deposited in the School Construction Fund shall be expended first in accordance with an appropriation by the Legislature.

(2) To the extent that funds are available in the School Construction Fund in excess of that amount appropriated in any fiscal year, the excess funds may be expended for projects authorized in accordance with the provisions of section sixteen of this article.

(l) It is the intent of the Legislature to encourage county boards to explore and consider arrangements with other counties that may facilitate the highest and best use of all available funds, which may result in improved transportation arrangements for students or which otherwise may create efficiencies for county boards and the students. In order to address the intent of the Legislature contained in this subsection, the authority shall grant preference to those projects which involve multicounty arrangements as the authority shall determine reasonable and proper.

(m) County boards shall submit all designs for construction of new school buildings to the School Building Authority for review and approval prior to preparation of final bid documents. A vendor who has been debarred pursuant to the provisions of sections thirty-three-a 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.

(n) The authority may elect to disburse funds for approved construction projects over a period of more than one year subject to the following:

(1) The authority may not approve the funding of a school construction project over a period of more than three years;

(2) The authority may not approve the use of more than fifty percent of the revenue available for distribution in any given fiscal year for projects that are to be funded over a period of more than one year; and

(3) In order to encourage local participation in funding school construction projects, the authority may set aside limited funding, not to exceed ~~five hundred thousand dollars~~ \$500,000, in reserve for one additional year to provide a county the opportunity to complete financial planning for a project prior to the allocation of construction funds. Any funding shall be on a reserve basis and converted to a part of the construction grant only after all project budget funds have been secured and all county commitments have been fulfilled. Failure of the county to solidify the project budget and meet its obligations to the state within eighteen months of the date the funding is set aside by the authority will result in



expiration of the reserve and the funds shall be reallocated by the authority in the succeeding funding cycle.

**§18-9D-19a. Comprehensive middle schools.**

(a) The Legislature finds the following:

(1) Students learn more through hands on, applied learning activities;

(2) Career technical education students have a much higher graduation rate than other students;

(3) Although thirty-seven percent of West Virginia middle and junior high school students are enrolled in a form of career technical education, the number has been dropping by approximately three thousand students per year; and

(4) As the benefits of career technical education have increased as academics have become more embedded in career technical education, it is important that career technical education opportunities be increased at the middle and junior high school level.

(b) "Comprehensive middle school" means a middle or junior high school that meets the definition of a comprehensive middle school established by the state board. The definition of a comprehensive middle school shall be established by the state board in a legislative rule promulgated in accordance with article three- b, chapter twenty-nine-a of this code. The definition shall include at least the following:

(1) A comprehensive curriculum that:

(A) Includes the core subjects in English/language arts, mathematics, science, social studies;

(B) Provides students with engaging learning opportunities where students are provided connections between what they are learning and what they will learn in high school and beyond;

(C) Establishes the foundation for college and career readiness;

(D) Embeds career exploration and project based career activities where possible to provide all student with comprehensive career development and counseling;

(E) Provides career technical options for students that are integrated with academic course requirements where possible; and

(F) Provides authentic opportunities in the visual and performing arts, health and wellness, physical education, world languages and career technical activities;

(2) Harnessing the power of technology to provide personalized learning twenty-four hours per day and seven days per week and produce a digital individualized student portfolio of student mastery and progression; and

(3) A seamless integration with the secondary school curriculum that enables students to further explore their options and further pursue their career interests at the secondary and post-secondary levels.

(c) When planning the construction of a middle or junior high school which has been approved by the authority and which meets the required authority efficiencies, the authority shall provide funding for a comprehensive middle school that includes comprehensive career technical education facilities to be located, when feasible, on the same site as the middle or junior high school.

(d) Upon application of a county board to construct comprehensive career technical education facilities that would allow an existing middle or junior high school to become a comprehensive middle school, the authority will provide technical assistance to the county in developing a plan for construction of the comprehensive career technical education

facility. Upon development of the plan, the authority shall consider funding based on the following criteria:

(1) The ability of the county board to provide local funds for the construction of the comprehensive career technical education facilities;

(2) The size of the existing middle and junior high schools;

(3) The age and physical condition of the existing career technical education facilities;

(4) The potential for improving in the graduation rate; and

(5) Such other criteria as the authority shall consider appropriate.

## Senate Bill 382

Effective Date: May 25, 2011

Signed by Governor: March 3, 2011

Code Reference: Amends §15-1F-1

Title: Military Leave

Major Provisions:

- Clarifies that only officers or employees of the state, a county or a municipal government who are hired for permanent employment are eligible for military leave.
- Clarifies that military leave for state duty (sub-section "a" duty) is not to exceed thirty (30) days, or two hundred forty (240) hours during any one calendar year.
- Clarifies that military leave for a call to active duty (sub-section "b" duty) is not to exceed thirty (30) days or two hundred forty (240) hours for a single call, but that if an officer or employee who is called to active duty has not used all or some portion of the thirty days of military leave granted under sub-section a during that year, he or she may add the number of unused days to the days allowed under sub-section b, not to exceed a total of sixty (60) days for a single call.
- Clarifies the types of state duties that such officers or employees who are ordered to perform by proper designated authority to include: drills, inactive duty training, parades, funeral details, service schools or other duty during business hours, field training, annual training or other full-time National Guard duty pursuant to Title 10 or Title 32 of the United State Code.
- Also clarifies the types of duties that such officers or employees who are ordered or called to active duty by the proper designated federal authority to include: mobilization or deployment under Title 10 of the United States Code or in support of a contingency operation as defined in 10 U.S.C. §101(a)(13).

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 382**

(SENATORS WELLS, JENKINS, STOLLINGS, PLYMALE, BEACH, YOST AND SYPOLT, *original sponsors*)

[Passed February 24, 2011; in effect 90 days from passage.]

AN ACT to amend and reenact §15-1F-1 of the Code of West Virginia, 1931, as amended, relating to activities for which members of the National Guard or armed forces reserve who are also public officials and employees are entitled to a leave of absence; setting the maximum number of hours eligible for leave in a calendar year; and limiting applicability to public officials and employees permanently employed.

*Be it enacted by the Legislature of West Virginia:*

That §15-1F-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 1F. PRIVILEGES AND PROHIBITIONS.**

**§15-1F-1. Leave of absence for public officials and employees for drills, parades, active duty, etc.**

(a) All Any officers or employees of state, ~~or subdivisions~~ county or municipalities thereof, government hired for permanent employment who shall be is a members of the National Guard or armed forces reserve, ~~shall be~~ is entitled to a military leave of absence from ~~their~~ his or her respective offices or employments without loss of pay, status or efficiency rating, on the days during which ~~they are~~ he or she is ordered, by properly designated authority, to be engaged in drills, inactive duty training, parades, funeral details, service schools or other duty, during business hours, field training, annual training or other full-time National Guard duty pursuant to Title 10 or Title 32 of the United States Code, or active service of the state, for a maximum period of thirty working days, not to exceed two hundred forty hours in any one calendar year.

(b) ~~Effective the eleventh day of September, two thousand one, all~~ Any officers or employees of the state, ~~or subdivision~~ county or municipalities thereof, who are government hired for permanent employment ordered or called to active duty for a mobilization or deployment under Title 10 of the United States Code or in support of a contingency operation as defined in 10 U.S.C. §101(a)(13) by the properly designated federal authority shall be is entitled to a military leave of absence from ~~their~~ his or her

respective offices or employments without loss of pay, status or efficiency rating for a maximum period of thirty working days, not to exceed two hundred forty hours for a single call to active duty: *Provided*, That an officer or employee of the state, or subdivisions county or municipalities government called to active duty who has not used all or some portion of the thirty working days of military leave of absence granted by subsection (a) of this section shall be is entitled to add the number of unused days from that calendar year to the thirty working days, not to exceed two hundred forty hours granted by this subsection, up to a maximum of sixty days for a single call to active duty: *Provided, however, That none of the unused days of military leave of absence* granted by subsection, up to a maximum of sixty days for a single call to active duty: *Provided, however, That none of the unused days of military leave of absence granted by* (a) of this section may be carried over and used in the next calendar year.

(c) The term "without loss of pay" means that the officer or employee shall continue to receive his or her normal salary or compensation, notwithstanding the fact that such the officer or employee may have received other compensation from federal or state sources during the same period.

## **Senate Bill 538**

Effective Date: June 7, 2011

Signed by Governor: March 21, 2011

Code Reference: Amends §18B-3D-5  
Adds §18B-3D-6

Title: Learn and Earn Cooperative Education Program

Major Provisions:

- Establishes a cooperative education program to be known as “Learn and Earn Program” to provide opportunities for students to work with West Virginia companies while in college, thus increasing the likelihood that they will complete a technical program of study, find gainful employment, and choose to remain in West Virginia upon graduation.
- The program is to be established under the jurisdiction of the West Virginia Council for Community and Technical College Education, as a component of the Workforce Development Initiative Program.
- The program requires a dollar-for-dollar match from participating employers or groups of employers from which the student receives a salary from the employer or group of employers while participating in the program.
- An institution is eligible to apply for a program grant in cooperation with one or more employer partners if it meets the definition of a community and technical college.
- The council may expend funds available through the Workforce Development Initiative program to implement the provisions of this section.

**ENROLLED**

**Senate Bill No. 538**

(BY SENATORS PLYMALE, JENKINS, FOSTER AND BROWNING)

[Passed March 9, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §18B-3D-5 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new section, designated §18B-3D-6, all relating to establishing the Learn and Earn Cooperative Education Program; authorizing expenditure of certain funds; defining eligibility to receive funding; setting terms for required cash match; and requiring legislative and emergency rules.

*Be it enacted by the Legislature of West Virginia:*

That §18B-3D-5 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 §18B-3D-6, all to read as follows:

**ARTICLE 3D. WORKFORCE DEVELOPMENT INITIATIVE.**

**§18B-3D-5. Legislative and emergency rules.**

(a) The council shall propose a legislative rule pursuant to article three-a, chapter twenty-nine-a of this code to implement the provisions of this article and shall file the rule with the Legislative Oversight Commission on Education Accountability no later than the first day of September, two thousand six ~~September, two thousand six~~ October 1, 2011.

(b) The Legislature finds that an emergency exists and, therefore, the council shall propose an emergency rule to implement the provisions of this article in accordance with section six, article one of this chapter and article three-a, chapter twenty-nine-a of this code by October 1, 2011.

(c) Any rule promulgated by the ~~West Virginia Development Office~~ council pursuant to previous enactments of this section and in effect on the effective date of the amendment and reenactment of this section in the year ~~two thousand six~~ 2011 remains in effect until amended, modified, repealed or replaced by the council.

**§18B-3D-6. Learn and Earn Cooperative Education Program established.**

(a) *Legislative findings.*

(1) The Legislature finds that many West Virginians, particularly young adults, cannot enroll full-time in a community and technical college technical program because circumstances require them to maintain full-time employment. It is critically important that technical programs leading to high-wage occupations be more accessible and affordable for all West Virginians.

(2) The Legislature further finds that cooperative education programs are successful in providing access to these technical programs while providing students enrolled full-time in a community and technical college with the financial benefits they need to continue their

education. These cooperative education programs provide opportunities for students to work with West Virginia companies while in college, thus increasing the likelihood that they will complete the program, find gainful employment and choose to remain in West Virginia upon graduation. They provide students with hands-on, real world work experience with a salary while they complete a technical program of study and, at the same time, provide employers with a cost-effective tool for recruiting and training.

(b) The purpose of this section is to establish a cooperative education program, under the jurisdiction of the council, as a component of the Workforce Development Initiative Program established pursuant to this article. The program shall be known and may be cited as the "Learn and Earn Program".

(c) The program requires a dollar-for-dollar cash match from participating employers or groups of employers from which the student receives a salary from the employer or employers while participating in the program. Participants may not substitute a match in-kind for the cash match required by this section.

(d) An institution is eligible to apply for a program grant in cooperation with one or more employer partners if it meets the definition of a community and technical college provided in section two, article one of this chapter. The council shall define the application process in the rules required in section five of this article.

(e) The council may expend funds available through the Workforce Development Initiative program to implement the provisions of this section.



## Senate Bill 592

Effective Date: June 9, 2011

Signed by Governor: April 1, 2011

Code Reference: Amends §18-9F-1 and §18-28-2  
Adds §18-9F-9

Title: Requiring schools have crisis response plans

Major Provisions:

- Requires all schools to create a comprehensive crisis response plan in order to help ensure safety in the schools and to adequately respond to potential crises.
- Requires the State Board, in conjunction with the Division of Homeland Security and Emergency Management, to promulgate by December 31, 2011 a State Board Policy for the establishment of an up-to-date, school specific crisis response plan at every school in the state.
- The policy must include:
  1. A model school crisis response plan, including a uniform template that can be used by every school;
  2. A requirement that each school's school specific crisis plan be in place and filed with the school's county board and in a secure electronic system with the Division of Homeland Security and Emergency Management no later than August 1, 2013, or soon after completion by the school, whichever occurs first;
  3. The necessary safeguards to protect information that may be considered to be sensitive information;
  4. The annual review and necessary update of the model plan and uniform template by December 31 each year;
  5. The development by each school of a school specific crisis response plan in consultation with local social services agencies, local first response agencies, and other agencies that the school's planning team determine should be consulted;

6. Procedures for the annual review and update, if necessary, of each school's crisis response plan;
  7. Procedures for each school to form a crisis response planning team;
  8. Procedures for informing and training school personnel on any actions required of them to effectuate the school's crisis response plan;
  9. A model template for redacted copies of the school crisis response plan for public inspection and release to parents; and,
  10. Procedures for non-public schools to establish file and update school crisis response plans.
- Requires school to establish, file and update a school specific crisis response plan which complies with the requirements established by the State Board and the Division of Homeland Security and Emergency Management.
  - Requires each private, parochial or church school to establish, file and update a school specific crisis response plan which complies with the requirements established by the State Board and the Division of Homeland Security and Emergency Management.

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 592**

(SENATORS PALUMBO, STOLLINGS, PLYMALE, UNGER, BROWNING, MINARD, FOSTER, WELLS, FANNING, JENKINS, TUCKER AND KESSLER (ACTING PRESIDENT), *original sponsors*)

[Passed March 11, 2011; in effect ninety days from passage.]

AN ACT to amend and reenact §18-9F-1 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-9F-9; and to amend and reenact §18-28-2 of said code, all relating to requiring crisis response plans for all schools; updating legislative findings and intent; requiring the state board in conjunction with the Division of Homeland Security and Emergency Management promulgate legislative rule by certain date for school specific crisis response plan establishment, minimum content, safeguards, updating, filing, informing and training school personnel, release of information to public; procedures for non public schools; authorizing emergency rule; considerations in developing rule; minimum contents of rule; requiring plan filing with county boards and certain disposition including public inspection of redacted copies and notice to parents; and requiring private, parochial and religious schools to establish, file and update school specific crisis response plan that complies with certain rule requirements.

*Be it enacted by the Legislature of West Virginia:*

That §18-9F-1 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-9F-9; and that §18-28-2 of said code be amended and reenacted, all to read as follows:

**ARTICLE 9F. SCHOOL ACCESS SAFETY AND CRISIS RESPONSE ACT.**

**§18-9F-1. Legislative findings and intent.**

(a) The Legislature finds that:

- (1) Establishing and maintaining safe and secure schools is critical to fostering a healthy learning environment and maximizing student achievement;
- (2) All school facilities in the state should be designed, constructed, furnished and maintained in a manner that enhances a healthy learning environment and provides necessary safeguards for the health, safety and security of persons who enter and use the facilities;

(3) Adequate safeguards for the ingress to and egress from school facilities of pupils, school employees, parents, visitors and emergency personnel are critical to the overall safety of the public schools in this state;

(4) Safety upgrades to the means of ingress to and egress from school facilities for pupils, school employees, parents, visitors and emergency personnel must be part of a comprehensive analysis of overall school safety issues that takes into consideration the input of local law-enforcement agencies, local emergency services agencies, community leaders, parents, pupils, teachers, administrators and other school employees interested in the prevention of school crime and violence;

(5) In order to help ensure safety in all schools within the state and to be prepared to adequately respond to potential crises, including any traumatic event or emergency condition that creates distress, hardship, fear or grief, each school must have an up-to-date comprehensive crisis response plan as detailed in section nine of this article.

(b) It is the intent of the Legislature to empower the School Building Authority to facilitate and provide state funds for the design, construction, renovation, repair and upgrading of facilities so as to enhance school access safety and provide secure ingress to and egress from school facilities to pupils, school employees, parents, visitors and emergency personnel.

#### **§18-9F-9. Crisis Response Plan.**

(a) The state board in conjunction with the Division of Homeland Security and Emergency Management shall promulgate by December 31, 2011, a legislative rule in accordance with article three-b, chapter twenty-nine-a of this code, and if necessary may promulgate an emergency rule in accordance with said article, for the establishment of an up-to-date, school specific crisis response plan at every school in the state. In developing the rule, the state board shall consider plans currently being developed as part of the safe schools initiative currently underway by the School Building Authority and the Division of Homeland Security and Emergency Management. In addition, those portions of a school's access safety plan created pursuant to section three of this article may be used as a portion of the school's school specific crisis response plan if there are any overlapping requirements. The rule shall provide for at least the following:

(1) A model school crisis response plan for use by each school in the state, including a uniform template which shall be used by each school to file the plan, including at least the following information, in a secure electronic system identified by the Division of Homeland Security and Emergency Management:

(A) The school employee in charge during a crisis and a designated substitute;

(B) A communication plan to be used during a crisis;

(C) Protocols for responding to immediate physical harm of students, faculty or staff and to traumatic events, including the period after the events have concluded;

(D) Disaster and emergency procedures to respond to earthquakes, fire, flood, other natural disasters, explosions or other events or conditions in which death or serious injury is likely;

(E) Crisis procedures for safe entrance to and exit from the school by students, parents, and employees, including an evacuation and lock down plan; and

(F) Policies and procedures for enforcing school discipline and maintaining a safe and orderly environment during the crisis.

(2) A requirement that each school's school specific crisis response plan shall be in place and filed with that school's county board, and included in a secure electronic system identified by the Division of Homeland Security and Emergency Management, no later than August 1, 2013, or soon after completion by the school, whichever occurs first;

(3) The necessary safeguards to protect information contained in each school specific crisis response plan that may be considered protected critical infrastructure information, law enforcement sensitive information or for official use only. These safeguards must have the approval the Division of Homeland Security and Emergency Management. County boards shall provide the same necessary safeguards for the information in the plan;

(4) The annual review and necessary update of the model plan and uniform template by state board in conjunction with the Division of Homeland Security and Emergency Management by December 31 of each year after 2011;

(5) The development by each school of a school specific crisis response plan by using the state board's model plan as an example and with consultation from local social services agencies, local first response agencies including police, fire, emergency medical services (EMS), emergency management and any other local entities that the school's crisis response planning team determines should be consulted;

(6) Procedures for the annual review and update if necessary by each school of its school specific crisis response planning plan. Each school shall file either an updated crisis response plan or a memorandum stating that no update to the crisis response plan was necessary with its county board and the Division of Homeland Security and Emergency Management no later than August 1 of each year after 2013.

(7) Procedures for each school within the state to form a crisis response planning team, which team may consist of the school's Local School Improvement Council or a separate team consisting of the principal, two teachers, one service person and two parents of children attending the school. In addition the school may include on the team one member of the county board, a school counselor, a member from local law-enforcement authorities, the local county emergency services director and one student in grade ten or higher if the school has those grades;

(8) Procedures for informing and training school personnel on any actions required of them to effectuate the school's school specific crisis response plan;

(9) A model template for redacted copies of the school crisis response plan for the public inspection and for the release and notice to parents of information related to the plan; and

(10) Procedures for non public schools to establish, file and update school crisis response plans consistent with subdivision (1) subsection (a) of this section.

(b) The county board shall keep the current crisis response plan of each school in the county on file and, unless otherwise provided for, provide a copy of each school's crisis response plan to each local emergency response agency that has a role in the plan. Local emergency response agencies that maintain a copy of the plan shall provide the necessary safeguards for the information in the plan established pursuant to the state board rule promulgated pursuant to subsection (a) of this section. Upon request, a redacted copy of a school crisis response plan shall be made available for inspection by the public with any information removed that is necessary for compliance with the necessary safeguards. Starting with the 2012-2013 school year, each school shall annually send notice home to all parents and guardians of students at the school alerting the parents and guardians to

the existence of the crisis response plan and the ability to review a redacted copy at the offices of the county board.

**ARTICLE 28. PRIVATE, PAROCHIAL OR CHURCH SCHOOLS OR SCHOOLS OF A RELIGIOUS ORDER.**

**§18-28-2. Attendance; health and safety regulations.**

The following is applicable to Each private, parochial or church schools or schools of a religious order:

(a) Each school shall observe a minimum instructional term of one hundred eighty days with an average of five hours of instruction per day;

(b) Each school ~~and~~ shall make and maintain annual attendance and disease immunization records for each pupil enrolled and regularly attending classes. ~~Such~~ The attendance records shall be made available to the parents or legal guardians;

(c) Upon the request of the county superintendent, ~~of schools any a school to which this applies~~ (or a parents organization composed of the parents or guardians of children enrolled in ~~said the~~ school) shall furnish to the county board ~~of education~~ a list of the names and addresses of all children enrolled in ~~such the~~ school between the ages of seven and sixteen years;

(d) Attendance by a child at any school ~~to which this article relates and~~ which complies with this article ~~shall satisfy~~ satisfies the requirements of compulsory school attendance;

(e) Each ~~such~~ school ~~shall be~~ is subject to reasonable fire, health and safety inspections by state, county and municipal authorities as required by law, and ~~shall further be~~ is required to comply with the West Virginia school bus safety regulations; and

(f) Each school shall establish, file and update a school specific crisis response plan which complies with the requirements established for it by the state board and the Division of Homeland Security and Emergency Management pursuant to section nine, article nine-f of this chapter.

## Senate Bill 612

Effective Date: June 9, 2011

Signed by Governor: March 30, 2011

Code Reference: Amends §18-5B-10  
Adds §18-5A-3a

Title: Exempting certain schools and school districts from certain statutory provisions

Major Provisions:

- Grants a waiver to the provisions of WVC §18A-3-2b to Cabell County Schools for the purpose of implementing a comprehensive new teacher induction program.
  
- Grants an exception to the provisions of WVC §18-5-15 to Clay County Schools for the purpose of allowing persons over the age of 21 years to enroll without charge in the Clay County Schools “iRead” program, and upon successful completion, be awarded a Clay County High School Diploma. Specifically prohibits the inclusion of persons over the age of 21 who re-enter the public schools from being included in net enrollment for State Aid funding purposes.

## ENROLLED

### Senate Bill No. 612

(BY SENATORS PLYMALE, BROWNING, EDGELL, LAIRD, STOLLINGS, TUCKER AND WILLS)

[Passed March 11, 2011; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5A-3a; and to amend and reenact §18-5B-10 of said code, all relating to exempting certain schools and school districts from certain statutory provisions pursuant to certain statutory approval and recommendation processes.

*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 §18-5A-3a; and that §18-5B-10 of said code be amended and reenacted, all to read as follows:

#### **ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.**

##### **§18-5A-3a. Waivers of statutes granted to public schools pursuant to recommendations submitted by local school improvement councils; limitations.**

(a) The Legislature hereby grants a waiver from the statute or statutes indicated for the following school or schools pursuant to and for the purposes enumerated in the written statement recommending the waiver, with supporting reasons, approved by the local school improvement council of the respective schools and recommended by the Legislative Oversight Commission on Education Accountability in accordance with the provisions of section three of this article. The grant of a waiver to a statute means that the school or schools granted the waiver may implement the actions as specifically described in their written statement notwithstanding the provisions of this code from which they are specifically waived. These waivers are limited to the purposes as specifically described in the statement upon which the Legislative Oversight Commission on Education Accountability made its recommendation for a waiver to the Legislature and are expressly repealed for any modification or implementation of the described actions which changes those purposes. However, nothing in this section prohibits a local school improvement council school that has been granted a waiver from submitting a request to the Legislative Oversight Commission on Education Accountability for modifications, subject to approval in accordance with section three of this article.

(b) The following waivers are granted:

Section two-b, article three, chapter eighteen-a of this code is waived for the schools of Cabell County for the purpose of implementing a comprehensive new teacher induction program, which purposes are as more specifically described in the schools' written statement approved by the county board and submitted to the Legislative Oversight Commission on Education Accountability on February 24, 2011.



## **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 ~~the statute~~ 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; and

(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 re-enter 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.



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