

## FOREWORD

The West Virginia Department of Education is pleased to prepare Informal Guidelines for Implementing Public Education Bills Enacted in the Regular Session B 2008 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 Law 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 B 2008 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/2008greenbook.pdf> .

Please feel free to call or write if you need additional information regarding bills enacted during the 2008 regular session of the West Virginia Legislature.

Dr. Steven L. Paine  
State Superintendent of Schools

<b>NEW</b>	<b>REPEALED</b>	<b>REVISED</b>	
18-2E-5d	18-9A-5a	17B-2-3a	18A-2-4
18-2E-8f	18-9A-5b	17-3-6	18A-4-2
18-9D-4b	18-9A-10a	18-1-1	18A-4-2b
18A-4-21	18-9A-22	18-1-4	18A-4-3
18A-5-1c	18-9D-4b	18-2-8a	18A-4-8a
18B-1D-1	18B-1-1	18-2-9	18A-5-1
18B-1D-2	18B-1-1b	18-2E-5c	18A-5-8
18B-1D-3	18B-1-1c	18-5-19c	18B-1-1a
18B-1D-4	18B-1A-1	18-5A-2	29-22-18a
18B-1D-5	18B-1A-2	18-8-11	
18B-1D-6	18B-1B-8	18-9A-2	
18B-1D-7	18B-1B-9	18-9A-3a	
18B-1D-8	18B-3B-1	18-9A-4	
18B-14-9	18B-3B-2	18-9A-5	
31-15C-1	18B-11-5	18-9A-6	
31-15C-2		18-9A-7	
31-15C-3		18-9A-8	
31-15C-4		18-9A-9	
31-15C-5		18-9A-10	
31-15C-6		18-9A-11	
31-15C-7		18-9A-21	
31-15C-8		18-9D-2	
31-15C-9		18-9D-6	
31-15C-10		18-9D-8	
31-15C-11		18-9D-13	
31-15C-12		18-9D-15	
31-15C-13		18-9D-16	
31-15C-14		18-20-5	

## TABLE OF CONTENTS

<b><u>ACT CODE NUMBERS</u></b>	<b><u>SUBJECT</u></b>	<b><u>PAGE NUMBERS</u></b>
HB 2967	Creating the “West Virginia Remembers Program” ..... §18-2E-8f	1
HB 4023	Providing for the denial or suspension of a driver's license for any student who withdraws from school or fails to receive passing grades ..... §17B-2-3a      §17B-3-6      §18-8-11	3
HB 4059	Relating to medical qualifications for school bus operators..... §18A-2-4	11
HB 4117	Expanding eligibility for state minimum salary supplements for classroom teachers achieving certain national ..... certification §18A-4-2b	14
HB 4124	Adding CPR and First Aid training to the health education curriculum in secondary schools ..... §18-2-9	18
HB 4368	Reducing acts of student violence and disruptive behavior and increasing penalties for chronically disruptive students..... §18-5A-2      §18A-5-1      §18A-5-1c	21
HB 4406	Relating to state board standards for the recommended duration of school bus transportation times for students to and from school..... §18-2E-5d      §18-9D-2      §18-9D-16	28
HB 4472	Requiring a board of education to wait ten days before posting a new job opening following the death of an employee..... §18A-1-21	35
HB 4477	Relating to payment of GED exam fees ..... §18-5-19c	37
HB 4478	Limiting the mid-year transfer of certain school employees Working with students with exceptionalities..... §18A-5-8	40

HB 4588	Relating to public school support.....			43
	§18-1-1	§18-9A-2	§18-9A-3a	
	§18-9A-4	§18-9A-5	§18-9A-5a	
	§18-9A-5b	§18-9A-6	§18-9A-7	
	§18-9A-8	§18-9A-9	§18-9A-10	
	§18-9A-10a	§18-9A-21	§18-9A-22	
	§18-20-5			
HB 4637	Relating to deployment of broadband.....			60
	§31-15C-1	§31-15C-2	§31-15C-3	
	§31-15C-4	§31-15C-5	§31-15C-6	
	§31-15C-7	§31-15C-8	§31-15C-9	
	§31-15C-10	§31-15C-11	§31-15C-12	
	§31-15C-13	§31-15C-14		
SB 9	Mandating hunter safety program in public schools .....			68
	§18-2-8a			
SB 297	Authorizing School Building Authority to issue revenue Bonds from State Excess Lottery Fund .....			71
	§18-9D-2	§18-9D-4b	§18-9D-6	
	§18-9D-8	§18-9D-13	§18-9D-15	
	§29-22-18a			
SB 573	Increasing public school teachers' and service personnel .....			88
	annual salaries			
	§18A-4-2	§18A-4-3	§18-4-8a	
SB 593	Clarifying library funding obligation from local share .....			101
	§18-9A-11			
SB 595	Establishing education goals and objectives for 2020 .....			106
	§18-1-4	§18B-1-1	§18B-1-1a	
	§18B-1-1b	§18B-1-1c	§18B-1A-1	
	§18B-1A-2	§18B-1B-8	§18B-1B-9	
	§18B-1D-1	§18B-1D-2	§18B-1D-3	
	§18B-1D-4	§18B-1D-5	§18B-1D-6	
	§18B-1D-7	§18B-1D-8	§18B-3B-1	
	§18B-3B-2	§18B-11-5	§18B-14-9	

## House Bill 2967

Effective Date: Passed March 8, 2008; in effect ninety days from passage

Signed by Governor: March 27, 2008

Code Reference: Adds §18-2E-8f

Title: West Virginia Remembers Program

Major Provisions:

- Establishes the “West Virginia Remembers Program” and states that the objective of the program is to provide a forum wherein the students in the public schools may learn about military service, patriotism and courage in the defense of our country from veterans who volunteer to share their experiences in the educational setting.
- Requires the State Board to promulgate a rule for implementation of the program that includes, but is not limited to, the following:
  - (1) The program is not a part of the required curriculum;
  - (2) Presentation of the program in any classroom is the option of the classroom teacher; and
  - (3) A process is established for soliciting speakers from veterans groups and identifying available speakers.

**ENROLLED**

**Committee Substitute**

**for**

**H. B. 2967**

(By Delegates Armstead, DeLong, Border, C. Miller, Ireland, Swartzmiller,  
Azinger, Iaquina, Romine, M. Poling and J. Miller)

[Passed March 8, 2008; 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 §18-2E-8f, relating to establishing "West Virginia Remembers Program" program in public schools; requiring State Board rule; and specifying certain parameters.

*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 §18-2E-8f, to read as follows:

**ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

**§18-2E-8f. Creating the "West Virginia Remembers Program;" rules.**

(a) There is hereby created the "West Virginia Remembers Program." The objective of the West Virginia Remembers Program is to provide a forum wherein children in the public schools may learn about military service, patriotism and courage in the defense of our country from veterans who volunteer to share their experiences in the educational setting. The State Board shall promulgate a rule for implementation of the program, including, but not limited to, the following:

(1) The program is not a part of the required curriculum;

(2) Presentation of the program in any classroom is the option of the classroom teacher; and

(3) A process is established for soliciting speakers from veterans groups and identifying available speakers.

## House Bill 4023

Effective Date: Passed March 8, 2008; in effect ninety days from passage

Signed by Governor: April 1, 2008

Code Reference: Amends and reenacts §17B-2-3a, §17B-3-6, §18-8-11

Title: School attendance and satisfactory academic progress as conditions of licensing for privilege of operation of a motor vehicle

### Major Provisions:

- The "student enrollment form" has been renamed the "Driver's Eligibility Certificate."
- Authorizes attendance directors or chief administrators to issue "Driver's Eligibility Certificates" to students properly enrolled and making satisfactory academic progress.
- Requires attendance directors or chief administrators to notify the Division of Motor Vehicles (DMV) within five days of a student withdrawal from school enrollment. Requires the DMV to notify students that his/her drivers license/permit will be suspended in 30 days if he/she does not reenroll in school and that he/she has the right to a hearing before the county superintendent of schools/designee/appropriate private school official to determine if the withdrawal from school was due to severe hardship resulting from circumstances beyond the control of the student. If a license/permit is suspended, the DMV may not reinstate the license/permit until the student returns to school and shows satisfactory academic progress or until the student turns eighteen years of age.
- Requires attendance directors or chief administrators to notify the DMV when students are not making satisfactory academic progress. Requires the DMV to notify students that their drivers license/permits will be suspended in 30 days unless documentation showing satisfactory academic progress is provided to the DMV. The notice shall advise students that they have the right to a hearing before the county superintendent of schools/designee/appropriate private school official to determine if the student's failure to make satisfactory academic progress is due circumstances beyond the control of the student. If a license/permit is suspended, the DMV may not reinstate the license/permit until the student shows satisfactory academic progress or until the student turns eighteen years of age.
- The DMV, upon written request of a student within ten days of receipt of notice, shall conduct an administrative hearing with a limited scope of determining if there is a question of improper identity, incorrect age or some other bookkeeping error.
- "Withdrawal" is defined as more than ten consecutive or 15 total days unexcused absences during a school year, or suspension pursuant to the Safe Schools Act (§18-5-1a).

- “Satisfactory academic progress” is defined as attaining and maintaining of grades sufficient to allow for graduation and course work in an amount sufficient to allow graduation in five years or by age nineteen.
- “Circumstances outside the control of the student” shall include but not be limited to, medical reasons, family responsibilities and the necessity of supporting oneself or another.
- The State Board shall promulgate rules to consistently implement this law among the 55 counties; the rule may not include attainment of any certain grade point average as a measure of satisfactory progress toward graduation.



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**H. B. 4023**

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

[By Request of the Executive]

[Passed March 8, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §17B-2-3a of the Code of West Virginia, 1931, as amended; to amend and reenact §17B-3-6 of said code; and to amend and reenact §18-8-11 of said code, all relating to the denial or suspension of the driver's license of any student between the ages of fifteen and eighteen who withdraws from school or fails to make substantial progress towards graduating; providing for appeal; defining certain terms; and providing for exceptions.

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

That §17B-2-3a of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §17B-3-6 of said code be amended and reenacted; and that §18-8-11 of said code be amended and reenacted, all to read as follows:

**CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSES.**

**ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.**

**§17B-2-3a. Graduated driver's license.**

(a) Any person under the age of eighteen may not operate a motor vehicle unless he or she has obtained a graduated driver's license in accordance with the three-level graduated driver's license system described in the following provisions. (b) Any person under the age of twenty-one, regardless of class or level of licensure, who operates a motor vehicle with any measurable alcohol in his or her system is subject to the provisions of section two, article five, chapter seventeen-c of this code and section two, article five-a of said chapter. Any person under the age of eighteen, regardless of class or licensure level, is subject to the mandatory school attendance and satisfactory academic progress provisions of section eleven, article eight, chapter eighteen of this code. (c) *Level one instruction permit.* -- An applicant who is fifteen years or older meeting all other requirements prescribed in this code may be issued a level one instruction permit. (1) *Eligibility.* -- The division shall not issue a level one instruction permit unless the applicant: (A) Presents a completed application, as prescribed by the provisions of section six of this article, and which is accompanied by a writing, duly acknowledged, consenting to the issuance of the graduated driver's license and executed by a parent or guardian entitled to custody of the applicant; (B) Presents a certified copy of a birth certificate issued by a state or other governmental entity responsible for vital records unexpired, or a valid passport issued by the United States government evidencing that the applicant meets the minimum age requirement and is of verifiable identity; (C) Passes the vision and written knowledge examination and completes the driving under the influence awareness program, as prescribed in section seven of this article; (D) Presents a ~~current school enrollment form~~ Driver's Eligibility Certificate or otherwise shows compliance with the provisions of section eleven, article

eight, chapter eighteen of this code; and (E) Pays a fee of five dollars, which shall permit the applicant at the written knowledge test. (2) *Terms and conditions of instruction permit.* -- A level one instruction permit issued under the provisions of this section is valid until thirty days after the date the applicant attains the age of eighteen and is not renewable. However, any permit holder who allows his or her permit to expire prior to successfully passing the road skills portion of the driver examination, and who has not committed any offense which requires the suspension, revocation or cancellation of the instruction permit, may reapply for a new instruction permit under the provisions of section six of this article. The division shall immediately revoke the permit upon receipt of a second conviction for a moving violation of traffic regulations and laws of the road or violation of the terms and conditions of a level one instruction permit, which convictions have become final unless a greater penalty is required by this section or any other provision of this code. Any person whose instruction permit has been revoked is disqualified from retesting for a period of ninety days. However, after the expiration of ninety days, the person may retest if otherwise eligible. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked or canceled, the holder of a level one instruction permit may only operate a motor vehicle under the following conditions: (A) Under the direct supervision of a licensed driver, twenty-one years of age or older, or a driver's education or driving school instructor who is acting in an official capacity as an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be operated with no more than two additional passengers, unless the passengers are family members; (B) Between the hours of five a.m. and eleven p.m.; (C) All occupants must use safety belts in accordance with the provisions of section forty-nine, article fifteen, chapter seventeen-c of this code; (D) Without any measurable blood alcohol content, in accordance with the provisions of subsection (h), section two, article five, chapter seventeen-c of this code; and (E) Maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen of this code. (F) A holder of a level one instruction permit who is under the age of eighteen years may not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. A law-enforcement officer may enforce the provisions of this paragraph only as a secondary action when a law-enforcement officer with probable cause detains a driver for a suspected violation of another provision of this code. A person violating the provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined twenty-five dollars; for a second offense be fined fifty dollars; and for a third or subsequent offense be fined seventy-five dollars. (d) *Level two intermediate driver's license.* -- An applicant sixteen years of age or older, meeting all other requirements of the code, may be issued a level two intermediate driver's license. (1) *Eligibility.* -- The division shall not issue a level two intermediate driver's license unless the applicant: (A) Presents a completed application as prescribed in section six of this article; (B) Has held the level one instruction permit conviction-free for the one hundred eighty days immediately preceding the date of application for a level two intermediate license; (C) Has completed either a driver's education course approved by the State Department of Education or thirty hours of behind-the-wheel driving experience certified by a parent or legal guardian or other responsible adult over the age of twenty-one as indicated on the form prescribed by the division: *Provided*, That nothing in this paragraph shall be construed to require any school or any county board of education to provide any particular number of driver's education courses or to provide driver's education training to any student; (D) Presents a ~~current school enrollment form~~ Driver's Eligibility Certificate or otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen of this code; (E) Passes the road skills examination as prescribed by section seven of this article; and (F) Pays a fee of five dollars. (2) *Terms and conditions of a level two intermediate driver's license.* -- A level two intermediate driver's license issued under the provisions of this section shall expire thirty days after the applicant attains the age of eighteen, or until the licensee qualifies for a level three full Class E license, whichever

comes first. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked or canceled, the holder of a level two intermediate driver's license may only operate a motor vehicle under the following conditions: (A) Unsupervised between the hours of five a.m. and eleven p.m.; (B) Only under the direct supervision of a licensed driver, age twenty-one years or older, between the hours of eleven p.m. and five a.m. except when the licensee is going to or returning from: (i) Lawful employment; (ii) A school-sanctioned activity; (iii) A religious event; or (iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent bodily injury or death of another; (C) All occupants shall use safety belts in accordance with the provisions of section forty-nine, article fifteen, chapter seventeen-c of this code; (D) Operates the vehicle with no more than three passengers under the age of nineteen, unless the passengers are family members, in addition to the driver; (E) Without any measurable blood alcohol content in accordance with the provisions of subsection (h), section two, article five, chapter seventeen-c of this code; (F) Maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen of this code; (G) A holder of a level two intermediate driver's license who is under the age of eighteen years may not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. A law-enforcement officer may enforce the provisions of this paragraph only as a secondary action when a law-enforcement officer with probable cause detains a driver for a suspected violation of another provision of this code. A person violating the provisions of this paragraph is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined twenty-five dollars; for a second offense be fined fifty dollars; and for a third or subsequent offense be fined seventy-five dollars. (H) Upon the first conviction for a moving traffic violation or a violation of paragraph (A), (B), (C), (D) or (G), subdivision (1), subsection (d) of this section of the terms and conditions of a level two intermediate driver's license, the licensee shall enroll in an approved driver improvement program unless a greater penalty is required by this section or by any other provision of this code. ; and (I) Upon the second conviction for a moving traffic violation or a violation of the terms and conditions of the level two intermediate driver's license, the licensee's privilege to operate a motor vehicle shall be revoked or suspended for the applicable statutory period or until the licensee's eighteenth birthday, whichever is longer unless a greater penalty is required by this section or any other provision of this code. Any person whose driver's license has been revoked as a level two intermediate driver, upon reaching the age of eighteen years and if otherwise eligible may reapply for an instruction permit, then a driver's license in accordance with the provisions of sections five, six and seven of this article.

*(e) Level three, full Class E license.* -- The level three license is valid until thirty days after the date the licensee attains his or her twenty-first birthday. Unless otherwise provided in this section or any other section of this code, the holder of a level three full Class E license is subject to the same terms and conditions as the holder of a regular Class E driver's license. A level two intermediate licensee whose privilege to operate a motor vehicle has not been suspended, revoked or otherwise canceled and who meets all other requirements of the code may be issued a level three full Class E license without further examination or road skills testing if the licensee: (1) Has reached the age of seventeen years; and (A) Presents a completed application as prescribed by the provisions of section six of this article; (B) Has held the level two intermediate license conviction free for the twelve-month period immediately preceding the date of the application; (C) Has completed any driver improvement program required under paragraph (G), subdivision (2), subsection (d) of this section; and (D) Pays a fee of two dollars and fifty cents for each year the license is valid. An additional fee of fifty cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in section twelve, article two, chapter three of this code; or

(E) Presents a Driver's Eligibility Certificate or otherwise shows compliance with the provisions of section eleven, article eight, chapter eighteen of this code; or (2) Reaches the age of eighteen years; and (A) Presents a completed application as prescribed by the provisions of

section six of this article; and (B) Pays a fee of two dollars and fifty cents for each year the license is valid. An additional fee of fifty cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in section twelve, article two, chapter three of this code.

(f) A person violating the provisions of the terms and conditions of a level one or two intermediate driver's license, is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined twenty-five dollars; for a second offense be fined fifty dollars; and for a third or subsequent offense be fined seventy-five dollars.

### **ARTICLE 3. CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES.**

#### **§17B-3-6. Authority of division to suspend or revoke license; hearing.**

(a) The division is hereby authorized to suspend the driver's license of any person without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

(1) Has committed an offense for which mandatory revocation of a driver's license is required upon conviction; (2) Has by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in the death or personal injury of another or property damage; (3) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways; (4) Is an habitually reckless or negligent driver of a motor vehicle; (5) Is incompetent to drive a motor vehicle; (6) Has committed an offense in another state which if committed in this state would be a ground for suspension or revocation; (7) Has failed to pay or has defaulted on a plan for the payment of all costs, fines, forfeitures or penalties imposed by a magistrate court or municipal court within ninety days, as required by section two-a, article three, chapter fifty or section two-a, article ten, chapter eight of this code; (8) Has failed to appear or otherwise respond before a magistrate court or municipal court when charged with a motor vehicle violation as defined in section three-a of this article; (9) Is under the age of eighteen and has withdrawn either voluntarily or involuntarily ~~due to misconduct~~ from a secondary school, or has failed to maintain satisfactory academic progress, as provided in section eleven, article eight, chapter eighteen of this code; or (10) Has failed to pay overdue child support or comply with subpoenas or warrants relating to paternity or child support proceedings, if a circuit court has ordered the suspension of the license as provided in article five-a, chapter forty-eight-a of this code and the child support enforcement division has forwarded to the division a copy of the court order suspending the license, or has forwarded its certification that the licensee has failed to comply with a new or modified order that stayed the suspension and provided for the payment of current support and any arrearage due. (b) The driver's license of any person having his or her license suspended shall be reinstated if: (1) The license was suspended under the provisions of subdivision (7), subsection (a) of this section and the payment of costs, fines, forfeitures or penalties imposed by the applicable court has been made; (2) The license was suspended under the provisions of subdivision (8), subsection (a) of this section, and the person having his or her license suspended has appeared in court and has prevailed against the motor vehicle violations charged; or (3) The license was suspended under the provisions of subdivision (10), subsection (a) of this section, and the division has received a court order restoring the license or a certification by the child support enforcement division that the licensee is complying with the original support order or a new or modified order that provides for the payment of current support and any arrearage due. (c) Any reinstatement of a license under subdivision (1), (2) or (3), subsection (b) of this section shall be subject to a reinstatement fee designated in section nine of this article. (d) Upon suspending the driver's license of any person as hereinbefore in this section authorized, the division shall immediately notify the licensee in writing, sent by certified mail, return receipt requested, to the address given by the licensee in applying for license, and upon his request shall afford him an opportunity for a hearing as early as practical within not to exceed twenty days after receipt of such request in the county wherein the licensee resides unless the division and the licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner or his duly authorized agent may administer oaths

and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. Upon such hearing the division shall either rescind its order of suspension or, good cause appearing therefor, may extend the suspension of such license or revoke such license. The provisions of this subsection (d) providing for notice and hearing are not applicable to a suspension under subdivision (10), subsection (a) of this section.

## **CHAPTER 18. EDUCATION.**

### **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

#### **§18-8-11. School attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.**

(a) In accordance with the provisions of sections three-a and five, article two, chapter seventeen-b of this code, the ~~d~~Division of ~~m~~Motor ~~v~~Vehicles shall deny a license or instruction permit for the operation of a motor vehicle to any person under the age of eighteen who does not at the time of application present a diploma or other certificate of graduation issued to the person from a secondary high school of this state or any other state or documentation that the person: (1) Is enrolled and making satisfactory progress in a course leading to a general educational development certificate (GED) from a state-approved institution or organization or has obtained the certificate; (2) is enrolled and is making satisfactory academic progress in a secondary school of this state or any other state; (3) is excused from the requirement due to circumstances beyond his or her control; or (4) is enrolled in an institution of higher education as a full-time student in this state or any other state.

(b) The attendance director or chief administrator shall upon request provide documentation of enrollment status a Driver's Eligibility Certificate on a form approved by the ~~d~~Department of ~~e~~Education to any student at least fifteen but less than eighteen years of age ~~upon request~~ who is properly enrolled and is making satisfactory academic progress in a school under the jurisdiction of the official for presentation to the ~~d~~Division of ~~m~~Motor ~~v~~Vehicles on application for or reinstatement of an instruction permit or license to operate a motor vehicle. ~~(c)~~ Whenever a student at least fifteen but less than eighteen years of age, except as provided in subsection (g) of this section, withdraws from school, the attendance director or chief administrator shall notify the ~~d~~Division of ~~m~~Motor ~~v~~Vehicles of the student's withdrawal no later than five days from the date of the withdrawal date. Within five days of receipt of the notice, the ~~d~~Division of ~~m~~Motor ~~v~~Vehicles shall send notice to the licensee student that the student's instruction permit or license to operate a motor vehicle will be suspended under the provisions of section ~~three six~~, article ~~two three~~, chapter seventeen-b of this code on the thirtieth day following the date the notice was sent unless documentation of compliance with the provisions of this section is received by the ~~d~~Division of ~~m~~Motor ~~v~~Vehicles before that time. The notice shall also advise the student that he or she is entitled to a hearing before the county superintendent of schools or his or her designee or before the appropriate private school official concerning whether the student's withdrawal from school was due to a circumstance or circumstances beyond the control of the student. If suspended, the division may not reinstate a an instruction permit or license before the end of the semester following that in which the withdrawal occurred until such time as the student returns to school and shows satisfactory academic progress or until such time as the student attains eighteen years of age.

(d) Whenever a student at least fifteen but less than eighteen years of age is enrolled in a secondary school and fails to maintain satisfactory academic progress, the attendance director or chief administrator shall follow the procedures set out in subsection (c) of this section to notify the Division of Motor Vehicles. Within five days of receipt of the notice, the Division of Motor Vehicles shall send notice to the student that the student's instruction permit or license will be suspended under the provisions of section six, article three, chapter seventeen-b of this code on the thirtieth day following the date the notice was sent unless documentation of compliance with the provisions of this section is received by the Division of Motor Vehicles before that time. The notice shall also advise the student that he or she is entitled to a hearing before the county superintendent of schools or his or her designee or before the appropriate private school official

concerning whether the student's failure to make satisfactory academic progress was due to a circumstance or circumstances beyond the control of the student. Once suspension is ordered, the division may not reinstate an instruction permit or license until such time as the student shows satisfactory academic progress or until such time as the student attains eighteen years of age.

(e) Upon written request of a student, within ten days of receipt of a notice of suspension as provided by this section, the Division of Motor Vehicles shall afford the student the opportunity for an administrative hearing. The scope of the hearing shall be limited to determining if there is a question of improper identity, incorrect age, or some other clerical error.

~~(e)~~(f) For the purposes of this section:

(1) Withdrawal is defined as more than ten consecutive or fifteen total days unexcused absences during a school year; or suspension pursuant to subsections (a) and (b) of section one-a, article five, chapter eighteen-a of this code.

(2) "Satisfactory academic progress" means the attaining and maintaining of grades sufficient to allow for graduation and course-work in an amount sufficient to allow graduation in five years or by age nineteen, whichever is earlier.

(3) "Circumstances outside the control of the student" shall include but not be limited to medical reasons, familial responsibilities and the necessity of supporting oneself or another.

~~(2)~~ (4) Suspension or expulsion from school or imprisonment in a jail or a West Virginia correctional facility is not a circumstance beyond the control of the person student.

~~(d)~~ (g) Whenever the withdrawal from school of the student, or the student's failure to enroll in a course leading to or to obtain a GED or high school diploma, or the student's failure to make satisfactory academic progress is due to a circumstance or circumstances is beyond the control of the student, or the withdrawal from school is for the purpose of transfer to another school as confirmed in writing by the student's parent or guardian, no notice shall be sent to the dDivision of mMotor vVehicles to suspend the student's motor vehicle operator's license and if the student is applying for a license, the attendance director or chief administrator shall provide the student with documentation to present to the dDivision of mMotor vVehicles to excuse the student from the provisions of this section. The school district superintendent (or the appropriate school official of any private secondary school) with the assistance of the county attendance director and any other staff or school personnel shall be the sole judge of whether withdrawal is any of the grounds for denial or suspension of a license as provided by this section are due to a circumstance or circumstances beyond the control of the person student.

(h) The State Board shall promulgate rules necessary for uniform implementation of this section among the counties and as may otherwise be necessary for the implementation of this section. The rule may not include attainment by a student of any certain grade point average as a measure of satisfactory progress toward graduation.

## House Bill 4059

Effective Date: Passed March 8, 2008; in effect 90 days after passage

Signed by Governor: March 28, 2008

Code Reference: Amends and reenacts 18A-2-4

Title: Relating to employment of school bus operators issued passenger endorsement on commercial driver license through intrastate waiver program for diabetes; eligibility for employment; conditions; negating negligence for noncompliance.

Major Provisions:

- Allows that a school bus operator who is diagnosed with diabetes mellitus requiring insulin is not ineligible for employment as a school bus operator because of the diagnosis if the operator is issued a passenger endorsement for his or her commercial driver license through the intrastate waiver program pertaining to diabetes of the West Virginia Division of Motor Vehicles (DMV).
- The waiver applicant must hold a valid CDL with a passenger endorsement to be eligible to apply for the waiver.
- The bus operator must remain in compliance of the stipulations of eligibility of the intrastate waiver.
- The waiver is not valid for interstate transportation.
- Compliance or non-compliance by a health-care provider with the reporting requirements of the DMV does not constitute negligence nor can it be admissible as evidence in any civil or criminal action.

**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**H. B. 4059**

(By Delegates Border, Perdue, Staggers, Long, Schadler, Ennis, Moye, Stalnaker and Stephens  
Delegates Name)

[Passed March 8, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §18A-2-4 of the Code of West Virginia, 1931, as amended, relating to employment of school bus operators issued passenger endorsement on commercial driver license through intrastate waiver program for diabetes; eligibility for employment; conditions; negating negligence for noncompliance. Title Language

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

That §18A-2-4 Enacting Section of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. SCHOOL PERSONNEL.**

**§18A-2-4. Commercial driver's license for school personnel; intra state waiver for bus operators diagnosed with diabetes mellitus requiring insulin ; reimbursement of electrician's and commercial driver's license when required.**

(a) If a commercial driver's license is required as a condition of employment for any school employee or qualified applicant who becomes an employee by a county board of education, the cost shall be paid in full by the employer.

It is unlawful for any county board of education to require any employee or applicant who becomes an employee of the board to pay the cost of acquiring a commercial driver's license as a condition of employment.

(b) The division of motor vehicles shall accept the West Virginia department of education physical and psychomotor test result forms in lieu of the division of motor vehicles vision report form.

(c) A school bus operator who is currently employed by a county board of education or who is otherwise subject to state board rules governing school bus operators and who is diagnosed with diabetes mellitus requiring insulin is not ineligible for employment as a school bus operator because of the diagnosis if the operator is issued a passenger endorsement for his or her commercial driver license through the intrastate waiver program pertaining to diabetes of the West Virginia Division of Motor Vehicles, subject to the following:

(1) A copy of the information required to be submitted to the Division of Motor Vehicles for waiver application and proof of passenger endorsement under the waiver program is submitted to his or her employer; and

(2) The operator remains in compliance with the stipulations of and grounds for eligibility for the intrastate waiver.

(d) If a county board of education requires of any employee who is employed as an electrician any license renewal when the employee is exempt from renewing the license pursuant to section three, article three-b, chapter twenty-nine of this code, the cost of such license renewal shall be paid in full by the county board of education.

(e) Compliance with or failure to comply by a health care provider licensed and authorized pursuant to chapter thirty of this code, with the reporting requirements of the division of motor



vehicles regarding the provisions of subsection (c) of this section does not constitute negligence, nor may compliance or noncompliance with the requirements of this section be admissible as evidence of negligence in any civil or criminal action.

## House Bill 4117

Effective Date: Passed March 3, 2008; effective July 1, 2008

Signed by Governor: March 28, 2008

Code Reference: Amends §18A-4-2b

Title: State minimum salary supplement for school psychologists and school nurses who attain national certification

Major Provisions:

- Adds school psychologists and school nurses to the pool of educators eligible to receive the \$2500 supplement for attaining national certification.
- Previously, only speech language pathologists, school counselors, and audiologists who held national certification were eligible for the supplement.
- Expands the number of additional educators eligible to receive the supplement annually from 100 to 115.
- Previously, only 100 new educators were eligible for this supplement each year (Year 1 = 100 total educators, Year 2 = 200 total educators, Year 3 = 300 total educators, etc.).

**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**H. B. 4117**

(By Delegate Browning)

[Passed March 8, 2008; in effect July 1, 2008.]

AN ACT to amend and reenact §18A-4-2b of the Code of West Virginia, 1931, as amended, relating to providing the state minimum salary supplement and the reimbursement of educational expenses to school psychologists and school nurses for achieving certain national certifications; increasing the number of certificate holders who are eligible for the supplements and reimbursements each year; and requiring State Board of Education rule.

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

That §18A-4-2b of the Code of West Virginia, 1931, as amended, be amended and reenacted, to read as follows:

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

**§18A-4-2b. State minimum salary supplement and educational expense reimbursement for professional personnel with recognized national certification in speech-language pathology, audiology, or counseling, school psychology or school nursing.**

(a)(1) The Legislature finds that achieving a nationally recognized professional certification in speech-language pathology or audiology involves a rigorous process of demonstrating both knowledge and skills and results in highly trained and capable employees. Individuals who attain national professional certification by the American Speech-Language-Hearing Association (ASHA) provide needed and essential services to the school students of this state and, consequently, Individuals should be encouraged to achieve and maintain the national professional certification through reimbursement of expenses and a salary bonus which reflects their additional certification, ~~to be paid in accordance with subsection (b) of this section.~~

(2) The Legislature ~~further finds and declares~~ that the rigorous standards and processes for advanced certification by either the National Board of Certified Counselors (NBCC) or the West Virginia Board of Examiners in Counseling (WVBEC) helps to promote the quality of counseling in schools. Counselors in the public schools of West Virginia should be encouraged to achieve and maintain the advanced certification through reimbursement of expenses and a salary bonus that reflects their additional certification, ~~to be paid in accordance with subsection (b) of this section.~~

(3) The Legislature finds that achieving a nationally recognized professional certification in school psychology involves a rigorous process of demonstrating competencies in scientific research-based knowledge and skills. School psychologists provide assessment, counseling and consultation to students, teachers, school administrators and parents. Individuals who attain national professional certification by the National Association of School Psychologists provide services to students, families and school systems in this state. School psychologists should be encouraged to achieve and maintain this national professional certification through reimbursement of expenses and a salary bonus which reflects their additional certification.

(4) The Legislature finds that achieving a nationally recognized professional certification in

school nursing involves a rigorous process of demonstrating competencies in health care and nursing applications, knowledge and skills. School nurses provide assessment, counseling and consultation to students, teachers, school administrators and parents. School nurses who attain national professional certification by the National Board for Certification of School Nurses provide services to students, families and school systems in this state. School nurses should be encouraged to achieve and maintain this national professional certification through reimbursement of expenses and a salary bonus which reflects their additional certification.

(5) Therefore, the purpose of this section is:

(A) To provide a statewide salary supplement for certain professional personnel employed in the public schools who hold a nationally recognized professional certification in speech-language pathology, audiology, or counseling, school psychology or school nursing;

(B) To treat these professional certifications equally;

(C) To encourage others to attain such a certification; and

(D) To help school systems with recruitment of these highly qualified professionals.

(b) In addition to any amounts prescribed in the applicable state minimum salary schedule, effective the first day of July, two thousand six, any professional personnel who hold national certification or other credential as provided in this section shall be paid an annual salary supplement of two thousand five hundred dollars. The payment is:

(1) To be made in equal monthly installments;

(2) To be considered a part of the state minimum salaries for teachers; and

(3) To continue for the life of the certification, or for ten years for any one certification, whichever first expires.

(c) Professional personnel employed as speech-language pathologists, audiologists, or counselors, school psychologists or school nurses are eligible upon enrollment for reimbursement for one-half of the fee for certification in accordance with this section. In addition, these personnel are eligible upon attainment of the certification for reimbursement of the remainder of the application fee plus other expenses actually incurred toward attainment of the certification, not exceeding six hundred dollars, upon approval by the Department of Education. Not more than one hundred fifteen speech-language pathologists, audiologists, counselors, school psychologists and school nurses, combined total, are eligible for reimbursement in any one fiscal year.

(d) Notwithstanding subsection (b) of this section, no more than one hundred for the school year beginning the first day of July, two thousand eight, the number of speech-language pathologists, audiologists, counselors, school psychologists and school nurses combined total, shall be paid the annual salary supplement provided for in said subsection during the first year of implementation. The number may not exceed the number of speech-language pathologists, audiologists and counselors eligible to be paid the annual salary supplement provided for in said subsection may not exceed an additional under the provisions of this section in effect during the school year beginning the first day of July, two thousand seven, by more than one hundred fifteen qualified recipients, and the total amount of qualified recipients may not increase thereafter by more than one hundred fifteen in each subsequent fiscal year.

(e) The state board shall promulgate a legislative rule establishing criteria for selection of the individuals eligible for reimbursement and a salary supplement in accordance with this section. The selection criteria shall prioritize the length of time the certification has been held and the years of experience of the holder in determining eligibility.

(f) The state board shall report the rule to the Legislative Oversight Commission on Education Accountability by the January, two thousand seven nine, legislative interim meeting period and shall report on its progress in developing the rule to the commission during each prior interim meetings period as requested.

(g) No provision of this section may be construed to require any appropriation, or any specific level of appropriation, by the Legislature, or Payment of the any supplement and or reimbursement provided described in this section for which a specific appropriation has not been made.

(h) Notwithstanding any other provision of this section ~~is subject to legislative appropriation;~~  
~~therefore nothing in this section~~ or the provisions of section two-a of this article, professional personnel may not be paid a salary supplement pursuant to the provisions of both said sections.

## House Bill 4124

Effective Date: Passed March 5, 2008; in effect ninety days from passage

Signed by Governor: March 13, 2008

Code Reference: Amends and reenacts §18-2-9

Title: Including education concerning CPR and First Aid in health education curriculum

Major Provisions:

- Instruction in CPR and First Aid shall be included in the health education curriculum in any of the grades six through twelve as considered appropriate to the county board.

**ENROLLED**

**Committee Substitute**

**for**

**H. B. 4124**

(By Delegates Staggers, M. Poling, Moye,  
Perry, Fleischauer, Hamilton, Paxton,  
Long, Canterbury, Campbell and Crosier)

[Passed March 5, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §18-2-9 of the Code of West Virginia, 1931, as amended, relating to including education concerning CPR and First Aid in the health education curriculum in any grades six through twelve.

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

That §18-2-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-9. Required courses of instruction; violation and penalty.**

(a) In all public, private, parochial and denominational schools located within this state, there shall be given prior to the completion of the eighth grade at least one year of instruction in the history of the State of West Virginia. The schools shall require regular courses of instruction by the completion of the twelfth grade in the history of the United States, in civics, in the Constitution of the United States, and in the government of the State of West Virginia for the purpose of teaching, fostering and perpetuating the ideals, principles and spirit of political and economic democracy in America and increasing the knowledge of the organization and machinery of the government of the United States and of the State of West Virginia. The ~~S~~state ~~B~~board shall, with the advice of the ~~S~~state ~~S~~uperintendent, prescribe the courses of study covering these subjects for the public schools. It shall be the duty of the officials or boards having authority over the respective private, parochial and denominational schools to prescribe courses of study for the schools under their control and supervision similar to those required for the public schools. To further such study, every high school student eligible by age for voter registration shall be afforded the opportunity to register to vote pursuant to section twenty-two, article two, chapter three of this code.

(b) The ~~S~~state ~~B~~board shall cause to be taught in all of the public schools of this state the subject of health education, including instruction in any of the grades six through twelve as considered appropriate by the county board, on: (1) The prevention, transmission and spread of acquired immune deficiency syndrome and other sexually transmitted diseases; (2) substance abuse, including the nature of alcoholic drinks and narcotics, tobacco products, and other potentially harmful drugs, with special instruction as to their effect upon the human system and upon society in general; ~~and~~ (3) the importance of healthy eating and physical activity to maintaining healthy weight; and (4) education concerning CPR and First Aid. The course curriculum requirements and materials for the instruction shall be adopted by the ~~S~~state ~~B~~board by rule in consultation with the Department of Health and Human Resources. The ~~S~~state ~~B~~board shall prescribe a standardized health education assessment to be administered within health education classes to measure student health knowledge and program effectiveness.

An opportunity shall be afforded to the parent or guardian of a child subject to instruction in the prevention, transmission and spread of acquired immune deficiency syndrome and other sexually transmitted diseases to examine the course curriculum requirements and materials to be used in the instruction. The parent or guardian may exempt the child from participation in the instruction by giving notice to that effect in writing to the school principal.

(c) Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not exceeding ten dollars for each violation, and each week during which there is a violation shall constitute a separate offense. If the person so convicted occupy a position in connection with the public schools, that person shall automatically be removed from that position and shall be ineligible for reappointment to that or a similar position for the period of one year.



## House Bill 4368

Effective Date: Passed March 6, 2008; in effect ninety days from passage

Signed by Governor: March 17, 2008

Code Reference: Amends and reenacts §18-5A-2, §18A-5-1, and enacts §18A-5-1c

Title: Relating to student behavior and school discipline; Bill of Rights and Responsibilities for Students and School Personnel

### Major Provisions:

- Local School Improvement Councils (LSIC) are required to conduct an annual meeting to engage parents, students, school employees and other interested parties in a positive and interactive dialogue regarding effective discipline policies.
- Student privacy rights shall be protected in accordance with federal, state and local board regulations.
- Each LSIC shall develop and deliver a report to the countywide council on productive and safe schools. The report shall include guidelines for the instruction and rehabilitation of students who have been excluded from the classroom and suspended or expelled from the school; a description and recommendation of in-school-suspension programs; a description of possible alternative settings/schedules for instruction in alternative education programs; guidelines to provide for effective communication and coordination between school and local emergency services agencies; guidelines for a preventive discipline program; and guidelines for a student involvement program for violence prevention/intervention.
- Each LSIC shall examine the school's discipline and report to the county superintendent on the following: disciplinary measures at the school; fairness and consistency of disciplinary actions at the school. If the LSIC believes that discipline is not enforced fairly or consistently, it shall report that to the Superintendent in writing with supporting documentation. The County Superintendent has ten day from receipt of this written report to respond in writing to the LSIC.
- Establishes rights and responsibilities for students and school personnel aimed at improving school climate.

**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**H. B. 4368**

(By Delegates DeLong, Caputo, Fragale, M. Poling,  
D. Poling and Tucker)

[Passed March 6, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §18-5A-2 of the Code of West Virginia, 1931, as amended; to amend and reenact §18A-5-1 of said code; and to further amend said code by adding thereto a new section, designated §18A-5-1c, all relating to student behavior and discipline in schools; reducing school violence and disorderly conduct; alternative learning settings; establishing and implementing consistent and effective discipline policies; legislative findings; and establishing the Bill of Rights and Responsibilities for Students and School Personnel.

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

That §18-5A-2 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that §18A-5-1 of said code be amended and reenacted; and that said code be further amended by adding thereto a new section, designated §18A-5-1c, all to read as follows:

**CHAPTER 18. EDUCATION.**

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

**§18-5A-2. Local school improvement councils; election.**

(a) A local school improvement council shall be established at every school consisting of the following:

(1) The principal, who ~~shall serve~~ serves as an ex officio member of the council and ~~be~~ is entitled to vote;

(2) Three teachers elected by the faculty senate of the school;

(3) ~~Two~~ One bus operator who transports students enrolled at the school and one school service personnel person, each elected by the school service personnel employed at the school;

(4) Three parent(s), guardian(s) or custodian(s) of students enrolled at the school elected by the parent(s), guardian(s) or custodian(s) members of the school's parent teacher organization.

~~Provided, That if~~ there is no parent teacher organization, the parent(s), guardian(s) or custodian(s) members shall be elected by the parent(s), guardian(s) or custodian(s) of students enrolled at the school in such manner as may be determined by the principal;

(5) Two at-large members appointed by the principal, one of whom resides in the school's attendance area and one of whom represents business or industry, neither of whom is eligible for membership under any of the other elected classes of members;

(6) In the case of vocational-technical schools, the vocational director. ~~Provided, That if~~ there is no vocational director, then the principal may appoint no more than two additional representatives, one of whom represents business and one of whom represents industry;

(7) In the case of a school with students in grade seven or higher, the student body president or other student in grade seven or higher elected by the student body in those grades.

(b) Under no circumstances may more than one parent member of the council be then employed at that school in any capacity.

(c) The principal shall arrange for such elections to be held prior to the fifteenth day of September of each school year to elect a council and shall give notice of the elections at least one week prior to the elections being held. To the extent practicable, all elections to select council members shall be held within the same week.

(d) Parent(s), guardian(s) or custodian(s), teachers and service personnel elected to the council shall serve a two-year term and elections shall be arranged in such a manner that no more than two teachers, no more than two parent(s), guardian(s) or custodian(s) and no more than one service person are elected in a given year. All other non-ex officio members shall serve one-year terms.

(e) Council members may only be replaced upon death, resignation, failure to appear at three consecutive meetings of the council for which notice was given, or a change in personal circumstances so that the person is no longer representative of the class of members from which appointed. In the case of a vacancy in an elected membership position, the chair of the council shall appoint another qualified person to serve the unexpired term of the person being replaced or, in the case of an appointed member of the council, the principal shall appoint a replacement as soon as practicable.

(f) As soon as practicable after the election of council members, and no later than the first day of October of each school year, the principal shall convene an organizational meeting of the school improvement council. The principal shall notify each member in writing at least two employment days in advance of the organizational meeting. At this meeting, the principal shall provide each member with the following:

(1) A copy of the current applicable sections of this code;

(2) Any state board rule or regulation promulgated pursuant to the operation of these councils; and

(3) Any information as may be developed by the department of education on the operation and powers of local school improvement councils and their important role in improving student and school performance and progress.

(g) The council shall elect from its membership a chair and two members to assist the chair in setting the agenda for each council meeting. The chair shall serve a term of one year and ~~no~~ a person may not serve as chair for more than two consecutive terms. If the chair's position becomes vacant for any reason, the principal shall call a meeting of the council to elect another qualified person to serve the unexpired term. Once elected, the chair is responsible for notifying each member of the school improvement council in writing two employment days in advance of any council meeting.

(h) School improvement councils shall meet at least once every nine weeks or equivalent grading period at the call of the chair or by three fourths of its members.

(1) The school improvement council shall schedule any meeting that involves the issue of student discipline pursuant to subdivision (2), subsection (l) of this section, outside the regularly scheduled working hours of any school employee member of the council.

(2) The school improvement council annually shall conduct a meeting to engage parents, students, school employees and other interested parties in a positive and interactive dialogue regarding effective discipline policies. The meeting shall afford ample time for the dialogue and comply with any applicable provision of state, federal or county board policy, rule or law, as appropriate, regarding student privacy rights .

(i) The local school improvement council shall meet at least annually with the county board, in accordance with the provisions in section fourteen, article five of this chapter. At this annual meeting, the local school improvement council chair, or another member designated by the chair, shall be prepared to address any matters as may be requested by the county board as specified in the meeting agenda provided to the council and may further provide any other information, comments or suggestions the local school improvement council wishes to bring to the county board's attention. Anything presented under this subsection shall be submitted to the county board in writing.

(j) School improvement councils shall be considered for the receipt of school of excellence awards under section three of this article and competitive grant awards under section twenty-nine, article two of this chapter and may receive and expend such grants for the purposes provided in such section. In any and all matters which may fall within the scope of both the school improvement councils and the school curriculum teams authorized in section five of this article, the school curriculum teams ~~shall be deemed to~~ have jurisdiction.

(k) In order to promote innovations and improvements in the environment for teaching and learning at the school, a school improvement council shall receive cooperation from the school in implementing policies and programs it may adopt to:

(1) Encourage the involvement of parent(s), guardian(s) or custodian(s) in their child's educational process and in the school;

(2) Encourage businesses to provide time for their employees who are parent(s), guardian(s) or custodian(s) to meet with teachers concerning their child's education;

(3) Encourage advice and suggestions from the business community;

(4) Encourage school volunteer programs and mentorship programs; and

(5) Foster utilization of the school facilities and grounds for public community activities.

~~(k) On or before the eighth day of June, one thousand nine hundred ninety five~~

(l) Each local school improvement council annually shall develop and deliver a report to the countywide council on productive and safe schools. The report shall include:

(1) Guidelines for the instruction and rehabilitation of ~~pupils~~ students who have been excluded from the classroom, suspended from the school or expelled from the school, the description and recommendation of in-school suspension programs, a description of possible alternative settings, schedules for instruction and alternative education programs and an implementation schedule for such guidelines. The guidelines shall include the following:

~~(1)~~ (A) A system to provide for effective communication and coordination between school and local emergency services agencies;

~~(2)~~ (B) A preventive discipline program which may include the responsible students program devised by the West Virginia board of education as adopted by the county board of education, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and

~~(3)~~ (C) A student involvement program, which may include the peer mediation program or programs devised by the West Virginia board of education as adopted by the county board of education, pursuant to the provisions of subsection (e), section one, article five, chapter eighteen-a of this code; and

(2) The local school improvement council's findings regarding its examination of the following, which also shall be reported to the county superintendent:

(A) Disciplinary measures at the school; and

(B) The fairness and consistency of disciplinary actions at the school. If the council believes that student discipline at the school is not enforced fairly or consistently, it shall transmit that determination in writing, along with supporting information, to the county superintendent. Within ten days of receiving the report, the superintendent, or designee, shall respond in writing to the council. The county board shall retain and file all such correspondence and maintain it for public review.

(C) Any report or communication made as required by this subdivision shall comply with any applicable provision of state, federal or county board policy, rule or law, as appropriate, regarding student privacy rights.

~~(4)~~ (m) The council may include in its report to the county-wide council on productive and safe schools provisions of the state board of education policy 4373, student code of conduct, or any expansion of such policy which increases the safety of students in schools in this state and is consistent with the policies and other laws of this state.

~~(5)~~ (n) Councils may adopt their own guidelines established under this section. In addition, the councils may adopt all or any part of the guidelines proposed by other local school improvement councils, as developed under this section, which are not inconsistent with the laws of this state,

the policies of the West Virginia board of education or the policies of the county board of education.

(~~n~~) (o) The state board of education shall provide assistance to a local school improvement council upon receipt of a reasonable request for that assistance. The state board also may solicit proposals from other parties or entities to provide orientation training for local school improvement council members and may enter into contracts or agreements for that purpose. Any training for members shall meet the guidelines established by the state board.

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

#### **ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

#### **§18A-5-1. Authority of teachers and other school personnel; exclusion of ~~pupils~~ students having infectious diseases; suspension or expulsion of ~~disorderly pupils~~ students; corporal punishment abolished.**

(a) The teacher shall stand in the place of the parent(s), guardian(s) or custodian(s) in exercising authority over the school and ~~shall have~~ has control of all ~~pupils~~ students enrolled in the school from the time they reach the school until they have returned to their respective homes, except that where transportation of ~~pupils~~ students is provided, the driver in charge of the school bus or other mode of transportation shall exercise such authority and control over the ~~children~~ students while they are in transit to and from the school.

(b) Subject to the rules of the State Board of Education, the teacher shall exclude from the school any ~~pupil or pupils~~ student known to have or suspected of having any infectious disease, or any ~~pupil or pupils who have~~ student who has been exposed to any infectious disease, and shall immediately notify the proper health officer or medical inspector of the exclusion. Any ~~pupil student~~ student so excluded ~~shall~~ may not be readmitted to the school until the ~~pupil~~ he or she has complied with all the requirements of the rules governing those cases or has presented a certificate of health signed by the medical inspector or other proper health officer.

(c) The teacher may exclude from his or her classroom or school bus any ~~pupil~~ student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a ~~pupil~~ student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any ~~pupil~~ student excluded shall be placed under the control of the principal of the school or a designee. The excluded ~~pupil~~ student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher that the ~~pupil~~ student may be readmitted and specifies the specific type of disciplinary action, if any, ~~which~~ that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s) or custodian(s). When a ~~teacher excludes the same pupil from his or her~~ student is excluded from a classroom or ~~from a school bus three times in one year~~ school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the ~~pupil~~ student may be readmitted to the ~~teacher's~~ classroom, and or the school bus only after the principal, teacher and, if possible, the parent(s), guardian(s) or custodian(s) of the ~~pupil~~ student have held a conference to discuss the ~~pupil's~~ student's disruptive behavior patterns, and the teacher and the principal agree on a course of discipline for the ~~pupil~~ student and inform the parent(s), guardian(s) or custodian(s) of the course of action. Thereafter, if the ~~pupil's~~ student's disruptive behavior persists, upon the teacher's request, the principal may, to the extent feasible, transfer the ~~pupil~~ student to another setting. The Legislature finds that isolating students or placing them in alternative learning centers may be the best setting for chronically disruptive students. The county board of Education shall create more alternative learning centers or expand its capacity for alternative placements, subject to funding, to correct these students' behaviors so they can return to a regular classroom without engaging in further disruptive behavior.

(d) The Legislature finds that suspension from school is not appropriate solely for a ~~pupil's~~ student's failure to attend class. Therefore, ~~no pupil may~~ a student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the ~~pupil~~

student which may include, but are not limited to, detention, extra class time or alternative class settings.

(e) Corporal punishment of any ~~pupil~~ student by a school employee is prohibited.

(f) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions. These policies shall encourage the use of alternatives to corporal punishment, providing for the training of school personnel in alternatives to corporal punishment and for the involvement of parent(s), guardian(s) or custodian(s) in the maintenance of school discipline. The county boards of ~~education~~ shall provide for the immediate incorporation and implementation in the schools of a preventive discipline program which may include the responsible student program and a student involvement program which may include the peer mediation program, devised by the West Virginia Board of Education. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards of ~~education~~ also may establish cooperatives with private entities to provide middle educational programs which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision making for students and any other program related to preventive discipline.

(g) For the purpose of this section:

(1) " ~~Pupil or~~ Student" includes any child, youth or adult who is enrolled in any instructional program or activity conducted under board authorization and within the facilities of or in connection with any program under public school direction: *Provided, That*, in the case of adults, the ~~pupil-teacher~~ student-teacher relationship shall terminate when the ~~pupil~~ student leaves the school or other place of instruction or activity;

(2) "Teacher" means all professional educators as defined in section one, article one of this chapter and ~~shall include~~ includes the driver of a school bus or other mode of transportation; and

(3) "Principal" means the principal, assistant principal, vice principal or the administrative head of the school or a professional personnel designee of the principal or the administrative head of the school.

(h) Teachers shall exercise other authority and perform other duties prescribed for them by law or by the rules of the state board not inconsistent with the provisions of this chapter and chapter eighteen of this code.

#### **§18A-5-1c. Bill of Rights and Responsibilities for Students and School Personnel.**

(a) The Legislature finds that:

(1) The mission of public schools is to prepare students for equal and responsible citizenship and productive adulthood;

(2) Democratic citizenship and productive adulthood begin with standards of conduct in schools;

(3) Schools should be safe havens for learning with high standards of conduct for students; and

(4) Rights necessarily carry responsibilities.

(b) In recognition of the findings in this section, the following Bill of Rights and Responsibilities for Students and School Personnel is established:

(1) The right to attend a school and ride a bus that is safe, orderly and drug free;

(2) The right to learn and work in a school that has clear discipline codes with fair and consistently enforced consequences for misbehavior;

(3) The right to learn and work in a school that has alternative educational placements for violent or chronically disruptive students;

(4) The right to be treated with courtesy and respect;

(5) The right to attend a school and ride on a bus that is free from bullying;

(6) The right to support from school administrators when enforcing discipline policies;

(7) The right to support from parents, the community, public officials and businesses in their efforts to uphold high standards of conduct; and

(8) The responsibility to adhere to the principles in this Bill of Rights and Responsibilities for Students and School Personnel, and to behave in a manner that guarantees that other students and school personnel enjoy the same rights.

## House Bill 4406

Effective Date: Passed March 8, 2008; in effect July 1, 2008

Signed by Governor: March 28, 2008

Code Reference: Amends and reenacts 18-9D-2, 18-9D-16, and added new code 18-2E-5d

Title: Relating to School Building Authority

Major Provisions:

- Requires that a county board may not create a new bus route for grade levels k-5 in a school closure, consolidation or new construction project, which exceeds by more than 15 minutes the recommended time of 30 minutes unless:
  - The local board requests and is granted permission by the state board.
  - The state board shall provide technical assistance to county boards to try to achieve the 30 minute recommendation for students' bus transportation duration.
  - No permission can be granted by the state board for bus routes that exceed the recommended time by more than 30 minutes.



## ENROLLED

### H. B. 4406

(By Delegates Delong, Shaver, Williams, Rodighiero, Rowan, Eldridge, Sobonya, Sumner, Fragale and C. Miller)

[Passed March 8, 2008; in effect July 1, 2008.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated section §18-2E-5d; and to amend and reenact §18-9D-2 and §18-9D-16 of said code, all relating generally to the School Building Authority and to state board standards for the recommended duration of school bus transportation times for students to and from school; modifying definitions and qualifications for construction projects and major improvement projects; limiting county board authority to establish new routes for certain students to certain schools unless certain requirements met; providing for state board to permit new routes in excess of limit up to certain limit; requiring state board to provide certain technical assistance; requiring countywide comprehensive facilities plans required by School Building Authority to address providing facility infrastructure that avoids excessive transportation times; requiring guidelines for update of transportation times in approved facilities plans; prohibiting project approval by authority when transportation route times for certain students exceed limits unless state board permission is granted.

*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 section §18-2E-5d; and that §18-9D-2 and §18-9D-16 of said code be amended and reenacted, all to read as follows:

#### ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

##### **§18-2E-5d. Standards for the duration of school bus transportation times for students to and from school.**

(a) The high quality standards for transportation adopted by the state board pursuant to section five of this article shall include standards for the recommended duration of the one-way school bus transportation time for students to and from school under normal weather and operating conditions as follows:

(1) For elementary school students, thirty minutes;

(2) For middle school, intermediate school and junior high school students, forty-five minutes; and

(3) For high school students, sixty minutes.

(b) A county board may not create a new bus route for the transportation of students in any of the grade levels prekindergarten through grade five to and from any school included in a school closure, consolidation or new construction project approved after the first day of July, two thousand eight, which exceeds by more than fifteen minutes the recommended duration of the one-way school bus transportation time for elementary students adopted by the state board in accordance with subsection (a) of this section unless:

(1) The county board adopts a separate motion to approve creation of the route and request written permission of the state board to create the route; and

(2) Receives the written permission of the state board to create the route.

(c) A county board may not create, nor may the state board permit, the creation of a new bus route for the transportation of students in any of the grade levels prekindergarten through grade five to and from any school included in a school closure, consolidation or new construction

project approved after the first day of July, two thousand eight, which exceeds by more than thirty minutes the recommended duration of the one-way school bus transportation time for elementary students adopted by the state board in accordance with subsection (a) of this section.

(d) The state board shall provide technical assistance to county boards with the objective of achieving school bus transportation routes for students which are within the recommended time durations established by the state board.

## **ARTICLE 9D. SCHOOL BUILDING AUTHORITY.**

### **§18-9D-2. Definitions.**

For the purposes of this article, unless a different meaning clearly appears from the context:

- (1) "Authority" means the School Building Authority of West Virginia;
- (2) "Bonds" means bonds issued by the authority pursuant to this article;
- (3) "Construction project" means a project in the furtherance of a facilities plan with a cost greater than ~~five hundred thousand~~ one million dollars for the new construction, expansion or major renovation of facilities, buildings and structures for school purposes, including:
  - (A) The acquisition of land for current or future use in connection with the construction project;
  - (B) New or substantial upgrading of existing equipment, machinery and furnishings;
  - (C) Installation of utilities and other similar items related to making the construction project operational.
  - (D) Construction project does not include such items as books, computers or equipment used for instructional purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course of business improvements; other items which are customarily considered to result in a current or ordinary course of business operating charge or a major improvement project;
- (4) "Cost of project" means the cost of construction, expansion, renovation, repair and safety upgrading of facilities, buildings and structures for school purposes; the cost of land, equipment, machinery, furnishings, installation of utilities and other similar items related to making the project operational; and the cost of financing, interest during construction, professional service fees and all other charges or expenses necessary, appurtenant or incidental to the foregoing, including the cost of administration of this article;
- (5) "Facilities plan" means the ten-year countywide comprehensive educational facilities plan established by a county board in accordance with guidelines adopted by the authority to meet the goals and objectives of this article that:
  - (A) Addresses the existing school facilities and facility needs of the county to provide a thorough and efficient education in accordance with the provisions of this code and policies of the state board;
  - (B) Best serves the needs of individual students, the general school population and the communities served by the facilities, including, but not limited to, providing for a facility infrastructure that avoids excessive school bus transportation times for students consistent with sound educational policy and within the budgetary constraints for staffing and operating the schools of the county;
  - (C) Includes the school major improvement plan;
  - (D) Includes the county board's school access safety plan required by section three, article nine-f of this chapter;
  - (E) Is updated annually to reflect projects completed, current enrollment projections and new or continuing needs; and
  - (F) Is approved by the state board and the authority prior to the distribution of state funds pursuant to this article to any county board or other entity applying for funds;
- (6) "Project" means a construction project or a major improvement project;
- (7) "Region" means the area encompassed within and serviced by a regional educational service agency established pursuant to section twenty-six, article two of this chapter;
- (8) "Revenue" or "revenues" means moneys;

- (A) Deposited in the School Building Capital Improvements Fund pursuant to section ten, article nine-a of this chapter;
  - (B) Deposited in the School Construction Fund pursuant to section thirty, article fifteen, chapter eleven of this code and section eighteen, article twenty-two, chapter twenty-nine of this code;
  - (C) Deposited in the School Building Debt Service Fund pursuant to section eighteen, article twenty-two, chapter twenty-nine of this code;
  - (D) Deposited in the School Major Improvement Fund pursuant to section thirty, article fifteen, chapter eleven of this code;
  - (E) Received, directly or indirectly, from any source for use in any project completed pursuant to this article;
  - (F) Received by the authority for the purposes of this article; and
  - (G) Deposited in the Excess Lottery School Building Debt Services Fund pursuant to section eighteen-a, article twenty-two, chapter twenty-nine of this code.
- (9) "School major improvement plan" means a ten-year school maintenance plan that:
- (A) Is prepared by a county board in accordance with the guidelines established by the authority and incorporated in its Countywide Comprehensive Educational Facilities Plan, or is prepared by the state board or the administrative council of an area vocational educational center in accordance with the guidelines if the entities seek funding from the authority for a major improvement project;
  - (B) Addresses the regularly scheduled maintenance for all school facilities of the county or under the jurisdiction of the entity seeking funding;
  - (C) Includes a projected repair and replacement schedule for all school facilities of the county or of entity seeking funding;
  - (D) Addresses the major improvement needs of each school within the county or under the jurisdiction of the entity seeking funding; and
  - (E) Is required prior to the distribution of state funds for a major improvement project pursuant to this article to the county board, state board or administrative council; and
- (10) "School major improvement project" means a project with a cost greater than fifty thousand dollars and less than ~~five hundred thousand~~ one million dollars for the renovation, expansion, repair and safety upgrading of existing school facilities, buildings and structures, including the substantial repair or upgrading of equipment, machinery, building systems, utilities and other similar items related to the renovation, repair or upgrading in the furtherance of a school major improvement plan. A major improvement project does not include such items as books, computers or equipment used for instructional purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course of business improvements; or other items which are customarily considered to result in a current or ordinary course of business operating charge.

**§18-9D-16. Authority to establish guidelines and procedures for facilities and major improvement plans; guidelines for modifications and updates, etc.; guidelines for project evaluation; submission of certified list of projects to be funded; department on-site inspection of facilities; enforcement of required changes or additions to project plans.**

- (a) The authority shall establish guidelines and procedures to promote the intent and purposes of this article and assure the prudent and resourceful expenditure of state funds for projects under this article including, but not limited to, the following:
  - (1) Guidelines and procedures for the facilities plans, school major improvement plans and projects submitted in the furtherance of the plans that address, but are not limited to, the following:
    - (A) All of the elements of the respective plans as defined in section two of this article;
    - (B) The procedures for a county to submit a preliminary plan, a plan outline or a proposal for a plan to the authority prior to the submission of the facilities plan. The preliminary plan, plan outline or proposal for a plan shall be the basis for a consultation meeting between representatives of the county and members of the authority, including at least one citizen member, which shall be held promptly following submission of the preliminary plan, plan outline

or proposal for a plan to assure understanding of the general goals of this article and the objective criteria by which projects will be evaluated, to discuss ways the plan may be structured to meet those goals, and to assure efficiency and productivity in the project approval process;

(C) The manner, time line and process for the submission of each plan and annual plan updates to the authority;

(D) The requirements for public hearings, comments or other means of providing broad-based input on plans and projects under this article within a reasonable time period as the authority may consider appropriate. The submission of each plan must be accompanied by a synopsis of all comments received and a formal comment by the county board, the state board or the administrative council of an area vocational educational center submitting the plan;

(E) Any project specifications and maintenance specifications considered appropriate by the authority including, but not limited to, such matters as energy efficiency, preferred siting, construction materials, maintenance plan and any other matter related to how the project is to proceed;

(F) A prioritization by the county board, the state board or the administrative council submitting the plan of each project contained in the plan. In prioritizing the projects, the county board, the state board or the administrative council submitting the plan shall make determinations in accordance with the objective criteria formulated by the ~~s~~School ~~b~~Building ~~a~~Authority in accordance with this section. The priority list is one of the criteria that shall be considered by the authority deciding how the available funds should be expended;

(G) The objective means to be set forth in the plan and used in evaluating implementation of the overall plan and each project included in the plan. The evaluation must measure how the plan addresses the goals of this article and any guidelines adopted under this article, and how each project is in furtherance of the facilities plan and school major improvement plan, as applicable, as well as the importance of the project to the overall success of the facilities plan or school major improvement plan and the overall goals of the authority; and

(H) Any other matters considered by the authority to be important reflections of how a construction project or a major improvement project or projects will further the overall goals of this article.

(2) Guidelines and procedures which may be adopted by the authority for requiring that a county board modify, update, supplement or otherwise submit changes or additions to an approved facilities plan or for requiring that a county board, the state board or the administrative council of an area vocational educational center modify, update, supplement or otherwise submit changes or additions to an approved school major improvement plan. The authority shall provide reasonable notification and sufficient time for the change or addition as delineated in guidelines developed by the authority. The guidelines shall require an update of the estimated duration of school bus transportation times for students associated with any construction project under consideration by the authority that includes the closure, consolidation or construction of a school or schools.

(3) Guidelines and procedures for evaluating project proposals that are submitted to the authority that address, but are not limited to, the following:

(A) Any project funded by the authority must be in furtherance of the facilities plan or school major improvement plan and in compliance with the guidelines established by the authority;

(B) If a project is to benefit more than one county in the region, the facilities plan must state the manner in which the cost and funding of the project will be apportioned among the counties;

(C) If a county board proposes to finance a construction project through a lease with an option to purchase pursuant to an investment contract as described in subsection (f), section fifteen of this article, the specifications for the project must include the term of the lease, the amount of each lease payment, including the payment due upon exercise of the option to purchase, and the terms and conditions of the proposed investment contract; and

(D) The objective criteria for the evaluation of projects which shall include, but are not limited to, the following:

(i) How the current facilities do not meet and how the plan and any project under the plan meets the following:

(I) Student health and safety including, but not limited to, critical health and safety needs;  
(II) Economies of scale, including compatibility with similar schools that have achieved the most economical organization, facility use and pupil-teacher ratios;

(III) Reasonable travel time and practical means of addressing other demographic considerations. The authority may not approve a project after the first day of July, two thousand eight, that includes a school closure, consolidation or new construction for which a new bus route will be created for the transportation of students in any of the grade levels prekindergarten through grade five to and from any school included in the project, which new bus route exceeds by more than fifteen minutes the recommended duration of the one-way school bus transportation time for elementary students adopted by the state board as provided in section five-d, article two-e of this chapter, unless the county has received the written permission of the state board to create the route in accordance with said section five-d;

(IV) Multicounty and regional planning to achieve the most effective and efficient instructional delivery system;

(V) Curriculum improvement and diversification, including the use of instructional technology, distance learning and access to advanced courses in science, mathematics, language arts and social studies;

(VI) Innovations in education;

(VII) Adequate space for projected student enrollments;

(VIII) The history of efforts taken by the county board to propose or adopt local school bond issues or special levies to the extent eConstitutionally permissible; and

(IX) Regularly scheduled preventive maintenance; and

(ii) How the project will assure the prudent and resourceful expenditure of state funds and achieve the purposes of this article for constructing, expanding, renovating or otherwise improving and maintaining school facilities for a thorough and efficient education.

(4) Guidelines and procedures for evaluating projects for funding that address, but are not limited to, the following:

(A) Requiring each county board's facilities plan and school major improvement plan to prioritize all the construction projects or major improvement projects, respectively, within the county. A school major improvement plan submitted by the state board or the administrative council of an area vocational educational center shall prioritize all the school improvement projects contained in the plan. The priority list shall be one of the criteria to be considered by the authority in determining how available funds shall be expended. In prioritizing the projects, the county board, the state board or the administrative council submitting a plan shall make determinations in accordance with the objective criteria formulated by the sSchool bBuilding aAuthority;

(B) The return to each county submitting a project proposal an explanation of the evaluative factors underlying the decision of the authority to fund or not to fund the project; and

(C) The allocation and expenditure of funds in accordance with this article, subject to the availability of funds.

(b) Prior to final action on approving projects for funding under this article, the authority shall submit a certified list of the projects to the jJoint eCommittee on gGovernment and fFinance.

(c) The sState dDepartment of eEducation shall conduct on-site inspections, at least annually, of all facilities which have been funded wholly or in part by moneys from the authority or state board to ensure compliance with the county board's facilities plan and school major improvement plan as related to the facilities; to preserve the physical integrity of the facilities to the extent possible; and to otherwise extend the useful life of the facilities: *Provided*, That the state board shall submit reports regarding its on-site inspections of facilities to the authority within thirty days of completion of the on-site inspections: *Provided, however*, That the state board shall promulgate rules regarding the on-site inspections and matters relating thereto, in consultation with the authority, as soon as practical and shall submit proposed rules for

legislative review no later than the first day of December, one thousand nine hundred ninety-four.

(d) Based on its on-site inspection or notification by the authority to the state board that the changes or additions to a county's board facilities plan or school major improvement plan required by the authority have not been implemented within the time period prescribed by the authority, the state board shall restrict the use of the necessary funds or otherwise allocate funds from moneys appropriated by the Legislature for those purposes set forth in section nine, article nine-a of this chapter.

## House Bill 4472

Effective Date: Passed March 8, 2003; in effect ninety days from passage

Signed by Governor: April 1, 2008

Code Reference: §18 A- 4 - 21

Title: Posting of position opening following death of incumbent

Major Provisions:

- Requires a board of education to wait ten days before posting a new job opening following the death of an employee

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**H. B. 4472**

(By Delegate Fragale)

[Passed March 8, 2008; 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 §18A-4-21, relating to school personnel; and providing that a board of education must wait ten days before posting a new job opening following the death of an employee.

*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 §18A-4-21, to read as follows:

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

**§18A-4-21. Posting of position opening following death of incumbent.**

A county board may not declare a position vacant and post a job opening sooner than ten days following the death of an individual employed in that position.



## HOUSE BILL 4477

Effective Date: Passed March 8, 2008; in effect from passage

Signed by Governor: March 31, 2008

Code Reference: Amends and Reenacts §18-5-19c

Title: Relating to the Division of Technical and Adult Education Services; programs, legislative findings; providing payment of General Education Development exam fees for certain individuals; eligibility requirements; and requiring State Board of Education rule.

Major Provisions:

- Authorizes the State Board of Education to establish a program to provide the GED exam fee for eligible individuals pursuing a High School Equivalency Diploma
- Authorizes the State Board to promulgate a rule to implement the program, outlining the eligibility requirements
- Provides funding for the exam fee based on estimated number of eligible test takers

## ENROLLED

### H. B. 4477

(By Delegates Frederick, M. Poling, Paxton, Rowan, Williams, Sumner, Crosier, Fragale, Browning, Rodighiero and Wysong)

[Passed March 8, 2008; in effect July 1, 2008.]

AN ACT to amend and reenact §18-5-19c of the Code of West Virginia, 1931, as amended, relating to Division of Technical and Adult Education Services; programs; legislative findings; providing payment of General Educational Development exam fees for certain individuals; eligibility requirements; and requiring State Board of Education rule.

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

That §18-5-19c of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

#### ARTICLE 5. COUNTY BOARD OF EDUCATION.

##### **§18-5-19c. Division of veteran Technical and aAdult eEducation Services supervision of ~~programs established under §§18-5-19a and 18-5-19b.~~**

(a) The sState sSuperintendent of sSchools shall have has authority to establish in the sState eDepartment of eEducation a eDivision of veteran Technical and aAdult eEducation Services, and to provide for suitable coordination and supervision of ~~such the~~ educational programs as are established under the provisions of in sections nineteen-a and nineteen-b of this article. All programs established under the ~~preceding those~~ sections of this article shall be are under ~~regulations~~ rules of the sState bBoard of eEducation.

(b) The Legislature finds that:

(1) The General Educational Development (GED) exam is an implement for success that can transform the future of a graduate;

(2) For an individual who has not attained a high school diploma, achieving a High School Equivalency Diploma can increase employment opportunities and earning potential;

(3) Individuals who will benefit from a High School Equivalency Diploma often lack the credentials necessary for employment, and therefore lack the resources to afford the costs of the GED exam; and

(4) Many individuals for whom the GED exam is unattainable are likely to remain in a state of poverty.

(c) The State Board shall develop and administer a program to provide the GED exam fee for an eligible individual pursuing a High School Equivalency Diploma. The State Board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code to implement the program.

(1) The rule shall provide for eligibility requirements as follows:

(A) Successful completion of a GED preparation program;

(B) Successful completion of the GED Official Practice Test;

(C) Standards for measuring successful completion of the program and test required by this subdivision;

(D) GED exam registration with a GED testing center that is approved by the State Board; and

(E) Any other requirements established by the State Board.

(2) The State Board shall provide the GED exam fee directly to the GED testing center.

## House Bill 4478

Effective Date: Passed March 4, 2008; in effect 90 days from passage

Signed by Governor: March 12, 2008

Code Reference: Amends and reenacts 18A-5-8

Title: Relating to authority of certain aides to exercise control over students; compensation; transfers and limitations thereof; and expanding the classifications of service personnel for which transfers during the instructional term are limited

Major Provisions:

- Adds paraprofessionals, interpreters and aides providing one-on-one services to students with exceptionalities as required by the student's individualized education programs (IEP) to that group of personnel whose transfers after the fifth day prior to the beginning of the instructional term be kept to a minimum
- Adds paraprofessionals, interpreters and aides providing one-on-one services to students with exceptionalities as required by the student's IEP to that group of personnel who, after the fifth day prior to the beginning of the instructional term, may not transfer to another position in the county during that instructional term, unless they do not have valid certification
- Adds paraprofessionals and interpreters to the group of personnel who may apply for any posted vacant position with the successful applicant assuming the position at the beginning of the next instructional term
- Requires the county superintendent to notify the State Board when an aide, autism mentor, and paraprofessionals, interpreters and aides who work with students with exceptionalities whose IEPs require one-on-one services

## ENROLLED

### H. B. 4478

(By Delegates M. Poling, Paxton, Wysong, Rodighiero,  
Ellis, Duke, Rowan, Gall and Wells )

[Passed March 4, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §18A-5-8 of the Code of West Virginia, 1931, as amended, relating to authority of certain aides to exercise control over students; compensation; transfers and limitations thereof; and expanding the classifications of service personnel for which transfers during the instructional term are limited.

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

That §18A-5-8 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

#### **ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

##### **§18A-5-8. Authority of certain aides to exercise control over students; compensation; transfers.**

(a) Within the limitations provided in this section, any aide who agrees to do so shall stand in the place of the parent or guardian and shall exercise such authority and control over students as is required of a teacher as provided in section one of this article. The principal shall designate aides in the school who agree to exercise that authority on the basis of seniority as an aide and shall enumerate the instances in which the authority shall be exercised by an aide when requested by the principal, assistant principal or professional employee to whom the aide is assigned.

(b) The authority provided for in subsection (a) of this section ~~may~~ does not extend to suspending or expelling any student, participating in the administration of corporal punishment or performing instructional duties as a teacher or substitute teacher. However, the authority extends to supervising students undergoing in-school suspension if the instructional duties required by the supervision are limited solely to handing out class work and collecting class work. The authority to supervise students undergoing in-school suspension ~~may~~ does not include actual instruction.

(c) An aide designated by the principal under subsection (a) of this section shall receive a salary not less than one pay grade above the highest pay grade held by the service person under section eight-a, article four of this chapter and any county salary schedule in excess of the minimum requirements of this article.

(d) An aide may not be required by the operation of this section to perform noninstructional duties for an amount of time which exceeds that required under the aide's contract of employment or that required of other aides in the same school unless the assignment of the duties is mutually agreed upon by the aide and the county superintendent, or the superintendent's designated representative, subject to county board approval.

(1) The terms and conditions of the agreement shall be in writing, signed by both parties, and may include additional benefits.

(2) The agreement shall be uniform as to aides assigned similar duties for similar amounts of time within the same school.

(3) Aides have the option of agreeing to supervise students and of renewing related assignments annually. If an aide elects not to renew the previous agreement to supervise

students, the minimum salary of the aide shall revert to the pay grade specified in section eight-a, article four of this chapter for the classification title held by the aide and any county salary schedule in excess of the minimum requirements of this article.

(e) For the purposes of this section, aide means any aide class title as defined in section eight, article four of this chapter regardless of numeric classification.

(f) Subject to the limitations set forth in subsection (g) of this section, an aide may transfer to another position of employment one time only during any one half of a school term, unless otherwise mutually agreed upon by the aide and the county superintendent, or the superintendent's designee, subject to county board approval. During the first year of employment as an aide, an aide may not transfer to another position of employment during the first one-half school term of employment unless mutually agreed upon by the aide and county superintendent, subject to county board approval.

(g) Autism mentors and aides providing services to children diagnosed as autistic or with autism spectrum disorder; and paraprofessionals, interpreters and aides providing one-on-one services to students with exceptionalities as required by the students' individualized education programs (IEP).

(1) Legislative findings and intent.

(A) The Legislature finds that it is not in the best interest of ~~students~~ a student with autism or a student with an exceptionality whose IEP requires one-on-one services to have multiple teachers, mentors, aides, paraprofessionals, interpreters or any combination thereof during the instructional term; and

(B) It is the intent of the Legislature that filling positions ~~for autism mentors and aides who work with autistic students~~ through transfers of personnel from one position to another after the fifth day prior to the beginning of the instructional term be kept to a minimum for autism mentors and aides who work with students with autism and for paraprofessionals, interpreters and aides who work with students with exceptionalities whose IEPs require one-on-one services.

(2) Transfer limitations and conditions.

(A) Notwithstanding the provisions of subsection (f) of this section, ~~A~~after the fifth day prior to the beginning of the instructional term, ~~no a~~ a service person employed and assigned as an ~~autism mentor or aide who works with autistic students~~ may not transfer to another position in the county during that instructional term, ~~unless the service person holding that position he or she does not have valid certification, if the service person is employed and assigned as an autism mentor or aide who works with students with autism, or as a paraprofessional, interpreter or aide who works with a student with an exceptionality whose IEP requires one-on-one services.~~

(B) The provisions of this subsection are subject to the following conditions:

(i) The aide, ~~or~~ autism mentor, paraprofessional or interpreter may apply for any posted, vacant position with the successful applicant assuming the position at the beginning of the next instructional term;

(ii) The county board, upon recommendation of the superintendent, may fill a position before the beginning of the next instructional term when it is determined to be in the best interest of the students; and

(iii) The county superintendent shall notify the State Board when a service person ~~employed in a position as autism mentor or aide working with autistic students~~ who is subject to the provisions of this subsection is transferred to another position after the fifth day prior to the beginning of the instructional term;

(h) Regular service personnel employed in a category of employment other than aide who seek employment as an aide shall hold a high school diploma or shall have received a general educational development certificate and shall have the opportunity to receive appropriate training pursuant to subsection ~~(40)~~ (j), section thirteen, article five, chapter eighteen of this code and section two, article twenty of said chapter.

## House Bill 4588

Effective Date: Passed March 8, 2008; in effect July 1, 2008

Signed by Governor: March 31, 2008

Code Reference: Repeals §18-9A-5a, §18-9A-5b, §18-9A-10a, §18-9A-22; and amends and reenacts §18-1-1, §18-9A-2, §18-9A-3a, §18-9A-4, §18-9A-5, §18-9A-6, §18-9A-7, §18-9A-8, §18-9A-9, §18-9A-10, §18-9A-21, and 18-20-5

Title: Public School Support Program

Major Provisions:

- Makes numerous changes to the Public School Support Program (PSSP) and phases-in the changes over a five-year period. During the period, requires that State Aid be calculated under both the provisions of the PSSP existing in statute prior to the passage of the bill and the provisions implemented by the bill and basing each county board's State Aid allowance on the method that provides the highest allowance, thus holding each board harmless during the phase-in period.
- Bases computations for steps 1 and 2 on net enrollment limits only; eliminates adjusted enrollment limits
- Divides districts into the following four groups based on student density per square mile:
  - o Sparse – less than 5 students per square mile;
  - o Low – 5 to less than 10 students per square mile;
  - o Medium – 10 to less than 20 students per square mile;
  - o High – 20 or more students per square mile.
- Sets the net enrollment funding limits for professional educators (PE) and service personnel (SP) allowed to be funded, and the minimum required limit for professional instructional personnel (PI), at the limits indicated in the following table and bases the number of personnel allowed to be funded on these limits; does not penalize county boards that did not meet the PI limits for the current year; increases the professional educator and professional instructional personnel limits by 0.05 per year through the year 2012-13; requires that any additional professional educator positions created as a result of these increases be positions that will enhance student achievement and are consistent with the needs as identified in each county board's electronic strategic improvement plan; and encourages county boards to fill at least some of the additional positions with technology integration specialists:

	PE	PI	SP
o Sparse	72.55	66.05	45.68
o Low	72.40	66.00	45.10
o Medium	72.25	65.90	44.53
o High	72.10	65.80	43.97

- For the districts with student net enrollments of less than 1,400, increases the net enrollment by an amount determined by the following formula:
  - o Divide the state's lowest county student population density by the county's actual student population;
  - o Multiply the amount derived from this calculation by 300; and
  - o Restrict the total net enrollment for the county so that it does not exceed 1,400 students.
  
- Excludes school counselors and nurses from the definition of professional educators and instead identifies them as Professional Student Support Personnel, funds the number of these personnel employed during the 2007-08 year at the same percentages as the number of professional educators employed that are State Aid eligible to be funded under Step 1 of the PSSP; increases the allowance for Step 5 by .5% per year through the year 2012-13; requires that the additional positions for counselors created as a result of the increase in the allowance be assigned to schools where the counselor can: (1) enhance student achievement; (2) provide early intervention for students in grades pre-kindergarten through 5; and (3) enhance student development and career readiness; and eliminates the current Step 5 allowance for administrative costs.
  
- Bases the allowance for Step 3, fixed charges, on the allowances for steps 1, 2 and 5
  
- Uses the same four groups discussed above to determine the allowance under Step 4 for operations, maintenance and contracted services, using the following percentages of actual expenditures for these purposes to determine the allowances: Sparse - 95%, Low - 92.5%, Medium - 90%, and High - 87.5%; provides an additional 10% for the county boards that use alternative fuel or transport students to and from a multi-county vocational center; excludes the allowance for additional buses from the allowance limit of 1/3 above the State average rate on a per mile basis; eliminates the requirement that insurance premiums be competitively bid in order to receive the allowance for insurance costs; and states that the changes made to this section during the 2008 legislative session are intended to be temporary while the transportation issues are studied further during the upcoming year
  
- Continues to base the allowance for Step 6a, other current expenses, at 10% of the allowances for steps 1 and 2; bases the allowance for professional personnel substitute costs (Step 6b) at 2.5% of the allowances for steps 1 and 5; continues to base the allowance for service personnel substitute costs (Step 6c) at 2.5% of the allowance for step 2; and eliminates the restriction that the allowances for steps 6a, 6b and 6c cannot exceed the previous year's allowance by more than 4%

- Provides an allowance for advanced placement programs at 1.0% of the state average per pupil state aid times the number of students enrolled in Advanced Placement, dual credit, or International Baccalaureate programs
- Provides an allowance for alternative education programs at \$12 per net enrollment student, with 3% retained by the WVDE
- Eliminates the allowances for 34/1,000 waivers, low student enrollment, sparse population allocation, and the temporary allowance for student health services, however, these allowances were funded at 80% for the 2008-09 year, and it is the legislative intent to continue funding these allowances over the five-year phase-in period for the other changes in the PSSP, but at a decreasing rate of 20% per year, so they are phased out gradually
- Phases in the allowances differentials between the current formula and the revised formula over a five-year period by requiring that the computations under the PSSP be performed under both methods during the five years and providing one-fifth of the allowance increase between the two methods the first year, two-fifths of the increase the second year, three-fifths of the increase the third year, four-fifths of the increase the fourth year; and the full increase the fifth year
- Holds harmless any county board that is projected to receive less state aid as a result of implementing these revised provisions during the five year phase-in period by providing the same level of funding that the district would have received under the provisions of the PSSP prior to the changes
- Requires that an appropriation be made to the Department of Education each year to be distributed to county boards to support children with high acuity needs that exceed the capacity of the county to provide; requires that each county board apply for the funding in a manner set forth by the state superintendent that assesses and takes into account varying acuity levels of the exceptional students; specifies that federal funds be distributed to county boards before state funds are distributed for this purpose; authorizes the carry forward of any remaining state funds that are not distributed during a year to be carried forward to the succeeding fiscal year; requires the state superintendent to annually review state and federal laws, rules, policies and standards for serving the needs of exceptional children enrolled in the public schools and present a report to the Legislative Oversight Commission on Education Accountability (LOCEA) by December 1 of each year, along with an accounting of the services provided and the costs thereof; and requires the State Board to promulgate a rule that implements the provisions of this subsection
-



**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**H. B. 4588**

(By Delegates Perry, Browning, Poling, Shaver, Wysong, Duke, Romine, Williams and Ellis)

[Passed March 8, 2008; in effect July 1, 2008.]

AN ACT to repeal §18-9A-5a, §18-9A-5b, §18-9A-10a and §18-9A-22 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-1-1 of said code; to amend and reenact §18-9A-2, §18-9A-3a, §18-9A-4, §18-9A-5, §18-9A-6, §18-9A-7, §18-9A-8, §18-9A-9, §18-9A-10 and §18-9A-21 of said code; and to amend and reenact §18-20-5 of said code all relating to public school support; defining terms; eliminating adjusted enrollment and certain waiver provisions; eliminating obsolete provisions; providing alternate computation of county and total basic foundation program funding for certain years; limiting basis of foundation allowances for personnel to certain ratios of net student enrollment instead of adjusted enrollment; establishing different net enrollment limits on the basis of differences in students per square mile and expiring existing ratios and funding provisions; providing for certain adjustments to net enrollment for allowances in low enrollment counties; requiring review of certain issues; establishing minimum ratios of professional instructional personnel per students in net enrollment; providing criteria for certain new positions; establishing student density categories for determining allowance for transportation; modifying incentive for alternative fuel use and allowance for transporting students to certain multi-county centers; removing obsolete provisions for certain competitive bidding; deleting allowance for administrative costs; providing foundation allowance for professional student support personnel, including fixed charges; including professional student support personnel costs in determining professional substitute allowance; placing funding supplement for advanced placement and dual credit enrollment in allowance to improve instructional programs; repealing provisions for certain additional nursing positions; providing enrollment basis for alternative program funding and adding prevention programs; expiring certain provisions for funding for economies of scale in certain counties; requiring annual review and report by state superintendent on exceptional student services and accounting of services and costs; requiring appropriation for distribution upon application to support children with high acuity needs that exceed county capacity from funds available; and requiring rule to implement distribution.

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

That §18-9A-5a, §18-9A-5b, §18-9A-10a and §18-9A-22 of the Code of West Virginia, 1931, as amended, be repealed; that §18-1-1 of said code be amended and reenacted; that §18-9A-2, §18-9A-3a, §18-9A-4, §18-9A-5, §18-9A-6, §18-9A-7, §18-9A-8, §18-9A-9, §18-9A-10 and §18-9A-21 of said code be amended and reenacted; and that §18-20-5 of said code be amended and reenacted, all to read as follows:

**CHAPTER 18. EDUCATION.**

**ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR EDUCATION.**

**§18-1-1. Definitions.**

The following words used in this chapter and in any proceedings pursuant thereto have the meanings ascribed to them unless the context clearly indicates a different meaning:

- (a) "School" means the students and teachers assembled in one or more buildings, organized as a unit;
- (b) "District" means county school district;
- (c) "State board" means the West Virginia Board of Education;
- (d) "County board" or "board" means a county board of education;
- (e) "State superintendent" means the State Superintendent of Free Schools;
- (f) "County superintendent" or "superintendent" means a county superintendent of schools;
- (g) "Teacher" means a teacher, supervisor, principal, superintendent or public school librarian; ~~registered professional nurse, licensed by the West Virginia Board of Examiners for Registered Professional Nurses and any employed by a county board, who has a baccalaureate degree; or~~ any other person regularly employed for instructional purposes in a public school in this state;
- (h) "Service person" or "service personnel," whether singular or plural, means any non-teaching school employee who is not included in the meaning of "teacher" as defined in this section, and who serves the school or schools as a whole, in a nonprofessional capacity, including such areas as secretarial, custodial, maintenance, transportation, school lunch and aides. Any reference to "service employee" or "service employees" in this chapter or chapter eighteen-a of this Code means service person or service personnel as defined in this section;
- (i) "Social worker" means a nonteaching school employee who, at a minimum, possesses an undergraduate degree in social work from an accredited institution of higher learning and who provides various professional social work services, activities or methods as defined by the State Board for the benefit of students;
- (j) "Regular full-time employee" means any person employed by a county board who has a regular position or job throughout his or her employment term, without regard to hours or method of pay;
- (k) "Career clusters" means broad groupings of related occupations;
- (l) "Work-based learning" means a structured activity that correlates with and is mutually supportive of the school-based learning of the student and includes specific objectives to be learned by the student as a result of the activity;
- (m) "School-age juvenile" means any individual who is entitled to attend or who, if not placed in a residential facility, would be entitled to attend public schools in accordance with: (1) Section five, article two of this chapter; (2) sections fifteen and eighteen, article five of this chapter; or (3) section one, article twenty of this chapter;
- (n) "Student with a disability" means an exceptional child, other than gifted, pursuant to section one, article twenty of this chapter;
- ~~(o) "Low density county" means a county whose ratio of student population to square miles is less than or equal to the state average ratio as computed by the State Department of Education.~~
- ~~(p) "High density county" means a county whose ratio of student population to square miles is greater than the state average ratio as computed by the State Department of Education; and~~
- ~~(q) (o) "Casual deficit" means a deficit of not more than three percent of the approved levy estimate or a deficit that is nonrecurring from year to year.~~

**ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

**§18-9A-2. Definitions.**

For the purpose of this article:

- (a) "State board" means the West Virginia Board of Education.
- (b) "County board" or "board" means a county board of education.
- (c) "Professional salaries" means the state legally mandated salaries of the professional educators as provided in article four, chapter eighteen-a of this code.
- (d) "Professional educator" shall be synonymous with and shall have the same meaning as "teacher" as defined in section one, article one of this chapter, and includes technology integration specialists.
- (e) "Professional instructional personnel" means a professional educator whose regular duty is as that of a classroom teacher, librarian, attendance director, or school psychologist ~~or school nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for~~

~~Registered Professional Nurses.~~ A professional educator having both instructional and administrative or other duties shall be included as professional instructional personnel for that ratio of the school day for which he or she is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance, or psychologist or nursing duties.

~~(f) "Professional student support personnel" means a "professional person" as those terms are defined in section one, article one, chapter eighteen-a of this code who is assigned and serves on a regular full-time basis as a counselor or as a school nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses.~~

~~(f) (g)~~ "Service personnel salaries" means the state legally mandated salaries for service personnel as provided in section eight-a, article four, chapter eighteen-a of this code.

~~(g) (h)~~ "Service personnel" means all personnel as provided in section eight, article four, chapter eighteen-a of this code. For the purpose of computations under this article of ratios of service personnel to adjusted net enrollment, a service employee shall be counted as that number found by dividing his or her number of employment days in a fiscal year by two hundred: *Provided*, That the computation for any service person employed for three and one-half hours or less per day as provided in section eight-a, article four, chapter eighteen-a of this code shall be calculated as one-half an employment day.

~~(h) (i)~~ "Net enrollment" means the number of pupils enrolled in special education programs, kindergarten programs and grades one to twelve, inclusive, of the public schools of the county. ~~Commencing with the school year beginning on the first day of July, one thousand nine hundred eighty-eight, n~~Net enrollment further shall include:

~~(1) a~~Adults enrolled in regular secondary vocational programs existing as of the effective date of this section, subject to the following:

~~(1) (A)~~ Net enrollment includes no more than one thousand of those adults counted on the basis of full-time equivalency and apportioned annually to each county in proportion to the adults participating in regular secondary vocational programs in the prior year counted on the basis of full-time equivalency; and

~~(2) (B)~~ Net enrollment does not include any adult charged tuition or special fees beyond that required of the regular secondary vocational student;

~~(i) "Adjusted enrollment" means the net enrollment plus twice the number of pupils enrolled for special education, including gifted pupils in grades one through eight and exceptional gifted pupils in grades nine through twelve, plus the number of pupils in grades nine through twelve enrolled for honors and advanced placement programs, subject to the following:~~

~~(1) No more than four percent of net enrollment of grades one through eight may be counted as enrolled in gifted education and no more than six percent of net enrollment of grades nine through twelve may be counted as enrolled in gifted education, exceptional gifted education (subject to the limitation set forth in section one, article twenty of this chapter) and honors and advanced placement programs for the purpose of determining adjusted enrollment within a county;~~

~~(2) Nothing herein shall be construed to limit the number of students who may actually enroll in gifted, exceptional gifted, honors or advanced placement education programs in any county;~~

~~(2) Students enrolled in early childhood education programs as provided in section forty-four, article five of this chapter, counted on the basis of full-time equivalency;~~

~~(3) No pupil shall be counted more than once by reason of transfer within the county or from another county within the state, and no pupil shall be counted who attends school in this state from another state;~~

~~(4) The enrollment shall be adjusted modified to the equivalent of the instructional term and in accordance with the eligibility requirements and rules established by the state board; and~~

~~(5) No pupil shall be counted more than once by reason of transfer within the county or from another county within the state, and no pupil shall be counted who attends school in this state from another state. For any county whose net enrollment as determined under all other provisions of this definition is less than one thousand four hundred, the net enrollment of the county shall be increased by an amount to be determined in accordance with the following:~~

(A) Divide the state's lowest county student population density by the county's actual student population density;

(B) Multiply the amount derived from the calculation in paragraph (A) of this subdivision by three hundred;

(C) If the increase in net enrollment as determined under this subdivision plus the county's net enrollment as determined under all other provisions of this subsection is greater than one thousand four hundred, the increase in net enrollment shall be reduced so that the total does not exceed one thousand four hundred; and

(D) During the two thousand eight - two thousand nine interim period and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review the provisions of this subdivision to determine whether or not they properly address the needs of counties with low enrollment and a sparse population density.

(j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties pursuant to subdivision (5) of the definition of net enrollment, to the square miles of the county is less than five.

(k) "Low-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties pursuant to subdivision (5) of the definition of net enrollment, to the square miles of the county is equal to or greater than five but less than ten.

(l) "Medium-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties pursuant to subdivision (5) of the definition of net enrollment, to the square miles of the county is equal to or greater than ten but less than twenty.

(m) "High-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties pursuant to subdivision (5) of the definition of net enrollment, to the square miles of the county is equal to or greater than twenty.

(n) "Levies for general current expense purposes" means ninety-four percent of the levy rate for county boards of education calculated or set by the Legislature pursuant to the provisions of section six-f, article eight, chapter eleven of this code: *Provided*, That beginning the first day of July, two thousand eight, "levies for general current expense purposes" means ninety percent of the levy rate for county boards of education calculated or set by the Legislature pursuant to the provisions of section six-f, article eight, chapter eleven of this code: *Provided, however*, That effective the first day of July, two thousand ten, the definitions set forth in this subsection are subject to the provisions of section two-a of this article.

(o) "Technology integration specialist" means a professional educator who has expertise in the technology field and is assigned as a resource teacher to provide information and guidance to classroom teachers on the integration of technology into the curriculum.

(p) "State aid eligible personnel" means all professional educators and service personnel employed by a county board in positions that are eligible to be funded under this article and whose salaries are not funded by a specific funding source such as a federal or state grant, donation, contribution or other specific funding source not listed.

**§18-9A-3a. Total state basic foundation program for fiscal years ~~one thousand nine hundred ninety-four—ninety-five~~ 2009 through 2013, only.**

(a) Notwithstanding any other provisions of this article to the contrary, the total basic foundation program for the state for the fiscal years ~~one thousand nine hundred ninety-four—ninety-five~~ two thousand nine through two thousand thirteen shall be the sum of the amounts computed for each county in accordance with this section, less the county's local share:

(1) ~~Allowance for professional educators as determined in accordance with sections four and five-a of this article;~~ For the fiscal year two thousand nine, the department of education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year two thousand eight. The total basic foundation program for each county computed in accordance with this article is limited to a growth of one fifth above the amount computed for the county in accordance with the provisions in effect for fiscal year two thousand eight. The total basic foundation program for the county is the greater of the two computations.

~~(2) Allowance for service personnel as determined in accordance with sections five and five-a of this article; For the fiscal year two thousand ten, the department of education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year two thousand eight. The total basic foundation program for each county computed in accordance with this article is limited to a growth of two fifths above the amount computed for the county in accordance with the provisions in effect for fiscal year two thousand eight. The total basic foundation program for the county is the greater of the two computations.~~

~~(3) Allowance for fixed charges as determined in accordance with the provisions of sections six and six-a of this article; For the fiscal year two thousand eleven, the department of education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year two thousand eight. The total basic foundation program for each county computed in accordance with this article is limited to a growth of three fifths above the amount computed for the county in accordance with the provisions in effect for fiscal year two thousand eight. The total basic foundation program for the county is the greater of the two computations.~~

~~(4) Allowance for transportation cost in an amount at least equal to the appropriation for such allowance in the fiscal year one thousand nine hundred ninety-three--ninety-four; For the fiscal year two thousand twelve, the department of education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year two thousand eight. The total basic foundation program for each county computed in accordance with this article is limited to a growth of four fifths above the amount computed for the county in accordance with the provisions in effect for fiscal year two thousand eight. The total basic foundation program for the county is the greater of the two computations.~~

~~(5) Allowance for administrative cost in accordance with the provisions of sections eight and eight-a of this article; For the fiscal year two thousand thirteen and each year thereafter, the department of education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year two thousand eight. For the fiscal year two thousand thirteen only, the total basic foundation program for the county is the greater of the two computations.~~

~~(6) Allowance for other current expense and substitute employees in an amount at least equal to the appropriation for such allowance in the fiscal year one thousand nine hundred ninety-three--ninety-four: **Provided**, That the allocation of such funds for expenditure by faculty senates shall be in accordance with the provisions of section nine of this article;~~

~~(7) Allowance to improve instructional programs in an amount at least equal to the appropriation for such allowance in the fiscal year one thousand nine hundred ninety-three--ninety-four.~~

**§18-9A-4. Foundation allowance for professional educators.**

~~(a) The basic foundation allowance to the county for professional educators shall be the amount of money required to pay the state minimum salaries, in accordance with provisions of article four, chapter eighteen-a of this code, to the personnel employed: **Provided**, That, subject to the following:~~

~~(1) Subject to subdivision (2) of this subsection, in making this computation no county shall receive an allowance for the personnel which number is in excess of professional educators fifty-three and one-half professional educators to each one thousand students in adjusted net enrollment as follows: **Provided further**, That the number of and the allowance for personnel paid in part by state and county funds shall be prorated: **And provided further**, That where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional educators for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and that the personnel shall be considered within the above-stated limit: **And provided further**, That in the school year beginning the first day of July, one thousand nine hundred eighty-eight, and in each school year thereafter, each county board shall establish and maintain a minimum ratio of fifty~~

~~professional instructional personnel per one thousand students in adjusted enrollment: And provided further, That no permanent substitute shall be included in the minimum ratio for professional instructional personnel. Permanent substitutes may be included in the computation for professional educators. For the purposes of this section, permanent substitute means a full-time employee who performs the duties of a day-to-day substitute: And provided further, That no county shall have less than a total of five principals and central office administrators. Any county board which does not establish and maintain this minimum ratio shall suffer a pro rata reduction in the allowance for professional educators under this section: And provided further, That no county shall be penalized if it has increases in enrollment during that school year: And provided further, That any county board which does not establish and maintain this minimum ratio shall utilize any and all allocations to it by provision of section fourteen of this article solely to employ professional instructional personnel until the minimum ratio is attained. Every county shall utilize methods other than reductions in force, such as attrition and early retirement, before implementing their reductions in force policy to comply with the limitations of this section. It is the intent of the Legislature that in planning reductions in force to comply with reduced ratios of professional educators to students in adjusted enrollment, county boards shall consider positions for elimination in the following order: (1) Central office administrators, (2) assistant principals, and (3) principals.~~

~~No county shall increase the number of administrative personnel employed as either professional educators or pay grade "H" service personnel above the number which were employed, or for which positions were posted, on the thirtieth day of June, one thousand nine hundred ninety, and, therefore, county boards shall whenever possible utilize classroom teachers for curriculum administrative positions through the use of modified or extended contracts: Provided, That the governor shall submit a recommendation to the Legislature at the beginning of the regular session thereof in the year one thousand nine hundred ninety-one, which proposes a method for establishing a responsible level of administrative support for each county school system and a pay scale differentiation on a daily rate between classroom positions and administrative positions when all other factors are equal.~~

~~(A) For each high-density county, the number of personnel for which a county shall receive the allowance shall not exceed seventy-two and one tenth professional educators per each one thousand students in net enrollment;~~

~~(B) For each medium-density county, the number of personnel for which a county shall receive the allowance shall not exceed seventy-two and twenty-five one hundredths professional educators per each one thousand students in net enrollment;~~

~~(C) For each low-density county, the number of personnel for which a county shall receive the allowance shall not exceed seventy-two and four tenths professional educators per each one thousand students in net enrollment; and~~

~~(D) For each sparse-density county, the number of personnel for which a county shall receive the allowance shall not exceed seventy-two and fifty-five one hundredths professional educators per each one thousand students in net enrollment;~~

~~(2) For the ratios applicable to each of the four density categories set forth in subdivision (1) of this subsection, the number of professional educators per each one thousand students in net enrollment increases by five one hundredths per year for each of fiscal years two thousand ten, two thousand eleven, two thousand twelve and two thousand thirteen. For each fiscal year thereafter, the ratios remain at the two thousand thirteen level.~~

~~(3) The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and~~

~~(4) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional educators for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above-stated limit.~~

(b) Subject to subsection (c) of this section, each county board shall establish and maintain a minimum ratio of professional instructional personnel per one thousand students in net enrollment as follows:

(1) For each high-density county, the minimum number of professional instructional personnel per one thousand students in net enrollment is sixty-five and eight tenths;

(2) For each medium-density county, the minimum number of professional instructional personnel per one thousand students in net enrollment is sixty-five and nine tenths;

(3) For each low-density county, the minimum number of professional instructional personnel per one thousand students in net enrollment is sixty-six;

(4) For each sparse-density county, the minimum number of professional instructional personnel per one thousand students in net enrollment is sixty-six and five one hundredths.

(c) For the ratios applicable to each of the four density categories set forth in subsection (b) of this subsection, the number of professional instructional personnel per each one thousand students in net enrollment increases by five one hundredths per year for each of fiscal years two thousand ten, two thousand eleven, two thousand twelve and two thousand thirteen. For each fiscal year thereafter, the ratios remain at the two thousand thirteen level.

(d) Any county board which does not establish and maintain the applicable minimum ratio required in subsection (b) of this section shall suffer a pro rata reduction in the allowance for professional educators under this section: *Provided*, That no county shall be penalized if it has increases in enrollment during that school year: *Provided, however*, That for the school year two thousand eight - two thousand nine, only, no county shall be penalized for not meeting the applicable minimum ratio required in subsection (b) of this section.

(e) No county shall increase the number of administrative personnel employed as either professional educators or pay grade "H" service personnel above the number which were employed, or for which positions were posted, on the thirtieth day of June, one thousand nine hundred ninety, and, therefore, county boards shall whenever possible utilize classroom teachers for curriculum administrative positions through the use of modified or extended contracts.

(f) As the number of professional educators per each one thousand students in net enrollment increases during fiscal years two thousand nine through two thousand thirteen, any additional positions that are created as a result of that increase shall be positions that will enhance student achievement and are consistent with the needs as identified in each county board's electronic county strategic improvement plan. County boards are encouraged to fill at least some of the additional positions with technology integration specialists.

(g) During the two thousand eight - two thousand nine interim period, and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review the four density categories created in section two of this article, the ratios for professional educators established in this section and the ratios for service personnel established in section five of this article.

#### **§18-9A-5. Foundation allowance for service personnel.**

(a) The basic foundation allowance to the county for service personnel shall be the amount of money required to pay the annual state minimum salaries in accordance with the provisions of article four, chapter eighteen-a of this code, to such service personnel employed:—*Provided*, That no, subject to the following:

(1) For the school year beginning on the first day of July, two thousand eight, and thereafter, no county shall receive an allowance for an amount in excess of thirty-four service personnel per one thousand students in adjusted net enrollment:—*Provided, however, that* the state superintendent of schools is authorized in accordance with rules and regulations established by the state board and upon request of a county superintendent to waive the maximum ratio of thirty-four service personnel per one thousand students in adjusted enrollment and the twenty percent per year growth cap provided in this section, to the extent appropriations are provided, in those cases where the state superintendent determines that student population density and miles of bus route driven or the transportation of students to a county or a multi-county

~~vocational-technical center justify the waiver, except that no waiver shall be granted to any county whose financial statement shows a net balance in general current expense funds greater than three percent at the end of the previous fiscal year: *Provided further*, That on or before the first day of each regular session of the Legislature, the state board, through the state superintendent, shall make to the Legislature a full report concerning the number of waivers granted and the fiscal impact related thereto. Every county shall utilize methods other than reduction in force, such as attrition and early retirement, before implementing their reductions in force policy to comply with the limitations of this section.~~

~~For any county which has in excess of thirty-four service personnel per one thousand students in adjusted enrollment, the allowance shall be computed based upon the average state minimum pay scale salary of all service personnel in the county: *Provided*, That for any county having fewer than thirty-four service personnel per one thousand students in adjusted enrollment, in any one year, the number of service personnel used in making this computation may be increased the succeeding years by no more than twenty percent per year of its total potential increase under this provision, except that in no case shall the limit be fewer than two service personnel until the county attains the maximum ratio set forth: *Provided, however*, That where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the service personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and that the personnel shall be considered within the above-stated limit-, as follows:~~

~~(A) For each high-density county, the number of personnel for which a county shall receive the allowance shall not exceed forty- three and ninety-seven one hundredths service personnel per one thousand students in net enrollment;~~

~~(B) For each medium-density county, the number of personnel for which a county shall receive the allowance shall not exceed forty-four and fifty-three one hundredths service personnel per one thousand students in net enrollment;~~

~~(C) For each low-density county, the number of personnel for which a county shall receive the allowance shall not exceed forty- five and one tenth service personnel per one thousand students in net enrollment; and~~

~~(D) For each sparse-density county, the number of personnel for which a county shall receive the allowance shall not exceed forty-five and sixty-eight one hundredths service personnel per one thousand students in net enrollment: and~~

~~(2) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the service personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and that the personnel shall be considered within the above-stated limit.~~

#### **§18-9A-6. Foundation allowance for fixed charges.**

The total allowance for fixed charges shall be the sum of the following:

(1) The sum of the foundation allowance for professional educators and the foundation allowance for other personnel, as determined in sections four ~~and~~ five and above eight of this article, multiplied by the current social security rate of contribution; plus

(2) The sum of the foundation allowance for professional educators and the foundation allowance for other personnel, as determined in sections four ~~and~~ five above and eight of this article, multiplied by four hundredths of one percent as an allowance for unemployment compensation contribution; plus

(3) The sum of the foundation allowance for professional educators and the foundation allowance for other personnel, as determined in sections four ~~and~~ five above and eight of this article, multiplied by the rate which is derived by dividing the total estimated contributions for workers' compensation for all county boards by the sum of the foundation allowance for professional educators and other personnel, as determined in sections four ~~and~~ five above and eight of this article. The total estimated contribution for workers compensation is determined by multiplying each county board's allowance for professional educators and other personnel, as determined by sections four ~~and~~ five above and eight of this article, by the county's actual



contribution rate by using data of the most recent year for which it is available; plus  
(4) The teachers retirement fund allowance as determined in section six-a of this article.

**18-9A-7. Foundation allowance for transportation cost.**

(a) The allowance in the foundation school program for each county for transportation shall be the sum of the following computations:

(1) ~~Eighty-five percent~~ A percentage of the transportation costs ~~within each high-density county and ninety percent of the transportation cost within each low-density county for maintenance, operation and related costs, exclusive of all salaries: *Provided*, That for any county that uses an alternative fuel such as compressed natural gas or other acceptable alternative fuel for the operation of all or any portion of its school bus system, the allowance in the foundation school program for the county for that portion of its school bus system shall be ninety-five percent of the transportation cost for maintenance, operation and related costs, exclusive of all salaries, incurred by the use of the alternatively fueled school buses:~~ incurred by the county for maintenance, operation and related costs exclusive of all salaries, including the costs incurred for contracted transportation services and public utility transportation, as follows:

(A) For each high-density county, eighty-seven and one half percent;

(B) For each medium-density county, ninety percent;

(C) For each low-density county, ninety-two and one half percent;

(D) For each sparse-density county, ninety-five percent;

(E) For any county for the transportation cost for maintenance, operation and related costs, exclusive of all salaries, for transporting students to and from classes at a multi- county vocational center, the percentage provided in paragraphs (A) through (D) of this subdivision as applicable for the county plus an additional ten percent; and

(F) For any county for that portion of its school bus system that uses an alternative fuel such as compressed natural gas or other acceptable alternative fuel, the percentage provided in paragraphs (A) through (D) of this subdivision as applicable for the county plus an additional ten percent: *Provided, however* That any county using an alternative fuel and qualifying for the additional allowance under this subdivision shall submit a plan regarding the intended future use of alternatively fueled school buses;

(2) The total cost, within each county, of insurance premiums on buses, buildings and equipment used in transportation: ~~*Provided*, That the premiums were procured through competitive bidding;~~

(3) An amount equal to eight and one-third percent of the current replacement value of the bus fleet within each county as determined by the state board. The amount shall only be used for the replacement of buses. Buses purchased after the first day of July, one thousand nine hundred ninety-nine, that are driven one hundred eighty thousand miles, regardless of year model, will be subject to the replacement value of eight and one-third percent as determined by the state board: ~~*Provided*, That for the school year beginning on the first day of July, two thousand four, only, the allowance in the foundation school program for each county for transportation shall not include an amount for the replacement of buses. In addition, in any school year in which its net enrollment increases when compared to the net enrollment the year immediately preceding, a school district may apply to the state superintendent for funding for an additional bus or buses. The state superintendent shall make a decision regarding each application based upon an analysis of the individual school district's net enrollment history and transportation needs: *Provided, however*, That the superintendent shall not consider any application which fails to document that the county has applied for federal funding for additional buses. If the state superintendent finds that a need exists, a request for funding shall be included in the budget request submitted by the state board for the upcoming fiscal year; and~~

~~(4) Eighty-five percent of the cost of contracted transportation services and public utility transportation within each high-density county and ninety percent of the cost of contracted transportation services and public utility transportation within each low-density county; (5) Aid in lieu of transportation equal to the state average amount per pupil for each pupil receiving the aid within each county; and~~

~~(6) Ninety-five percent of the transportation cost for maintenance, operation and related costs, exclusive of all salaries, for transporting students to and from classes at a multicounty vocational center.~~

~~(b) The total state share for this purpose shall be the sum of the county shares: *Provided*, That no county shall receive an allowance which is greater than one-third above the computed state average allowance per transportation mile multiplied by the total transportation mileage in the county: *Provided, however*, That exclusive of the allowance for the purchase additional buses.~~

~~(c) One half of one percent of the transportation allowance distributed to each county shall be for the purpose of trips related to academic classroom curriculum and not related to any extracurricular activity: *Provided further*, That for the school year beginning on the first day of July, two thousand four, only the transportation allowance of each county shall include an allocation. Any remaining funds credited to a county for the purpose of trips related to academic classroom curriculum and not related to any extracurricular activity during the fiscal year shall be carried over for use in the same manner the next fiscal year and shall be separate and apart from, and in addition to, the appropriation for the next fiscal year. The allocation shall equal the amount distributed to the county for this purpose in the school year beginning on the first day of July, two thousand three: *And provided further*, That any remaining funds credited to a county for the purpose of trips related to academic classroom curriculum during the fiscal year shall be carried over for use in the same manner the next fiscal year and shall be separate and apart from, and in addition to, the appropriation for the next fiscal year: *And provided further*, That ~~†The state board may request a county to document the use of funds for trips related to academic classroom curriculum if the board determines that it is necessary.~~~~

~~(d) The amendments made to this section during the two thousand eight regular session of the Legislature are intended to be temporary while the transportation issue is further studied during the two thousand eight-two thousand nine interim period.~~

**§18-9A-8. Foundation allowance for administrative cost professional student support services.**

~~For the fiscal year beginning on the first day of July, one thousand nine hundred ninety, the allowance for administrative cost shall be equal to one and twenty-five one-hundredths percent of the allocation for professional educators, as determined in section four of this article as of the first day of July, one thousand nine hundred ninety.~~

~~Distribution of the computed allowance for the fiscal year beginning on the first day of July, one thousand nine hundred ninety, shall be made as follows:~~

- ~~(1) Fifty-six percent of the allowance shall be distributed to the counties in equal amounts; and~~
- ~~(2) Forty-four percent of the allowance shall be distributed to the regional educational service agencies in accordance with rules adopted by the state board. The allowance for regional educational service agencies shall be excluded from the computation of total basic state aid as provided for in section twelve of this article.~~

~~For the fiscal year beginning on the first day of July, one thousand nine hundred ninety-one, and for each fiscal year thereafter, the allowance for administrative cost shall be equal to one hundred fifty dollars multiplied by the number of professional educators authorized in compliance with sections four and five-a of this article. The allowance shall be distributed to the counties in equal amounts.~~

~~(a) The basic foundation allowance to the county for professional student support personnel shall be the amount of money determined in accordance with the following:~~

- ~~(1) The sum of the state minimum salaries, as determined in accordance with the provisions of article four, chapter eighteen of this code, for all state aid eligible school nurse and counselor positions in the county during the two thousand eight fiscal year which number shall be reduced in the same proportion as the number of professional educators allowed to be funded under section four of this article to the total number of professional educators employed that are state aid eligible. In performing this calculation, the numerator shall be the number of professional educators actually funded under section four of this article and the denominator shall be the~~

total number of professional educators employed that are eligible to be funded under section four of this article;

(2) The amount derived from the calculation in subdivision (1) of this subsection is increased by one half percent;

(3) The amount derived from the calculation in subdivision (2) of this subsection is the basic foundation allowance to the county for professional student support personnel for the two thousand nine fiscal year;

(4) For fiscal years two thousand ten, two thousand eleven, two thousand twelve and two thousand thirteen, the basic foundation allowance to the county for professional student support personnel increases by one-half percent per year over the allowance for the previous year; and

(5) For all fiscal years thereafter, the basic foundation allowance to the county for professional student support personnel remains the same amount as in the two thousand thirteen fiscal year.

(b) The additional positions for counselors that may be created as a result of the one percent increase provided pursuant to this section shall be assigned to schools where the counselor can:

(1) Enhance student achievement;

(2) Provide early intervention for students in grades pre- kindergarten through five; and

(3) Enhance student development and career readiness.

**§18-9A-9. Foundation allowance for other current expense and substitute employees.**

The total allowance for other current expense and substitute employees shall be the sum of the following: ~~Provided, That each of the three amounts set forth in subdivisions (1), (2) and (3) of this section shall not exceed the preceding year's allowance by more than four percent:~~

~~(1) For current expense, for the year one thousand nine hundred ninety-nine and thereafter, ten percent of the sum of the computed state allocation for professional educators and service personnel as determined in sections four and five of this article. Distribution to the counties shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment; plus~~

~~(2) For professional educator substitutes or current expense, two and five-tenths percent of the computed state allocation for professional educators and other professional personnel as determined in sections four and eight of this article. Distribution to the counties shall be made proportional to the number of professional educators and other professional personnel authorized for the county in compliance with sections four and ~~five-a~~ eight of this article; plus~~

~~(3) For service personnel substitutes or current expense, two and five-tenths percent of the computed state allocation for service personnel as determined in section five of this article. Distribution to the counties shall be made proportional to the number of service personnel authorized for the county in compliance with section five ~~and five-a~~ of this article; plus~~

~~(4) For academic materials, supplies and equipment for use in instructional programs, two hundred dollars multiplied by the number of professional instructional personnel employed in the schools of the county. Distribution shall be made to each county for allocation to the faculty senate of each school in the county on the basis of two hundred dollars per professional instructional personnel employed at the school. Faculty senate means a faculty senate created pursuant to section five, article five-a of this chapter. Decisions for the expenditure of such funds shall be made at the school level by the faculty senate in accordance with the provisions of said section five, article five-a and shall not be used to supplant the current expense expenditures of the county. Beginning on the first day of September, one thousand nine hundred ninety-four, and every September thereafter, county boards shall forward to each school for the use by faculty senates the appropriation specified in this section. Each school shall be responsible for keeping accurate records of expenditures.~~

**§18-9A-10. Foundation allowance to improve instructional programs.**

(a) The total allowance to improve instructional programs shall be the sum of the following:

(1) For instructional improvement in accordance with county and school electronic strategic improvement plans required by section five, article two-e of this chapter, an amount equal to fifteen percent of the increase in the local share amount for the next school year above any

required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be distributed to the counties as follows:

(A) One hundred fifty thousand dollars shall be allocated to each county;

(B) Distribution to the counties of the remainder of these funds shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment. Moneys allocated by provision of this section shall be used to improve instructional programs according to the county and school electronic strategic improvement plans required by section five, article two-e of this chapter and approved by the state board: *Provided*, That notwithstanding any other provision of this code to the contrary, moneys allocated by provision of this section may also be used in the implementation and maintenance of the uniform integrated regional computer information system. Up to twenty-five percent of this allocation may be used to employ professional educators and service personnel in counties after all applicable provisions of sections four and five of this article have been fully utilized.

Prior to the use of any funds from this section for personnel costs, the county board must receive authorization from the state superintendent of schools. The state superintendent shall require the county board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3) sharing of services with adjoining counties and the regional educational service agency for that county in the use of the total local district board budget; and (4) employment of technology integration specialists to meet the needs for implementation of the West Virginia 21st Century Strategic Technology Learning Plan. County boards shall make application for available funds for the next fiscal year by the first day of May of each year. On or before the first day of June, the state superintendent shall review all applications and notify applying county boards of the distribution of the allocation. The funds shall be distributed during the fiscal year appropriate. The state superintendent shall require the county board to demonstrate the need for an allocation for personnel based upon the county's inability to meet the requirements of state law or state board policy: *Provided*, That the funds available for personnel under this section may not be used to increase the total number of professional non-instructional personnel in the central office beyond four. The plan shall be made available for distribution to the public at the office of each affected county board; plus

(2) For the purposes of the West Virginia 21st Century Strategic Technology Learning Plan provided for in section seven, article two-e of this chapter, an amount equal to fifteen percent of the increase in the local share amount for the next school year above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be allocated to the counties as provided in section seven, article two-e of this chapter to meet the objectives of the West Virginia 21st Century Strategic Technology Learning Plan; plus

(3) One percent of the state average per pupil state aid multiplied by the number of students enrolled in dual credit, advanced placement and international baccalaureate courses, as defined by the state board, distributed to the counties proportionate to enrollment in these courses in each county; plus

~~(3)~~ (4) An amount not less than the amount required to meet debt service requirements on any revenue bonds issued prior to the first day of January, one thousand nine hundred ninety-four, and the debt service requirements on any revenue bonds issued for the purpose of refunding revenue bonds issued prior to the first day of January, one thousand nine hundred ninety-four, shall be paid into the School Building Capital Improvements Fund created by section six, article nine-d of this chapter and shall be used solely for the purposes of that article. The School Building Capital Improvements Fund shall not be utilized to meet the debt services requirement on any revenue bonds or revenue refunding bonds for which moneys contained within the School Building Debt Service Fund have been pledged for repayment pursuant to that section.

(b) When the school improvement bonds secured by funds from the School Building Capital Improvements Fund mature, the State Board of Education shall annually deposit an amount

equal to twenty-four million dollars from the funds allocated in this section into the School Construction Fund created pursuant to the provisions of section six, article nine-d of this chapter to continue funding school facility construction and improvements.

(c) Any project funded by the School Building Authority shall be in accordance with a comprehensive educational facility plan which must be approved by the state board and the School Building Authority.

**§18-9A-21. Funding for alternative education programs.**

(a) An appropriation may be made to the state department to be distributed to county boards for the operation of alternative education and prevention programs established in accordance with policies and procedures adopted by the state board under section six, article two of this chapter. The appropriation shall be an amount equal to twelve dollars per student in net enrollment, subject to appropriation by the Legislature. The state board shall distribute ninety-seven percent of the total appropriation to the county boards proportionate to each county's net enrollment. The remaining three percent of the appropriation shall be retained by the state department to support the provision of services to the county boards in administering programs established in accordance with policies and procedures adopted by the state board under section six, article two of this chapter: *Provided*, That nothing in this section shall be construed to require any specific level of funding by the Legislature: ~~*Provided, however*, That ninety percent of any appropriation which may be made for the purposes set forth in this section shall be distributed to county boards on the basis of net enrollment and ten percent of this appropriation shall be distributed on a competitive basis to county boards for the operation of pilot or innovative alternative education programs: *Provided further*, That for the fiscal year beginning the first day of July, two thousand, the total appropriation which may be made for the purposes set forth in this section shall be distributed to the county boards on the basis of net enrollment.~~

~~(b) Each county board shall apply to the state superintendent for receipt of its share of the distribution in the manner set forth by the state superintendent which is consistent with the policies and procedures adopted by the state board for the establishment and maintenance of alternative education programs.~~

**.ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

**§18-20-5. Powers and duties of state superintendent.**

(a) The state superintendent of schools shall organize, promote, administer and be responsible for:

(1) Stimulating and assisting county boards of education in establishing, organizing and maintaining special schools, classes, regular class programs, home-teaching and visiting-teacher services.

(2) Cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating and rehabilitating exceptional children, and in helping coordinate the services of such agencies.

(3)(A) Preparing the necessary rules, policies, formula for distribution of available appropriated funds, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children and ensuring the employment, certification and approval of qualified teachers and therapists subject to approval by the state board of education: *Provided*, That no state rule, policy or standard under this article or any county board rule, policy or standard governing special education may exceed the requirements of federal law or regulation.

(B) The state superintendent shall conduct a comprehensive annually review and comparison of the rules, policies and standards of the state with and federal law for serving the needs of exceptional children enrolled in the public schools and shall report to the legislative oversight commission on education accountability by the first day of December or as soon thereafter as requested by the commission, two thousand eight, and in each year thereafter, the findings to the legislative oversight commission on education accountability at its February, two thousand five interim meeting or as soon thereafter as requested by the commission. of the review along with an accounting of the services provided and the costs thereof for exceptional children

enrolled in the public schools of this state during the latest available school year. An appropriation shall be made to the department of education to be distributed to county boards to support children with high acuity needs that exceed the capacity of county to provide with funds available. Each county board shall apply to the state superintendent for receipt of this funding in a manner set forth by the state superintendent that assesses and takes into account varying acuity levels of the exceptional students. Any remaining funds at the end of a fiscal year from the appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be distributed to county boards for this purpose before any of the state appropriation is distributed. The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code that implements the provisions of this subdivision relating to distributing the funds to the county boards. The rule at least shall include a definition for "children with high acuity needs".

(4) Receiving from county boards of education their applications, annual reports and claims for reimbursement from such moneys as are appropriated by the Legislature, auditing such claims and preparing vouchers to reimburse said counties the amounts reimbursable to them.

(5) Assuring that all exceptional children in the state, including children in mental health facilities, residential institutions, private schools and correctional facilities as provided in section thirteen-f, article two of this chapter receive an education in accordance with state and federal laws: *Provided*, That the state superintendent shall also assure that adults in correctional facilities and regional jails receive an education to the extent funds are provided therefor.

(6) Performing other duties and assuming other responsibilities in connection with this program as needed.

(7) Receive the county plan for integrated classroom submitted by the county boards of education and submit a state plan, approved by the state board of education, to the legislative oversight commission on education accountability no later than the first day of December, one thousand nine hundred ninety-five.

(b) Nothing contained in this section shall be construed to prevent any county board of education from establishing and maintaining special schools, classes, regular class programs, home-teaching or visiting-teacher services out of funds available from local revenue.

## House Bill 4637

Effective Date: Passed March 8, 2008; in effect 90 days from passage

Signed by Governor: March 31, 2008

Code Reference: Amends the Code by adding a new article, designated §31-15C-1, §31-15C-2, §31-15C-3, §31-15C-4, §31-15C-5, §31-15C-6, §31-15C-7, §31-15C-8, §31-15C-9, §31-15C-10, §31-15C-11, §31-15C-12, §31-15C- 13 and §31-15-14

Title: Relating to deployment of broadband

Major Provisions:

- Provides legislative findings, purpose and definitions
- Establishes the Broadband Deployment Council with procedures, administrative support, powers, duties, responsibilities and designated membership
- Creates the Broadband Development Fund, provides funding guidelines and establishes project requirements for funding assistance
- Categorizes areas of the State according to broadband access
- Authorizes the retention of outside expert consultants
- Provides for the stimulation of demand through public outreach and education
- Grants emergency rulemaking authority
- Describes procedures for submitting applications and reviewing applications
- Limits liability for members and protects trade secrets

**ENROLLED**

**COMMITTEE SUBSTITUTE**

**FOR**

**H. B. 4637**

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

[By Request of the Executive]

[Passed March 8, 2008; 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 §31-15C-1, §31-15C-2, §31-15C-3, §31-15C-4, §31-15C-5, §31-15C-6, §31-15C-7, §31-15C-8, §31-15C-9, §31-15C-10, §31-15C-11, §31-15C-12, §31-15C-13 and §31-15C-14, all relating to the deployment of broadband to the remaining unserved areas of the state; setting forth legislative findings and purpose; providing definitions; establishing the Broadband Deployment Council; establishing procedures for the council, and providing for administrative support; prescribing the powers, duties and responsibilities of the council generally; creating the Broadband Development Fund; categorizing areas of the state according to broadband access; authorizing the retention of an outside expert consultant or consultants to assist in categorization and other functions; providing for the stimulation of demand through public outreach and education; providing funding guidelines; granting emergency rulemaking authority; establishing project requirements for funding assistance; describing the procedures for submitting applications and reviewing applications; requiring public notice; requiring the submission of written reports by certain state agencies or officers; placing limits on liability for membership or participation in the council; protecting confidentiality of trade secrets and proprietary business information; creating the misdemeanor offense of making any unauthorized disclosure of confidential information and establishing the penalties therefor; and providing for the expiration of the council.

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

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §31-15C-1, §31-15C-2, §31-15C-3, §31-15C-4, §31-15C-5, §31-15C-6, §31-15C-7, §31-15C-8, §31-15C-9, §31-15C-10, §31-15C-11, §31-15C-12, §31-15C-13 and §31-15C-14, all to read as follows:

**ARTICLE 15C. Broadband Deployment.**

**§31-15C-1. Legislative findings and purpose.**

The Legislature finds as follows:

(1) That it is a primary goal of the Governor, the Legislature and the citizens of this state, by the year two thousand ten, to make every municipality, community, and rural area in this state, border to border, accessible to internet communications through the expansion, extension and general availability of broadband services and technology.

(2) That although market-driven deployment has extended broadband access to most of West Virginia's cities, towns, and other concentrated population areas, some areas of the state, mostly rural, remain unserved.

(3) That based upon the same network principles that providers of telephony services have faced since the inception of the telecommunications industry, rising fixed costs and



technological limitations prohibit broadband networks from being extended into rural areas where the level of demand in sparsely populated areas may not justify the required costs of construction.

(4) That the unique topography and demography of this state that hinders the provision of broadband access to rural areas of the state specifically disadvantages the elderly and low-income households that are the least likely to own computers or subscribe to internet service. In light of these topographical and demographic challenges, any attempt to fill the gaps in West Virginia's broadband availability must be organized according to the levels of demand in the various unserved areas to which service is sought to be extended.

(5) That, in particular, fair and equitable access to twenty-first century technology that will maximize the functionality of educational resources and educational facilities that are conducive to enabling our children to be exposed to and to receive the best of future teaching and learning is absolutely essential to this state. A quality educational system of the twenty-first century should have access to the best technology tools and processes. Administrators should have, among other things, the electronic resources to monitor student performance, to manage data, and to communicate effectively. In the classroom, every teacher in every school should be provided with online access to educational technology resources and the ability to deliver content standard and objectives to the students of West Virginia. Schools of the twenty-first century require facilities that accommodate changing technologies and twenty-first century instructional processes.

(6) Accordingly, it is the purpose of the Legislature to provide for the development of plans, processes and procedures to be employed and dedicated to extending broadband access to West Virginians, and to their families, by stimulating demand for those services and for encouraging and facilitating the construction of the necessary infrastructure to meet their needs and demands.

(7) In implementing this initiative, progress by market forces and industry is to be respected, and the Legislature intends that governmental assistance and funding is to be used only in those areas without broadband service and not to duplicate or displace broadband service in areas already served or where industry feasibly can be expected to offer services in the reasonably foreseeable future.

### **§31-15C-2. Definitions.**

(a) For the purposes of this article,

(1) "Broadband" or "broadband service" means any service providing advanced telecommunications capability with either a downstream data rate or upstream data rate of at least 200 kilobits per second, that does not require the end-user to dial up a connection that has the capacity to always be on, and for which the transmission speeds are based on regular available bandwidth rates, not sporadic or burstable rates, with a minimum downstream-to-upstream data ratio of 10:1 for services with a downstream data rate of up to five megabits per second, and with a minimum upstream data rate of 500 kilobits per second for services with a downstream data rate of five megabits per second or greater.

(2) "Broadband deployment project" means either (A) a project to provide broadband services to a type 2 and/or type 3 unserved area, as defined in section six of this article; or (B) a project to undertake activities to promote demand for broadband services and broadband applications.

(3) "Downstream data rate" means the transmission speed from the service provider source to the end-user.

(4) "Upstream data rate" means the transmission speed from the end-user to the service provider source.

(5) "Unserved area" means a community that has no access to broadband service.

(b) The definition of the term "broadband," the designation of areas that are "unserved", and the level of service required to qualify for funding of state programs and projects, are based on the Federal Communications Commission's current definition of broadband, which is stated in terms of the number of Kilobits (Kbps) per second, either upstream or downstream. It is the intention of the Legislature that the definition of broadband in this article and the level of service

requirements for state funding be promptly updated by future Legislatures to conform with any revisions enacted by Congress or any rule or regulation promulgated by the Federal Communications Commission or other federal agencies involved with deploying and enhancing broadband services.

**§31-15C-3. Broadband Deployment Council established; members of council; administrative support.**

(a) The Broadband Deployment Council is hereby established. The council is a governmental instrumentality of the state. The exercise by the council of the powers conferred by this article and the carrying out of its purpose and duties shall be considered and held to be, and are hereby determined to be, essential governmental functions and for a public purpose. The council is created under the Department of Commerce for administrative, personnel and technical support services only.

(b) The council shall consist of eleven voting members, designated as follows:

(1) The Governor or his or her designee;

(2) The Secretary of Commerce or his or her designee;

(3) The Secretary of Administration or his or her designee;

(4) The Director of Homeland Security and Emergency Management or his or her designee; and

(5) Seven public members that serve at the will and pleasure of the Governor and are appointed by the Governor with the advice and consent of the Senate, as follows:

(i) One member representing employees of communications and cable providers, who shall be a member or representative of a union representing communications workers;

(ii) One member representing telecommunications providers who provide broadband services in this state;

(iii) One member representing cable operators who provide broadband services in this state;

(iv) One member representing broadband equipment or device manufacturers;

(v) One member representing higher education or secondary education; and

(vi) Two members representing the general public who are residents of the state: *Provided*, That one member represent rural communities: *Provided, however*, That both members may not reside in the same congressional district.

(6) In addition to the eleven voting members of the council, the President of the Senate shall name two senators from the West Virginia Senate and the Speaker of the House shall name two delegates from the West Virginia House of Delegates, each to serve in the capacity of an ex officio, non-voting advisory member of the council.

(c) The Secretary of Commerce or his or her designee shall chair the council and appoint one of the other council members to serve as vice chair. In the absence of the Secretary of Commerce or his or her designee, the vice chair shall serve as chair. The council shall appoint a secretary-treasurer who need not be a member of the council and who, among other tasks or functions designated by the council, shall keep records of its proceedings.

(d) The council may appoint committees or subcommittees to investigate and make recommendations to the full council. Members of these committees or subcommittees need not be members of the council.

(e) Six voting members of the council shall constitute a quorum and the affirmative vote of at least the majority of those members present shall be necessary for any action taken by vote of the council.

(f) The council is part-time. Public members appointed by the Governor may pursue and engage in another business or occupation or gainful employment. Any person employed by, owning an interest in, or otherwise associated with a broadband deployment project, project sponsor or project participant may serve as a council member and shall not be disqualified from serving as a council member because of a conflict of interest prohibited under section five, article two, chapter six-b of this code and shall not be subject to prosecution for violation of said section when the violation is created solely as a result of his or her relationship with the broadband deployment project, project sponsor or project participant: *Provided*, That the member recuses

himself or herself from board participation regarding the conflicting issue in the manner set forth in legislative rules promulgated by the West Virginia Ethics Commission.

(g) No member of the council who serves by virtue of his or her office shall receive any compensation or reimbursement of expenses for serving as a member. The public members and members of any committees or subcommittees are entitled to be reimbursed for actual and necessary expenses incurred for each day or portion thereof engaged in the discharge of his or her official duties in a manner consistent with the guidelines of the Travel Management Office of the Department of Administration.

#### **§31-15C-4. Powers and duties of the council generally.**

(a) In addition to the powers set forth elsewhere in this article, the council is hereby granted, has and may exercise all powers necessary or appropriate to carry out and effectuate the purpose and intent of this article. The council shall have the power and capacity to:

(1) Provide consultation services to project sponsors in connection with the planning, acquisition, improvement, construction or development of any broadband deployment project;

(2) To make and execute contracts, commitments and other agreements necessary or convenient for the exercise of its powers, including but not limited to the hiring of consultants to assist in the mapping of the state, categorization of areas within the state, and evaluation of project applications: *Provided*, That the provisions of article three, chapter five-a of this code do not apply to the agreements and contracts executed under the provisions of this article;

(3) Acquire by gift or purchase, hold or dispose of real property and personal property in the exercise of its powers and performance of its duties as set forth in this article;

(4) Receive and dispense funds appropriated for its use by the Legislature or other funding sources or solicit, apply for and receive any funds, property or services from any person, governmental agency or organization to carry out its statutory duties; and

(5) Perform any and all other activities in furtherance of its purpose.

(b) The council shall exercise its powers and authority to bring broadband service to unserved areas. The council may not duplicate or displace broadband service in areas already served or where private industry feasibly can be expected to offer services in the reasonably foreseeable future.

#### **§31-15C-5. Creation of the Broadband Deployment Fund.**

All moneys collected by the council, which may, in addition to appropriations, include gifts, bequests or donations, shall be deposited in a special revenue account in the State Treasury known as the Broadband Deployment Fund. The fund shall be administered by and under the control of the council. Expenditures from the fund shall be for the purposes set forth in this article and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article two, chapter eleven-b of this code: *Provided*, That for the fiscal year ending the thirtieth day of June, two thousand nine, expenditures are authorized from collections rather than pursuant to appropriations by the Legislature.

#### **§31-15C-6. Categorization of areas within state for broadband deployment purposes.**

Based on its analysis of mapping, broadband demand, and other relevant data, the council shall designate unserved areas of the state as being one of three distinct types. These types are as follows:

(1) Type 1 unserved area: an area in which broadband may be deployed by service providers in an economically feasible manner;

2) Type 2 unserved area: an unserved area in which broadband may be deployed by broadband service providers and other entities in an economically feasible manner, provided some form of public moneys is made available; and

(3) Type 3 unserved area: an unserved area in which, at present, cable or wireline broadband cannot be deployed in an economically feasible manner and an intermodal approach employing other technologies, such as satellite and wireless, is required to provide that area with high-speed internet access.

#### **§31-15C-7. Retention of outside expert consultant.**

In order to assist the council with the highly technical task of categorizing the areas of the state and evaluating and prioritizing projects, the council may retain an outside expert consultant or consultants qualified to map the state on the basis of broadband availability, to evaluate, categorize and prioritize projects, to assist in public outreach and education in order to stimulate demand, to advise the council on the granting or denying of funding to projects, and to provide other support and assistance as necessary to accomplish the purposes of this article. The provisions of article three, chapter five-a of this code, shall not apply to the retention of an outside expert consultant pursuant to this section; *Provided*, that the council shall select the expert or experts by a competitive selection process.

**§31-15C-8. Stimulation of demand through public outreach and education.**

In order to implement and carry out the intent of this article, the council may take such actions as it deems necessary or advisable in order to stimulate demand through public outreach and education in unserved areas. The council shall consider the views, if offered, of affected members of the public, including private industry.

**§31-15C-9. Development of guidelines and application for funding assistance; emergency rule-making authority.**

(a) In order to implement and carry out the intent of this article in type 2 and type 3 unserved areas, the council shall promulgate emergency rules pursuant to the provisions of section fifteen, article three, chapter twenty-nine-a of this code to develop comprehensive, uniform guidelines for use by the council in evaluating any request by a project sponsor for funding assistance to plan, acquire, construct, improve or otherwise develop a broadband deployment project in a type 2 or type 3 unserved area. The guidelines shall include the following factors: (1) The cost- effectiveness of the project; (2) the economic development benefits of the project; (3) the availability of alternative sources of funding that could help finance the project, including, but not limited to, private grants or federal funding and the efforts undertaken to obtain such funding; (4) if the project requires the construction of a network, the applicant's ability to operate and maintain such network; (5) the degree to which the project advances statewide broadband access and other state broadband planning goals; (6) the proposed technologies, bandwidths, upstream data rates and downstream data rates; (7) the estimated date the project would commence and be completed; (8) how the proposed project compares to alternative proposals for the same unserved area with regard to the number of people served, the amount of financial assistance sought, and the long-term viability of the proposed project; and (9) any other consideration the council deems pertinent.

b) Under no circumstances may the council's guidelines allow for the approval of any project for broadband service that does not include a minimum downstream transmission rate of 600 kilobits per second (Kbps) and a minimum downstream-to-upstream ratio of 8.5:1 for services with a downstream rate of up to five megabits per second (Mbps). In those cases where a project's broadband service's downstream rate is five Mbps or greater, the council's guidelines must require a minimum upstream data rate of 588 Kbps and allow information applications and market demands to dictate acceptable downstream-to-upstream data ratios.

c) The council shall create an application form that shall be used by all project sponsors requesting funding assistance from the council to plan, acquire, construct, improve or otherwise develop broadband deployment projects in type 2 or type 3 unserved areas. The application form shall contain all information required by all state agencies that will be required to issue permits and certificates regarding the project. The application shall require the project sponsor to set forth the proposed location of the project; the type(s) of unserved area(s) the project proposes to address, the estimated total cost of the project; the amount of funding assistance required and the specific uses of the funding; other sources of funding available or potentially available for the project; information demonstrating the need for the project; that the proposed funding of the project is the most economically feasible and viable alternative to completing the project; and such other information as the council considers necessary.

**§31-15C-10. Requirements for project funding assistance; review of project application by council; competitive applications.**

(a) Once the council has categorized unserved areas pursuant to section six of this article, project sponsors may submit applications for funding assistance for projects in those unserved areas. Upon receiving its first completed application for a categorized unserved area, the council shall post notice of such application with the Secretary of State for sixty days so as to allow for competing applications to be submitted to the council. Within thirty days of the close of the aforementioned sixty-day notice period, the council shall review all applications timely received during the sixty-day period and either (i) approve funding for one or more projects after determining that the funding would constitute an appropriate investment of public funds, or (ii) if the council determines that the application does not contain all of the required information or otherwise is incomplete, or that a proposed project is not eligible for funding assistance, or that the proposed project is otherwise not an appropriate or prudent investment of state funds, the council shall deny the project funding request. Prior to approving or denying any funding request, the council may seek the advice of any expert consultant retained pursuant to section seven of this article, but the council is not bound by that advice. The council shall also consider the views, if offered, of affected members of the public, including private industry.

(b) To apply for or receive any funding assistance for a broadband deployment project from the council pursuant to subsection (a) of this section, the project sponsor seeking the funding assistance shall submit a completed application to the council on the form prepared for such purpose by the council pursuant to section nine of this article.

(c) In reviewing each application, the council may use the engineering, financial and technical expertise of outside consultants in addition to the respective staffs of the government agencies and private-sector entities represented on the council or other government agencies.

(d) Notwithstanding any provision of article fifteen-a, chapter thirty-one or any other provision of this code, broadband deployment project proposals submitted to the council for its consideration pursuant to this article and the council's decisions with regard to such projects shall not be subject to review by the West Virginia Infrastructure and Jobs Development Council.

**§31-15C-11. Required reporting by state entities.**

(a) The secretary of administration shall submit a written report to the council by the thirty-first day of October of each year describing in detail the existing broadband infrastructure owned, leased, used, or operated by the state; broadband infrastructure purchased by the state; the demand for the infrastructure in the state; and whether or not that infrastructure is available to the public. If significant changes to any of the information submitted to the council occur, the secretary of administration shall submit a written update the council within sixty days of the change or in the next report, whichever date is sooner.

(b) The secretary of administration shall submit a written report to the council by the thirty-first day of October of each year describing in detail the state portal, any state services or programs that are available to the public on the state portal; the amount of usage of the portal; and efforts to create demand for the portal. If significant changes to any of the information submitted to the council occur, the secretary of administration shall submit a written update the council within sixty days of the change or in the next report, whichever date is sooner.

(c) The chancellor of the higher education policy commission shall submit a written report to the council by the thirty-first day of October of each year describing in detail the existing broadband infrastructure owned, leased, used, operated, or purchased by all public baccalaureate and graduate institutions in the state; all programs or initiatives designed to increase the usage of broadband and broadband based educational applications in the public baccalaureate and graduate institutions; and all training provided to instructors in the use of broadband and broadband based educational applications. If significant changes to any of the information submitted to the council occur, the chancellor of the higher education policy commission shall submit a written update to the council within sixty days of the change or in the next report, whichever date is sooner.

(d) The chancellor of the West Virginia Council for Community and Technical College Education shall submit a written report to the council by the thirty-first day of October of each year describing in detail the existing broadband infrastructure owned, leased, used, operated, or

purchased by all public baccalaureate and graduate institutions in the state; all programs or initiatives designed to increase the usage of broadband and broadband based educational applications in the public baccalaureate and graduate institutions; and all training provided to instructors in the use of broadband and broadband based educational applications. If significant changes to any of the information submitted to the council occur, the chancellor of the West Virginia council for community and technical college education shall submit a written update the council within sixty days of the change or in the next report, whichever date is sooner.  
(e) The state superintendent of schools shall submit a written report to the council by the thirty-first day of October of each year describing in detail the existing broadband infrastructure owned, leased, used, operated, or purchased by all state schools; all programs or initiatives designed to increase the usage of broadband and broadband based educational applications in the schools and in Pre-K and early childhood education programs; all training provided to teachers in the use of broadband and broadband based educational applications; the availability of an access to broadband in homes and families with children aged four years to eight years; estimates of the number of families with children aged four years to eight years who are using broadband in the homes; estimates of the ownership of computers in families with children aged four years to eight years; and any unmet demand for broadband infrastructure in state schools. If significant changes to any of the information submitted to the council occur, the state superintendent of schools shall submit a written update to the council within sixty days of the change or in the next report, whichever date is sooner.

(f) The chair of the West Virginia healthcare authority shall submit a written report to the council by The thirty-first day of October of each year describing in detail the existing broadband infrastructure owned, leased, used operated, or purchased by all hospitals, medical facilities, clinics, or healthcare providers; all programs, initiatives, or applications utilizing broadband that are promoted by hospitals, medical facilities, clinics, or healthcare providers; and any unmet demand for broadband by hospitals, medical facilities, clinics, or healthcare providers.

#### **§31-15C-12. Limitation of liability.**

No person is subject to antitrust or unfair competition liability based on membership or participation in the council, which provides an essential governmental function and enjoys state action immunity.

#### **§31-15C-13. Protection of proprietary business information.**

(a) Broadband deployment information provided to the council or its consultants and other agents, including but not limited to physical plant locations, subscriber levels, and market penetration data, constitutes proprietary business information and, along with any other information that constitutes trade secrets, shall be exempt from disclosure under the provisions of chapter twenty-nine- b of this code: *Provided*, That the information is identified as confidential information when submitted to the council.

(b) Trade secrets or proprietary business information obtained by the council from broadband providers and other persons or entities shall be secured and safeguarded by the state. Such information or data shall not be disclosed to the public or to any firm, individual or agency other than officials or authorized employees of the state. Any person who makes any unauthorized disclosure of such confidential information or data is guilty of a misdemeanor and, upon conviction thereof, may be fined not more than five thousand dollars or confined in a correctional facility for not more than one year, or both.

(c) The official charged with securing and safeguarding trade secrets and proprietary data for the council is the Secretary of Administration, who is authorized to establish and administer appropriate security measures. The council chair shall designate two additional persons to share the responsibility of securing trade secrets or proprietary information. No person will be allowed access to trade secrets or proprietary information without written approval of a minimum of two of the three authorized persons specified above.

#### **§31-15C-14. Expiration of council.**

The council shall continue to exist until the thirty-first day of December, two thousand eleven, unless sooner terminated, continued or reestablished pursuant to an Act of the Legislature.

## Senate Bill 9

Effective Date: Passed March 8, 2008; in effect ninety days from passage

Signed by Governor: April 1, 2008

Code Reference: Amends and reenacts §18-2-8a

Title: Hunter safety orientation program

Major Provisions:

- The State Board shall promulgate a rule for the implementation of a hunter safety orientation program in the state's public schools.
- The hunter safety orientation program may be offered in any of the grades six through twelve over a two-week period as part of physical education class, general curriculum courses or as after school offerings.
- The hunter safety orientation program must be voluntary to students.
- The hunter safety orientation program must include instruction in: protection of lives and property, proper use of firearms in hunting, sport competition and care and safety of firearms in the home.
- The hunter safety orientation program shall be conducted by an instructor certified by the Department of Natural Resources or who has other training necessary to conduct the program as determined by the State Board.
- County Superintendents may implement the hunter safety orientation program in accordance with the State Board's rule when sufficient student interest justifies the program offering and an appropriately certified instructor is available. Sufficient student interest is determined through the judgment of the superintendent.
- The Division of Natural Resources shall issue a certificate of training to any student who completes the hunter safety orientation program.

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 9

(Senators Bailey and Love, *original sponsors*)

[Passed March 8, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §18-2-8a of the Code of West Virginia, 1931, as amended, relating to hunter safety orientation programs in the public schools; providing for state board rule; minimum requirements; permissive implementation; and certification of program completers.

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

That §18-2-8a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-8a. Hunter safety orientation program.**

(a) The Legislature finds that:

- (1) Firearms and hunting are important parts of West Virginia's history, culture and economy;
- (2) Unfortunately, the use of firearms while hunting or at any other time can be dangerous when the firearms are not handled in a careful and safe manner; and
- (3) Therefore, the opportunity of participating in a hunter safety orientation program should be offered to students in certain grades.

(b) The State Board of Education may shall, with the advice of the State Superintendent of Schools and the Director of the Division of Natural Resources, prescribe and promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for the implementation of a hunter safety orientation program for use in the public schools of this state in the safety of firearms. The rule shall include at least the following provisions:

(1) The hunter safety orientation program may be offered to students in any of the grade levels sixth through twelfth grades over a two-week period during the school year as part of physical education classes, or as part of the general curriculum offered to students in any of these grade levels, or at the end of the school day;

(2) The hunter safety orientation program is voluntary to students and any student may choose not to participate in the program. If a student chooses not to participate in the program, he or she shall participate in another education activity;

(3) The hunter safety orientation program shall include instruction relating to:

(A) The orientation program shall deal with the protection of lives and property against loss or damage as a result of the improper use of firearms; and

(B) The orientation program shall also include instruction about the proper use of firearms in hunting, sport competition and the care and safety of firearms in the home and may utilize ;

(4) The hunter safety orientation program may use materials prepared by any national nonprofit membership organization which has as one of its purposes the training of people in marksmanship and the safe handling and use of firearms; and

(5) The hunter safety orientation program shall be conducted by an instructor certified by the Division of Natural Resources or who has other training necessary to conduct the program as determined by the state board.



(c) The county superintendent may ~~arrange for such~~ implement the hunter safety orientation program in ~~the safety of firearms and its use~~ accordance with the rule required by this section in each school in the county that includes any of grades six through twelve at which, in the sole judgement of the superintendent, sufficient student interest in program enrollment justifies the program offering and an appropriately certified instructor is available.

(d) The Division of Natural Resources shall issue a certificate of training, required by section thirty-a, article two, chapter twenty of this code, to any student who completes the hunter safety orientation program.

## **Senate Bill 297**

Effective Date: Passed March 7, 2008; in effect from passage

Signed by Governor: March 27, 2008

Code Reference: Amends and reenacts §18-9D-2, §18-9D-6, §18-9D-8, §18-9D-13, §18-9D-15, and §29-22-18a, and adds §18-9D-4b

Title: School Building Authority

Major Provisions:

- Creates the Excess Lottery School Building Debt Service Fund and redirects \$19 million of funds that are currently being deposited into the School Building Debt Service Fund to this new fund
- Authorizes the School Building Authority to issue bonds and pay debt service on bonds with the funds deposited into the Excess Lottery School Building Debt Service Fund
- Increases the maximum aggregate face value amount of bonds that may be issued by the authority and for which moneys in the School Building Debt Service Fund or the Excess Lottery School Building Debt Service Fund are to be pledged, from \$400 million to \$500 million
- Extends the time limit that bonds issued on or after January 1, 2008 must mature from 10 years to 20 years of the date of issuance
- Allows any remaining balances in the Excess Lottery School Building Debt Service Fund for a fiscal year to be used to redeem or purchase outstanding bonds or to be transferred to the School Construction Fund to be used by the School Building Authority to finance school construction or improvement projects on a cash basis
- Changes the definition of "Construction project" in §18-9D-2 to increase the minimum threshold from \$500,000 to \$1,000,000
- Expands the definition of "revenue" or "revenues" in §18-9D-2 to mean money deposited in the Excess Lottery School Building Debt Service Fund pursuant to §29-22-18a
- Changes the definition of "School major improvement project" in §18-9D-2 to increase the maximum limit from \$500,000 to \$1,000,000 for the renovation, expansion, repair and safety upgrading of existing school facilities, buildings, and structures, including the substantial repair or upgrading of equipment, machinery, building systems, utilities and other similar items related to the renovation, repair or upgrading of equipment, machinery, building systems, utilities, and other similar items related to the renovation, repair or upgrading in the furtherance of a school major improvement plan

**ENROLLED**

**Senate Bill No. 297**

(By Senators Tomblin, Mr. President, and Caruth,

By Request of the Executive)

[Passed March 7, 2008; in effect from passage.]

AN ACT to amend and reenact §18-9D-2, §18-9D-6, §18-9D-8, §18-9D-13 and §18-9D-15 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto a new section, designated §18-9D-4b; and to amend and reenact §29-22-18a of said code, all relating generally to the School Building Authority; modifying definitions and qualifications of construction projects and major improvement projects; authorizing the School Building Authority to issue bonds by using moneys deposited in the Excess Lottery School Building Debt Service Fund from the State Excess Lottery Fund; providing that moneys from the State Excess Lottery Fund are deposited into the Excess Lottery School Building Debt Service Fund; and clarifying the powers of the authority in issuing bonds.

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

That §18-9D-2, §18-9D-6, §18-9D-8, §18-9D-13 and §18-9D-15 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 §18-9D-4b; and that §29-22-18a of said code be amended and reenacted, all to read as follows:

**CHAPTER 18. EDUCATION.**

**ARTICLE 9D. SCHOOL BUILDING AUTHORITY.**

**§18-9D-2. Definitions.**

For the purposes of this article, unless a different meaning clearly appears from the context:

- (1) "Authority" means the School Building Authority of West Virginia;
- (2) "Bonds" means bonds issued by the authority pursuant to this article;
- (3) "Construction project" means a project in the furtherance of a facilities plan with a cost greater than ~~five hundred thousand~~ one million dollars for the new construction, expansion or major renovation of facilities, buildings and structures for school purposes, including:
  - (A) The acquisition of land for current or future use in connection with the construction project;
  - (B) New or substantial upgrading of existing equipment, machinery and furnishings;
  - (C) Installation of utilities and other similar items related to making the construction project operational;
  - (D) Construction project does not include such items as books, computers or equipment used for instructional purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course of business improvements; other items which are customarily considered to result in a current or ordinary course of business operating charge or a major improvement project;
- (4) "Cost of project" means the cost of construction, expansion, renovation, repair and safety upgrading of facilities, buildings and structures for school purposes; the cost of land, equipment, machinery, furnishings, installation of utilities and other similar items related to making the project operational; and the cost of financing, interest during construction, professional service fees and all other charges or expenses necessary, appurtenant or incidental to the foregoing, including the cost of administration of this article;

(5) "Facilities plan" means the ten-year countywide comprehensive educational facilities plan established by a county board in accordance with guidelines adopted by the authority to meet the goals and objectives of this article that:

(A) Addresses the existing school facilities and facility needs of the county to provide a thorough and efficient education in accordance with the provisions of this code and policies of the state board;

(B) Best serves the needs of individual students, the general school population and the communities served by the facilities;

(C) Includes the school major improvement plan;

(D) Includes the county board's school access safety plan required by section three, article nine-f of this chapter;

(E) Is updated annually to reflect projects completed, current enrollment projections and new or continuing needs; and

(F) Is approved by the state board and the authority prior to the distribution of state funds pursuant to this article to any county board or other entity applying for funds;

(6) "Project" means a construction project or a major improvement project;

(7) "Region" means the area encompassed within and serviced by a regional educational service agency established pursuant to section twenty-six, article two of this chapter;

(8) "Revenue" or "revenues" means moneys:

(A) Deposited in the School Building Capital Improvements Fund pursuant to section ten, article nine-a of this chapter;

(B) Deposited in the School Construction Fund pursuant to section thirty, article fifteen, chapter eleven of this code and section eighteen, article twenty-two, chapter twenty-nine of this code;

(C) Deposited in the School Building Debt Service Fund pursuant to section eighteen, article twenty-two, chapter twenty-nine of this code;

(D) Deposited in the School Major Improvement Fund pursuant to section thirty, article fifteen, chapter eleven of this code;

(E) Received, directly or indirectly, from any source for use in any project completed pursuant to this article;

(F) Received by the authority for the purposes of this article; and

(G) Deposited in the Excess Lottery School Building Debt Service Fund pursuant to section eighteen-a, article twenty-two, chapter twenty-nine of this code;

(9) "School major improvement plan" means a ten-year school maintenance plan that:

(A) Is prepared by a county board in accordance with the guidelines established by the authority and incorporated in its Countywide Comprehensive Educational Facilities Plan, or is prepared by the state board or the administrative council of an area vocational educational center in accordance with the guidelines if the entities seek funding from the authority for a major improvement project;

(B) Addresses the regularly scheduled maintenance for all school facilities of the county or under the jurisdiction of the entity seeking funding;

(C) Includes a projected repair and replacement schedule for all school facilities of the county or of the entity seeking funding;

(D) Addresses the major improvement needs of each school within the county or under the jurisdiction of the entity seeking funding; and

(E) Is required prior to the distribution of state funds for a major improvement project pursuant to this article to the county board, state board or administrative council; and

(10) "School major improvement project" means a project with a cost greater than fifty thousand dollars and less than ~~five hundred thousand~~ one million dollars for the renovation, expansion, repair and safety upgrading of existing school facilities, buildings and structures, including the substantial repair or upgrading of equipment, machinery, building systems, utilities and other similar items related to the renovation, repair or upgrading in the furtherance of a school major improvement plan. A major improvement project does not include such items as books, computers or equipment used for instructional purposes; fuel; supplies; routine utility services

fees; routine maintenance costs; ordinary course of business improvements; or other items which are customarily considered to result in a current or ordinary course of business operating charge.

**§18-9D-4b. School Building Authority authorized to issue bonds and pay debt service on bonds with funds distributed from State Excess Lottery Fund.**

The School Building Authority is expressly authorized to issue bonds and pay debt service on bonds pursuant to the provisions of this article with funds distributed from the State Excess Lottery Fund under section eighteen-a, article twenty-two, chapter twenty-nine of this code and deposited into the Excess Lottery School Building Debt Service Fund.

**§18-9D-6. School Building Capital Improvements Fund in State Treasury; School Construction Fund in State Treasury; School Building Debt Service Fund in State Treasury; Excess Lottery School Building Debt Service Fund in State Treasury; authority to pledge the collections as security for refunding revenue bonds; authority to finance projects on a cash basis.**

(a) There is continued in the State Treasury a School Building Capital Improvements Fund to be expended by the authority as provided in this article. The School Building Capital Improvements Fund shall be an interest-bearing account with interest credited to and deposited in the School Building Capital Improvements Fund and expended in accordance with the provisions of this article.

The School Building Authority may pledge all or any part of the revenues paid into the School Building Capital Improvements Fund that are needed to meet the requirements of any revenue bond issue or issues authorized by this article prior to the twentieth day of July, one thousand nine hundred ninety-three, or revenue bonds issued to refund revenue bonds issued prior to that date, including the payment of principal of, interest and redemption premium, if any, on the revenue bonds and the establishing and maintaining of a reserve fund or funds for the payment of the principal of, interest and redemption premium, if any, on the revenue bond issue or issues when other moneys pledged may be insufficient for the payment of the principal, interest and redemption premium, including any additional protective pledge of revenues that the authority in its discretion has provided by resolution authorizing the issuance of the bonds or in any trust agreement made in connection with the bond issue. Additionally, the authority may provide in the resolution and in the trust agreement for priorities on the revenues paid into the School Building Capital Improvements Fund that are necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this article.

Any balance remaining in the School Building Capital Improvements Fund after the authority has issued bonds authorized by this article and after the requirements of all funds, including reserve funds established in connection with the bonds issued prior to the twentieth day of July, one thousand nine hundred ninety-three, pursuant to this article have been satisfied may be used for the redemption of any of the outstanding bonds issued under this article which by their terms are then redeemable, or for the purchase of the bonds at the market price, but not exceeding the price, if any, at which the bonds are in the same year redeemable and all bonds redeemed or purchased shall immediately be canceled and shall not again be issued.

The School Building Authority, in its discretion, may use the moneys in the School Building Capital Improvements Fund to finance the cost of projects authorized in accordance with the provisions of section sixteen of this article on a cash basis. Any pledge of moneys in the fund for revenue bonds issued prior to the twentieth day of July, one thousand nine hundred ninety-three, is a prior and superior charge on the fund over the use of any of the moneys in the fund to pay for the cost of any project on a cash basis: *Provided*, That any expenditures from the fund, other than for the retirement of revenue bonds, may only be made by the authority in accordance with the provisions of this article.

(b) There is continued in the State Treasury a special revenue fund named the School Building Debt Service Fund into which shall be deposited the amounts specified in section eighteen, article twenty-two, chapter twenty-nine of this code. All amounts deposited in the fund

shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this article for which moneys deposited in the School Building Debt Service Fund have been pledged by the authority: *Provided,* That deposited moneys may not be pledged to the repayment of any revenue bonds issued prior to the first day of January, one thousand nine hundred ninety-four, or with respect to revenue bonds issued for the purpose of refunding revenue bonds issued prior to the first day of January, one thousand nine hundred ninety-four. Additionally, the authority may provide in the resolution and in the trust agreement for priorities on the revenues paid into the sSchool bBuilding dDebt sService fFund that are necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this article. On or prior to the first day of May of each year, the authority shall certify to the sState lLottery dDirector the principal and interest and coverage ratio requirements for the following fiscal year on any revenue bonds issued on or after the first day of January, one thousand nine hundred ninety-four, and for which moneys deposited in the sSchool bBuilding dDebt sService fFund have been pledged, or will be pledged, for repayment pursuant to this section.

After the authority has issued bonds authorized by this article for which moneys deposited in the School Building Debt Service Fund have been pledged and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this article, any balance remaining in the sSchool bBuilding dDebt sService fFund may be used for the redemption of any of the outstanding bonds issued under this article, for which moneys deposited in the School Building Debt Service Fund have been pledged, which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which the bonds are redeemable and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued: *Provided,* That after the authority has issued bonds authorized by this article and after the requirements of debt service and all associated funds have been satisfied for the fiscal year for which moneys deposited in the School Building Debt Service Fund have been pledged, including coverage and reserve funds established in connection with the bonds issued pursuant to this article, any remaining balance in the sSchool bBuilding dDebt sService fFund may be transferred to the sSchool eConstruction fFund created in subsection (c) of this section and used by the sSchool bBuilding aAuthority in its discretion to finance the cost of school construction or improvement projects authorized in accordance with the provisions of section sixteen of this article on a cash basis.

(c) There is continued in the sState tTreasury a special revenue fund named the sSchool eConstruction fFund into which shall be deposited the amounts specified in section thirty, article fifteen, chapter eleven of this code and, together with any moneys appropriated to the fund by the Legislature: *Provided,* That for the school year beginning the first day of July, two thousand four, only, funds from the excess lottery allocated in section eighteen-a, article twenty-two, chapter twenty-nine of this code, ~~together with any moneys appropriated to the fund by the Legislature shall not be transferred to the School Construction Fund and, in lieu thereof, made available for legislative appropriation:~~ *Provided, however,* That for the school year beginning the first day of July, two thousand four, only, funds from the excess lottery allocated in section eighteen-a, article twenty-two, chapter twenty-nine of this code shall not be transferred to the school construction fund, and, in lieu thereof, made available for legislative appropriation: *Provided, however,* ~~That for the school year beginning the first day of July, two thousand four, only,~~ up to five million dollars of the amounts in the fund may be appropriated by the Legislature for budget shortfalls.

Expenditures from the sSchool eConstruction fFund shall be for the purposes set forth in this article, including lease- purchase payments under agreements made pursuant to subsection (e), section fifteen of this article and section nine, article five of this chapter and are authorized from collections in accordance with the provisions of article three, chapter twelve of this code and from other revenues annually appropriated by the Legislature from lottery revenues as authorized by section eighteen, article twenty-two, chapter twenty-nine of this code pursuant to

the provisions set forth in article two, chapter five-a of this code. Amounts collected which are found, from time to time, to exceed the funds needed for purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. The sSchool eConstruction fFund shall be an interest-bearing account, with the interest credited to and deposited in the sSchool eConstruction fFund and expended in accordance with the provisions of this article. Deposits to and expenditures from the sSchool eConstruction fFund are subject to the provisions of subsection (k), section fifteen of this article.

(d) There is continued in the sState tTreasury a special revenue fund named the sSchool mMajor iImprovement fFund into which shall be deposited the amounts specified in section thirty, article fifteen, chapter eleven of this code, together with any moneys appropriated to the fund by the Legislature. Expenditures from the sSchool mMajor iImprovement fFund shall be for the purposes set forth in this article and are authorized from collections in accordance with the provisions of article three, chapter twelve of this code and from other revenues annually appropriated by the Legislature from lottery revenues as authorized by section eighteen, article twenty-two, chapter twenty-nine of this code pursuant to the provisions set forth in article two, chapter five-a of this code. Amounts collected which are found, from time to time, to exceed the funds needed for purposes set forth in this article may be transferred to other accounts or funds and redesignated for other purposes by appropriation of the Legislature. The sSchool mMajor iImprovement fFund shall be an interest-bearing account, with interest being credited to and deposited in the sSchool mMajor iImprovement fFund and expended in accordance with the provisions of this article.

(e) There is created in the State Treasury a special revenue fund named the Excess Lottery School Building Debt Service Fund into which shall be deposited the amounts specified in section eighteen-a, article twenty-two, chapter twenty-nine of this code. All amounts deposited in the fund shall be pledged, as designated by the authority, to the repayment of the principal, interest and redemption premium, if any, on revenue bonds or refunding revenue bonds authorized by section four-b of this article. On or prior to the first day of May of each year, the authority shall certify to the State Lottery Director the principal and interest and coverage ratio requirements for the following fiscal year on any revenue bonds issued for which moneys deposited in the Excess Lottery School Building Debt Service Fund have been pledged, or will be pledged, for repayment pursuant to this section.

After the authority has issued bonds authorized by this article for which moneys deposited in the Excess Lottery School Building Debt Service Fund have been pledged and after the requirements of all funds have been satisfied, including coverage and reserve funds established in connection with the bonds issued pursuant to this article, any balance remaining in the Excess Lottery School Building Debt Service Fund may be used for the redemption of any of the outstanding bonds issued under this article, for which moneys deposited in the Excess Lottery School Building Debt Service Fund have been pledged, which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which the bonds are redeemable and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued: *Provided*, That after the authority has issued bonds authorized by this article and after the requirements of debt service and all associated funds have been satisfied for the fiscal year, including coverage and reserve funds established in connection with the bonds issued pursuant to this article for which moneys deposited in the Excess Lottery School Building Debt Service Fund have been pledged, any remaining balance in the Excess Lottery School Building Debt Service Fund may be transferred to the School Construction Fund created in subsection (c) of this section and used by the School Building Authority in its discretion to finance the cost of school construction or improvement projects authorized in accordance with the provisions of section sixteen of this article on a cash basis.

(e) (f) The Legislature finds and declares that the Supreme Court of Appeals of West Virginia has held that the issuance of additional revenue bonds authorized under the sSchool bBuilding aAuthority aAct, as enacted in this article prior to the twentieth day of July, one thousand nine

hundred ninety- three, constituted an indebtedness of the state in violation of section four, article X of the Constitution of West Virginia, but that revenue bonds issued under this article prior to the twentieth day of July, one thousand nine hundred ninety-three, are not invalid. The Legislature further finds and declares that the financial capacity of a county to construct, lease and improve school facilities depends upon the county's bonding capacity (local property wealth), voter willingness to pass bond issues and the county's ability to reallocate other available county funds instead of criteria related to educational needs or upon the ability of the School Building Authority created in this article to issue bonds that comply with the holding of the West Virginia Supreme Court of Appeals or otherwise assist counties with the financing of facilities construction and improvement. The Legislature further finds and declares that this section, as well as section eighteen, article twenty-two, chapter twenty-nine of this code, had been reenacted during the first extraordinary session of the West Virginia Legislature in the year one thousand nine hundred ninety-four in an attempt to comply with the holding of the Supreme Court of Appeals of West Virginia.

The Legislature further finds and declares that it intends, through the reenactment of this section and section eighteen, article twenty-two, chapter twenty-nine of this code, to dedicate a source of state revenues to special revenue funds for the purposes of paying the debt service on bonds and refunding bonds issued subsequent to the first day of January, one thousand nine hundred ninety-four, the proceeds of which will be used for the construction and improvement of school building facilities. The Legislature further finds and declares that it intends, through the reenactment of this section and section thirty, article fifteen, chapter eleven of this code and section eighteen, article twenty-two, chapter twenty-nine of this code, to appropriate revenues to two special revenue funds for the purposes of construction and improvement of school building facilities. Furthermore, the Legislature intends to encourage county boards to maintain existing levels of county funding for construction, improvement and maintenance of school building facilities and to generate additional county funds for those purposes through bonds and special levies whenever possible. The Legislature further encourages the School Building Authority, the state board and county boards of education to propose uniform project specifications for comparable projects whenever possible to meet county needs at the lowest possible cost.

The Legislature further finds and declares that it intends, through the reenactment of this section and section eighteen, article twenty-two, chapter twenty-nine of this code, to comply with the provisions of sections four and six, article X of the Constitution of West Virginia; and section one, article XII of said Constitution.

**§18-9D-8. Use of proceeds of bonds; bonds exempt from taxation.**

(a) The maximum aggregate face value of bonds that may be issued by the authority, for which the moneys in the School Building Debt Service Fund or the Excess Lottery School Building Debt Service Fund are to be pledged, is ~~four~~ five hundred million dollars. The issuance of revenue bonds under the provisions of this article shall be authorized, from time to time, by resolution or resolutions of the School Building Authority which shall set forth the proposed projects authorized in accordance with the provisions of section sixteen of this article and provide for the issuance of bonds in amounts sufficient, when sold as provided in this section, to provide moneys considered sufficient by the authority to pay the costs, less the amounts of any other funds available for the costs or from any appropriation, grant or gift for the costs: *Provided*, That bond issues from which bond revenues are to be distributed in accordance with section fifteen of this article for projects authorized pursuant to the provisions of section sixteen of this article are not required to set forth the proposed projects in the resolution. The resolution shall prescribe the rights and duties of the bondholders and the School Building Authority and, for that purpose, may prescribe the form of the trust agreement referred to in this section. The bonds may be issued, from time to time, in such amounts; shall be of such series; bear such date or dates; mature at such time or times not exceeding forty years from their respective dates; bear interest at such rate or rates; be in such denominations; be in such form, either coupon or registered, carrying such registration, exchangeability and interchangeability privileges; be payable in such medium of payment and at such place or places within or without



the state; be subject to such terms of redemption at such prices not exceeding one hundred five percent of the principal amount of the bonds; and be entitled to such priorities on the revenues paid into the fund pledged for repayment of the bonds as may be provided in the resolution authorizing the issuance of the bonds or in any trust agreement made in connection with the bonds: *Provided, however,* That revenue bonds issued on or after the first day of January, one thousand nine hundred ninety-four, and prior to the first day of January, two thousand eight, which are secured by lottery proceeds from section eighteen, article twenty-two, chapter twenty-nine of this code shall mature at such time or times not exceeding ten years from their respective dates: *Provided further,* That revenue bonds issued on or after the first day of January, two thousand eight, which are secured by lottery proceeds from section eighteen or eighteen-a, article twenty-two, chapter twenty-nine of this code, shall mature at such time or times not exceeding twenty years from their respective dates.

(b) The bonds shall be signed by the gGovernor, and by the president or vice president of the authority, under the great seal of the state, attested by the sSecretary of sState, and the coupons attached to the bonds shall bear the facsimile signature of the president or vice president of the authority. In case any of the officers whose signatures appear on the bonds or coupons cease to be officers before the delivery of the bonds, the signatures shall nevertheless be valid and sufficient for all purposes the same as if the officers had remained in office until the delivery. The revenue bonds shall be sold in the manner determined by the authority to be for the best interests of the state.

(c) Any pledge of revenues made by the sSchool bBuilding aAuthority for revenue bonds issued prior to the twentieth day of July, one thousand nine hundred ninety-three, pursuant to this article is valid and binding between the parties from the time the pledge is made; and the revenues pledged shall immediately be subject to the lien of the pledge without any further physical delivery of the revenues pledged or further act. The lien of the pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise, irrespective of whether the parties have notice of the lien of the pledge, and the pledge shall be a prior and superior charge over any other use of the revenues pledged.

(d) The proceeds of any bonds shall be used solely for the purpose or purposes as may be generally or specifically set forth in the resolution authorizing those bonds and shall be disbursed in the manner and with the restrictions, if any, that the authority provides in the resolution authorizing the issuance of the bonds or in the trust agreement referred to in this section securing the bonds. If the proceeds of the bonds, by error in calculations or otherwise, are less than the cost of any projects specifically set forth in the resolution, additional bonds may in like manner be issued to provide the amount of the deficiency; and unless otherwise provided for in the resolution or trust agreement hereinafter mentioned, the additional bonds shall be considered to be of the same issue and are entitled to payment from the same fund, without preference or priority, as the bonds before issued for the projects. If the proceeds of bonds issued for the projects specifically set forth in the resolution authorizing the bonds issued by the authority exceed the cost of the bonds, the surplus may be used for any other projects authorized in accordance with the provisions of section sixteen of this article or in any other manner that the resolution authorizing the bonds provides. Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue temporary bonds with or without coupons, exchangeable for definitive bonds upon the issuance of the definitive bonds.

(e) After the issuance of any revenue bonds, the revenues pledged for the revenue bonds shall not be reduced as long as any of the revenue bonds are outstanding and unpaid except under the terms, provisions and conditions that are contained in the resolution, trust agreement or other proceedings under which the revenue bonds were issued.

(f) The revenue bonds and the revenue refunding bonds and bonds issued for combined purposes, together with the interest on the bonds, are exempt from all taxation by the sState of West Virginia, or by any county, school district, municipality or political subdivision thereof.

(g) To meet the operational costs of the sSchool bBuilding aAuthority, the sSchool bBuilding aAuthority may transfer to a special revenue account in the sState treasury interest on any

debt service reserve funds created within any resolution authorizing the issue of bonds or any trust agreement made in connection with the bonds for expenditure in accordance with legislative appropriation or allocation of appropriation.

(h) Any school construction bonds issued under this section shall be issued on parity with any existing ~~s~~School ~~b~~B~~u~~ilding ~~a~~A~~u~~thority bonds previously issued under this article.

**§18-9D-13. Sinking fund for payment of bonds.**

(a) From the ~~s~~School ~~b~~B~~u~~ilding ~~e~~C~~a~~pital ~~i~~m~~p~~rovements ~~f~~Fund the ~~s~~School ~~b~~B~~u~~ilding ~~a~~A~~u~~thority shall make periodic payments in an amount sufficient to meet the requirements of any issue of bonds sold under the provisions of this article, prior to the first day of January, one thousand nine hundred ninety-four, or for refunding bonds issued prior to that date as may be specified in the resolution of the authority authorizing the issue thereof and in any trust agreement entered into in connection therewith. The payments so made shall be placed as specified in such resolution or trust agreement in a special sinking fund which is hereby pledged to and charged with the payment of the principal of the bonds of such issue and the interest thereon, and to the redemption or repurchase of such bonds, such sinking fund to be a fund for all bonds of such issue without distinction or priority of one over another, except as may be provided in the resolution authorizing such issue of bonds. The moneys in the special sinking fund, less such reserve for payment of principal and interest and redemption premium, if any, as may be required by the resolution of the ~~s~~School ~~b~~B~~u~~ilding ~~a~~A~~u~~thority, authorizing the issue ~~and~~ or any trust agreement made in connection therewith, may be used for the redemption of any of the outstanding bonds payable from such fund which by their terms are then redeemable, or for the purchase of bonds at the market price, but not exceeding the price, if any, at which such bonds shall in the same year be redeemable; and all bonds redeemed or purchased shall forthwith be canceled and shall not again be issued.

(b) From the School Building Debt Service Fund or the Excess Lottery School Building Debt Service Fund, the authority shall make periodic payments in an amount sufficient to meet the requirements of any issue of bonds sold under the provisions of this article on or after the first day of January, one thousand nine hundred ninety-four, and for which the authority has pledged revenues in such fund for the payment of such bonds, as may be specified in the resolution of the authority authorizing the issue thereof or in any trust agreement entered into in connection therewith. The payments so made shall be placed as specified in the resolution or trust agreement in a special sinking fund which is hereby pledged to and charged with the payment of the principal of the bonds of the issue and the interest thereon, and to the redemption or repurchase of the bonds, the sinking fund to be a fund for all bonds of the particular issue without distinction or priority of one over another, except as may be provided in the resolution authorizing the issuance of the bonds. The moneys in the special sinking fund, less the reserve for payment of principal and interest and redemption premium, if any, as may be required by the resolution of the School Building Authority authorizing the issue or any trust agreement made in connection therewith, may be used for redemption of any of the outstanding bonds payable from the fund which by their terms are then redeemable, or for the purchase of bonds at the market price, but not exceeding the price, if any, at which such bonds shall in the same year be redeemable; and all bonds redeemed or purchased shall forthwith be canceled and shall not again be issued.

**§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 schools cooperating with community and technical college programs, or both. 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 ~~F~~und 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 fFund 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, 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.

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 22. STATE LOTTERY ACT.**

#### **§29-22-18a. State eExcess lottery rRevenue fund.**

(a) There is continued a special revenue fund within the sState lottery fund in the sState treasury which is designated and known as the "sState eExcess lottery rRevenue fund". The fund consists of all appropriations to the fund and all interest earned from investment of the fund and any gifts, grants or contributions received by the fund. All revenues received under the provisions of sections ten-b and ten-c, article twenty-two-a of this chapter and under article twenty-two-b of this chapter, except the amounts due the commission under subdivision (1), subsection (a), section 29-22B-1408(a)(1) one thousand four hundred eight, article twenty-two-b of this chapter, shall be deposited in the sState treasury and placed into the "sState eExcess lottery rRevenue fund". The revenue shall be disbursed in the manner provided in this section for the purposes stated in this section and shall not be treated by the aAuditor and the sState treasurer as part of the general revenue of the state.

(b) For the fiscal year beginning the first day of July, two thousand two, the commission shall deposit: (1) Sixty-five million dollars into the subaccount of the sState eExcess lottery rRevenue fund hereby created in the sState treasury to be known as the "gGeneral pPurpose aAccount" to be expended pursuant to appropriation of the Legislature; (2) ten million dollars into the eEducation improvement fund for appropriation by the Legislature to the "promise PROMISE sScholarship fund" created in section seven, article seven, chapter eighteen-c of

this code; (3) nineteen million dollars into the eEconomic dDevelopment pProject fFund created in subsection (d) of this section for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) twenty million dollars into the sSchool bBuilding dDebt sService fFund created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue bonds; (5) forty million dollars into the West Virginia iInfrastructure fFund created in section nine, article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of said article; (6) ten million dollars into the hHigher eEducation iImprovement fFund for hHigher eEducation; and (7) five million dollars into the sState pPark iImprovement fFund for pPark iImprovements. For the fiscal year beginning the first day of July, two thousand three, the commission shall deposit: (1) Sixty-five million dollars into the gGeneral pPurpose aAccount to be expended pursuant to appropriation of the Legislature; (2) seventeen million dollars into the eEducation iImprovement fFund for appropriation by the Legislature to the “~~promise~~ PROMISE sScholarship fFund” created in section seven, article seven, chapter eighteen-c of this code; (3) nineteen million dollars into the eEconomic dDevelopment pProject fFund created in subsection (d) of this section for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) twenty million dollars into the sSchool bBuilding dDebt sService fFund created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue bonds; (5) forty million dollars into the West Virginia iInfrastructure fFund created in section nine, article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of said article; (6) ten million dollars into the hHigher eEducation iImprovement fFund for hHigher eEducation; and (7) five million dollars into the sState pPark iImprovement fFund for pPark iImprovements.

(c) For the fiscal year beginning the first day of July, two thousand four, and subsequent fiscal years, the commission shall deposit: (1) Sixty-five million dollars into the gGeneral pPurpose aAccount to be expended pursuant to appropriation of the Legislature; (2) twenty-seven million dollars into the eEducation iImprovement fFund for appropriation by the Legislature to the “~~promise~~ PROMISE sScholarship fFund” created in section seven, article seven, chapter eighteen-c of this code; (3) nineteen million dollars into the eEconomic dDevelopment pProject fFund created in subsection (d) of this section for the issuance of revenue bonds and to be spent in accordance with the provisions of said subsection; (4) nineteen million dollars into the sSchool bBuilding dDebt sService fFund created in section six, article nine-d, chapter eighteen of this code for the issuance of revenue bonds: Provided, That for the fiscal year beginning the first day of July, two thousand eight, and subsequent fiscal years, no moneys shall be deposited in the School Building Debt Service Fund pursuant to this subsection and instead nineteen million dollars shall be deposited into the Excess Lottery School Building Debt Service Fund; (5) forty million dollars into the West Virginia iInfrastructure fFund created in section nine, article fifteen-a, chapter thirty-one of this code to be spent in accordance with the provisions of said article; (6) ten million dollars into the hHigher eEducation iImprovement fFund for hHigher eEducation; and (7) five million dollars into the sState pPark iImprovement fFund for pPark iImprovements. No portion of the distributions made as provided in this subsection and subsection (b) of this section, except distributions made in connection with bonds issued under subsection (d) of this section, may be used to pay debt service on bonded indebtedness until after the Legislature expressly authorizes issuance of the bonds and payment of debt service on the bonds through statutory enactment or the adoption of a concurrent resolution by both houses of the Legislature. Until subsequent legislative enactment or adoption of a resolution that expressly authorizes issuance of the bonds and payment of debt service on the bonds with funds distributed under this subsection and subsection (b) of this section, except distributions made in connection with bonds issued under subsection (d) of this section, the distributions may be used only to fund capital improvements that are not financed by bonds and only pursuant to appropriation of the Legislature.

(d) The Legislature finds and declares that in order to attract new business, commerce and industry to this state, to retain existing business and industry providing the citizens of this state with economic security and to advance the business prosperity of this state and the economic welfare of the citizens of this state, it is necessary to provide public financial support for constructing, equipping, improving and maintaining economic development projects, capital improvement projects and infrastructure which promote economic development in this state. (1) The West Virginia eEconomic dDevelopment aAuthority created and provided for in article fifteen, chapter thirty- one of this code shall, by resolution, in accordance with the provisions of this article and article fifteen, chapter thirty-one of this code, and upon direction of the

gGovernor, issue revenue bonds of the eEconomic dDevelopment aAuthority in no more than two series to pay for all or a portion of the cost of constructing, equipping, improving or maintaining projects under this section or to refund the bonds at the discretion of the authority. Any revenue bonds issued on or after the first day of July, two thousand two, which are secured by state excess lottery revenue proceeds shall mature at a time or times not exceeding thirty years from their respective dates. The principal of, and the interest and redemption premium, if any, on the bonds shall be payable solely from the special fund provided in this section for the payment.

(2) There is continued in the sState tTreasury a special revenue fund named the “eEconomic dDevelopment pProject fFund” into which shall be deposited on and after the first day of July, two thousand two, the amounts to be deposited in said fund as specified in subsections (b) and (c) of this section. The eEconomic dDevelopment pProject fFund shall consist of all such moneys, all appropriations to the fund, all interest earned from investment of the fund and any gifts, grants or contributions received by the fund. All amounts deposited in the fund shall be pledged to the repayment of the principal, interest and redemption premium, if any, on any revenue bonds or refunding revenue bonds authorized by this section, including any and all commercially customary and reasonable costs and expenses which may be incurred in connection with the issuance, refunding, redemption or defeasance thereof. The West Virginia eEconomic dDevelopment aAuthority may further provide in the resolution and in the trust agreement for priorities on the revenues paid into the eEconomic dDevelopment pProject fFund as may be necessary for the protection of the prior rights of the holders of bonds issued at different times under the provisions of this section. The bonds issued pursuant to this subsection shall be separate from all other bonds which may be or have been issued, from time to time, under the provisions of this article.

(3) After the West Virginia eEconomic dDevelopment aAuthority has issued bonds authorized by this section and after the requirements of all funds have been satisfied, including any coverage and reserve funds established in connection with the bonds issued pursuant to this subsection, any balance remaining in the eEconomic dDevelopment pProject fFund may be used for the redemption of any of the outstanding bonds issued under this subsection which, by their terms, are then redeemable or for the purchase of the outstanding bonds at the market price, but not to exceed the price, if any, at which redeemable, and all bonds redeemed or purchased shall be immediately canceled and shall not again be issued.

(4) Bonds issued under this subsection shall state on their face that the bonds do not constitute a debt of the sState of West Virginia; that payment of the bonds, interest and charges thereon cannot become an obligation of the sState of West Virginia; and that the bondholders' remedies are limited in all respects to the “sSpecial rRevenue fFund established in this subsection for the liquidation of the bonds.

(5) The West Virginia eEconomic dDevelopment aAuthority shall expend the bond proceeds from the revenue bond issues authorized and directed by this section for such projects as may be certified under the provision of this subsection: *Provided*, That the bond proceeds shall be expended in accordance with the requirements and provisions of article five-a, chapter twenty-one of this code and either article twenty-two or twenty-two-a, chapter five of this code, as the case may be: *Provided, however*, That if such bond proceeds are expended pursuant to article twenty-two-a, chapter five of this code and if the dDesign-bBuild bBoard created under said article determines that the execution of a design-build contract in connection with a project is appropriate pursuant to the criteria set forth in said article and that a competitive bidding process was used in selecting the design builder and awarding such contract, such determination shall be conclusive for all purposes and shall be deemed to satisfy all the requirements of said article.

(6) For the purpose of certifying the projects that will receive funds from the bond proceeds, a committee is hereby established and comprised of the gGovernor, or his or her designee, the sSecretary of the dDepartment of rRevenue, the eExecutive dDirector of the West Virginia dDevelopment oOffice and six persons appointed by the gGovernor: *Provided*, That at least one citizen member must be from each of the state's three congressional districts. The committee shall meet as often as necessary and make certifications from bond proceeds in accordance with this subsection. The committee shall meet within thirty days of the effective date of this section.

(7) Applications for grants submitted on or before the first day of July, two thousand two, shall be considered refiled with the committee. Within ten days from the effective date of this section as amended in the year two thousand three, the lead applicant shall file with the committee any



amendments to the original application that may be necessary to properly reflect changes in facts and circumstances since the application was originally filed with the committee.

(8) When determining whether or not to certify a project, the committee shall take into consideration the following:

- (A) The ability of the project to leverage other sources of funding;
- (B) Whether funding for the amount requested in the grant application is or reasonably should be available from commercial sources;
- (C) The ability of the project to create or retain jobs, considering the number of jobs, the type of jobs, whether benefits are or will be paid, the type of benefits involved and the compensation reasonably anticipated to be paid persons filling new jobs or the compensation currently paid to persons whose jobs would be retained;
- (D) Whether the project will promote economic development in the region and the type of economic development that will be promoted;
- (E) The type of capital investments to be made with bond proceeds and the useful life of the capital investments; and
- (F) Whether the project is in the best interest of the public.

(9) No grant may be awarded to an individual or other private person or entity. Grants may be awarded only to an agency, instrumentality or political subdivision of this state or to an agency or instrumentality of a political subdivision of this state.

The project of an individual or private person or entity may be certified to receive a low-interest loan paid from bond proceeds. The terms and conditions of the loan, including, but not limited to, the rate of interest to be paid and the period of the repayment, shall be determined by the eEconomic dDevelopment aAuthority after considering all applicable facts and circumstances.

(10) Prior to making each certification, the committee shall conduct at least one public hearing, which may be held outside of Kanawha County. Notice of the time, place, date and purpose of the hearing shall be published in at least one newspaper in each of the three congressional districts at least fourteen days prior to the date of the public hearing.

(11) The committee may not certify a project unless the committee finds that the project is in the public interest and the grant will be used for a public purpose. For purposes of this subsection, projects in the public interest and for a public purpose include, but are not limited to:

- (A) Sports arenas, fields, parks, stadiums and other sports and sports-related facilities;
- (B) Health clinics and other health facilities;
- (C) Traditional infrastructure, such as water and wastewater treatment facilities, pumping facilities and transmission lines;
- (D) State-of-the-art telecommunications infrastructure;
- (E) Biotechnical incubators, development centers and facilities;
- (F) Industrial parks, including construction of roads, sewer, water, lighting and other facilities;
- (G) Improvements at state parks, such as construction, expansion or extensive renovation of lodges, cabins, conference facilities and restaurants;
- (H) Railroad bridges, switches and track extension or spurs on public or private land necessary to retain existing businesses or attract new businesses;
- (I) Recreational facilities, such as amphitheaters, walking and hiking trails, bike trails, picnic facilities, restrooms, boat docking and fishing piers, basketball and tennis courts, and baseball, football and soccer fields;
- (J) State-owned buildings that are registered on the nNational rRegister of hHistoric pPlaces;
- (K) Retail facilities, including related service, parking and transportation facilities, appropriate lighting, landscaping and security systems to revitalize decaying downtown areas; and
- (L) Other facilities that promote or enhance economic development, educational opportunities or tourism opportunities thereby promoting the general welfare of this state and its residents.

(12) Prior to the issuance of bonds under this subsection, the committee shall certify to the eEconomic dDevelopment aAuthority a list of those certified projects that will receive funds from the proceeds of the bonds. Once certified, the list may not thereafter be altered or amended other than by legislative enactment.

(13) If any proceeds from sale of bonds remain after paying costs and making grants and loans as provided in this subsection, the surplus may be deposited in an account created in the sState tTreasury to be known as the “eEconomic dDevelopment pProject bBridge lLoan fFund” to be administered by the eEconomic dDevelopment aAuthority created in article fifteen, chapter thirty-one of this code. Expenditures from the fund are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of

article two, chapter five-a of this code. Loan repayment amounts, including the portion attributable to interest, shall be paid into the fund created in this subdivision.

(e) If the commission receives revenues in an amount that is not sufficient to fully comply with the requirements of subsections (b), (c) and (h) of this section, the commission shall first make the distribution to the eEeconomic development project fund; second, make the distribution or distributions to the other funds from which debt service is to be paid; third, make the distribution to the eEducation improvement fund for appropriation by the Legislature to the promise PROMISE sScholarship fund; and fourth, make the distribution to the general purpose account: *Provided*, That, subject to the provisions of this subsection, to the extent such revenues are not pledged in support of revenue bonds which are or may be issued, from time to time, under this section, the revenues shall be distributed on a pro rata basis.

(f) For the fiscal year beginning on the first day of July, two thousand two, and each fiscal year thereafter, the commission shall, after meeting the requirements of subsections (b), (c) and (h) of this section and after transferring to the sState lottery fund created under section eighteen of this article an amount equal to any transfer from the sState lottery fund to the eExcess lottery fund pursuant to subsection (f), section eighteen of this article, deposit fifty percent of the amount by which annual gross revenue deposited in the sState eExcess lottery revenue fund exceeds two hundred twenty-five million dollars in a fiscal year in a separate account in the sState lottery fund to be available for appropriation by the Legislature.

(g) When bonds are issued for projects under subsection (d) of this section or for the sSchool building authority, infrastructure, higher education or park improvement purposes described in this section that are secured by profits from lotteries deposited in the sState eExcess lottery revenue fund, the lottery director shall allocate first to the eEeconomic development project fund an amount equal to one tenth of the projected annual principal, interest and coverage requirements on any and all revenue bonds issued, or to be issued, on or after the first day of July, two thousand two, as certified to the lottery director; and second, to the fund or funds from which debt service is paid on bonds issued under this section for the sSchool building authority, infrastructure, higher education and park improvements an amount equal to one tenth of the projected annual principal, interest and coverage requirements on any and all revenue bonds issued, or to be issued, on or after the first day of April, two thousand two, as certified to the lottery director. In the event there are insufficient funds available in any month to transfer the amounts required pursuant to this subsection, the deficiency shall be added to the amount transferred in the next succeeding month in which revenues are available to transfer the deficiency.

(h) In fiscal year two thousand four and thereafter, prior to the distributions provided in subsection (c) of this section, the lottery eccommission shall deposit into the general revenue fund amounts necessary to provide reimbursement for the refundable credit allowable under section twenty-one, article twenty-one, chapter eleven of this code.

(i) (1) The Legislature considers the following as priorities in the expenditure of any surplus revenue funds:

- (A) Providing salary and/or increment increases for professional educators and public employees;
- (B) Providing adequate funding for the public employees insurance agency; and
- (C) Providing funding to help address the shortage of qualified teachers and substitutes in areas of need, both in number of teachers and in subject matter areas.

(2) The provisions of this subsection may not be construed by any court to require any appropriation or any specific appropriation or level of funding for the purposes set forth in this subsection.

(j) The Legislature further directs the generator to focus resources on the creation of a prescription drug program for senior citizens by pursuing a medicaid waiver to offer prescription drug services to senior citizens; by investigating the establishment of purchasing agreements with other entities to reduce costs; by providing discount prices or rebate programs for seniors; by coordinating programs offered by pharmaceutical manufacturers that provide reduced cost or free drugs; by coordinating a collaborative effort among all state agencies to ensure the most efficient and cost-effective program possible for the senior citizens of this state; and by working closely with the state's congressional delegation to ensure that a national program is implemented. The Legislature further directs that the generator report his progress back to the joint eccommittee on gevernment and finance on an annual basis beginning in November of the year two thousand one until a comprehensive program has been fully implemented.

## Senate Bill 573

Effective Date: Passed March 8, 2008; in effect July 1, 2008

Signed by Governor: April 1, 2008

Code Reference: Amends §18A-4-2, §18A-4-3, and §18A-4-8a

Title: Salaries, wages and other benefits

Major Provisions:

- Increases the annual salaries of teachers by \$1,600
- Increases the monthly salaries of service personnel by \$70 per month
- Increases the state increment rates for principals by 1% and the state increment rates for assistant principals by 0.5%

**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 573**

(By Senators Tomblin, Mr. President, and Caruth,

By Request of the Executive)

[Passed March 8, 2008; to take effect July 1, 2008.]

AN ACT to amend and reenact §18A-4-2, §18A-4-3 and §18A-4-8a of the Code of West Virginia, 1931, as amended, all relating to school personnel salary increases; increasing minimum salaries of public school teachers; increasing salary increment for principals and assistant principals; and increasing minimum salaries of school service personnel.

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

That §18A-4-2, §18A-4-3 and §18A-4-8a of the Code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

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

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

(a) Effective the first day of July, two thousand seven, through the thirtieth day of June, two thousand eight, 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 the first day of July, two thousand eight, and thereafter, 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.

**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	Doctorate
				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	38,121	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. +15		M.A. +15	M.A. +30	M.A. +45	Doctorate
				A.B.		M.A.				
0	<u>24,054</u> <u>25,651</u>	<u>24,711</u> <u>26,311</u>	<u>24,975</u> <u>26,575</u>	<u>26,227</u> <u>27,827</u>	<u>26,988</u> <u>28,588</u>	<u>28,755</u> <u>30,355</u>	<u>29,516</u> <u>31,116</u>	<u>30,277</u> <u>31,877</u>	<u>31,038</u> <u>32,638</u>	<u>32,073</u> <u>33,673</u>
1	<u>24,379</u> <u>25,979</u>	<u>25,039</u> <u>26,639</u>	<u>25,503</u> <u>26,903</u>	<u>26,745</u> <u>28,345</u>	<u>27,506</u> <u>29,106</u>	<u>29,274</u> <u>30,874</u>	<u>30,035</u> <u>31,635</u>	<u>30,795</u> <u>32,395</u>	<u>31,556</u> <u>33,156</u>	<u>32,591</u> <u>34,191</u>
2	<u>24,708</u> <u>26,308</u>	<u>25,367</u> <u>26,967</u>	<u>25,631</u> <u>27,231</u>	<u>27,264</u> <u>28,864</u>	<u>28,025</u> <u>29,625</u>	<u>29,792</u> <u>31,392</u>	<u>30,553</u> <u>32,153</u>	<u>31,314</u> <u>32,914</u>	<u>32,075</u> <u>33,675</u>	<u>33,110</u> <u>34,710</u>
3	<u>25,036</u> <u>26,636</u>	<u>25,695</u> <u>27,295</u>	<u>25,959</u> <u>27,559</u>	<u>27,783</u> <u>29,383</u>	<u>28,543</u> <u>30,143</u>	<u>30,311</u> <u>31,911</u>	<u>31,072</u> <u>32,672</u>	<u>31,832</u> <u>33,432</u>	<u>32,593</u> <u>34,193</u>	<u>33,628</u> <u>35,228</u>
4	<u>25,608</u> <u>27,208</u>	<u>26,267</u> <u>27,867</u>	<u>26,531</u> <u>28,131</u>	<u>28,545</u> <u>30,145</u>	<u>29,306</u> <u>30,906</u>	<u>31,074</u> <u>32,674</u>	<u>31,835</u> <u>33,435</u>	<u>32,595</u> <u>34,195</u>	<u>33,536</u> <u>34,956</u>	<u>34,391</u> <u>35,991</u>
5	<u>25,936</u> <u>27,536</u>	<u>26,595</u> <u>28,195</u>	<u>26,859</u> <u>28,459</u>	<u>29,064</u> <u>30,664</u>	<u>29,825</u> <u>31,425</u>	<u>31,592</u> <u>33,192</u>	<u>32,353</u> <u>33,953</u>	<u>33,114</u> <u>34,714</u>	<u>33,875</u> <u>35,475</u>	<u>34,910</u> <u>36,510</u>
6	<u>26,264</u> <u>27,864</u>	<u>26,923</u> <u>28,523</u>	<u>27,187</u> <u>28,787</u>	<u>29,582</u> <u>31,182</u>	<u>30,343</u> <u>31,943</u>	<u>32,111</u> <u>33,711</u>	<u>32,872</u> <u>34,472</u>	<u>33,632</u> <u>35,232</u>	<u>34,393</u> <u>35,993</u>	<u>35,428</u> <u>37,028</u>

7	<u>26,592</u> <u>28,192</u>	<u>27,252</u> <u>28,852</u>	<u>27,515</u> <u>29,115</u>	<u>30,101</u> <u>31,701</u>	<u>30,862</u> <u>32,462</u>	<u>32,629</u> <u>34,229</u>	<u>33,390</u> <u>34,990</u>	<u>34,151</u> <u>35,751</u>	<u>34,912</u> <u>36,512</u>	<u>35,947</u> <u>37,547</u>
8	<u>26,920</u> <u>28,520</u>	<u>27,580</u> <u>29,180</u>	<u>27,844</u> <u>29,444</u>	<u>30,619</u> <u>32,219</u>	<u>31,380</u> <u>32,980</u>	<u>33,148</u> <u>34,748</u>	<u>33,909</u> <u>35,509</u>	<u>34,669</u> <u>36,269</u>	<u>35,430</u> <u>37,030</u>	<u>36,465</u> <u>38,065</u>
9	<u>27,248</u> <u>28,848</u>	<u>27,908</u> <u>29,508</u>	<u>28,172</u> <u>29,772</u>	<u>31,138</u> <u>32,738</u>	<u>31,899</u> <u>33,499</u>	<u>33,666</u> <u>35,266</u>	<u>34,427</u> <u>36,027</u>	<u>35,188</u> <u>36,788</u>	<u>35,949</u> <u>37,549</u>	<u>36,984</u> <u>38,584</u>
10	<u>27,577</u> <u>29,177</u>	<u>28,236</u> <u>29,836</u>	<u>28,500</u> <u>30,100</u>	<u>31,658</u> <u>33,258</u>	<u>32,418</u> <u>34,018</u>	<u>37,186</u> <u>35,786</u>	<u>34,947</u> <u>36,547</u>	<u>35,708</u> <u>37,308</u>	<u>36,468</u> <u>38,068</u>	<u>37,503</u> <u>39,103</u>
11	<u>27,905</u> <u>29,505</u>	<u>28,564</u> <u>30,164</u>	<u>28,828</u> <u>30,428</u>	<u>32,176</u> <u>33,776</u>	<u>32,937</u> <u>34,537</u>	<u>34,705</u> <u>36,305</u>	<u>35,465</u> <u>37,065</u>	<u>36,226</u> <u>37,826</u>	<u>36,987</u> <u>38,587</u>	<u>38,022</u> <u>39,622</u>
12	<u>28,233</u> <u>29,833</u>	<u>28,892</u> <u>30,492</u>	<u>29,156</u> <u>30,756</u>	<u>32,695</u> <u>34,295</u>	<u>33,455</u> <u>35,055</u>	<u>32,223</u> <u>36,823</u>	<u>35,984</u> <u>37,584</u>	<u>36,745</u> <u>38,345</u>	<u>37,505</u> <u>39,105</u>	<u>38,540</u> <u>40,140</u>
13	<u>38,561</u> <u>30,161</u>	<u>29,220</u> <u>30,820</u>	<u>29,484</u> <u>31,084</u>	<u>33,213</u> <u>34,813</u>	<u>33,974</u> <u>35,574</u>	<u>35,742</u> <u>37,342</u>	<u>36,502</u> <u>38,102</u>	<u>37,263</u> <u>38,863</u>	<u>38,024</u> <u>39,624</u>	<u>39,059</u> <u>40,659</u>
14	<u>28,889</u> <u>30,489</u>	<u>29,548</u> <u>31,148</u>	<u>29,812</u> <u>31,412</u>	<u>33,732</u> <u>35,332</u>	<u>34,492</u> <u>36,092</u>	<u>32,260</u> <u>37,860</u>	<u>37,021</u> <u>38,621</u>	<u>37,782</u> <u>39,382</u>	<u>38,542</u> <u>40,142</u>	<u>39,577</u> <u>41,177</u>
15	<u>29,217</u> <u>30,817</u>	<u>29,876</u> <u>31,476</u>	<u>30,140</u> <u>31,740</u>	<u>34,250</u> <u>35,850</u>	<u>35,011</u> <u>36,611</u>	<u>36,779</u> <u>38,379</u>	<u>37,539</u> <u>39,139</u>	<u>38,300</u> <u>39,900</u>	<u>39,061</u> <u>40,661</u>	<u>40,096</u> <u>41,696</u>
16	<u>29,545</u> <u>31,145</u>	<u>30,204</u> <u>31,804</u>	<u>30,468</u> <u>32,068</u>	<u>34,769</u> <u>36,369</u>	<u>35,529</u> <u>37,129</u>	<u>37,297</u> <u>38,897</u>	<u>38,058</u> <u>38,658</u>	<u>38,819</u> <u>40,419</u>	<u>39,579</u> <u>41,179</u>	<u>40,614</u> <u>42,214</u>
17	<u>29,873</u> <u>31,473</u>	<u>30,533</u> <u>32,133</u>	<u>30,796</u> <u>32,396</u>	<u>35,287</u> <u>36,887</u>	<u>36,048</u> <u>37,648</u>	<u>37,817</u> <u>39,417</u>	<u>38,577</u> <u>40,177</u>	<u>39,337</u> <u>40,937</u>	<u>40,098</u> <u>41,698</u>	<u>41,133</u> <u>42,733</u>
18	<u>20,201</u> <u>31,801</u>	<u>30,861</u> <u>32,461</u>	<u>31,125</u> <u>32,725</u>	<u>35,806</u> <u>37,406</u>	<u>36,567</u> <u>38,167</u>	<u>38,334</u> <u>39,934</u>	<u>39,065</u> <u>40,695</u>	<u>39,856</u> <u>41,456</u>	<u>40,617</u> <u>42,217</u>	<u>41,652</u> <u>43,252</u>
19	<u>30,529</u> <u>32,129</u>	<u>31,189</u> <u>32,789</u>	<u>31,453</u> <u>33,053</u>	<u>36,324</u> <u>37,924</u>	<u>37,085</u> <u>38,685</u>	<u>38,853</u> <u>40,453</u>	<u>39,614</u> <u>41,214</u>	<u>40,374</u> <u>41,974</u>	<u>41,135</u> <u>42,735</u>	<u>42,170</u> <u>43,770</u>
20	<u>30,857</u> <u>32,457</u>	<u>31,517</u> <u>33,117</u>	<u>31,781</u> <u>33,381</u>	<u>36,843</u> <u>38,443</u>	<u>37,604</u> <u>39,204</u>	<u>39,371</u> <u>40,971</u>	<u>40,132</u> <u>41,732</u>	<u>40,893</u> <u>42,493</u>	<u>41,654</u> <u>43,254</u>	<u>42,689</u> <u>44,289</u>
21	<u>31,186</u> <u>32,786</u>	<u>31,845</u> <u>33,445</u>	<u>32,109</u> <u>33,709</u>	<u>37,361</u> <u>38,961</u>	<u>38,122</u> <u>39,722</u>	<u>39,890</u> <u>41,490</u>	<u>40,651</u> <u>42,251</u>	<u>41,411</u> <u>43,011</u>	<u>42,172</u> <u>43,772</u>	<u>43,207</u> <u>44,807</u>
22	<u>31,514</u> <u>33,114</u>	<u>32,173</u> <u>33,773</u>	<u>32,437</u> <u>34,037</u>	<u>37,880</u> <u>39,480</u>	<u>38,641</u> <u>40,241</u>	<u>40,408</u> <u>42,008</u>	<u>41,169</u> <u>42,769</u>	<u>41,930</u> <u>43,530</u>	<u>42,691</u> <u>44,291</u>	<u>43,726</u> <u>45,326</u>
23	<u>31,842</u> <u>33,442</u>	<u>32,501</u> <u>34,101</u>	<u>32,765</u> <u>34,365</u>	<u>38,399</u> <u>39,999</u>	<u>39,159</u> <u>40,759</u>	<u>40,927</u> <u>42,527</u>	<u>41,688</u> <u>43,288</u>	<u>42,448</u> <u>44,048</u>	<u>43,209</u> <u>44,809</u>	<u>44,244</u> <u>45,844</u>
24	<u>32,170</u> <u>33,770</u>	<u>32,829</u> <u>34,429</u>	<u>33,093</u> <u>34,693</u>	<u>38,917</u> <u>40,517</u>	<u>39,678</u> <u>41,278</u>	<u>41,446</u> <u>43,046</u>	<u>42,206</u> <u>43,806</u>	<u>42,967</u> <u>44,567</u>	<u>43,728</u> <u>45,328</u>	<u>44,763</u> <u>46,363</u>
25	<u>32,498</u> <u>34,098</u>	<u>33,157</u> <u>34,757</u>	<u>33,421</u> <u>35,021</u>	<u>39,436</u> <u>41,036</u>	<u>40,196</u> <u>41,796</u>	<u>41,964</u> <u>43,564</u>	<u>42,725</u> <u>44,325</u>	<u>43,486</u> <u>45,086</u>	<u>44,246</u> <u>45,846</u>	<u>45,281</u> <u>46,881</u>

26	<del>32,826</del> <u>34,426</u>	<del>33,485</del> <u>35,085</u>	<del>33,749</del> <u>35,349</u>	<del>39,954</del> <u>41,554</u>	<del>40,715</del> <u>42,315</u>	<del>42,483</del> <u>44,083</u>	<del>43,243</del> <u>44,843</u>	<del>44,004</del> <u>45,604</u>	<del>44,765</del> <u>46,365</u>	<del>45,800</del> <u>47,400</u>
27	<del>33,154</del> <u>34,754</u>	<del>33,813</del> <u>35,413</u>	<del>34,077</del> <u>35,677</u>	<del>40,473</del> <u>42,073</u>	<del>41,233</del> <u>42,833</u>	<del>43,001</del> <u>44,601</u>	<del>43,762</del> <u>45,362</u>	<del>44,523</del> <u>46,123</u>	<del>45,283</del> <u>46,883</u>	<del>46,318</del> <u>47,918</u>
28	<del>33,482</del> <u>35,082</u>	<del>34,142</del> <u>35,742</u>	<del>34,405</del> <u>36,005</u>	<del>40,994</del> <u>42,591</u>	<del>41,752</del> <u>43,352</u>	<del>43,520</del> <u>45,120</u>	<del>44,280</del> <u>45,880</u>	<del>45,041</del> <u>46,641</u>	<del>45,802</del> <u>47,402</u>	<del>46,837</del> <u>48,437</u>
29	<del>33,810</del> <u>35,410</u>	<del>34,470</del> <u>36,070</u>	<del>34,734</del> <u>36,334</u>	<del>41,510</del> <u>43,110</u>	<del>42,270</del> <u>43,870</u>	<del>44,038</del> <u>45,638</u>	<del>44,799</del> <u>46,399</u>	<del>45,560</del> <u>47,160</u>	<del>46,320</del> <u>47,920</u>	<del>47,355</del> <u>48,955</u>
30	<del>34,138</del> <u>35,738</u>	<del>34,798</del> <u>36,398</u>	<del>35,062</del> <u>36,662</u>	<del>42,028</del> <u>43,628</u>	<del>42,789</del> <u>44,389</u>	<del>44,557</del> <u>46,157</u>	<del>45,317</del> <u>46,917</u>	<del>46,078</del> <u>47,678</u>	<del>46,839</del> <u>48,439</u>	<del>47,874</del> <u>49,474</u>
31	<del>34,467</del> <u>36,067</u>	<del>35,126</del> <u>36,726</u>	<del>35,390</del> <u>36,990</u>	<del>42,547</del> <u>44,147</u>	<del>43,308</del> <u>44,908</u>	<del>45,075</del> <u>46,675</u>	<del>45,836</del> <u>47,436</u>	<del>46,597</del> <u>48,197</u>	<del>47,357</del> <u>48,957</u>	<del>48,392</del> <u>49,992</u>
32	<del>34,795</del> <u>36,395</u>	<del>35,454</del> <u>37,054</u>	<del>35,718</del> <u>37,318</u>	<del>43,065</del> <u>44,665</u>	<del>43,826</del> <u>45,426</u>	<del>45,594</del> <u>47,194</u>	<del>46,355</del> <u>47,955</u>	<del>47,115</del> <u>48,715</u>	<del>47,876</del> <u>49,476</u>	<del>48,911</del> <u>50,511</u>
33	<del>35,123</del> <u>36,723</u>	<del>35,782</del> <u>37,382</u>	<del>36,046</del> <u>37,646</u>	<del>43,584</del> <u>45,184</u>	<del>44,345</del> <u>45,945</u>	<del>46,112</del> <u>47,712</u>	<del>46,873</del> <u>48,473</u>	<del>47,634</del> <u>49,234</u>	<del>48,395</del> <u>49,995</u>	<del>49,430</del> <u>51,030</u>
34	<del>35,451</del> <u>37,051</u>	<del>36,110</del> <u>37,710</u>	<del>36,374</del> <u>37,974</u>	<del>44,102</del> <u>45,702</u>	<del>44,863</del> <u>46,463</u>	<del>46,631</del> <u>48,231</u>	<del>47,392</del> <u>48,992</u>	<del>48,152</del> <u>49,752</u>	<del>48,913</del> <u>50,513</u>	<del>49,948</del> <u>51,548</u>
35	<del>35,779</del> <u>37,379</u>	<del>36,438</del> <u>38,038</u>	<del>36,702</del> <u>38,302</u>	<del>44,621</del> <u>46,221</u>	<del>45,382</del> <u>46,982</u>	<del>47,149</del> <u>48,749</u>	<del>47,910</del> <u>49,510</u>	<del>48,671</del> <u>50,271</u>	<del>49,432</del> <u>51,032</u>	<del>50,467</del> <u>52,067</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-4-3. State minimum annual salary increments for principals and assistant principals.**

(a) In addition to any salary increments for principals and assistant principals, in effect on the first day of January, two thousand ~~two~~ eight, and paid from local funds, and in addition to the county schedule in effect for teachers, the county board shall pay each principal; a principal's salary increment and each assistant principal an assistant principal's salary increment as prescribed by this section from state funds appropriated for the salary increments.

(b) 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.

(c) The salary increment in this section for each principal shall be determined by multiplying the basic salary for teachers in accordance with the classification of certification and of training of the principal as prescribed in this article, by the appropriate percentage rate prescribed in this section according to the number of teachers supervised.

STATE MINIMUM SALARY INCREMENT  
RATES FOR PRINCIPALS  
EFFECTIVE UNTIL JULY 1, 2008  
No. of Teachers



Supervised Rates		
1-7	9.0%	<u>10.0%</u>
8-14	9.5%	<u>10.5%</u>
15-24	10.0%	<u>11.0%</u>
25-38	10.5%	<u>11.5%</u>
39-57	11.0%	<u>12.0%</u>
58 and up	11.5%	<u>12.5%</u>

STATE MINIMUM SALARY INCREMENT  
RATES FOR PRINCIPALS  
EFFECTIVE ON AND AFTER JULY 1, 2008  
No. of Teachers

Supervised Rates		
1-7	10.0%	<u>11.0%</u>
8-14	10.5%	<u>11.5%</u>
15-24	11.0%	<u>12.0%</u>
25-38	11.5%	<u>12.5%</u>
39-57	12.0%	<u>13.0%</u>
58 and up	12.5%	<u>13.5%</u>

(d) The salary increment in this section for each assistant principal shall be determined in the same manner as that for principals, ~~utilizing~~ using the number of teachers supervised by the principal under whose direction the assistant principal works, except that the percentage rate shall be fifty percent of the rate prescribed for the principal.

(e) Salaries for employment beyond the minimum employment term shall be at the same daily rate as the salaries for the minimum employment terms.

(f) For the purpose of determining the number of teachers supervised by a principal, the county board shall use data for the second school month of the prior school term and the number of teachers shall be interpreted to mean the total number of professional educators assigned to each school on a full-time equivalency basis: *Provided*, That if there is a change in circumstances because of consolidation or catastrophe, the county board shall determine what is a reasonable number of supervised teachers in order to establish the appropriate increment percentage rate.

(g) No county may reduce local funds allocated for salary increments for principals and assistant principals in effect on the first day of January, two thousand ~~two~~ eight, and used in supplementing the state minimum salaries as provided ~~for~~ in this article, unless forced to do so by defeat of a special levy, or a loss in assessed values or events over which it has no control and for which the county board has received approval from the state board prior to making the reduction.

(h) Nothing in this section prevents a county board from providing, in a uniform manner, salary increments greater than those required by this section.

**§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.

STATE MINIMUM PAY SCALE PAY GRADE								
Years Exp .	PAY GRADE							
	A	B	C	D	E	F	G	H
0	<u>4,507</u> <u>1,577</u>	<u>4,528</u> <u>1,598</u>	<u>4,569</u> <u>1,639</u>	<u>4,621</u> <u>1,691</u>	<u>4,673</u> <u>1,743</u>	<u>4,735</u> <u>1,805</u>	<u>4,766</u> <u>1,836</u>	<u>4,838</u> <u>1,908</u>
1	<u>4,539</u> <u>1,609</u>	<u>4,560</u> <u>1,630</u>	<u>4,601</u> <u>1,671</u>	<u>4,653</u> <u>1,723</u>	<u>4,705</u> <u>1,775</u>	<u>4,767</u> <u>1,837</u>	<u>4,798</u> <u>1,868</u>	<u>4,870</u> <u>1,940</u>
2	<u>4,571</u> <u>1,641</u>	<u>4,592</u> <u>1,662</u>	<u>4,633</u> <u>1,703</u>	<u>4,685</u> <u>1,755</u>	<u>4,737</u> <u>1,807</u>	<u>4,799</u> <u>1,869</u>	<u>4,830</u> <u>1,900</u>	<u>4,902</u> <u>1,972</u>
3	<u>4,603</u> <u>1,673</u>	<u>4,624</u> <u>1,694</u>	<u>4,665</u> <u>1,735</u>	<u>4,717</u> <u>1,787</u>	<u>4,769</u> <u>1,839</u>	<u>4,831</u> <u>1,901</u>	<u>4,862</u> <u>1,932</u>	<u>4,934</u> <u>2,004</u>
4	<u>4,635</u> <u>1,705</u>	<u>4,656</u> <u>1,726</u>	<u>4,697</u> <u>1,767</u>	<u>4,749</u> <u>1,819</u>	<u>4,801</u> <u>1,871</u>	<u>4,863</u> <u>1,933</u>	<u>4,894</u> <u>1,964</u>	<u>4,967</u> <u>2,037</u>
5	<u>4,667</u> <u>1,737</u>	<u>4,688</u> <u>1,758</u>	<u>4,729</u> <u>1,799</u>	<u>4,781</u> <u>1,851</u>	<u>4,833</u> <u>1,903</u>	<u>4,895</u> <u>1,965</u>	<u>4,926</u> <u>1,996</u>	<u>4,999</u> <u>2,069</u>
6	<u>4,699</u> <u>1,769</u>	<u>4,720</u> <u>1,790</u>	<u>4,762</u> <u>1,832</u>	<u>4,813</u> <u>1,883</u>	<u>4,865</u> <u>1,935</u>	<u>4,927</u> <u>1,997</u>	<u>4,958</u> <u>2,028</u>	<u>2,034</u> <u>2,101</u>
7	<u>4,732</u> <u>1,802</u>	<u>4,752</u> <u>1,822</u>	<u>4,794</u> <u>1,864</u>	<u>4,845</u> <u>1,915</u>	<u>4,897</u> <u>1,967</u>	<u>4,959</u> <u>2,029</u>	<u>4,990</u> <u>2,060</u>	<u>2,063</u> <u>2,133</u>
8	<u>4,764</u> <u>1,834</u>	<u>4,784</u> <u>1,854</u>	<u>4,826</u> <u>1,896</u>	<u>4,877</u> <u>1,947</u>	<u>4,929</u> <u>1,999</u>	<u>4,991</u> <u>2,061</u>	<u>2,022</u> <u>2,092</u>	<u>2,095</u> <u>2,165</u>
9	<u>4,796</u> <u>1,866</u>	<u>4,816</u> <u>1,886</u>	<u>4,858</u> <u>1,928</u>	<u>4,910</u> <u>1,980</u>	<u>4,961</u> <u>2,031</u>	<u>2,023</u> <u>2,093</u>	<u>2,054</u> <u>2,124</u>	<u>2,127</u> <u>2,197</u>
10	<u>4,828</u> <u>1,898</u>	<u>4,849</u> <u>1,919</u>	<u>4,890</u> <u>1,960</u>	<u>4,942</u> <u>2,012</u>	<u>4,993</u> <u>2,063</u>	<u>2,056</u> <u>2,126</u>	<u>2,087</u> <u>2,157</u>	<u>2,159</u> <u>2,229</u>
11	<u>4,860</u> <u>1,930</u>	<u>4,881</u> <u>1,951</u>	<u>4,922</u> <u>1,992</u>	<u>4,974</u> <u>2,044</u>	<u>2,025</u> <u>2,095</u>	<u>2,088</u> <u>2,158</u>	<u>2,119</u> <u>2,189</u>	<u>2,191</u> <u>2,261</u>
12	<u>4,892</u> <u>1,962</u>	<u>4,913</u> <u>1,983</u>	<u>4,954</u> <u>2,024</u>	<u>2,006</u> <u>2,076</u>	<u>2,058</u> <u>2,128</u>	<u>2,120</u> <u>2,190</u>	<u>2,151</u> <u>2,221</u>	<u>2,223</u> <u>2,293</u>
13	<u>4,924</u> <u>1,994</u>	<u>4,945</u> <u>2,015</u>	<u>4,986</u> <u>2,056</u>	<u>2,038</u> <u>2,108</u>	<u>2,090</u> <u>2,160</u>	<u>2,152</u> <u>2,222</u>	<u>2,183</u> <u>2,253</u>	<u>2,255</u> <u>2,325</u>
14	<u>4,956</u> <u>2,026</u>	<u>4,977</u> <u>2,047</u>	<u>2,018</u> <u>2,088</u>	<u>2,070</u> <u>2,140</u>	<u>2,122</u> <u>2,192</u>	<u>2,184</u> <u>2,254</u>	<u>2,215</u> <u>2,285</u>	<u>2,287</u> <u>2,357</u>
15	<u>4,988</u> <u>2,058</u>	<u>2,009</u> <u>2,079</u>	<u>2,050</u> <u>2,120</u>	<u>2,102</u> <u>2,172</u>	<u>2,154</u> <u>2,224</u>	<u>2,216</u> <u>2,286</u>	<u>2,247</u> <u>2,317</u>	<u>2,319</u> <u>2,389</u>

16	<u>2,020</u> <u>2,090</u>	<u>2,041</u> <u>2,111</u>	<u>2,082</u> <u>2,152</u>	<u>2,134</u> <u>2,204</u>	<u>2,186</u> <u>2,256</u>	<u>2,248</u> <u>2,318</u>	<u>2,279</u> <u>2,349</u>	<u>2,352</u> <u>2,422</u>
17	<u>2,058</u> <u>2,122</u>	<u>2,073</u> <u>2,143</u>	<u>2,115</u> <u>2,185</u>	<u>2,166</u> <u>2,236</u>	<u>2,218</u> <u>2,288</u>	<u>2,280</u> <u>2,350</u>	<u>2,311</u> <u>2,381</u>	<u>2,384</u> <u>2,454</u>
18	<u>2,084</u> <u>2,154</u>	<u>2,105</u> <u>2,175</u>	<u>2,147</u> <u>2,217</u>	<u>2,198</u> <u>2,268</u>	<u>2,250</u> <u>2,320</u>	<u>2,312</u> <u>2,382</u>	<u>2,343</u> <u>2,413</u>	<u>2,416</u> <u>2,486</u>
19	<u>2,117</u> <u>2,187</u>	<u>2,137</u> <u>2,207</u>	<u>2,179</u> <u>2,249</u>	<u>2,230</u> <u>2,300</u>	<u>2,282</u> <u>2,352</u>	<u>2,344</u> <u>2,414</u>	<u>2,375</u> <u>2,445</u>	<u>2,448</u> <u>2,518</u>
20	<u>2,149</u> <u>2,219</u>	<u>2,169</u> <u>2,239</u>	<u>2,211</u> <u>2,281</u>	<u>2,263</u> <u>2,333</u>	<u>2,314</u> <u>2,384</u>	<u>2,376</u> <u>2,446</u>	<u>2,407</u> <u>2,477</u>	<u>2,480</u> <u>2,550</u>
21	<u>2,181</u> <u>2,251</u>	<u>2,204</u> <u>2,271</u>	<u>2,243</u> <u>2,313</u>	<u>2,295</u> <u>2,365</u>	<u>2,346</u> <u>2,416</u>	<u>2,408</u> <u>2,478</u>	<u>2,439</u> <u>2,509</u>	<u>2,512</u> <u>2,582</u>
22	<u>2,213</u> <u>2,283</u>	<u>2,234</u> <u>2,304</u>	<u>2,275</u> <u>2,345</u>	<u>2,327</u> <u>2,397</u>	<u>2,378</u> <u>2,448</u>	<u>2,441</u> <u>2,511</u>	<u>2,472</u> <u>2,542</u>	<u>2,544</u> <u>2,614</u>
23	<u>2,245</u> <u>2,315</u>	<u>2,266</u> <u>2,336</u>	<u>2,307</u> <u>2,377</u>	<u>2,359</u> <u>2,429</u>	<u>2,411</u> <u>2,481</u>	<u>2,473</u> <u>2,543</u>	<u>2,504</u> <u>2,574</u>	<u>2,576</u> <u>2,646</u>
24	<u>2,277</u> <u>2,347</u>	<u>2,298</u> <u>2,368</u>	<u>2,339</u> <u>2,409</u>	<u>2,391</u> <u>2,461</u>	<u>2,443</u> <u>2,513</u>	<u>2,505</u> <u>2,575</u>	<u>2,536</u> <u>2,606</u>	<u>2,608</u> <u>2,678</u>
25	<u>2,309</u> <u>2,379</u>	<u>2,330</u> <u>2,400</u>	<u>2,371</u> <u>2,441</u>	<u>2,423</u> <u>2,493</u>	<u>2,475</u> <u>2,545</u>	<u>2,537</u> <u>2,607</u>	<u>2,568</u> <u>2,638</u>	<u>2,640</u> <u>2,710</u>
26	<u>2,341</u> <u>2,411</u>	<u>2,362</u> <u>2,432</u>	<u>2,403</u> <u>2,473</u>	<u>2,455</u> <u>2,525</u>	<u>2,507</u> <u>2,577</u>	<u>2,569</u> <u>2,639</u>	<u>2,600</u> <u>2,670</u>	<u>2,672</u> <u>2,742</u>
27	<u>2,373</u> <u>2,443</u>	<u>2,394</u> <u>2,464</u>	<u>2,435</u> <u>2,505</u>	<u>2,487</u> <u>2,557</u>	<u>2,539</u> <u>2,609</u>	<u>2,601</u> <u>2,671</u>	<u>2,632</u> <u>2,702</u>	<u>2,704</u> <u>2,774</u>
28	<u>2,405</u> <u>2,475</u>	<u>2,426</u> <u>2,496</u>	<u>2,467</u> <u>2,537</u>	<u>2,519</u> <u>2,589</u>	<u>2,571</u> <u>2,641</u>	<u>2,633</u> <u>2,703</u>	<u>2,664</u> <u>2,734</u>	<u>2,737</u> <u>2,807</u>
29	<u>2,437</u> <u>2,507</u>	<u>2,458</u> <u>2,528</u>	<u>2,500</u> <u>2,570</u>	<u>2,551</u> <u>2,621</u>	<u>2,603</u> <u>2,673</u>	<u>2,665</u> <u>2,735</u>	<u>2,696</u> <u>2,766</u>	<u>2,769</u> <u>2,839</u>
30	<u>2,470</u> <u>2,540</u>	<u>2,490</u> <u>2,560</u>	<u>2,532</u> <u>2,602</u>	<u>2,583</u> <u>2,653</u>	<u>2,635</u> <u>2,705</u>	<u>2,697</u> <u>2,767</u>	<u>2,728</u> <u>2,798</u>	<u>2,801</u> <u>2,871</u>
31	<u>2,502</u> <u>2,572</u>	<u>2,522</u> <u>2,592</u>	<u>2,564</u> <u>2,634</u>	<u>2,615</u> <u>2,685</u>	<u>2,667</u> <u>2,737</u>	<u>2,729</u> <u>2,799</u>	<u>2,760</u> <u>2,830</u>	<u>2,833</u> <u>2,903</u>
32	<u>2,534</u> <u>2,604</u>	<u>2,554</u> <u>2,624</u>	<u>2,596</u> <u>2,666</u>	<u>2,648</u> <u>2,718</u>	<u>2,699</u> <u>2,769</u>	<u>2,761</u> <u>2,831</u>	<u>2,792</u> <u>2,862</u>	<u>2,865</u> <u>2,935</u>
33	<u>2,566</u> <u>2,636</u>	<u>2,586</u> <u>2,656</u>	<u>2,628</u> <u>2,698</u>	<u>2,680</u> <u>2,750</u>	<u>2,731</u> <u>2,801</u>	<u>2,793</u> <u>2,863</u>	<u>2,825</u> <u>2,895</u>	<u>2,897</u> <u>2,967</u>
34	<u>2,598</u> <u>2,668</u>	<u>2,619</u> <u>2,689</u>	<u>2,660</u> <u>2,730</u>	<u>2,712</u> <u>2,782</u>	<u>2,763</u> <u>2,833</u>	<u>2,826</u> <u>2,896</u>	<u>2,857</u> <u>2,927</u>	<u>2,929</u> <u>2,999</u>

35	<u>2,630</u> <u>2,700</u>	<u>2,651</u> <u>2,721</u>	<u>2,692</u> <u>2,762</u>	<u>2,744</u> <u>2,814</u>	<u>2,796</u> <u>2,866</u>	<u>2,858</u> <u>2,928</u>	<u>2,889</u> <u>2,959</u>	<u>2,961</u> <u>3,031</u>
36	<u>2,662</u> <u>2,732</u>	<u>2,683</u> <u>2,753</u>	<u>2,724</u> <u>2,794</u>	<u>2,776</u> <u>2,846</u>	<u>2,828</u> <u>2,898</u>	<u>2,890</u> <u>2,960</u>	<u>2,921</u> <u>2,991</u>	<u>2,993</u> <u>3,063</u>
37	<u>2,694</u> <u>2,764</u>	<u>2,715</u> <u>2,785</u>	<u>2,756</u> <u>2,826</u>	<u>2,808</u> <u>2,878</u>	<u>2,860</u> <u>2,930</u>	<u>2,922</u> <u>2,992</u>	<u>2,953</u> <u>3,023</u>	<u>3,025</u> <u>3,095</u>
38	<u>2,747</u> <u>2,796</u>	<u>2,747</u> <u>2,817</u>	<u>2,788</u> <u>2,858</u>	<u>2,840</u> <u>2,910</u>	<u>2,892</u> <u>2,962</u>	<u>2,954</u> <u>3,024</u>	<u>2,985</u> <u>3,055</u>	<u>3,057</u> <u>3,127</u>
39	<u>2,758</u> <u>2,828</u>	<u>2,779</u> <u>2,849</u>	<u>2,820</u> <u>2,890</u>	<u>2,872</u> <u>2,942</u>	<u>2,924</u> <u>2,994</u>	<u>2,986</u> <u>3,056</u>	<u>3,017</u> <u>3,087</u>	<u>3,089</u> <u>3,159</u>
40	<u>2,790</u> <u>2,860</u>	<u>2,811</u> <u>2,881</u>	<u>2,852</u> <u>2,922</u>	<u>2,904</u> <u>2,974</u>	<u>2,956</u> <u>3,026</u>	<u>3,018</u> <u>3,088</u>	<u>3,049</u> <u>3,119</u>	<u>3,122</u> <u>3,192</u>

**(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	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 dollars 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 dollars per month also shall be added to the minimum monthly pay of each service employee for each of the following:

- (1) A service employee who holds twelve college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
- (2) A service employee who holds twenty-four college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
- (3) A service employee who holds thirty-six college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
- (4) A service employee who holds forty-eight college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
- (5) A service employee who holds sixty college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
- (6) A service employee who holds seventy-two college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
- (7) A service employee who holds eighty-four college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
- (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 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 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 dollars 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 ~~utilized~~ 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 per hour or no less than five dollars 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 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 ~~utilized~~ 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.

## **Senate Bill 593**

Effective Date: Passed March 8, 2008; in effect from passage

Signed by Governor: March 27, 2008

Code Reference: Amends §18-9A-11

Title: Local share

Major Provisions:

- Clarifies that a county board with a library funding obligation through a Special Act of the Legislature must continue to pay the obligation up to the difference between a county board's local share and its regular levy revenues
- Provides that if a county board chooses to transfer the library funding obligation to its excess levy, the obligation remains an obligation of the regular school levy until the fiscal year that the excess levy is effective or would have been effective, if it had passed and that the library funding obligation on its regular school levy would become void during the same fiscal year
- Provides that if a county board chooses to transfer its library obligation to its excess levy, the obligation must be a specifically described line item of the excess levy and the library funding obligation must also be made a part of any subsequent excess levy
- Corrects the date by which the local share calculation is to be based on the new method of calculation from July 1, 2012 to July 1, 2013



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 593**

(Senators McCabe and Foster, *original sponsors*)

[Passed March 8, 2008; in effect from passage.]

AN ACT to amend and reenact §18-9A-11 of the Code of West Virginia, 1931, as amended, relating to school finance; computation of local share; limit on certain library funding obligations; and transfer of a library funding obligation to an excess levy.

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

That §18-9A-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

**§18-9A-11. Computation of local share; appraisal and assessment of property; public library support.**

(a) On the basis of each county's certificates of valuation as to all classes of property as determined and published by the assessors pursuant to section six, article three, chapter eleven of this code for the next ensuing fiscal year in reliance upon the assessed values annually developed by each county assessor pursuant to the provisions of articles one-c and three of said chapter, the state board shall for each county compute by application of the levies for general current expense purposes, as defined in section two of this article, the amount of revenue which the levies would produce if levied upon one hundred percent of the assessed value of each of the several classes of property contained in the report or revised report of the value, made to it by the Tax Commissioner as follows:

(1) The state board shall first take ninety-five percent of the amount ascertained by applying these rates to the total assessed public utility valuation in each classification of property in the county; and

(2) The state board shall then apply these rates to the assessed taxable value of other property in each classification in the county as determined by the Tax Commissioner and shall deduct therefrom five percent as an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and the like. All of the amount so determined shall be added to the ninety-five percent of public utility taxes computed as provided in subdivision (1) of this subsection and this total shall be further reduced by the amount due each county assessor's office pursuant to the provisions of section eight, article one-c, chapter eleven of this code and this amount shall be the local share of the particular county.

As to any estimations or preliminary computations of local share required prior to the report to the Legislature by the Tax Commissioner, the state shall use the most recent projections or estimations that may be available from the Tax Department for that purpose.

(b) ~~Commencing with Effective the first day of July, two thousand thirteen fiscal year and each fiscal year thereafter,~~ subsection (a) of this section is void and local share shall be calculated in accordance with the following:

(1) The state board shall for each county compute by application of the levies for general current expense purposes, as defined in sections two and two-a of this article, the amount of revenue which the levies would produce if levied upon one hundred percent of the assessed value calculated pursuant to section five-b, article one-c, chapter eleven of this code;

(2) Five percent shall be deducted from the revenue calculated pursuant to subdivision (1) of this subsection as an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and the like; and

(3) The amount calculated in subdivision (2) of this subsection shall further be reduced by the sum of money due each assessor's office pursuant to the provisions of section eight, article one-c, chapter eleven of this code and this reduced amount shall be the local share of the particular county.

(c) Whenever in any year a county assessor or a county commission ~~shall fail~~ or ~~refuse~~ to comply with the provisions of this section in setting the valuations of property for assessment purposes in any class or classes of property in the county, the State Tax Commissioner shall review the valuations for assessment purposes made by the county assessor and the county commission and shall direct the county assessor and the county commission to make corrections in the valuations as necessary so that they ~~shall~~ comply with the requirements of chapter eleven of this code and this section and the Tax Commissioner shall enter the county and fix the assessments at the required ratios. Refusal of the assessor or the county commission to make the corrections constitutes grounds for removal from office.

(d) For the purposes of any computation made in accordance with the provisions of this section, in any taxing unit in which tax increment financing is in effect pursuant to the provisions of article eleven-b, chapter seven of this code, the assessed value of a related private project shall be the base-assessed value as defined in section two of said article.

(e) For purposes of any computation made in accordance with the provisions of this section, in any county where the county board of education has adopted a resolution choosing to use the provisions of the Growth County School Facilities Act set forth in section six-f, article eight, chapter eleven of this code, estimated school board revenues generated from application of the regular school board levy rate to new property values, as that term is designated in said section, may not be considered local share funds and shall be subtracted before the computations in subdivisions (1) and (2), subsection (a) of this section or in subdivisions (2) and (3), subsection (b) of this section, as applicable, are made.

(f) The Legislature finds that public school systems throughout the state provide support in varying degrees to public libraries through a variety of means including budgeted allocations, excess levy funds and portions of their regular school board levies as may be provided by special act. A number of public libraries are situated on the campuses of public schools and several are within public school buildings serving both the students and public patrons. To the extent that public schools recognize and choose to avail the resources of public libraries toward developing within their students such legally recognized elements of a thorough and efficient education as literacy, interests in literature, knowledge of government and the world around them and preparation for advanced academic training, work and citizenship, public libraries serve a legitimate school purpose and may do so economically. For the purposes of any computation made in accordance with the provisions of this section, the library funding obligation on the regular school board levies which is created by a special act and is due and payable from the levy revenues to a library shall be paid from ~~that portion of the levies which exceeds the proportion determined to be local share.~~ the county school board's discretionary retainage, which is hereby defined as the amount by which the regular school board levies exceeds the local share as determined hereunder. If the library funding obligation which is created by a special act and is due and payable to a library is greater than the amount available ~~in excess of the county's local share,~~ county school board's discretionary retainage, the library

funding obligation created by the special act is amended and is reduced to the amount which is available, of the discretionary retainage, notwithstanding any provisions of the special act to the contrary. Any excess of the discretionary retainage over the library funding obligation shall be available for expenditure by the county board in its discretion for its properly budgeted purposes.

(g) It is the intent of the Legislature that whenever a provision of subsection (f) of this section is contrary to any special act of the Legislature which has been or may in the future be enacted by the Legislature that creates a library funding obligation on the regular school board levy of a county, subsection (f) of this section controls over the special act. Specifically, the special acts which are subject to said subsection upon the enactment of this section during the two thousand seven regular session of the Legislature include:

(1) Enrolled Senate Bill No. 11, passed on the twelfth day of February, one thousand nine hundred seventy, applicable to the Berkeley County Board of Education;

(2) Enrolled House Bill No. 1352, passed on the seventh day of April, one thousand nine hundred eighty-one, applicable to the Hardy County Board of Education;

(3) Enrolled Committee Substitute for House Bill No. 2833, passed on the fourteenth day of March, one thousand nine hundred eighty-seven, applicable to the Harrison County Board of Education;

(4) Enrolled House Bill No. 161, passed on the sixth day of March, one thousand nine hundred fifty-seven, applicable to the Kanawha County Board of Education;

(5) Enrolled Senate Bill No. 313, passed on the twelfth day of March, one thousand nine hundred thirty-seven, as amended by Enrolled House Bill No. 1074, passed on the eighth day of March, one thousand nine hundred sixty-seven, and as amended by Enrolled House Bill No. 1195, passed on the eighteenth day of January, one thousand nine hundred eighty-two, applicable to the Ohio County Board of Education;

(6) Enrolled House Bill No. 938, passed on the twenty-eighth day of February, one thousand nine hundred sixty-nine, applicable to the Raleigh County Board of Education;

(7) Enrolled House Bill No. 398, passed on the first day of March, one thousand nine hundred thirty-five, applicable to the Tyler County Board of Education;

(8) Enrolled Committee Substitute for Senate Bill No. 450, passed on the eleventh day of March, one thousand nine hundred ninety-four, applicable to the Upshur County Board of Education; and

(9) Enrolled House Bill No. 2994, passed on the thirteenth day of March, one thousand nine hundred eighty-seven, applicable to the Wood County Board of Education.

(h) Notwithstanding any provision of any special act set forth in subsection (g) of this section to the contrary, the county board of any county with a special act creating a library obligation out of the county's regular school levy revenues may transfer that library obligation so that it becomes a continuing obligation of its excess levy revenues instead of an obligation of its regular school levy revenues, subject to the following:

(1) If a county board chooses to transfer the library obligation pursuant to this subsection, the library funding obligation shall remain an obligation of the regular school levy revenues until after the fiscal year in which a vote on an the excess levy occurs is effective or would have been effective if it had been passed by the voters;

(2) If a county board chooses to transfer the library obligation pursuant to this subsection, the county board shall include the funding of the public library obligation in the same amount as its library funding obligation which exists or had existed on its regular levy revenues as ~~the purpose~~ or one of the purposes for the excess levy to be voted on as a specifically described line item of the excess levy: Provided, That if the county board has transferred the library obligation to the excess levy and the excess levy fails to be passed by the voters or the excess levy passes and thereafter expires upon the time limit for continuation as set forth in section sixteen, article eight, chapter eleven of this code, then in any subsequent excess levy which the county board thereafter submits to the voters the library funding obligation again shall be included as one of

the purposes of the subsequent excess levy as a specifically described line item of the excess levy;

(3) If a county board chooses to transfer the library obligation pursuant to this subsection, regardless of whether or not the excess levy passes, effective the fiscal year ~~after the fiscal year~~ in which ~~a vote on the excess levy occurs~~ is effective or would have been effective if it had been passed by the voters, a county's library obligation on its regular levy revenues is void notwithstanding any provision of the special acts set forth in subsection (g) of this section to the contrary; and

(4) Nothing in subdivision (3) of this subsection prohibits a county board from funding its public library obligation voluntarily.

## Senate Bill 595

Effective Date: Passed March 8, 2008; in effect from passage

Signed by Governor: March 28, 2008

Code Reference: A BILL to repeal §18B-1-1, §18B-1-1b and §18B-1-1c of the Code of West Virginia, 1931, as amended; to repeal §18B-1A-1 and §18B-1A-2 of said code; to repeal §18B-1B-8 and §18B-1B-9 of said code; to repeal §18B-3B-1 and §18B-3B-2 of said code; to repeal §18B-11-5 of said code; to amend and reenact §18-1-4 of said code; to amend and reenact §18B-1-1a of said code; to amend said code by adding thereto a new article, designated §18B-1D-1, §18B-1D-2, §18B-1D-3, §18B-1D-4, §18B-1D-5, §18B-1D-6, §18B-1D-7 and §18B-1D-8; and to amend said code by adding thereto a new section, designated §18B-14-9

Title: *Vision 2020: An Education Blueprint for Two Thousand Twenty*

Major Provisions:

- Establishes goals and objectives for 2020 for both public and higher education
- Focuses and clarifies elements of the accountability system for public and higher education
- Creates a committee to study capital projects and facilities maintenance needs for higher education
- Requires State Board to establish policy that promulgates the development of a clear plan (*Education Blue Print for 2020*) to address required goals, policy oriented objectives and performance oriented objectives, and establishes strategies, indicators and benchmarks for achieving the following required goals set forth
- The *Education Blue Print* must address the following required goals:
  - o Academic achievement according to national and international measures will exceed national and international measures;
  - o Public education will prepare fully all students for post-secondary education or gainful employment;
  - o All working age adults will be functionally literate;
  - o Public education system will maintain and promote the health and safety of all students, and will develop and promote responsibility, citizenship and strong character in all students; and
  - o Public education system will provide equitable education opportunity for all students.

- The ***Education Blue Print*** must include the following policy oriented objectives and include specified periods of time for achievement:
  - Rigorous 21<sup>st</sup> Century curriculum and engaging instruction for all students;
  - 21<sup>st</sup> Century accountability and accreditation system;
  - Statewide balance assessment process that includes an individualized student data management system;
  - Personnel allocation, licensure and funding process that aligns with the needs of 21<sup>st</sup> Century school systems and is supported by a quality coordinated professional development delivery system;
  - School environments that promote safe, healthy and responsible behavior and provide an integrated system of student support services;
  - Leadership recruitment, development and support continuum;
  - Equitable access to 21<sup>st</sup> Century technology and education resources and school facilities conducive to 21<sup>st</sup> Century teaching and learning;
  - Aligned public school with post-secondary and work place readiness programs and standards; and
  - Universal prekindergarten system
  
- The ***Education Blue Print*** must address the following required performance oriented objectives and include specified periods of time for achievement:
  - All children entering the first grade will be ready for first grade;
  - Performance of students falling the lowest quartile on national and international measures of student performance will improve by fifty percent;
  - Ninety percent of ninth graders will graduate from high school;
  - By 2012, the ten counties with the lowest college-going rates as of the effective date of this act will increase their college-going rate to the 2012 state average and the college-going rate of the state will equal the college-going rate of the member states of the Southern Regional Education Board; and

- By 2020, the ten counties with the lowest college-going rates as of the effective date of this act will increase their college-going rate to the 2020 college-going rate of the member states of the Southern Regional Education Board and the college-going rate of the state will exceed the college-going rate of the member states of the Southern Regional Education Board by five (5) percentage points

## ENROLLED

### Senate Bill No. 595

(By Senators Plymale, Edgell, Stollings, Bailey, Green, Hunter, Wells, White, Boley, Facemyer, Kessler, Hall, Jenkins, McKenzie and Unger)

[Passed March 8, 2008; in effect from passage.]

AN ACT to repeal §18B-1-1, §18B-1-1b and §18B-1-1c of the Code of West Virginia, 1931, as amended; to repeal §18B-1A-1 and §18B-1A-2 of said code; to repeal §18B-1B-8 and §18B-1B-9 of said code; to repeal §18B-3B-1 and §18B-3B-2 of said code; to repeal §18B-11-5 of said code; to amend and reenact §18-1-4 of said code; to amend and reenact §18-2E-5c of said code; to amend and reenact §18B-1-1a of said code; to amend said code by adding thereto a new article, designated §18B-1D-1, §18B-1D-2, §18B-1D-3, §18B-1D-4, §18B-1D-5, §18B-1D-6, §18B-1D-7 and §18B-1D-8; and to amend said code by adding thereto a new section, designated §18B-14-9, all relating to education generally; establishing Vision 2020: An Education Blueprint for Two Thousand Twenty; requiring State Board of Education plan that includes goals, objectives, strategies, indicators and benchmarks; specifying certain public education goals and objectives to be included in plan; submission of plan to Process for Improving Education Council; purposes and membership of council; providing legislative findings, intent and purposes; establishing goals for public higher education; creating education partnership to achieve state goals and objectives; establishing elements of higher education accountability system; requiring Higher Education Policy Commission and Council for Community and Technical College Education to propose rules by certain date; defining terms; specifying objectives and priorities; establishing date to achieve certain objectives and priorities; defining responsibilities of Higher Education Policy Commission, Council for Community and Technical College Education and state institutions of higher education relative to accountability system; requiring system master plans, state compacts, institutional compacts and institutional and system report cards; establishing submission, approval, review and reporting requirements; authorizing implementation plans; assigning geographic areas of responsibility; specifying that certain reports are no longer required to be prepared annually except under certain conditions; providing for committee to examine higher education facility needs; specifying membership; and requiring recommendations to Legislative Oversight Commission on Education Accountability by certain date.

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

That §18B-1-1, §18B-1-1b and §18B-1-1c of the Code of West Virginia, 1931, as amended, be repealed; that §18B-1A-1 and §18B-1A-2 of said code be repealed; that §18B-1B-8 and §18B-1B-9 of said code be repealed; that §18B-3B-1 and §18B-3B-2 of said code be repealed; that §18B-11-5 of said code be repealed; that §18-1-4 of said code be amended and reenacted; that §18-2E-5c be amended and reenacted; that §18B-1-1a of said code be amended and reenacted; that said code be amended by adding thereto a new article, designated §18B-1D-1, §18B-1D-2, §18B-1D-3, §18B-1D-4, §18B-1D-5, §18B-1D-6, §18B-1D-7 and §18B-1D-8; and that said code be amended by adding thereto a new section, designated §18B-14-9, all to read as follows:

#### **CHAPTER 18. EDUCATION.**

#### **ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR EDUCATION.**

#### **§18-1-4. Education improvement plan *Vision 2020: An Education Blueprint for Two Thousand Twenty.***



~~(a) The governor, the Legislature, the state board and the people of West Virginia agree that the education of their children is of utmost importance to the future well-being of the state and that the purpose of enacting education laws and providing funding to support a system of free schools is to assure that all of our children have every opportunity to secure an education which is thorough and is provided in an efficient manner. The governor, the Legislature, the state board and the people of West Virginia further agree that improvements are needed in the education system of West Virginia if these objectives are to be met. This section, together with section one-a, article one, chapter eighteen-b of this code and article one-d of said chapter, shall be known as and may be cited as Vision 2020: An Education Blueprint for Two Thousand Twenty.~~

~~(b) Therefore, the governor, the Legislature, the state board and the people of West Virginia have established goals for themselves which are measurable and achievable through the combined efforts of the government, the school system and the people through an increased focus on the needs of children. These goals are: For the purposes of this section:~~

~~(1) All children entering the first grade will be ready for the first grade; "Goals" means those long-term public purposes which are the desired end result and only may include those items listed in subsection (e) of this section;~~

~~(2) All students will have equal education opportunity; "Objectives" means the ends to be accomplished or attained within a specified period of time for the purpose of meeting the established goals; and~~

~~(3) Student performance on national measures of student performance will equal or exceed national averages and the performance of students falling in the lowest quartile will improve by fifty percent; "Strategies" means specific activities carried out by the public education system which are directed toward accomplishing specific objectives.~~

~~(4) Ninety percent of ninth graders will graduate from high school;~~

~~(5) High school graduates will be fully prepared for college, other post-secondary education or gainful employment. The number of high school graduates entering post-secondary education will increase by fifty percent; and~~

~~(6) All working age adults will be functionally literate.~~

~~The intent of the governor, the Legislature and the state board is to pursue the accomplishment of these goals through strategies which focus on: (i) Early childhood development; (ii) improving the quality of teaching; (iii) technology and learning; (iv) helping at-risk students; (v) work force preparation; and (vi) restructuring and accountability in the education system.~~

~~(c) The state board shall report progress toward meeting and achieving the goals, as set forth in subsection (b) of this section, to the governor and the Legislature at the beginning of the legislative session in each of the next four years, beginning in the year one thousand nine hundred ninety seven, and shall include in such report how the legislative priorities of the board address attainment of the goals. The Legislature finds that:~~

~~(1) The measure of a thorough and efficient system of education is whether students graduate prepared to meet the challenges of the future as contributing members of society and that these challenges change, becoming ever more complex and involving a global context more than at any other time in the history of our nation;~~

~~(2) The state recently has embraced and is implementing the Partnership for 21st Century Skills model for teaching and learning including six key elements (core subjects, 21st Century content, learning and thinking skills, information and communications technology literacy, life skills and 21st Century assessments) to help better prepare students for the challenges of the 21st Century;~~

~~(3) Published national studies by several organizations routinely examine various elements of state education systems and selected underlying socioeconomic variables and rate and rank West Virginia and the other states, the District of Columbia and the territories based on the measurement systems and priorities established by the organizations, and these measurement systems and priorities change;~~

(4) While the state should take pride in studies that show West Virginia is among the leaders in several of its efforts and is making progress, its students often outperforming expectations based on typical indicators of the likelihood for student success, such as the income and education levels of their parents, it should also recognize that the state must do even more to ensure that high school graduates are fully prepared for post-secondary education or gainful employment;

(5) Therefore, the purpose of this section is to provide for the establishment of a clear plan that includes goals, objectives, strategies, indicators and benchmarks to help guide the state's policymakers on the continuous development of the state's education system for the 21st Century.

(d) As part of Vision 2020: An Education Blueprint for Two Thousand Twenty, the state board shall establish a plan in accordance with the provisions of this section for submission to and consideration by the Process for Improving Education Council pursuant to section five-c, article two-e of this chapter. The plan shall include only the goals, objectives, strategies, indicators and benchmarks for public education set forth in this section and that meet the requirements of this section. To add clarity and avoid confusion, the goals for public education set forth in the plan pursuant to this section are the exclusive goals for public education. The plan shall include:

(1) The goals set forth in this section and no other goals;

(2) At least the objectives set forth in this section and specified periods of time for achieving those objectives and any other objectives that may be included in the plan;

(3) Strategies for achieving the specific objectives;

(4) Indicators for measuring progress toward the goals and objectives established in this section; and

(5) Benchmarks for determining when the goals and objectives have been achieved.

(e) The plan shall include the following list of exclusive goals for the public education system in West Virginia:

(1) Academic achievement according to national and international measures will exceed national and international averages. These national and international measures should include scores on assessments such as the National Assessment of Educational Progress (NAEP), the ACT, the SAT and the Programme for International Assessment (PISA);

(2) The public education system will prepare fully all students for post-secondary education or gainful employment;

(3) All working-age adults will be functionally literate;

(4) The public education system will maintain and promote the health and safety of all students and will develop and promote responsibility, citizenship and strong character in all students; and

(5) The public education system will provide equitable education opportunity to all students.

(f) The plan also shall include at least the following policy- oriented objectives:

(1) *Rigorous 21st Century curriculum and engaging instruction for all students.* -- All students in West Virginia public schools should have access to and benefit from a rigorous 21st Century curriculum that develops proficiency in core subjects, 21st Century content, learning skills and technology tools. These students also should have that curriculum delivered through engaging, research-based instructional strategies that develop deep understanding and the ability to apply content to real-world situations;

(2) *A 21st Century accountability and accreditation system.* -- The prekindergarten through twelve education system should have a public accrediting system that: (i) Holds local school districts accountable for the student outcomes the state values; and (ii) provides the public with understandable accountability data for judging the quality of local schools. The outcomes on which the system is based should be rigorous and should align with national and international standards such as the National Assessment of Educational Progress (NAEP), the ACT, the SAT and the Programme for International Assessment (PISA). The broad standards established for these outcomes should include a focus on: (A) Mastery of basic skills by all students; (B) closing the achievement gap among student subgroups; and (C) high levels of proficiency in a wide range of desired 21st Century measures and processes. The system for determining school and

district accreditation should include school and district self-analysis and generate appropriate research-based strategies for improvement. It also should allow opportunities to create innovative approaches to instructional delivery and design. Thus, the system will incorporate processes for encouraging innovation, including streamlined applications for waivers to state board policy, financial support for successful initiatives and recognition of those practices that can be brought to a district or statewide scale. The primary goal of the accreditation system is to drive school improvement. This 21st Century accountability and accreditation system also should include the methods of addressing capacity set forth in section five, article two-e of this chapter;

(3) *A statewide balanced assessment process.* -- State, district, school and classroom decisionmaking should be grounded in 21st Century balanced assessment processes that reflect national and international rigorous performance standards and examine student proficiency in 21st Century content, skills and technology tools. A balanced assessment system includes statewide summative assessments, local benchmark assessments and classroom assessments for learning;

(4) *A personnel allocation, licensure and funding process that aligns with the needs of 21st Century school systems and is supported by a quality coordinated professional development delivery system.* -- Increased accountability demands, as well as the focus on 21st Century learning, require a reexamination of traditional approaches to personnel allocation, licensure and funding. Creating schools of the 21st Century requires new staffing roles and staffing patterns. It also requires ongoing professional development activities focused on enhancing student achievement and achieving specific goals of the school and district strategic plans. Thus, schools should have the ability to access, organize and deliver high quality embedded professional development that provides staff with in-depth sustained and supported learning. Effective school improvement should allow opportunity for staff to collectively learn, plan and implement curricular and instructional improvements on behalf of the students they serve;

(5) *School environments that promote safe, healthy and responsible behavior and provide an integrated system of student support services.* -- Each school should create an environment focused on student learning and one where students know they are valued, respected and safe. Furthermore, the school should incorporate programs and processes that instill healthy, safe and responsible behaviors and prepare students for interactions with individuals of diverse racial, ethnic and social backgrounds. School and district processes should include a focus on developing ethical and responsible character, personal dispositions that promote personal wellness through planned daily physical activity and healthy eating habits consistent with high nutritional guidelines and multicultural experiences that develop an appreciation of and respect for diversity;

(6) *A leadership recruitment, development and support continuum.* -- Quality schools and school systems of the 21st Century cannot be created without high quality leaders. Thus, West Virginia should have an aligned leadership professional development continuum that attracts, develops and supports educational leadership at the classroom, school and district level. This leadership development continuum should focus on creating: (i) Learning-centered schools and school systems; (ii) collaborative processes for staff learning and continuous improvement; and (iii) accountability measures for student achievement;

(7) *Equitable access to 21st Century technology and education resources and school facilities conducive to 21st Century teaching and learning.* -- A quality educational system of the 21st Century should have access to technology tools and processes that enhance effective and efficient operation. Administrators should have the digital resources to monitor student performance, manage a variety of data and communicate effectively. In the classroom, every teacher in every school should be provided with the instructional resources and educational technology necessary to deliver the West Virginia content standards and objectives. Schools of the 21st Century require facilities that accommodate changing technologies, 21st Century instructional processes and 21st Century staffing needs and patterns. These school facilities

should mirror the best in green construction and be environmentally and educationally responsive to the communities in which they are located;

(8) Aligned public school with post-secondary and workplace readiness programs and standards. -- An educational system in the 21st Century should be seen as a continuum from the public school (prekindergarten through twelve) program through post-secondary education. In order to be successful in a global competitive marketplace, learning should be an ongoing, life-long experience. Thus, the public schools and the institutions of post-secondary education in West Virginia should create a system of common standards, expectations and accountability. Creating such an aligned system will enhance opportunities for success and assure a seamless educational process for West Virginia students; and

(9) A universal prekindergarten system. - A high quality, universal prekindergarten system should be readily available to every eligible student. The system should promote oral language and preliteracy skills and reduce the deficit of these foundational skills through proactive, early intervention. Research indicates that universal prekindergarten systems improve graduation rates, reduce grade level retentions and reduce the number of special education placements. Therefore, local school systems should create the supports and provide the resources to assure a quality prekindergarten foundation is available to all eligible students.

(g) In addition to the policy-oriented objectives set forth in subsection (f) of this section, the plan established pursuant to this section also shall include at least the following performance-oriented objectives:

(1) All children entering the first grade will be ready for the first grade;

(2) The performance of students falling in the lowest quartile on national and international measures of student performance will improve by fifty percent;

(3) Ninety percent of ninth graders will graduate from high school;

(4) By two thousand twelve, the gap between the county with the lowest college-going rate and the state average as of the effective date of this act will decrease by fifty percent and the college-going rate of the state will equal the college-going rate of the member states of the Southern Regional Education Board; and

(5) By two thousand twenty, the gap between the county with the lowest college-going rate and the state average for school year two thousand twelve will decrease by fifty percent and the college-going rate of the state will exceed the college-going rate of the member states of the Southern Regional Education Board by five percentage points.

## **ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

### **§18-2E-5c. Process for iImproving eEducation eCouncil established; membership; expenses; meetings; powers.**

(a) Process for *i*Improving *e*Education *e*Council. -- There is hereby established the *p*Process for *i*Improving *e*Education *e*Council for the purpose of providing opportunities for consultation among state policy leaders on the process for improving education, including, but not limited to, determination of the things that students should know and be able to do as the result of a thorough and efficient education, the performance and progress of students toward meeting the high quality standards established by the *S*State *B*Board, adopting goals, objectives, strategies, indicators and benchmarks for public education and any further improvements necessary to increase the capacity of schools and school systems to deliver a thorough and efficient education.

(b) Council membership. -- The Legislative Oversight Commission on *e*Education *a*Accountability, together with the Governor, ex officio, or the Governor's designee, ~~and~~ the Chancellor of the Higher Education Policy Commission, ex officio, or the chancellor's designee, the Chancellor for Community and Technical College Education, ex officio, or the chancellor's designee and the state superintendent comprise the *p*Process for *i*Improving *e*Education *e*Council. Ex officio members are entitled to vote. The Governor or the Governor's designee shall convene the council, as appropriate, and shall serve as chair. The council may meet at any time at the call of the Governor or the Governor's designee.

(c) *Compensation.* -- Members of the council shall serve without compensation, but shall be reimbursed as provided by law by their respective agencies for all reasonable and necessary expenses actually incurred in the performance of their official duties under this section upon presentation of an itemized sworn statement of their expenses.

(d) *Powers of the council.* --

The council has the following powers:

(1) To meet and consult with the state board, or its designees, and make recommendations on issues related to student, school and school system performance. The following steps are part of the consultation process:

(A) The state board shall notify each member of the council whenever the state board proposes to amend its rules on any of the following issues:

(i) High quality education standards and efficiency standards established pursuant to section five of this article;

(ii) Indicators of efficiency established pursuant to section five of this article; and

(iii) Assessment and accountability of school and school system performance and processes established pursuant to section five of this article.

(B) The notice to be given pursuant to paragraph (A) of this subdivision shall contain a summary and explanation of the proposed changes, including a draft of the proposal when available, and shall be sent at least fifteen days prior to filing the proposal with the Secretary of State for public comment.

(C) If the Governor, or the Governor's designee, believes it is necessary for the council to meet and consult with the State Board, or its designees, on changes proposed to any of the issues outlined in subdivision (1) of this subsection, he or she may convene a meeting of the council.

(D) If both the President of the Senate and the Speaker of the House of Delegates believe it is necessary for the council to meet and consult with the state board, or its designees, they shall notify the Governor who shall convene a meeting of the council.

(E) If the chancellor, or the chancellor's designee, believes that it is necessary for the council to meet and consult with the state board, or its designees, he or she may request the Governor to convene a meeting of the council.

(2) To require the state board, or its designees, to meet with the council to consult on issues that lie within the scope of the council's jurisdiction;

(3) To participate as observers in any on-site review of a school or school system conducted by the Office of Education Performance Audits; and

(4) To authorize any employee of the agencies represented by council members to participate as observers in any on-site review of a school or school system conducted by the Office of Education Performance Audits.

## **CHAPTER 18B. HIGHER EDUCATION.**

### **ARTICLE 1. GOVERNANCE.**

#### **§18B-1-1a. Goals for post-secondary education Legislative intent; findings; establishment of state goals for higher education and education; creation of partnership to achieve state goals and objectives.**

(a) It is the intent of the Legislature in enacting this section to establish state goals for public higher education which benefit the citizens of the State of West Virginia.

(b) It is further the intent of the Legislature that this section be read and implemented in conjunction with the accountability system established in article one-d of this chapter and that any reference to this section in this code includes the provisions of that article.

(c) *Findings.* -- The Legislature finds that post-secondary education is vital to the future of West Virginia. For the state to realize its considerable potential in the ~~twenty-first~~ 21st eCentury, it must have a system for the delivery of post-secondary education which is competitive in the changing national and global environment, is affordable ~~within the financial constraints of~~ for the state and ~~for the state's residents to participate~~ its citizenry and has the capacity to deliver the programs and services necessary to meet regional and statewide needs.

~~(1) West Virginia leads a national trend toward an aging population wherein a declining percentage of working-age adults will be expected to support a growing percentage of retirees. Public school enrollments statewide have declined and will continue to do so for the foreseeable future with a few notable exceptions in growing areas of the state. As the state works to expand and diversify its economy, it is vitally important that young people entering the workforce from our education systems have the knowledge and skills to succeed in the economy of the twenty-first century. It is equally important, however, that working-age adults who are the large majority of the current and potential workforce also possess the requisite knowledge and skills and the ability to continue learning throughout their lifetimes. The reality for West Virginia is that its future rests not only on how well its youth are educated, but also on how well it educates its entire population of any age.~~

~~(2) Post-secondary education is changing throughout the nation. Place-bound adults, employers and communities are demanding education and student services that are accessible at any time, at any place and at any pace. Institutions are seizing the opportunity to provide academic content and support services on a global scale by designing new courseware, increasing information technology-based delivery, increasing access to library and other information resources and developing new methods to assess student competency rather than "seat time" as the basis for recognizing learning, allocating resources and ensuring accountability. In this changing environment, the state must take into account the continuing decline in the public school-age population, the limits of its fiscal resources and the imperative need to serve the educational needs of working-age adults. West Virginia cannot afford to finance quality higher education systems that aspire to offer a full array of programs while competing among themselves for a dwindling pool of traditional applicants. The competitive position of the state and its institutions will depend fundamentally on its capacity to reinforce the quality and differentiation of its institutions through policies that encourage focus and collaboration.~~

~~(3) The accountability system in West Virginia must be well equipped to address cross-cutting issues such as regional economic and workforce development, community and technical college services, collaboration with the public schools to improve quality and student participation rates, access to graduate education and other broad issues of state interest. Severe fiscal constraints require West Virginia to make maximum use of existing assets to meet new demands. New investments must be targeted to those initiatives designed to enhance and reorient existing capacity, provide incentives for collaboration and focus on the new demands. It must have a single accountability point for developing, building consensus around and sustaining attention to the public policy agenda and for allocating resources consistent with this policy agenda.~~

~~(4) The state should make the best use of the expertise that private institutions of higher education can offer and recognize the importance of their contributions to the economic, social and cultural well-being of their communities.~~

~~(5) The system of public higher education should be open and accessible to all persons, including persons with disabilities and other persons with special needs.~~

~~(b) *Compact with higher education.* -- In pursuance of these findings, it is the intent of the Legislature to engage higher education in a statewide compact for the future of West Virginia, as provided in article one-a of this chapter, that focuses on a public policy agenda that includes, but is not limited to, the following:~~

~~(1) Diversifying and expanding the economy of the state;~~

~~(2) Increasing the competitiveness of the state's workforce and the availability of professional expertise by increasing the number of college degrees produced to the level of the national average and significantly improving the level of adult functional literacy; and~~

~~(3) Creating a system of higher education that is equipped to succeed at producing these results.~~

~~(c) *Elements of the compact with higher education.* -- It is the intent of the Legislature that the compact with higher education include the following elements:~~

~~(1) A step-by-step process, as provided in articles one-b and three-c of this chapter, which will enable the state to achieve its public policy agenda through a system of higher education~~

~~equipped to assist in producing the needed results. This process includes, but is not limited to, separate institutional compacts with state institutions of higher education that describe changes in institutional missions in the areas of research, graduate education, admission standards, community and technical college education and geographical areas of responsibility to accomplish the following:~~

~~(A) A capacity within higher education to conduct research to enhance West Virginia in the eyes of the larger economic and educational community and to provide a basis for West Virginia's improved capacity to compete in the new economy through research oriented to state needs;~~

~~(B) Access to stable and continuing graduate-level programs in every region of the state, particularly in teacher education related to teaching within a subject area to improve teacher quality;~~

~~(C) Universities, colleges and community and technical colleges that have focused missions, individual points of distinction and quality and strong links with the educational, economic and social revitalization of their regions and the state of West Virginia;~~

~~(D) Greater access and capacity to deliver technical education, workforce development and other higher education services to place-bound adults, thus improving the general levels of post-secondary educational attainment and literacy;~~

~~(E) Independently accredited community and technical colleges in every region of the state that:~~

~~(i) Assess regional needs;~~

~~(ii) Ensure access to comprehensive community and technical college and workforce development services within each of their respective regions;~~

~~(iii) Convene and serve as a catalyst for local action in collaboration with regional leaders, employers and other educational institutions;~~

~~(iv) Provide and, as necessary, broker educational services;~~

~~(v) Provide necessary student services;~~

~~(vi) Fulfill such other aspects of the community and technical college mission and general provisions for community and technical colleges as provided for in article three-c of this chapter; and~~

~~(vii) Maximize use of existing infrastructure and resources within their regions to increase access, including, but not limited to, vocational technical centers, schools, libraries, industrial parks and work sites.~~

~~(2) Providing additional resources, subject to availability and appropriation by the Legislature as provided in article one-a of this chapter, to make the state institutions of higher education more competitive with their peers, to assist them in accomplishing the elements of the public policy agenda and to ensure the continuity of academic programs and services to students.~~

~~(3) Establishing a process for the allocation of additional resources which focuses on achieving the elements of the public policy agenda and streamlines accountability for the step-by-step progress toward achieving these elements within a reasonable time frame as provided in article one-a of this chapter.~~

~~(4) Providing additional flexibility to the state institutions of higher education by making permanent the exceptions granted to higher education relating to travel rules and vehicles pursuant to sections forty-eight through fifty-three, inclusive, article three, chapter five-a of this code and section eleven, article three, chapter twelve of this code.~~

~~(5) Revising the higher education governance structure to make it more responsive to state and regional needs.~~

~~(d) *General goals for post-secondary education.* -- In pursuance of the findings and the development of institutional compacts with higher education for the future of West Virginia pursuant to article one-a of this chapter, it is the intent of the Legislature to establish general goals for post-secondary education and to have the commission and council report the progress toward achieving these goals in the higher education report card required pursuant to section eight, article one-b of this chapter and, where applicable, have the goals made a part of the institutional compacts. The Legislature establishes the general goals as follows:~~

~~(1) The overall focus of education is on a lifelong process which is to be as seamless as possible at all levels and is to encourage citizens of all ages to increase their knowledge and skills. Efforts in pursuit of this goal include, but are not limited to, the following:~~

~~(A) Collaboration, coordination and interaction between public and post-secondary education to:~~

~~(i) Improve the quality of public education, particularly with respect to ensuring that the needs of public schools for teachers and administrators are met;~~

~~(ii) Inform public school students, their parents and teachers of the academic preparation that students need to be prepared adequately to succeed in their selected fields of study and career plans, including academic career fairs; and~~

~~(iii) Improve instructional programs in the public schools so that the students enrolling in post-secondary education are adequately prepared;~~

~~(B) Collaboration, coordination and interaction among public and post-secondary education, the governor's council on literacy and the governor's workforce investment office to promote the effective and efficient utilization of workforce investment and other funds to:~~

~~(i) Provide to individuals and employers greatly improved access to information and services on education and training programs, financial assistance, labor markets and job placement;~~

~~(ii) Increase awareness among the state's citizens of the opportunities available to them to improve their basic literacy, workforce and post-secondary skills and credentials; and~~

~~(iii) Improve citizens' motivation to take advantage of available opportunities by making the system more seamless and user friendly;~~

~~(C) Collaboration, coordination and interaction between public and post-secondary education on the development of seamless curriculum in technical preparation programs of study between the secondary and post-secondary levels; and~~

~~(D) Opportunities for advanced high school students to obtain college credit prior to high school graduation.~~

~~(2) The number of degrees produced per capita by West Virginia institutions of higher education is at the national average. Efforts in pursuit of this goal include, but are not limited to, the following:~~

~~(A) Collaboration, coordination and interaction between public and post-secondary education, the governor's council on literacy and the governor's workforce investment office to promote to individuals of all ages the benefits of increased post-secondary educational attainment;~~

~~(B) Assistance in overcoming the financial barriers to post-secondary education for both traditional and nontraditional students;~~

~~(C) An environment within post-secondary education that is student-friendly and that encourages and assists students in the completion of degree requirements within a reasonable time frame. The environment also should expand participation for the increasingly diverse student population;~~

~~(D) A spirit of entrepreneurship and flexibility within post-secondary education that is responsive to the needs of the current workforce and other nontraditional students for upgrading and retraining college-level skills; and~~

~~(E) The expanded use of technology for instructional delivery and distance learning.~~

~~(3) All West Virginians, whether traditional or nontraditional students, displaced workers or those currently employed, have access to post-secondary educational opportunities through their community and technical colleges, colleges and universities which: (A) Are relevant and affordable;~~

~~(B) Allow them to gain transferrable credits and associate or higher level degrees;~~

~~(C) Provide quality technical education and skill training; and~~

~~(D) Are responsive to business, industry, labor and community needs.~~

~~(4) State institutions of higher education prepare students to practice good citizenship and to compete in a global economy in which good jobs require an advanced level of education and skill which far surpasses former requirements. Efforts in pursuit of this goal include, but are not limited to, the following:~~



~~(A) The development of entrepreneurial skills through programs such as the rural entrepreneurship through action learning (REAL) program, which include practical experience in market analysis, business plan development and operations;~~

~~(B) Elements of citizenship development are included across the curriculum in core areas, including practical applications such as community service, civic involvement and participation in charitable organizations and in the many opportunities for the responsible exercise of citizenship that higher education institutions provide;~~

~~(C) Students are provided opportunities for internships, externships, work study and other methods to increase their knowledge and skills through practical application in a work environment;~~

~~(D) College graduates meet or exceed national and international standards for skill levels in reading, oral and written communications, mathematics, critical thinking, science and technology, research and human relations;~~

~~(E) College graduates meet or exceed national and international standards for performance in their fields through national accreditation of programs and through outcomes assessment of graduates; and~~

~~(F) Admission and exit standards for students, professional staff development, program assessment and evaluation and other incentives are used to improve teaching and learning.~~

~~(5) State institutions of higher education exceed peer institutions in other states in measures of institutional productivity and administrative efficiency. Efforts in pursuit of this goal include, but are not limited to:~~

~~(A) The establishment of systematic ongoing mechanisms for each state institution of higher education to set goals, to measure the extent to which those goals are met and to use the results of quantitative evaluation processes to improve institutional effectiveness;~~

~~(B) The combination and use of resources, technology and faculty to their maximum potential in a way that makes West Virginia higher education more productive than its peer institutions in other states while maintaining educational quality; and~~

~~(C) The use of systemic program review to determine how much duplication is necessary to maintain geographic access and to eliminate unnecessary duplication.~~

~~(6) Post-secondary education enhances state efforts to diversify and expand the economy of the state. Efforts in pursuit of this goal include, but are not limited to, the following:~~

~~(A) The focus of resources on programs and courses which offer the greatest opportunities for students and the greatest opportunity for job creation and retention in the state;~~

~~(B) The focus of resources on programs supportive of West Virginia employment opportunities and the emerging high-technology industries;~~

~~(C) Closer linkages among higher education and business, labor, government and community and economic development organizations; and~~

~~(D) Clarification of institutional missions and shifting of resources to programs which meet the current and future workforce needs of the state.~~

~~(7) Faculty and administrators are compensated at a level competitive with peer institutions to attract and keep quality personnel at state institutions of higher education.~~

~~(8) The tuition and fee levels for in-state students are competitive with those of peer institutions and the tuition and fee levels for out-of-state students are set at a level which at least covers the full cost of instruction.~~

The Legislature further finds that it is vitally important for young people entering the workforce to have the education and skills to succeed in today's high-technology, knowledge-based economy. It is equally important for working-age adults who are the majority of the current and potential workforce also to possess the requisite education and skills to compete successfully in the workplace and to have the opportunity to continue learning throughout their lives. The future of the state rests not only on how well its youth are educated, but also on how well it educates its entire population of any age.

The Legislature further finds that providing access to a high-quality and affordable post-secondary education is a state responsibility and, while states spent more than seventy billion

dollars on public higher education in two thousand six, they are not maximizing that investment. The Legislature recognizes the efforts of the National Conference of State Legislatures' Blue Ribbon Commission on Higher Education in producing a report to assist the states in higher education policymaking. According to the commission report, "Transforming Higher Education: National Imperative -- State Responsibility", the United States is losing its competitive advantage in a new, high-tech, highly mobile global economy. This lack of competitiveness is a matter of the highest urgency for federal and state policymakers and higher education is at the center of this discussion. The report further states that "higher education is both the problem and the solution" because the nation has failed to focus on how higher education energizes American competitiveness and revitalizes the states. Pursuant to these findings, the commission made some specific recommendations addressed to the states which include the following:

- (1) Define clear state goals;
- (2) Identify your state's strengths and weaknesses;
- (3) Know your state demographic trends for the next ten to thirty years;
- (4) Identify a place or structure to sustain the public policy agenda;
- (5) Hold institutions accountable for their performance;
- (6) Rethink funding formulas and student aid;
- (7) Make a commitment to access, success and innovation;
- (8) Encourage partnerships;
- (9) Give special attention to adult learners; and
- (10) Focus on productivity.

All of these recommendations are useful in providing policy guidance and have been given careful consideration in the development of this section and article one-d of this chapter.

(d) *Establishment of state goals.* -- In recognition of its importance to the citizens of West Virginia, the Legislature hereby establishes the following goals for public higher education in the state:

- (1) The ultimate goal of public education is to enhance the quality of life for citizens of the State of West Virginia.
- (2) The overall focus of public education is on developing and maintaining a process of lifelong learning which is as seamless as possible at all levels, encourages citizens of all ages to increase their knowledge and skills and provides ample opportunities for them to participate in public higher education.
- (3) Higher education collaborates with public education and other providers to offer education opportunities:
  - (A) To individuals of all ages and socioeconomic backgrounds in all areas of the state; and
  - (B) To overcome financial barriers to participation for both traditional and nontraditional students.
- (4) Higher education seeks to enhance state efforts to diversify and expand the economy by focusing available resources on programs and courses which best serve students, provide the greatest opportunity for job creation and retention and are most supportive of emerging high-technology and knowledge-based businesses and industries.
- (5) Higher education creates a learning environment that is student-friendly and that encourages and assists students in the completion of degree requirements, certifications or skill sets within a reasonable period of time.
- (6) The learning environment expands participation for the increasingly diverse student population and responds to the needs of the current workforce and other nontraditional students.
- (7) Through the establishment of innovative curricula and assessment efforts, state institutions of higher education ensure that students graduate from nationally recognized and accredited programs and meet or exceed national and international standards for performance in their chosen fields as evidenced through placement and professional licensure examinations.

(8) Higher education promotes academic research and innovation to achieve measurable growth in West Virginia's knowledge-based economic sector.

(9) State institutions of higher education emphasize productivity and strive to exceed the performance and productivity levels of peer institutions. In return, and within the constraints of fiscal responsibility, the state seeks to invest in institutions so that they may adequately compensate faculty, classified employees and other employees at a competitive level to attract and retain high quality personnel.

(10) State institutions of higher education are committed to a shared responsibility with faculty, staff, students and their communities to provide access to the knowledge and to promote acquisition of the skills and abilities necessary to establish and maintain physical fitness and wellness.

(A) Programs that encourage healthy lifestyles are essential for the vibrancy of the institutions of higher education, for the well-being of the communities they serve and for the state as a whole.

(B) Increasing the fitness levels of adults on college and university campuses is critically important for the people of West Virginia, not only for disease prevention, but also, and perhaps most importantly, to enhance the overall quality of life.

(C) While individuals must bear the primary responsibility for their own health, it is imperative that the institutions provide appropriate education and support focused on enriching and expanding the short- and long-term views and attitudes towards physical activity, understanding the principles of wellness and their application to a healthy lifestyle, understanding what components are a necessary part of an all-around healthy lifestyle and learning how to set and achieve realistic goals aimed at establishing healthy habits for the benefit of long-term health and well-being.

(e) *Education partnership to achieve state goals and objectives.* -- If public institutions of higher education are to provide services that meet the needs of state citizens as outlined in this section and article one-d of this chapter, then West Virginia must create and participate in a partnership across various education organizations that recognizes the valuable contributions each member of the group can make. In addition to public education as outlined in section four, article one, chapter eighteen of this code and in addition to the State of West Virginia, key members of this partnership include the state institutions of higher education, the Council for Community and Technical College Education and the Higher Education Policy Commission.

(1) *State institutions of higher education.* -- The institutions are the cornerstone of efforts to provide higher education services that meet the needs of state citizens. To varying degrees, and depending upon their missions, these institutions serve the state in three major ways:

(A) *Instruction.* -- By providing direct instruction to students along with the student services necessary to support the instructional mission. These services have two primary goals:

(i) *To produce college graduates who have the knowledge, skills and desire to make valuable contributions to society; and*

(ii) *To provide opportunities for citizens to engage in life- long learning to enhance their employability and their overall quality of life.*

(B) *Public service.* -- By providing an occupational home for experts in a variety of fields and by serving as the educational home for students. In these capacities, institutions create a large and varied pool of high quality human resources capable of making valuable contributions to business and industry, local and state governments and communities. The following are examples of the types of public service that higher education institutions have to offer:

(i) *Workforce development, primarily through community and technical colleges, to meet the immediate and long-term needs of employers and employees;*(ii) *Technical assistance to state and local policymakers as they work to address challenges as diverse as ensuring that West Virginia's citizens receive quality health care, assisting in the development of a solid transportation infrastructure and ensuring that public school teachers have enriching professional development opportunities; and*(iii) *Opportunities to learn and serve in local communities, to teach civic responsibility and to encourage civic engagement.*

(C) *Research.* -- By conducting research at state institutions of higher education, particularly

Marshall University and West Virginia University, to enhance the quality of life in West Virginia in the following ways:

- (i) Targeting cutting-edge research toward solving pressing societal problems;
- (ii) Promoting economic development by raising the level of education and specialization among the population; and
- (iii) Creating jobs through development of new products and services.

(2) *The Council for Community and Technical College Education and the Higher Education Policy Commission.* -- In their role as state-level coordinating boards, the council and commission function as important partners with state policy leaders in providing higher education that meets state needs. The council and commission provide service to the state in the following ways:

- (A) By developing a public policy agenda for various aspects of higher education that is aligned with state goals and objectives and the role and responsibilities of each coordinating board;
- (B) By ensuring that institutional missions and goals are aligned with relevant parts of the public policy agenda and that institutions maximize the resources available to them to fulfill their missions and make reasonable progress toward meeting established state goals;
- (C) By evaluating and reporting on progress in implementing the public policy agenda;
- (D) By promoting system efficiencies through collaboration and cooperation across institutions and through focusing institutional missions as appropriate; and
- (E) By conducting research, collecting data and providing objective recommendations to aid elected state officials in making policy decisions.

(3) *State of West Virginia.* -- Elected state officials represent the citizens of West Virginia and are critical partners in providing quality higher education. In this context, these state-level policymakers serve the state in the following ways:

- (A) By establishing goals, objectives and priorities for higher education based on a thoughtful, systematic determination of state needs;
- (B) By providing resources necessary to address state goals, objectives and priorities for higher education; and
- (C) By providing incentives for and removing barriers to the achievement of state goals, objectives and priorities.

#### **ARTICLE 1D. HIGHER EDUCATION ACCOUNTABILITY.**

##### **§18B-1D-1. Legislative intent and purpose; short title; rules required.**

(a) The intent of the Legislature in the enactment of this article is to outline and organize the elements of accountability for public higher education into an effective, coherent system to provide guidance to the state institutions of higher education, the commission and the council and to clarify the roles, relationships and responsibilities between and among these entities, the citizens of West Virginia and elected state officials. The main purposes of the accountability system are as follows:

- (1) To develop agreement on higher education goals, objectives and priorities through negotiation and consensus-building between elected officials acting on behalf of the citizens of the state and the commission and the council and institutions which receive public funds and provide education services;
- (2) To create a seamless education system and hold boards and institutions accountable for meeting state goals and objectives.
- (3) To provide a data-driven, step-by-step process to determine the progress of public higher education in addressing established goals, objectives and priorities;
- (4) To promote cooperation and collaboration among all entities which are involved in the delivery of public education in West Virginia; and
- (5) To provide for generation, collection and dissemination of data on which sound state-level policy decisions can be based. Possible uses of this data include the following:
  - (A) Identifying institutions and systems that increase quality and productivity; and
  - (B) Creating a mechanism to target a portion of state appropriations to institutions and systems based on performance in meeting established state goals and objectives.

(b) This article, together with section one-a, article one of this chapter and section four, article one, chapter eighteen of this code, shall be known as and may be cited as Vision 2020: An Education Blueprint for Two Thousand Twenty.

(c) By the first day of October, two thousand eight, the commission and the council shall propose rules for legislative approval in accordance with the provisions of section six, article one of this chapter and article three-a, chapter twenty-nine-a of this code concerning the accountability system for higher education outlined in this article.

(1) The commission and the council may propose rules jointly or separately and may choose to address all of the accountability system in a single rule or may propose additional rules to cover specific elements.

(2) At a minimum, the rules shall address the respective responsibilities of the various parties, the development of statewide master plans, the process of entering into institutional and state compacts, performance indicators and institution and state-level reporting to ensure that higher education is accountable to the citizens of West Virginia.

**§18B-1D-2. Definitions.**

(a) General. -- For the purposes of this article and section one-a, article one of this chapter, terms have the meaning ascribed to them in section two, article one of this chapter, unless the context in which the term is used clearly requires a different meaning or a specific definition is provided in this section.

(b) Definitions. –

(1) "Accountability system for public higher education" or "accountability system" means all research, reports, documents, data and any other materials, the collection, analysis and dissemination of which are necessary or expedient to accomplish the purposes of this article or section one-a, article one of this chapter. The system includes legislative goals, objectives and priorities; public policy agendas; statewide master plans; state and institutional compacts; implementation plans; institutional mission statements and master plans; and the statewide report card.

(2) "Education partnership to achieve state goals and objectives" or "education partnership" means the formal and informal working relationships established between and among the State of West Virginia, the commission, the council, the State Board of Education and State Department of Education and the state institutions of higher education for the purpose of achieving state goals and objectives.

(3) "Functional literacy rate" means the percentage of adults over the age of seventeen who are able to read beyond a fourth grade level and interpret basic information from sources such as road signs, job applications, newspaper articles and food and medicine labels.

(4) "Goals" means those long-term public purposes which are the desired and expected end result for which public higher education is established.

(5) "Implementation plan" means a document developed within the higher education community that identifies a series of objectives, sets forth performance indicators that can be used to determine if objectives are being achieved, outlines strategies for accomplishing the objectives and identifies benchmarks for evaluating progress in accomplishing the objectives over the life cycle of the plan.

(6) "Institutional compact" means a formal, written contract between either the commission or council and a state institution of higher education under its jurisdiction expressing intent to accomplish state and system goals and objectives.

(7) "Institutions under the jurisdiction of the commission" relative to the accountability system established by this article and section one-a, article one of this chapter means Bluefield State College, Concord University, Fairmont State University, Glenville State College, Marshall University, Shepherd University, West Liberty State College, the West Virginia School of Osteopathic Medicine, West Virginia State University and West Virginia University, including Potomac State College of West Virginia University and the West Virginia University Institute of Technology.

(8) "Institutions under the jurisdiction of the council" relative to the accountability system

established by this article and section one-a, article one of this chapter means Blue Ridge Community and Technical College, the Community and Technical College at West Virginia University Institute of Technology, Eastern West Virginia Community and Technical College, Marshall Community and Technical College, New River Community and Technical College, Pierpont Community and Technical College, Southern West Virginia Community and Technical College, West Virginia Northern Community and Technical College, West Virginia State Community and Technical College and West Virginia University at Parkersburg.  
(9) "Net college costs" means the total cost of tuition, room and board minus the amount of financial aid a student receives.

(10) "Objectives" means the ends to be accomplished or attained within a specified period of time for the purpose of meeting the established goals.

(11) "Priority" or "priorities" means the order in which objectives are to be addressed for the purpose of achieving state goals.

(12) "Strategy" or "strategies" means specific activities carried out by public higher education which are directed toward accomplishing specific objectives.

(13) "Statewide master plan" or "system master plan" means a document developed by the council or commission that sets forth system goals, objectives and strategies and is aligned with, but not limited to, meeting state goals, objectives and priorities.

(14) "STEM courses and programs" means curricula leading to a degree or other recognized credential in the science, technology, engineering and mathematics fields of study or specialization.

(15) "State compact" means a formal, written agreement between the council and/or the commission and at least one other member of the education partnership to achieve state goals and objectives where significant collaboration and commitment of resources between the parties to the agreement is required in order to achieve the desired results.

### **§18B-1D-3. State vision for public higher education; findings; establishment of objectives.**

(a) The Legislature finds that availability of high-quality post-secondary education is so important to the well-being of the citizens of West Virginia that it is in the best interests of the state to focus attention on areas of particular concern and within those areas to specify objectives and priorities that must be addressed by two thousand twenty. The purpose of these objectives and priorities is to achieve the broad-based goals for public higher education established in section one-a, article one of this chapter. Areas of special concern to the Legislature include economic and workforce development; education access and affordability; innovation; student preparation; degree and/or program completion; intra- and inter-system cooperation and collaboration; research; and teaching and learning.

(1) *Economic and workforce development.* –

(A) Diversifying and strengthening the economy of the state;

(B) Providing incentives to systems and institutions to focus attention on those courses and programs which create and retain jobs in the state, especially among the emerging high-technology, knowledge-based businesses and industries.

(2) *Access and affordability.* –

(A) Maintaining geographic access while eliminating unnecessary duplication;

(B) Enhancing education opportunities for the widest range of state citizens:

(i) By establishing tuition and fee levels for in-state students that do not inhibit access to public education nor cause students to incur excessive debt. This is particularly important in West Virginia where about two-thirds of all students attending college are enrolled in public higher education institutions and where families devote a very large share of their incomes to pay the cost of education. The share of costs paid by families remains very high even after adjusting for the impact of financial aid; and

(ii) By establishing tuition and fee rates for out-of-state students at levels which, at a minimum, cover the full cost of instruction unless doing so is inconsistent with a clearly delineated public policy goal established by the Legislature, the commission or the council.

(iii) Innovation. -- Devise innovative programs, delivery modes, partnerships, research initiatives, curricula and pedagogy to achieve the needs of the state and its citizens and carry out the mission and objectives of the state institutions of higher education. Methods include aligning entrepreneurial efforts, research and partnerships with established state goals.

(iv) Student preparation. -- Ensure that potential students are academically prepared for college and that graduates are adequately prepared for careers or further education.

(V) Degree and/or program completion. -- Despite significant improvement over the past decade, fewer than twenty percent of state residents hold a bachelor's degree. This shortage of highly educated, highly qualified workers substantially limits the state's ability to compete in the knowledge-based economy.

(vi) Collaboration and cooperation. -- Deliver education services to the extent possible through collaboration, coordination and brokering, with particular emphasis on the need for a seamless relationship between public and post-secondary education.

(vii) Research. -- Develop a greater research capacity within public higher education to enhance West Virginia in the eyes of the larger economic and education community, develop greater specialized expertise in high technology and policy fields, create more employment opportunities within the state and provide a basis for improved capacity to compete in the new economy through research focused on meeting state needs.

(viii) Teaching and learning. -- Develop admission and exit standards for students and emphasize professional staff development, program assessment and evaluation and other incentives to improve teaching and learning. Ensure access to stable and continuing graduate-level programs in every region of the state, particularly in STEM subject areas and teacher education related to teaching within a subject area to improve teacher quality.

(b) Vision 2020: Objectives for public higher education. -- In view of the findings outlined in subsection (a) of this section, the Legislature hereby establishes the following objectives to be addressed as highest priorities beginning on the effective date of this article through development of compacts and/or implementation plans between and among members of the education partnership as provided in subsection (e), section one-a, article one of this chapter. The following is the legislative vision for the years two thousand eight through two thousand twenty:

(1) Objective. -- Develop a state-level facilities plan and funding mechanism to reduce the obligation of students and parents to bear the cost of higher education capital projects and facilities maintenance.

(A) Problem statement. --

(i) West Virginia is one of the very few states in the nation which does not address higher education capital project and facilities maintenance needs through a statewide plan.

(ii) The burden of paying for capital projects and deferred maintenance is placed on students and their families through collection of capital fees at the institution level and contributes significantly to the poor grade West Virginia receives each year in the category of "Affordability" on "Measuring Up: The National Report Card on Higher Education".

(iii) Net college costs for low- and lower middle-income students to attend state community and technical colleges and four-year colleges and universities average approximately forty-five percent of their annual family income.

(iv) The high cost of capital fees contributes directly to the amount of debt incurred by students during their college years and the necessity to repay student loans severely limits career choices and areas of residence after graduation.

(B) Expected outcomes. -- Success in meeting this goal can be measured in part by benchmarks which include the following:

(i) Development by the council and commission of a compact with elected state officials to fund a significant portion of higher education capital project needs from dedicated state revenues;

(ii) Development by the council and commission of a system to establish priorities for institution capital projects in a manner that is consistent with state public policy goals for higher education;

(iii) Implementation of facilities maintenance plans by institutions to ensure that maintenance needs are not deferred inappropriately;

(iv) Efficient use of existing classroom and other space by institutions:

(I) New capital funding is applied effectively to projects at institutions that have a demonstrated need for new facilities and major renovations; and

(II) The cost of operating and maintaining the facilities and physical plants of institutions are appropriate for the size and mission of the institution; and

(v) Capital and facilities maintenance planning that gives careful consideration to the recommendations arising from the study mandated by section nine, article fourteen of this chapter.

(2) Objective. -- Increase academic rigor and improve learning at higher education institutions.

(A) Problem statement. -- West Virginia has made significant progress on certain indicators within the category of student learning, but lags far behind national and regional averages on others.

(i) The state compares very well in workforce preparation as reflected in professional licensure examinations, ranking among the top five states in the country. More West Virginia graduates take these examinations than is typical nationally and the passage rate is at the national average.

(ii) The state also ranks well above the national average passage rate on the state teacher's examination when compared to other states; however, there is serious cause for concern when the state is compared to the national benchmark in preparing students for graduate study.

(I) West Virginia ranks more than fifty percentage points below the national average in preparing students to take and pass graduate admissions examinations.

(II) Fewer West Virginia graduates take these examinations than is typical nationally and the proportion earning competitive scores is only about seventy-five percent of the national average.

(B) Expected outcomes. -- Success in meeting this goal can be measured in part by benchmarks which include the following:

(i) State institutions of higher education develop or use existing nationally normed assessments of student learning outcomes. Data generated through these assessments are analyzed and the results applied by the institutions to improve the quality of undergraduate general education programs; and

(ii) Implementation plans at the system and institution levels are developed to improve student preparation for graduate study and to expand graduate and professional education, where appropriate.

(3) Objective. -- Increase the percentage of entering students who persist to receive a degree, a certificate or an industry-recognized credential.

(A) Problem statement. --

(i) This goal is particularly important to West Virginia where only about one person in five holds an associate degree or higher.

(ii) The lack of a well-trained workforce is reflected in the most recent score of forty-one received by the state on the nationally recognized New Economy Index which measures the extent to which a state is prepared to participate in knowledge-based industries. This low score places the state well below the national benchmark of sixty on the index.

(iii) State institutions of higher education have placed a greater emphasis on student recruitment than on student retention and completion. This strategy alone cannot be successful in meeting state needs for the following reasons:

(I) The number of state high school graduates is expected to decline over the next several years; therefore, institutions must improve their performance in retaining the students who enroll.

(II) West Virginia is among the leading states in the percentage of first-year students at community colleges who return for their second year and large percentages of freshmen at four-year colleges and universities return for their sophomore year; however, when compared with



other states, only a small percentage of these students actually persist to earn a bachelor's degree or associate degree within six years.

(III) The state performs poorly on international comparisons of enrolled students who complete certificates or degrees, trailing behind other industrialized and even some third world nations.

(IV) While the state college-going rate has improved, most state institutions have made only marginal progress over the past decade in increasing the percentage of students who persist to obtain a degree or certificate.

(B) Expected outcomes. –

(i) Enhanced quality of life for West Virginians, including increased level of per capita income; and

(ii) Increased economic development opportunities by expanding existing high-technology and knowledge-based businesses and industries and attracting new ones which demand highly qualified professionals.

(4) Objective. -- State institutions of higher education, particularly community and technical colleges, make maximum effort to recruit and retain adults twenty-five years old or over.

(A) Problem statement. –

(i) The percentage of West Virginia's working-age adults enrolled part-time in college-level education or training is very low and the state has experienced one of the largest declines in the nation on this measure over the past twelve years.

(ii) A large part of preparing workers for the 21st Century and for a high-quality style of life hinges upon providing opportunity for adults to acquire a series of skill sets in addition to obtaining a degree or other credential.

(iii) A major focus for community and technical colleges is upon providing programs to upgrade employee skills through obtaining industry credentials. Currently, however, only certificate program degrees (one-year) and associate degrees (two-year) are counted for funding purposes even though other types of credentials often are as important in meeting workforce development goals as providing degree programs.

(B) Expected outcomes. –

(i) Provide programs of interest to nontraditional students, including those that afford them the opportunity to obtain certificates and credentials, enhance career development and acquire new skill sets;

(ii) Develop a high-visibility marketing program which makes adults aware of the opportunities available to them and assists them in entering or reentering the learning environment;

(iii) Provide for lower cost tuition and fee rates, particularly at the community and technical colleges, and/or greater access to financial aid for adult full- and part-time students.

(iv) Develop open admissions policies which provide opportunities for adults to participate in public post-secondary education beginning at any level of preparedness. Most working-age adults cannot or will not "go back to high school" in order to prepare themselves to participate in higher education.

(v) Tailor institutional policies to meet the needs of adults, recognizing that these individuals have responsibilities that are different from those of traditional-aged college students. High on this list of needs are flexible class schedules to accommodate work obligations and waiving dorm residency requirements.

(5) Objective. -- Provide incentives to state institutions of higher education to encourage emphasis on STEM courses and programs leading to degrees in the high-demand fields of science, technology, engineering and mathematics and to encourage collaboration with public education to stimulate interest and prepare students to succeed in these fields.

(A) Problem statement. –

(i) STEM courses often are more expensive to deliver than traditional programs; therefore, institutions may be reluctant to start or expand programs in these areas because of anticipated cost;

(ii) Institutions have difficulty recruiting and retaining faculty members in STEM areas because of competition from surrounding states and other market forces;

(iii) There is insufficient communication between STEM teachers in public education, STEM faculty in higher education and professionals employed in STEM-related careers such as engineering;

(iv) Many students have not taken sufficiently rigorous high school courses to allow them to succeed in post-secondary STEM courses and programs. A large percentage of students enrolled in higher education STEM programs either withdraw from the institution or change majors within the first year; and

(v) The transition from high school to college is difficult for many high school students who lack a family role model to provide guidance relevant to the higher education experience.

(B) *Expected outcomes.* –

(i) Increased capacity for high quality instruction across public higher education;

(ii) Increased student access to high quality undergraduate and graduate research opportunities in science, technology, engineering and mathematics;

(iii) Enhanced economic development opportunities through increased numbers of highly-qualified professionals available to business and industry;

(iv) Development of a consistent and effective forum for communication among STEM faculty in public and higher education and relevant professional communities to address the continuing needs of students, educators and industry;

(v) Increased percentage of high school students who have access to and take advantage of rigorous STEM courses;

(vi) Alignment of STEM curricula between public and higher education;

(vii) Development of a finance formula that gives greater weight to courses taken in high-cost disciplines and/or those that are critical to the state economy; and

(viii) Creation of a STEM coordinator position within the faculty of each state institution of higher education to provide outreach to secondary schools, to mentor freshman students and to collaborate with coordinators at other institutions. Because of the size of the student body, the two research universities may need to create coordinator positions specific to certain high-demand STEM disciplines such as engineering and computer science.

(6) *Objective.* -- Develop a stable funding stream for state institutions of higher education to pay for essential programs which are expensive to deliver, are in high demand and/or are critical to the state's capacity to replace an aging workforce as employees retire. This objective has a particular impact on community and technical colleges which deliver high-cost technical programs.

(A) *Problem statement.* –

(i) An educated and technically skilled workforce is vital to the state's ability to be competitive in the global marketplace. Currently, West Virginia's employers must struggle to find a sufficient number of highly qualified workers to fill the jobs they have available; and

(ii) The majority of technical occupations require the delivery of equipment-intensive, high-cost programs that state institutions of higher education, especially community and technical colleges, lack the capacity to provide.

(B) *Expected outcomes.* –

(i) State institutions delivering community and technical college education focus on expanding and/or implementing technical programs to meet the needs of high-demand, high-wage occupations;

(ii) Funding priorities for community and technical colleges focus on developing and maintaining high-cost technical programs;

(iii) Creation of a strategy to fund the replacement, upgrading and purchase of equipment to implement and/or maintain technical education programs; and

(iv) Support critical, noncredit programming by incorporating the number of contact hours delivered into a formula to distribute funding to community and technical colleges.

(7) *Objective.* -- Develop a mechanism to assure uniform delivery of community and technical college education for all regions of the state.

(A) Problem statement. -- The average education attainment rate in West Virginia lags eleven percent behind the national average in part because delivering education programs to the state's adult, place-bound and rural populations presents significant challenges.

(B) Expected outcomes. --

(i) All state citizens have access to a minimum of two years of college education regardless of their place of residence within the state.

(ii) The state institutions increase the innovative use of technology and distance education to provide general and technical education access in sparsely populated rural areas.

(iii) Creation of a seamless education system and uniform transfer of credits with special attention to transfers between community and technical colleges and four-year institutions;

(iv) Appropriate use of adjunct faculty; and

(v) Where feasible, use of facilities in public schools, technical centers and other public facilities as classroom space.

(8) Objective. -- Develop greater research capacity throughout public higher education, with a special focus on the state's two doctoral degree-granting universities.

(A) Problem statement. --

(i) West Virginia ranks near the bottom among all states in the amount of federal and privately funded sponsored research it receives. Historically, only the National Science Foundation's Experimental Program to Stimulate Competitive Research (EPSCOR) has focused on building research capacity in the state, but if West Virginia is to benefit from the increased economic opportunity, better jobs and higher standard of living associated with more STEM professionals in the population, the state must invest more to build its research capacity; and

(ii) Low research capacity results in low levels of intellectual property creation, patenting and licensing of commercial property.

(B) Expected outcomes. --

(i) Partnering between and among higher education institutions in West Virginia and between state institutions and larger, resource-rich higher education institutions outside the state;

(ii) Developing an institutional and/or statewide research niche and focusing resources on research that contributes most to meeting state needs;

(iii) Leveraging scarce resources to make steady, targeted investments in research in niche areas where the state can be a real player at a competitive level;

(iv) Developing specific research expertise within the two state doctoral degree-granting universities to generate and analyze data to provide policy recommendations. The areas of focus include funding strategies for higher education, demographic trends and methods to determine and meet workforce development needs by anticipating job creation and credential requirements;

(v) Improving communication among the research branches of higher education institutions, including identification of mutually complementary areas of interest to increase funding opportunities and collaboration on intellectual property issues; and

(vi) Focusing on economic development through commercial applications of research and recruitment of new research faculty members for this purpose.

(9) Objective. -- Increase the percentage of functionally literate adults in each region of the state.

(A) Problem statement. --

(i) The literacy attainment of a population is defined at its most basic level as the percentage of those individuals over the age of fifteen who can read and write, but such a definition does not address the realities of the 21st Century. The National Literacy Act of 1991 and the National Workforce Investment Act of 1998 both define literacy more broadly as "an individual's ability to read, write, speak in English, compute and solve problems at levels of proficiency necessary to function on the job, in the family of the individual and in society".

Approximately twenty percent of the adult population in West Virginia cannot meet this definition of functional literacy. One adult out of every five in the state lacks the basic literacy skills needed to succeed at work, to enter the learning environment of post-secondary education, to

acquire advanced occupational training or to participate in preparing his or her own children to learn.

(ii) The high rate of illiteracy in West Virginia not only handicaps adults in seeking employment and achieving their goals for their own quality of life, but also has serious implications for the future of their children and for the state.

There is a direct, positive correlation between the reading scores of children and the education level of their parents. The National Assessment of Education Progress (NAEP) has concluded that youngsters whose parents are functionally illiterate are twice as likely to become functionally illiterate adults.

(iii) When the level of functional illiteracy in West Virginia is compared to the requirements for high-demand occupations, the negative consequences for the economy of the state become obvious. The International Adult Literacy Survey (IALS) established a scale of five levels which is used extensively to measure the literacy attainment of adults. When this scale was used to compare the literacy requirements of projected high-growth occupations with those in declining occupations such as certain types of manufacturing, researchers found that level three literacy is required for the new jobs, while level two is sufficient for the jobs in the declining occupations. Therefore, workers displaced from jobs in declining occupations as well as those seeking to enter or reenter the work place must possess literacy skills a full level higher than those required for workers only a few years ago. Documents such as manuals outlining standard operating procedures, health and safety manuals, leave forms and retirement options that they encounter daily require a level of literacy well above level two.

(iv) A highly skilled and literate work force is essential to the success of state businesses and industry. A ten percent increase in the average education of all workers, equivalent to approximately one additional year of schooling, is associated with an increase of about nine percent in the productivity of that labor force. Additionally, workers who lack literacy skills cannot provide the data and feedback that companies need to make informed business decisions. A company whose employees cannot record reliable production data cannot assess its performance from year to year or determine how well it is meeting its long range goals and objectives.

(v) The rate of functional illiteracy in West Virginia also has a direct impact on the health of state citizens. Residents with low literacy skills have difficulty in many health areas including the following:

(I) Understanding the correct way to take medication, interpret test results or perform simple self-testing such as taking temperatures or checking blood glucose levels;  
(II) Understanding and following directions given by physicians or the written instructions provided with prescription or over-the-counter medication for themselves or for their children;  
(III) Reading and understanding information on food labels and other nutrition information to make sound decisions necessary to establish and maintain healthy lifestyles; and  
(IV) Furnishing correct information in emergencies to medical providers about illnesses, surgeries and medications or understanding how to fill out insurance forms and other health-related documents.

(B) *Expected outcomes.* –

(i) Develop greater access and capacity to deliver literacy and remedial education, workforce development training and other higher education services to place-bound adults primarily through the community and technical colleges;

(ii) Increase the percentage of the working age population who participate in higher education, either full or part time;

(iii) Establish a statewide mechanism to collect data to provide a baseline for measuring progress toward meeting the goal of functional literacy for all working-age adults and to serve as a framework for setting priorities, identifying gaps in service and targeting services to key populations, industries, economic sectors and geographic areas;

(iv) Develop programs that include, at a minimum, the following:

(I) Learning opportunities within a real-life context, such as workplace and family literacy programs;

(II) Recognition of the diversity of individual abilities, skill levels, circumstances and life goals; and

(III) Strategies to access, promote and accommodate a variety of instructional methods and learning styles.

(v) Develop a culture committed to life-long learning by creating literacy-rich environments wherever people live and work that are capable of influencing changes in individual behavior; and

(vi) Create partnerships among schools, employers, workers, governments and communities to achieve these objectives and mechanisms to collect, interpret and disseminate data to assist policymakers in determining the appropriate level of resources essential to support lifelong learning systems.

**§18B-1D-4. Responsibilities of Higher Education Policy Commission and Council for Community and Technical College Education; development of public policy agendas; reports; institutional responsibilities.**

(a) It is the responsibility of the commission, in cooperation with the council, to develop, oversee and advance the public policy agenda mandated by section four, article one-b of this chapter to address the goals and objectives established pursuant to this article and section one-a, article one of this chapter, including, but not limited to, aligning state and institutional compacts, master plans, implementation plans and institutional missions with state goals and objectives to accomplish the purposes of this article.

(b) It is the responsibility of the council, in cooperation with the commission when applicable, to develop, oversee and advance the public policy agenda mandated by section six, article two-b of this chapter to address the goals and objectives established pursuant to this article and section one-a, article one of this chapter, including, but not limited to, aligning state and institutional compacts, master plans, implementation plans and institutional missions with state goals and objectives to accomplish the purposes of this article.

(c) It is further the responsibility of the commission and council to collect the data, assemble it in the appropriate format and transmit all reports and any other essential documents as needed to fulfill the purposes of this article. Each report shall contain a brief, concise executive summary and shall include trends and recommendations in text format. Recommendations shall be ranked by order of importance and shall be supported by objective data available elsewhere in the report. In addition to those specifically mandated by this chapter or chapter eighteen-c of this code, reporting responsibilities include, but are not limited to, the following:

(1) Ensuring that data systems collect the essential information state-level policymakers need to answer key policy questions to fulfill the purposes of the accountability system established pursuant to this article and section one-a, article one of this chapter;

(2) Collaborating with public education to establish policies to link existing pre-K, K-12, higher education and teacher data systems to enable tracking of student progress and teacher performance over time; and

(3) Ensuring that reports provide data analyses to determine if students entering the public higher education systems are prepared for post-secondary education and if students obtaining degrees, certificates or other credentials are prepared to pursue careers or to continue their education.

(d) It is the responsibility of public institutions of higher education to report to the commission or the council, as appropriate, on plans, accomplishments and recommendations to implement the goals and objectives contained in the institutional and state compacts.

**§18B-1D-5. Master plans; reports; approval process.**

(a) The commission and the council each shall develop a master plan for public higher education that is closely aligned with the goals and objectives of this article and section one-a, article one of this chapter as they relate to the missions of institutions under their respective jurisdictions.

(b) The authority of the commission and the council, respectively, related to developing and implementing statewide master plans is subject to the following conditions:

(1) The master plans shall be established for periods of not more than five years.

(2) The master plans in place on the effective date of this article continue in effect until the end of the five-year planning cycle unless amended or rescinded by the commission or council, respectively, pursuant to this article.

(3) Any new master plan proposed by the commission or council shall be communicated to the Legislative Oversight Commission on Education Accountability and may not be adopted or implemented without the approval of that body;

(4) The commission and council each shall perform a comprehensive review of its master plan at least annually and shall revise it periodically as appropriate to meet state goals and objectives.

(5) The commission and the council each shall review the progress of its higher education system in meeting the goals and objectives of the master plan and report to the Legislative Oversight Commission on Education Accountability, with detailed recommendations for amending the plan, by the first day of January, two thousand nine, and annually thereafter.

(6) At the end of each five-year planning cycle and as an integral part of the preparation of a new master plan, the commission and the council, respectively, shall prepare and submit to the Legislative Oversight Commission on Education Accountability a comprehensive report containing at least the following:

(A) A detailed, data-based analysis of the progress of the system and the institutions within the system toward meeting each goal and objective included in the current plan; and

(B) A strategy for using this data as a basis for developing the master plan for the next planning cycle.

(c) The master plan shall include a detailed set of system objectives designed to meet the state goals and objectives outlined in this article and section one-a, article one of this chapter, including, but not limited to, the following:

(A) A well-developed analysis of missions, degree offerings, resource requirements, physical plant needs, personnel needs, enrollment levels and other planning determinants and projections for public higher education and other matters necessary in such a plan to assure that the needs of the state for a quality system of higher education are addressed; and

(B) A strategy for cooperation and collaboration with the State Board of Education and State Department of Education, state institutions of higher education, the counterpart state coordinating board and other relevant education providers to assure that a comprehensive and seamless system of education is developed and implemented for West Virginia.

**§18B-1D-6. State compacts; legislative intent; rule required; implementation plans authorized.**

(a) It is the intent of the Legislature that members of the education partnership to achieve state goals and objectives engage in developing state compacts between and among themselves for the purpose of enhancing the well-being of the citizens of West Virginia. Such a compact constitutes a formal contract and focuses on the goals and objectives established pursuant to this article and section one-a, article one of this chapter. A compact is called for when achievement of specific goals or objectives requires significant collaboration and commitment of resources by more than one member of the partnership.

(b) The rules to be proposed relating to state compacts pursuant to subsection (c), section one of this article shall include, but are not limited to, the following components:

(1) A procedure to determine when a state compact is necessary or desirable;

(2) A procedure for determining the identity of parties to the compact and for establishing compact terms:

(A) Parties to the compact may be any two or more members of the education partnership to achieve state goals and objectives who are positioned to make significant contributions to meeting compact objectives; and

(B) The terms of the compact shall focus on achievement of objectives. The expected outcomes shall be stated in concrete terms that are measurable.

(3) A mechanism for negotiating agreement on compact objectives. The mechanism shall provide for negotiation and development of consensus among the parties and must be reasonable in its operation and outcomes expectations;

(4) A procedure for creating and consolidating commitment between and among parties to the compact. Most state compacts will extend over multiple years and will require that negotiation between education partners and elected state officials take into account the constraints of the political process and the limits on available resources; and

(5) A process for periodic review, assessment and reporting of progress toward meeting the compact objectives. The rule shall provide for objective analysis and reporting to the compact partners and to the elected officials of the state.

(c) In addition to authorizing the commission and the council to enter into state compacts pursuant to subsections (a) and (b) of this section, it is the intent of the Legislature to encourage them strongly to develop implementation plans together with other members of the public higher education community to achieve system and institutional goals and objectives which are consistent with and supportive of the goals and objectives established in this article and section one-a, article one of this chapter.

(1) At a minimum, each implementation plan shall contain the following elements:

(A) Identification of the goal and the objectives to be achieved;

(B) Identification of the parties to the implementation plan and a process for developing consensus among the parties;

(C) A needs assessment or other mechanism to determine current status of the proposed objectives, including a survey of available resources and other data relevant to achieving the objectives;

(D) Identification of challenges or barriers to meeting objectives;

(E) Delineation of tasks to be performed;

(F) A specific time line for meeting objectives;

(G) An evaluation process administered periodically to determine progress in meeting the objectives during the life span of the plan; and

(H) A method for determining success in achieving the objectives following the closing date established by the time line.

(2) Implementation plans are internal documents developed among members of the public higher education community and are not subject to an external approval process.

**§18B-1D-7. Findings; establishment of institutional compacts; compact elements; submission date; review and approval process; rule required.**

(a) The Legislature finds that West Virginia long has recognized the value of education and, on a per capita income basis, ranks very high among the states in its investment to support public education. The Legislature further finds that a combination of state and national demographic and economic factors as well as significant changes in methods of course and program delivery compel both the state and public higher education to create a process that will strengthen institutional capacity to provide the services so valued by the citizens of the state and so essential to promoting economic vitality.

(b) Therefore, each state college and university shall prepare an institutional compact for submission to the commission and each community and technical college shall prepare an institutional compact for submission to the council. When the process herein provided is completed, the resulting institutional compact constitutes a negotiated contract between the state institution of higher education and the commission or council, respectively, containing at a minimum the following basic components:

(1) Institutional strategies for focusing resources on meeting the goals and objectives set forth in this article and section one-a, article one of this chapter; and

(2) Commission or council strategies for promoting and supporting the institution in fulfilling its mission and objectives, to make it more competitive with its peers and to ensure the continuity of academic programs and services to its students.

(c) In addition to the basic contract components described in subsection (b) of this section, each compact shall contain at least the following elements:

(1) A determination of the mission of the institution which specifically addresses changes necessary or expedient to accomplish the goals and objectives articulated by the state and the appropriate statewide master plan;

(2) A detailed statement of how the compact is aligned with and will be implemented in conjunction with the master plan of the institution;

(3) A comprehensive assessment of education needs within the institution's geographic area of responsibility;

(4) A strategy to ensure access to comprehensive community and technical college and workforce development services within each respective region of the state consistent with the mission of the institution;

(5) Provision for collaboration and brokering of education services as necessary or expedient to carry out the institutional mission and meet its objectives;

(6) Provision of student services at the optimum level to support the institutional mission and to achieve state goals and objectives;

(7) Strategies for using existing infrastructure and resources within each region, where feasible, to increase student access while controlling costs and maintaining academic quality; and

(8) Other public policy objectives or initiatives adopted by the commission or council pursuant to the intent and purposes of this article and section one-a, article one of this chapter.

(d) Each institutional compact shall be updated annually and shall follow the same general guidelines contained in this section.

(e) Development and updating of the institutional compacts is subject to the following conditions:

(1) The ultimate responsibility for developing and updating the compacts at the institutional level resides with the board of advisors or the board of governors, as appropriate. It is the responsibility of the commission or council to provide technical assistance as requested and to negotiate with the institution development of the strategies to promote and support the institution pursuant to subsection (b) of this section;

(2) The commission and the council each shall establish a date by which institutions under their respective jurisdictions shall submit their compacts to the commission or council pursuant to the provisions of this article. The date established by each state-level coordinating board shall apply uniformly to all institutions under the jurisdiction of that coordinating board and shall meet the following additional conditions:

(A) Allow sufficient time for careful analysis of the compacts by the central office staff and for review by members of the commission or the council, as appropriate; and

(B) Allow sufficient time for the institutions to make necessary revisions to the compacts as provided in this section.

(3) The commission and council shall review each compact from the institutions under their respective jurisdictions and either adopt the compact or return it with specific comments for change or improvement. The commission and council, respectively, shall continue this process as long as each considers advisable;

(4) By the first day of May annually, if the institutional compact of any institution as presented by that institution is not adopted by the respective commission or council, then the commission or council is empowered and directed to develop and adopt the institutional compact for the institution and the institution is bound by the compact so adopted; and

(5) As far as practicable, the commission and council each shall establish uniform processes and forms for the development and submission of the institutional compacts by the institutions under their respective jurisdictions, taking into consideration the differences in institutional missions and objectives. As a part of this function, the commission and council each shall organize the statements of legislative goals and objectives contained in this article and section



one-a, article one of this chapter in a manner that facilitates the purposes therein.

(f) Assignment of geographic areas of responsibility. –

(1) The commission shall assign geographic areas of responsibility to the state institutions of higher education under its jurisdiction, except for the state institutions of higher education known as West Virginia School of Osteopathic Medicine, Marshall University and West Virginia University. For institutions other than the state institutions of higher education known as West Virginia School of Osteopathic Medicine, Marshall University and West Virginia University, the geographic areas of responsibility are made a part of their institutional compacts to ensure that all areas of the state are provided necessary programs and services to achieve state goals and objectives. The commission and the council each shall develop data-based measures to determine the extent to which institutions under their respective jurisdictions are providing higher education services aligned with state goals and objectives and institutional missions within their geographic areas of responsibility. This information shall be reported in the statewide report card established pursuant to section eight of this article.

(2) The council shall assign geographic areas of responsibility to the state institutions of higher education under its jurisdiction, including the administratively linked institution known as Marshall Community and Technical College, the administratively linked institution known as the Community and Technical College at West Virginia University Institute of Technology and the regional campus known as West Virginia University at Parkersburg.

(3) The geographic areas of responsibility for the state institutions of higher education known as West Virginia School of Osteopathic Medicine, Marshall University and West Virginia University are assigned by the Legislature.

(4) The benchmarks established in the institutional compacts include measures of programs and services by geographic area throughout the assigned geographic area of responsibility.

(g) The compacts shall contain benchmarks to be used to determine progress toward meeting the objectives established in the compacts. The benchmarks shall meet the following criteria:

(1) They shall be objective;

(2) They shall be directly linked to the objectives in the compacts;

(3) They shall be measured by the indicators described in subsection (h) of this section; and

(4) Where applicable, they shall be used to measure progress in geographic areas of responsibility.

(h) The rules required by subsection (c), section one of this article shall include indicators which measure the degree to which the goals and objectives set forth in this article and section one-a, article one of this chapter are being met by the institutions under the jurisdiction of the commission and the council, respectively.

(1) The rules pertaining to benchmarks and indicators in effect for the commission and the council on the effective date of this section remain in effect for the institutions under their respective jurisdictions until amended, modified, repealed or replaced by the commission or the council, respectively, pursuant to the provisions of this article, section six, article one of this chapter and article three-a, chapter twenty-nine-a of this code.

(2) The rules shall set forth at least the following as pertains to all state institutions of higher education:

(A) The indicators used to measure the degree to which the goals and objectives are being met;

(B) Uniform definitions for the various data elements to be used in establishing the indicators;

(C) Guidelines for the collection and reporting of data; and

(D) Sufficient detail within the benchmarks and indicators to provide the following information:

(i) Measurable evidence that the pursuits of the institution are focused on the education needs of the citizens of the state and are aligned with the objectives of the institutional compacts and statewide master plans;

(ii) Delineation of the objectives and benchmarks for an institution so that the commission or council can precisely measure the degree to which progress is being made toward achieving the goals and objectives provided in this article and section one-a, article one of this chapter; and

(iii) Identification of specific objectives within the master plan or compact of an institution that

are not being met or toward which sufficient progress is not being made.

(3) In addition to any other requirement, the rule established by the council shall set forth at least the following as pertains to community and technical college education:

(A) Benchmarks and indicators which are targeted to identify the following:

(i) The degree to which progress is being made by institutions toward meeting state goals and objectives and the essential conditions for community and technical college education pursuant to section three, article three-c of this chapter;

(ii) Information and data necessary to be considered by the council in making the determination required by section three, article two-c of this chapter; and

(B) Sufficient detail within the benchmarks and indicators to provide clear evidence to support an objective determination by the council that an institution's progress toward achieving state goals and objectives and the essential conditions for community and technical college education is so deficient that implementation of the provisions of section four, article two-c of this chapter is warranted and necessary.

(i) The commission and the council, respectively, shall approve the compacts developed for the institutions under their respective jurisdictions by the boards of governors or the boards of advisors pursuant to this section and consistent with the powers and duties prescribed in section four, article two-a of this chapter and section one, article six of this chapter.

**§18B-1D-8. Institutional and system report cards.**

(a) The purpose of the institutional and statewide report cards is to make information available to parents, students, faculty, staff, state policymakers and the general public on the quality and performance of public higher education. The focus of the report cards is to determine annual progress of the commission, the council and institutions under their respective jurisdictions toward achieving state goals and objectives identified in this article and section one-a, article one of this chapter and system goals and objective contained in the statewide master plans of the commission and council created pursuant to section five of this article.

(b) The information contained in the report cards shall be consistent and comparable between and among state institutions of higher education. If applicable, the information shall allow for easy comparison with higher education-related data collected and disseminated by the Southern Regional Education Board, the United States Department of Education and other education data-gathering and data-disseminating organizations upon which state policymakers frequently rely in setting policy.

(c) The rules required by subsection (c), section one of this article shall provide for the collection, analysis and dissemination of information on the performance of the state institutions of higher education, including health sciences education, in relation to the findings, goals and objectives set forth in this article and section one-a, article one of this chapter and those contained in the statewide master plans of the commission and council developed pursuant to section five of this article.

(1) The objective of this portion of the rule is to ensure that the Legislative Oversight Commission on Education Accountability and others identified in subsection (a) of this section are provided with full and accurate information while minimizing the institutional burden of recordkeeping and reporting.

(2) This portion of the rule shall identify various indicators of student and institutional performance that, at a minimum, must be reported annually, set forth general guidelines for the collection and reporting of data and provide for the preparation, printing and distribution of report cards under this section.

(d) The report cards shall be analysis-driven, rather than simply data-driven, and shall present information in a format that can inform education policymaking. They shall include an executive summary which outlines significant trends, identifies major areas of concern and discusses progress toward meeting state and system goals and objectives. They shall be brief and concise, reporting required information in nontechnical language. Any technical or supporting material to be included shall be contained in a separate appendix.

(e) The statewide report card shall include the data for each separately listed, applicable indicator identified in the rule promulgated pursuant to subsection (c) of this section and the aggregate of the data for all public institutions of higher education.

(f) The statewide report card shall be prepared using actual institutional, state, regional and national data, as applicable and available, indicating the present performance of the individual institutions, the governing boards and the state systems of higher education. Statewide report cards shall be based upon information for the current school year or for the most recent school year for which the information is available, in which case the year shall be clearly noted.

(g) The president or chief executive officer of each state institution of higher education shall prepare and submit annually all requested data to the commission at the times established by the commission.

(h) The higher education central office staff, under the direction of the Vice Chancellor for Administration, shall provide technical assistance to each institution and governing board in data collection and reporting and is responsible for assembling the statewide report card from information submitted by each governing board.

(i) The statewide report card shall be completed and disseminated with copies to the Legislative Oversight Commission on Education Accountability prior to the first day of January of each year and the staff of the commission and the council shall prepare a report highlighting specifically the trends, progress toward meeting goals and objectives and major areas of concern for public higher education, including medical education, for presentation to the Legislative Oversight Commission on Education Accountability at the interim meetings in January, two thousand nine, and annually thereafter.

(j) Notwithstanding any other provisions of this code to the contrary, the following statutorily mandated reports are not required to be prepared and submitted annually unless a member of the Legislature makes a specific request for a particular report:

(1) An annual report, pursuant to subsection (a), section forty-eight, article three, chapter five-a of this code, on vehicle fleets;

(2) An annual report, pursuant to subsection (e), section ten, article one of this chapter, on plans, accomplishments and recommendations in implementing a cooperative relationship between Potomac State College and Eastern West Virginia Community and Technical College;

(3) An annual report, pursuant to paragraphs (A) and (B), subdivision (10), subsection (a), section four, article one-b of this chapter, concerning higher education performance and enrollment data;

(4) An annual report, pursuant to paragraph (A), subdivision (11), subsection (b), section six, article two-b of this chapter, concerning community and technical college performance;

(5) An annual report, pursuant to subsection (b), section seven, article five of this chapter, on all sales of obsolete, unusable or surplus commodities;

(6) An annual report, pursuant to section eight, article five of this chapter, on purchases from West Virginia businesses;

(7) An annual report, pursuant to subsection (j), section one, article ten of this chapter, on the amount of auxiliary fees collected to replace state funds subsidizing auxiliary services;

(8) An annual report, pursuant to subsection (c), section five, article thirteen of this chapter, on technical assistance provided to qualified businesses within approved research parks, research zones or technology centers;

(9) An annual report, pursuant to subsection (e), section six, article eighteen of this chapter, on the status of the Eminent Scholars Endowment Trust Fund; and

(10) An annual report, pursuant to subsection (e), section one, article three, chapter eighteen-c of this code, relevant to the health education loan program.

(k) For a reasonable fee, the Vice Chancellor for Administration shall make copies of the report cards, including any appendices of supporting material, available to any individual requesting them.

#### **ARTICLE 14. MISCELLANEOUS.**

**§18B-14-9. Legislative findings; establishment of study committee; membership; recommendations on higher education facilities.**

(a) The Legislature finds that it is in the best interest of the state to have an effective and comprehensive system for the delivery of public higher education programs. West Virginia is one of the very few states in the nation which does not address higher education capital project and facilities maintenance needs through a statewide plan. State institutions of higher education vary widely in their ability to incur debt for capital projects and the conditions of their facilities infrastructure. Some institutions have incurred substantial amounts of debt to address capital needs, while other institutions have not.

The Legislature further finds that average tuition and fees for current and former administratively linked community and technical colleges rank well above the national average primarily because of the capital fees that students at those institutions have to pay. The large amount of capital fees that students must pay at the institution level contributes significantly to the poor grade the state receives each year in the category of "Affordability" on "Measuring Up: The National Report Card on Higher Education". Net college costs for state students who come from families in the lowest forty percent of the population in terms of income to attend community and technical colleges and four-year colleges and universities in West Virginia represent about forty-five percent of their family's annual income and there are few low-cost college opportunities.

The Legislature further finds that the high cost of capital fees contributes directly to the amount of debt incurred by students during their college years. The debt load, in turn, severely limits students' career choices and often dictates their place of residence after graduation.

(b) It is the responsibility of the Legislature to determine how to make the best use of available resources and how best to address the problems outlined in subsection (a) of this section. Therefore, the Joint Committee on Government and Finance shall create a committee for the purposes of making a specific and detailed analysis of higher education capital project and facilities maintenance needs and providing recommendations to the Legislature.

(c) The committee consists of the following members:

(1) The President of the Senate or designee;

(2) The Speaker of the House of Delegates or designee; (3) The chairs of the Senate and House of Delegates Committees on Education, who shall cochair the committee;

(4) The vice chairs of the Senate and House of Delegates Committees on Education;

(5) The chairs of the Senate and House of Delegates Committees on Finance or their designees;

(6) The cochairs of the Joint Commission on Economic Development or their designees;

(7) Two members each from the Senate Committees on Finance and Education appointed by the President of the Senate; and

(8) Two members each from the House Committees on Finance and Education appointed by the Speaker of the House.

(d) The committee shall develop and recommend a state-level facilities plan which includes, but is not limited to, the following:

(1) A review of capital project and facilities maintenance needs of all state institutions of higher education and recommendations for addressing those needs;

(2) Recommendations concerning the appropriate capital debt load that reasonably should be maintained by the commission, council and state institutions of higher education;

(3) Recommendations for a funding mechanism to reduce the obligation of students and parents to bear the cost of higher education capital projects and facilities maintenance;

(4) Recommendations for maximizing changes in bonding capacity that will occur in two thousand twelve;

(5) Development of a uniform definition of deferred maintenance;

(6) Recommendations for an appropriate mechanism to target a percentage of state capital contributions to address deferred maintenance needs; and

(7) Recommendations for a transparent methodology to set priorities for funding capital projects.

(e) The committee shall commence its work on or before the fifteenth day of May, two thousand

eight, and shall deliver its recommendations, together with draft legislation to implement the recommendations, to the Legislative Oversight Commission on Education Accountability and the Joint Committee on Government and Finance by the first day of December, two thousand eight.