

**WEST VIRGINIA LEGISLATURE**  
**2019 FIRST EXTRAORDINARY SESSION**

**ENROLLED**  
**House Bill 206**

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2019 JUN 28 P 4:56

FILED

BY DELEGATES ESPINOSA, WILSON, BIBBY, FOSTER,  
HARDY, HOUSEHOLDER, D. JEFFERIES, LITTLE, MALCOLM,  
PHILLIPS AND WAXMAN

[Passed June 24, 2019; in effect from passage.]

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1 AN ACT to amend and reenact §5-16-2 and §5-16-22 of the Code of West Virginia, 1931, as  
2 amended; to amend said code by adding thereto a new section, designated §11-15-9s; to  
3 amend and reenact §15-1B-24 of said code; to amend said code by adding thereto a new  
4 section, designated §18-2E-12; to amend and reenact §18-5-14, §18-5-16, §18-5-16a,  
5 §18-5-18a, §18-5-18b, and §18-5-46 of said code; to amend said code by adding thereto  
6 a new section, designated §18-5-48; to amend and reenact §18-5A-2, §18-5A-3 and §18-  
7 5A-5 of said code; to amend said code by adding thereto a new article, designated §18-  
8 5G-1, §18-5G-2, §18-5G-3, §18-5G-4, §18-5G-5, §18-5G-6, §18-5G-7, §18-5G-8, §18-  
9 5G-9, §18-5G-10, §18-5G-11 and §18-5G-12; to amend and reenact §18-7A-3 of said  
10 code; to amend and reenact §18-7B-2 of said code; to amend and reenact §18-8-4 of said  
11 code; to amend and reenact §18-9A-2, §18-9A-8 and §18-9A-9 of said code; to amend  
12 said code by adding thereto a new section, designated §18-9A-19; to amend said code by  
13 adding thereto a new section, designated §18-9B-22; to amend and reenact §18-20-5 of  
14 said code; to amend and reenact §18A-4-2, §18A-4-5, §18A-4-5a, §18A-4-7a, §18A-4-8a,  
15 and §18A-4-10 of said code; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3, §18C-  
16 4-4, and §18C-4-5 of said code; to amend and reenact §18C-4A-1, §18C-4A-2, and §18C-  
17 4A-3 of said code; and to amend and reenact §29-12-5a of said code, all relating to public  
18 education; allowing public charter schools to participate in the Public Employees  
19 Insurance Agency insurance program; exempting the purchase of certain goods from  
20 sales tax for a period of time; requiring the Governor to expand Mountaineer Challenge  
21 Academy at its existing location; permitting creation of a new Mountaineer Challenge  
22 Academy location subject to agreement required under federal law; requiring the State  
23 Board of Education to implement the Mountain State Digital Literacy Project as a pilot  
24 project; modifying requirements for policies to promote school board effectiveness and  
25 eliminating requirement for filing and refiling policies with state board; limiting meetings  
26 with improvement councils to those at low performing schools; modifying agenda for

meeting with school improvement council; eliminating reporting requirement; permitting county boards to establish attendance zones; replacing existing provisions pertaining to student transfers with requirement for county boards to establish an open enrollment policy; requiring appeal process whereby a parent or guardian can appeal the refusal of a county board to accept the transfer of the student; requiring the county to which a student is transferred include the student in its net enrollment in certain instances; providing that certain transfer provisions do not supersede eligibility requirements for participation in extracurricular activities established by the Secondary School Activities Commission; modifying student-teacher ratios; requiring the West Virginia Department of Education to survey districts to determine where overcrowding is impeding student achievement and requiring considerations therefore; increasing percentage of work time school counselors are required to spend in a direct counseling relationship with pupils; providing that the teacher's recommendation is a primary consideration in determining student promotion; authorizing county board to establish by policy an exceptional needs fund from certain surpluses and listing provisions that may be included; modifying membership of improvement councils; increasing prior notice of local school improvement council meetings; removing term limits for chair of council; removing council duty for meeting on student discipline issues and reporting to countywide council on productive and safe schools; requiring at least one council meeting annually for dialogue with parents and others on school's academic performance and standing; requiring meeting of certain council members of low performing school with county board and providing minimum issues to be addressed; referencing council authority to propose alternatives and request waivers of rules, policies, interpretations and state statutes; expanding issues on which school required to cooperate with council to promote innovations and improvements; removing reporting requirements; authorizing county boards to designate innovation schools and provide funding; reorganizing and clarifying authority and procedures for local

53 school improvement councils to propose alternatives to the operation of school including  
54 request of waiver to rules, policies, interpretations and state statutes; preserving primary  
55 authority of county board to approve alternatives subject to grant of necessary waivers by  
56 other bodies; authorizing off-site classrooms; increasing faculty senate allotment to  
57 classroom teachers and librarians; stating legislative intent and purpose of public charter  
58 school provisions; providing for liberal interpretation; prohibiting interpretation to allow  
59 conversion of private schools to public charter school; prohibiting elected official from profit  
60 or compensation except continued employment at school converted; limiting total number  
61 of public charter school authorized and in operation under an approved contract with  
62 periodic increases following reports by the State Board to the Legislative Oversight  
63 Commission on Education Accountability; providing that the Mountain Challenge  
64 Academy does not count toward total public charter schools: defining terms; specifying  
65 required general criteria that public charter schools must meet; establishing general  
66 provisions for public charter school governing boards; enumerating laws, policies, and  
67 codes that charter schools must comply with; providing powers and duties of state board  
68 for implementation, general supervision and support for public charter schools; requiring  
69 best practices catalogue, provision of forms, and training programs; authorizing receipt  
70 and expenditure of gifts, grants and donations and application for federal funds; reporting  
71 requirements and reports to Governor and Legislature; requiring state board as authorizer  
72 in certain instances; requiring state board rules related to funding, authorizer oversight  
73 funding, and other necessary issues; authorizing state board rule for ensuring  
74 accountability; specifying local education agency status; providing for authorizer powers  
75 and duties with respect applications, contracts to oversight and authorization; requiring  
76 appropriate corrective action or sanctions in response to deficiencies; providing  
77 authorization to require reports; requiring payment of oversight fee; prohibiting attachment  
78 of civil liability to authorizer, members or employees for acts or omissions of public charter

79 school; limiting regulation of public charter schools by state and county boards to powers  
80 and duties as authorizers; establishing public charter school governing board  
81 membership, qualifications, status as public corporate body and authorized powers; listing  
82 governing board responsibilities for operation of public charter school; authorizing  
83 participation in cocurricular and extracurricular activities; mandating compliance with  
84 freedom of information and open governmental proceedings; providing for contents of  
85 application to form public charter school; specifying items to be addressed in charter  
86 contracts, contract term and execution; providing process for contract renewal,  
87 performance report and time frame for final determination; providing that failure of  
88 authorizer to act to be deemed approval; providing for revocation of charter contracts and  
89 specifying grounds; declaring authorizer responsibilities for closure when contract not  
90 renewed or revoked; providing for closure protocol and removal of governing board  
91 members; providing for processes for student enrollment in public charter schools;  
92 requiring publication of enrollment option by school and county board; prohibiting  
93 mandated enrollment or departures of students at a public charter school; requiring  
94 designation of primary recruitment area, its effect and basis; prohibiting discrimination in  
95 enrollment with allowance for program focus on students with special needs; authorizing  
96 establishment of enrollment preferences; establishing effect of enrollment preference on  
97 enrollment, excess capacity and random lottery when capacity exceeded; providing for  
98 student transfers to noncharter schools; requiring access to electronic information system  
99 for reporting student and school performance, certification of enrollment, attendance and  
100 other student information to Department of Education; providing process for public charter  
101 school use or lease of public facilities; allowing public charter schools to elect to participate  
102 in certain state retirement systems; modifying requirements applicable after certain  
103 numbers of unexcused student absences; including professional personnel providing  
104 direct social and emotional support services to students and professional personnel

addressing chronic absenteeism within the definition of “professional student support personnel”; modifying definition of net enrollment; increasing calculated net enrollment for the purposes of determining a county’s basic foundation program of certain counties with an actual net enrollment of less than 1,400; decreasing the percent of the levy rate used to calculate local share; basing the basic foundation allowance for professional student support personnel on a ratio of positions per students and providing that nothing in section precludes public-private partnerships or contracts to provide services; providing one year hold-harmless on number of positions funded; increasing the percentage used to calculate each county’s allowance for current expense; increasing allotment for academic materials, supplies and equipment; requiring that each county board receive its allocated state aid share of the county’s basic foundation program in the form of block grants; requiring the State Superintendent to provide the State Auditor with the required data for use by the searchable budget data website; including public charter schools in the provisions pertaining to an appropriation to serve certain exceptional children; increasing teacher salaries; providing that certain math and special education teachers be considered to have three additional years of experience for the purposes of the salary schedule; providing equivalent amount in teacher’s experience exceeds salary schedule maximum years; removing definition of salary equity among the counties; removing requirement that Department of Education include in its budget request a request for funding sufficient to meet the objective of salary equity; adding to exceptions to requirement that county salary schedules be uniform; providing for determination of seniority by random lottery within thirty days of employment for teachers employed on same date; requiring county board to base all decisions on reductions in force and reemployment on seniority, certification, licensure and performance evaluations; listing criteria county board must consider; requiring consideration of performance evaluations; modifying provisions pertaining to the preferred recall list and posting of position openings; removing requirement for county

board to annually make available a list of all professional personnel employed, their areas of certification, and their seniority; providing that all personnel in a public charter school accrue seniority for the purpose of employment in noncharter public schools; increasing monthly pay for service personnel; increasing leave without cause days from three to four; requiring a bonus for classroom teachers who have not used more than four days of personal leave during the employment term; renaming the Underwood-Smith Teacher Scholarship and Loan Assistance programs the Underwood-Smith Teaching Scholars Program and the Teacher Education Loan Repayment Program; modifying requirements for Higher Education Policy Commission rules providing for administration of the programs; requiring that Underwood-Smith Teaching Scholars award recipients receive additional academic support and training from mentors in their academic field; continuing the Underwood-Smith Teacher Scholarship and Loan Assistance Fund as the Underwood-Smith Teaching Scholars Program Fund; requiring each award recipient to be distinguished as an Underwood-Smith Teaching Scholar; establishing uses for moneys in the Underwood-Smith Teaching Scholars Program Fund; providing for continuation of certain terms, conditions, requirements, and agreements; requiring the Vice Chancellor for Administration to appoint a selection panel to select Underwood-Smith Teaching Scholars; modifying eligibility criteria for Underwood-Smith Teaching Scholars; modifying Underwood-Smith Teaching Scholars award agreement requirements; modifying renewal requirements for an Underwood-Smith Teaching Scholars award; modifying conditions under which a recipient is not in violation of the agreement; requiring Underwood-Smith Teaching Scholars award to be used in preparation for becoming a teacher in a critical shortage field in the public schools of this state; increasing the amount of the annual award; requiring as a condition of loan repayment award eligibility an applicant to be currently employed in a public school in this state in a critical teacher shortage field or as a school counselor in a school or geographic area of the state identified as an area of

157 critical need for such field; requiring as a condition of eligibility an applicant to agree to be  
158 employed full time for two school years in a critical teacher shortage field or as a school  
159 counselor in a school or geographic area of critical need for such field for each year for  
160 which a loan repayment assistance award is received; modifying provisions pertaining to  
161 the amount of loan assistance and the requirements for eligibility; modifying eligibility  
162 requirements for renewal of scholarship award and loan repayment assistance award;  
163 removing accumulated limit on loan repayment awards; increasing minimum Board of Risk  
164 and Insurance Management coverage; requiring at least annual written notice of Board of  
165 Risk and Insurance Management insurance coverages by county boards to employee  
166 insureds; allowing public charter schools to obtain insurance coverage from the Board of  
167 Risk and Insurance Management; providing effective dates and making technical  
168 changes.

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

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;  
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,  
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

**§5-16-2. Definitions.**

1 The following words and phrases as used in this article, unless a different meaning is  
2 clearly indicated by the context, have the following meanings:

3 (1) "Agency" means the Public Employees Insurance Agency created by this article.

4 (2) "Director" means the Director of the Public Employees Insurance Agency created by  
5 this article.

(3) "Employee" means any person, including an elected officer, who works regularly full-time in the service of the State of West Virginia and, for the purpose of this article only, the term "employee" also means any person, including an elected officer, who works regularly full-time in the service of a county board of education; a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance program; a county, city, or town in the State; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities, or towns; any comprehensive community mental health center or intellectually and developmentally disabled facility established, operated, or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of this code and which is supported in part by state, county, or municipal funds; any person who works regularly full-time in the service of the Higher Education Policy Commission, the West Virginia Council for Community and Technical College Education or a governing board, as defined in §18B-1-2 of this code; any person who works regularly full-time in the service of a combined city-county health department created pursuant to §16-2-1 *et seq.* of this code; any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code; and any person who works as a long-term substitute as defined in §18A-1-1 of this code in the service of a county board of education: *Provided, That* a long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and, until the end of that instructional term, is eligible for the benefits provided in this article until September 1 following that instructional term: *Provided, however, That* a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible for the benefits provided in this article only during such time as he or she is actually employed as a long-term substitute. On and after January 1, 1994, and upon election by a county board of

education to allow elected board members to participate in the Public Employees Insurance Program pursuant to this article, any person elected to a county board of education shall be considered to be an "employee" during the term of office of the elected member. Upon election by the state Board of Education to allow appointed board members to participate in the Public Employees Insurance Program pursuant to this article, any person appointed to the state Board of Education is considered an "employee" during the term of office of the appointed member: *Provided further*, That the elected member of a county board of education and the appointed member of the state Board of Education shall pay the entire cost of the premium if he or she elects to be covered under this article. Any matters of doubt as to who is an employee within the meaning of this article shall be decided by the director.

On or after July 1, 1997, a person shall be considered an "employee" if that person meets the following criteria:

- (A) Participates in a job-sharing arrangement as defined in §18A-1-1 of this code;
- (B) Has been designated, in writing, by all other participants in that job-sharing arrangement as the "employee" for purposes of this section; and
- (C) Works at least one-third of the time required for a full-time employee.
- (4) "Employer" means the State of West Virginia, its boards, agencies, commissions, departments, institutions, or spending units; a county board of education; a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the Public Employees Insurance Program; a county, city, or town in the state; any separate corporation or instrumentality established by one or more counties, cities, or towns, as permitted by law; any corporation or instrumentality supported in most part by counties, cities, or towns; any public corporation charged by law with the performance of a governmental function and whose jurisdiction is coextensive with one or more counties, cities or towns; any comprehensive community mental health center or intellectually and developmentally disabled facility established,

58 operated or licensed by the Secretary of Health and Human Resources pursuant to §27-2A-1 of  
59 this code and which is supported in part by state, county or municipal funds; a combined city-  
60 county health department created pursuant to §16-2-1 *et seq.* of this code; and a corporation  
61 meeting the description set forth in §18B-12-3 of this code that is employing a 21st Century  
62 Learner Fellow pursuant to §18A-3-11 of this code but the corporation is not considered an  
63 employer with respect to any employee other than a 21st Century Learner Fellow. Any matters of  
64 doubt as to who is an "employer" within the meaning of this article shall be decided by the director.  
65 The term "employer" does not include within its meaning the National Guard.

66 (5) "Finance board" means the Public Employees Insurance Agency finance board created  
67 by this article.

68 (6) "Person" means any individual, company, association, organization, corporation or  
69 other legal entity, including, but not limited to, hospital, medical or dental service corporations;  
70 health maintenance organizations or similar organization providing prepaid health benefits; or  
71 individuals entitled to benefits under the provisions of this article.

72 (7) "Plan", unless the context indicates otherwise, means the medical indemnity plan, the  
73 managed care plan option, or the group life insurance plan offered by the agency.

74 (8) "Retired employee" means an employee of the state who retired after April 29, 1971,  
75 and an employee of the Higher Education Policy Commission, the Council for Community and  
76 Technical College Education, a state institution of higher education or a county board of education  
77 who retires on or after April 21, 1972, and all additional eligible employees who retire on or after  
78 the effective date of this article, meet the minimum eligibility requirements for their respective  
79 state retirement system and whose last employer immediately prior to retirement under the state  
80 retirement system is a participating employer in the state retirement system and in the Public  
81 Employees Insurance Agency: *Provided*, That for the purposes of this article, the employees who  
82 are not covered by a state retirement system, but who are covered by a state-approved or state-  
83 contracted retirement program or a system approved by the director, shall, in the case of

84 education employees, meet the minimum eligibility requirements of the State Teachers  
85 Retirement System and in all other cases, meet the minimum eligibility requirements of the Public  
86 Employees Retirement System and may participate in the Public Employees Insurance Agency  
87 as retired employees upon terms as the director sets by rule as authorized in this article.  
88 Employers with employees who are, or who are eligible to become, retired employees under this  
89 article shall be mandatory participants in the Retiree Health Benefit Trust Fund created pursuant  
90 to §5-16D-1 *et seq.* of this code. Nonstate employers may opt out of the West Virginia other post-  
91 employment benefits plan of the Retiree Health Benefit Trust Fund and elect to not provide  
92 benefits under the Public Employees Insurance Agency to retirees of the nonstate employer, but  
93 may do so only upon the written certification, under oath, of an authorized officer of the employer  
94 that the employer has no employees who are, or who are eligible to become, retired employees  
95 and that the employer will defend and hold harmless the Public Employees Insurance Agency  
96 from any claim by one of the employer's past, present, or future employees for eligibility to  
97 participate in the Public Employees Insurance Agency as a retired employee. As a matter of law,  
98 the Public Employees Insurance Agency shall not be liable in any respect to provide plan benefits  
99 to a retired employee of a nonstate employer which has opted out of the West Virginia other post-  
100 employment benefits plan of the Retiree Health Benefit Trust Fund pursuant to this section.

**§5-16-22. Permissive participation; exemptions.**

1 The provisions of this article are not mandatory upon any employee or employer who is  
2 not an employee of, or is not, the State of West Virginia, its boards, agencies, commissions,  
3 departments, institutions or spending units, or a county board of education, and nothing contained  
4 in this article compels any employee or employer to enroll in or subscribe to any insurance plan  
5 authorized by the provisions of this article: *Provided*, That nothing in this section requires a public  
6 charter school to participate in the Public Employees Insurance Agency program.

7 Those employees enrolled in the insurance program authorized under the provisions of  
8 §21A-2B-1 *et seq.* of this code are not required to enroll in or subscribe to an insurance plan or

9 plans authorized by the provisions of this article, and the employees of any department which has  
10 an existing insurance program for its employees to which the government of the United States  
11 contributes any part or all of the premium or cost of the premium may be exempted from the  
12 provisions of this article. Any employee or employer exempted under the provisions of this  
13 paragraph may enroll in any insurance program authorized by the provisions of this article at any  
14 time, to the same extent as any other qualified employee or employer, but employee or employer  
15 may not remain enrolled in both programs.

16 Any plan established or administered by the Public Employees Insurance Agency  
17 pursuant to this article is exempt from the provisions of chapter 33 of this code unless explicitly  
18 stated. Notwithstanding any provision of this code to the contrary, the Public Employees  
19 Insurance Agency is not an insurer or engaged in the business of insurance as defined in chapter  
20 33 of this code.

21 Employers, other than the State of West Virginia, its boards, agencies, commissions,  
22 departments, institutions, spending units, or a county board of education, are exempt from  
23 participating in the insurance program provided for by the provisions of this article unless  
24 participation by the employer has been approved by a majority vote of the employer's governing  
25 body. It is the duty of the clerk or secretary of the governing body of an employer who by majority  
26 vote becomes a participant in the insurance program to notify the director not later than 10 days  
27 after the vote.

28 Any employer, whether the employer participates in the Public Employees Insurance  
29 Agency insurance program as a group or not, which has retired employees, their dependents or  
30 surviving dependents of deceased retired employees who participate in the Public Employees  
31 Insurance Agency insurance program as authorized by this article, shall pay to the agency the  
32 same contribution toward the cost of coverage for its retired employees, their dependents or  
33 surviving dependents of deceased retired employees as the State of West Virginia, its boards,  
34 agencies, commissions, departments, institutions, spending units, or a county board of education

35 pay for their retired employees, their dependents and surviving dependents of deceased retired  
36 employees, as determined by the finance board: *Provided*, That after June 30, 1996, an employer  
37 not mandated to participate in the plan is only required to pay a contribution toward the cost of  
38 coverage for its retired employees; their dependents or the surviving dependents of deceased  
39 retired employees who elect coverage when the retired employee participated in the plan as an  
40 active employee of the employer for at least five years: *Provided, however*, That those retired  
41 employees of an employer not participating in the plan who retire on or after July 1, 2010, who  
42 have participated in the plan as active employees of the employer for less than five years are  
43 responsible for the entire premium cost for coverage and the Public Employees Insurance Agency  
44 shall bill for and collect the entire premium from the retired employees, unless the employer elects  
45 to pay the employer share of the premium. Each employer is hereby authorized and required to  
46 budget for and make such payments as are required by this section.

## CHAPTER 11. TAXATION.

### ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

#### **§11-15-9s. Exemption for certain school supplies, school instructional materials, laptop and tablet computers, and sports equipment.**

1 (a) Effective July 1, 2021, the items identified in subdivisions (1) through (5) of this  
2 subsection are exempt from the tax imposed by this article and §11-15A-1 *et seq.* of this code, if  
3 the sale or purchase occurs on the first Sunday of August, or the previous Friday and Saturday,  
4 or the following Monday. The items exempt are:

- 5 (1) An item of clothing, the price of which is \$125 or less;
- 6 (2) An item of school supplies, the price of which is \$50 or less;
- 7 (3) An item of school instructional material, the price of which is \$20 or less;
- 8 (4) Laptop and tablet computers, not purchased for use in a trade or business, the price  
9 of which is \$500 or less; and

10 (5) Sports equipment, not purchased for use in a trade or business, the price of which is  
11 \$150 or less.

12 (b) For purposes of this section:

13 (1) "Clothing" means all human wearing apparel suitable for general use. "Clothing"  
14 includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving  
15 blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and  
16 jackets; costumes; diapers, children and adult, including disposable diapers; ear muffs; footlets;  
17 formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps;  
18 hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants;  
19 sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed  
20 shoes; underwear; uniforms, athletic and nonathletic; and wedding apparel. "Clothing" does not  
21 include items purchased for use in a trade or business; clothing accessories or equipment;  
22 protective equipment; sports or recreational equipment; belt buckles sold separately; costume  
23 masks sold separately; patches and emblems sold separately; sewing equipment and supplies  
24 including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing  
25 needles, tape measures, and thimbles; and sewing materials that become part of "clothing"  
26 including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers.

27 (2) "School supplies" means items commonly used by a student in a course of study.  
28 "School supplies" includes only the following items: Binders; book bags; calculators; cellophane  
29 tape; blackboard chalk; compasses; composition books; crayons; erasers; folders, expandable,  
30 pocket, plastic, and manila; glue, paste, and paste sticks; highlighters; index cards; index card  
31 boxes; legal pads; lunch boxes; markers; notebooks; paper, loose-leaf ruled notebook paper,  
32 copy paper, graph paper, tracing paper, manila paper, colored paper, poster board, and  
33 construction paper; pencil boxes and other school supply boxes; pencil sharpeners; pencils; pens;  
34 protractors; rulers; scissors; and writing tablets. "School supplies" does not include any item  
35 purchased for use in a trade or business.

36 (3) "School instructional material" means written material commonly used by a student in  
37 a course of study as a reference and to learn the subject being taught. "School instructional  
38 material" includes only the following items: reference books, reference maps and globes,  
39 textbooks, and workbooks. "School instructional material" does not include any material  
40 purchased for use in a trade or business.

41 (c) The tax commissioner shall promulgate emergency rules and shall propose rules for  
42 legislative approval in accordance with the provisions of §29A-3-1 *et seq.* of this code to establish  
43 eligibility requirements for the exemptions established by this section.

## CHAPTER 15. PUBLIC SAFETY.

### ARTICLE 1B. NATIONAL GUARD.

#### **§15-1B-24. Mountaineer Challenge Academy; expansion; cooperation of state executive agencies.**

1 (a) Subject to the agreement entered into between the United States Secretary of Defense  
2 and the Governor to establish, organize, and administer the Mountaineer Challenge Academy  
3 pursuant to 32 U.S.C. § 509, the Governor shall:

4 (1) Expand the capacity of the Mountaineer Challenge Academy location in Preston  
5 County to accept cadets up to its maximum capacity;

6 (2) Expand the Mountaineer Challenge Academy to a second location in Fayette County;  
7 and

8 (3) To the extent necessary to accomplish the requirements set forth in this subsection  
9 and to maximize the use of federal funds, pursue an amendment to the agreement entered into  
10 with the United States Secretary of Defense pursuant to 32 U.S.C. § 509.

11 (b) The Mountaineer Challenge Academy, operated by the Adjutant General at Camp  
12 Dawson, is hereby acknowledged to be a program of great value in meeting the educational needs  
13 of at-risk youth throughout the state. Further, the Mountaineer Challenge Academy is hereby

designated as a special alternative education program as is further provided pursuant to section §18-2-6 of this code. It is, therefore, the intent of the Legislature that the Mountaineer Challenge Academy should enjoy the full cooperation of the executive agencies of state government in carrying out its program.

To this end, the State Board of Education shall, notwithstanding any other provision in this code to the contrary:

(1) Include the Mountaineer Challenge Academy in the child nutrition program;

(2) Provide the names and mailing addresses of all high school dropouts in the state to the director of the Mountaineer Challenge Academy annually; and

(3) Provide for Mountaineer Challenge Academy graduates to participate in the adult basic education program.

(c) Further cooperation with the Mountaineer Challenge Academy is encouraged by the Legislature for the purpose of assisting the Mountaineer Challenge Academy to achieve its mission and help prepare young people for productive adulthood.

## **CHAPTER 18. EDUCATION.**

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

#### **§18-2E-12. Mountain State Digital Literacy Project.**

(a) Beginning for the school year 2020-2021, the state board shall implement a pilot project, hereby designated the Mountain State Digital Literacy Project. The state board shall determine the number of schools eligible to participate in the pilot project and may adjust that number on a yearly basis. The state board shall select the schools to participate in the project, but selected schools shall possess varying geographic and demographic characteristics and serve students in grades K-8.

(b) Subject to legislative appropriation for this purpose, schools participating in the project shall be provided with instructional resources for students and teachers that feature an extensive

curriculum related to digital literacy, online assessment preparation, and internet safety. Administrators and teachers at the participating schools shall be provided access to online digital literacy related professional development and support.

(c) The project shall be designed and implemented to compliment and build upon the digital literacy standards and assessments established pursuant to §18-2-12, §18-2E-5(c)(16), and §18-2E-5(d)(5) of this code.

(d) The state board may contract with a third-party to facilitate the project. Any such third-party shall satisfy the following qualifications:

(1) Possesses demonstratable experience facilitating similar digital literacy initiatives with public school systems;

(2) Provides extensive digital literacy content over the internet that may be adapted to age or grade specific users and assessment tools, and integrates with widely used platforms; and

(3) Provides digital literacy-related professional development and support resources for administrators and teachers.

(e) On or before January 1, 2020, the state board shall submit to the Governor and the Legislative Oversight Committee on Education Accountability a report that provides information on the development, structure, and fiscal estimate of the Mountain State Digital Literacy Project.

(f) On or before January 1, 2025, the state board shall submit to the Governor and the Legislative Oversight Committee on Education Accountability an evaluation of the pilot project's impact on the performance and progress of students at the participating schools. The evaluation shall include a recommendation for pilot project continuation, expansion or termination and, if recommended for continuation or expansion, any recommendations for program modifications and utilization of the successful participating schools as demonstration sites to facilitate program expansion.

## ARTICLE 5. COUNTY BOARD OF EDUCATION.

### §18-5-14. Policies to promote school board effectiveness.

1 (a) No later than January, 2020, each county board shall adopt policies that promote  
2 school board effectiveness and may modify the policies as necessary. The policies shall address  
3 the following objectives:

4 (1) Establishing direct links between the county board and its local school improvement  
5 councils and between the county board and its faculty senates for the purpose of enabling the  
6 county board to receive information, comments and suggestions directly from the councils and  
7 faculty senates regarding the broad guidelines for oversight procedures, standards of  
8 accountability and planning for future needs as required by this section. To further development  
9 of these linkages, each county board shall:

10 (A) Meet at least annually with the local school improvement council of each school  
11 deemed to be low performing under the accountability system established by the state board. The  
12 meeting or meetings shall be held at a time and in a manner to be determined by the county  
13 board;

14 (B) At least 30 days before a meeting with the local school improvement council of a  
15 school deemed to be low performing, develop and submit to the council an agenda for the meeting  
16 which requires the school principal and council chair or a member designated by the chair, to  
17 address the dialogue of its meeting or meetings at which the parents, students, school employees,  
18 business partners and other interested parties were given the opportunity to make specific  
19 suggestions on how to address issues which are seen to affect the school's academic  
20 performance. The principal, council chair or other designated member shall also address any  
21 reports by the county superintendent with respect to the school's performance and progress, and  
22 any one or more of the following issues as determined by the county board:

23 (i) School performance;

24 (ii) Curriculum;

25 (iii) Status of the school in meeting the school's strategic improvement plan established  
26 pursuant to §18-2E-5 of this code; and

27 (iv) Status of the school in meeting the relevant parts of the county's strategic improvement  
28 plan established pursuant to §18-2E-5 of this code;

29 (C) Make written requests for information from the local school improvement council  
30 throughout the year or hold community forums to receive input from the affected community as  
31 the county board considers necessary; and

32 (D) Nothing in this subdivision prohibits a county board from meeting with and requesting  
33 information from representatives of any of its local school improvement councils such times and  
34 in such manner determined by the county board.

35 (2) Providing for the development of direct links between the county board and the  
36 community at large allowing for community involvement at regular county board meetings and  
37 specifying how the county board will communicate regularly with the public regarding important  
38 issues;

39 (3) Providing for the periodic review of personnel policies of the district in order to  
40 determine their effectiveness;

41 (4) Setting broad guidelines for the school district, including the establishment of specific  
42 oversight procedures, the development and implementation of standards of accountability and  
43 the development of long-range plans to meet future needs as required by this section; and

44 (5) Using school-based accountability and performance data provided by the state board  
45 and other available data in county board decision-making to meet the education goals of the state  
46 and other goals as the county board may establish.

47 (b) On or before August 1, of each year, county school boards shall review the policies  
48 listed in subsection (a) of this section and may modify these policies as necessary.

**§18-5-16. Student transfers; definitions; appeals; calculating net enrollment; fees for transfer.**

(a) *Establishment of attendance zones within counties.* – The county board may establish attendance zones within the county to designate the schools that its resident students shall attend. Upon the written request of any parent or guardian, or person legally responsible for any student, or for reasons affecting the best interests of the schools, the superintendent may transfer students from one school to another within the county. Any aggrieved person may appeal the decision of the county superintendent to the county board, and the decision of the county board is final.

(b) *Definitions.* – For the purposes of this section, unless a different meaning clearly appears from the context:

“Nonresident student” means a student who resides in this state and who is enrolled in or is seeking enrollment in a county school district other than the county school district in which the student resides.

“Open enrollment” means a policy adopted and implemented by a county board to allow nonresident students to enroll in any school within the district. Open enrollment is distinct from a mutual agreement of two county boards regarding mass transfer of students, as contemplated in §18-5-13(f)(1)(C) of this code.

(c) *Enrollment policies.* – County boards shall establish and implement an open enrollment policy without charging tuition and without obtaining approval from the board of the county in which a student resides and transfers. These policies shall clearly articulate any admission criteria, application procedures, transportation provisions, timelines for open enrollment periods, and restrictions on transfers due to building capacity constraints. Enrollment policies are subject to the following:

(1) A county board may give enrollment preference to:

(A) Siblings of students already enrolled through the open enrollment policy;

(B) Secondary students who have completed 10th grade and, due to family relocation, become nonresident students, but express the desire to remain in a specific school to complete their education;

27 (C) Students who are children, grandchildren, or legal wards of employees;

28 (D) Students whose legal residences, though geographically within another county, are  
29 more proximate to a school within the receiving county, whether calculated by miles or  
30 transportation time; and

31 (E) Students who reside in a portion of a county where topography, impassable roads,  
32 long bus rides, or other conditions prevent the practicable transportation of the student to a school  
33 within the county, and a school within a contiguous county is more easily accessible.

34 (2) A county must comply with all enrollment requirements for children who are in foster  
35 care or who meet the definition of unaccompanied youth prescribed in the McKinney-Vento  
36 Homeless Assistance Act (42 U.S.C. § 11434a(6)).

37 (3) The county board for the county educating the nonresident student may provide an  
38 adequate means of transportation to nonresident students when students have complied with the  
39 procedure for obtaining authorization to attend school outside their county of residence, subject  
40 to the following:

41 (A) County boards of education are not required to uniformly provide nonresident student  
42 transportation, and may consider whether a nonresident student meets the eligibility criteria for  
43 free or reduced price lunch and milk established within the Richard B. Russell National School  
44 Lunch Act (42 U.S.C. § 1758); and

45 (B) The county board for the county educating the nonresident student shall provide  
46 transportation to and from the school of attendance, or to and from an agreed pickup point on a  
47 regular transportation route, or for the total miles traveled each day for the nonresident student to  
48 reach the school of enrollment if the nonresident student is a student with disabilities and has an  
49 individualized education program that specifies that transportation is necessary for fulfillment of  
50 the program.

51 (d) *Appeal.* – The state board of education shall establish a process whereby a parent or  
52 guardian of a student may appeal the refusal of a county board to accept the transfer of the

53 student. If during the appeal process, the State Superintendent discovers that the education and  
54 the welfare of the student could be enhanced, the State Superintended may direct that the student  
55 may be permitted to attend a school in the receiving county.

56 (e) *Net enrollment.* – For purposes of net enrollment as defined in §18-9A-2 of this code,  
57 whenever a student is transferred on a full-time basis from one school district to another district  
58 pursuant to the provisions of this section, the county to which the student is transferred shall  
59 include the student in its net enrollment: *Provided*, That if, after transferring to another county, a  
60 student chooses to return to a school in his or her county of residence after the second month of  
61 any school year, the following applies:

62 (1) The county of residence may issue an invoice to the county from which the student  
63 transferred for the amount, determined on a pro rata basis, that the county of residence otherwise  
64 would have received under the state basic foundation program established in §18-9A-1 *et seq.* of  
65 this code; and

66 (2) The county from which the student transferred shall reimburse the county of residence  
67 for the amount of the invoice.

68 (f) *Transfers between states.* — Transfer of students from this state to another state shall  
69 be upon such terms, including payment of tuition, as shall be mutually agreed upon by the board  
70 of the receiving county and the authorities of the school or district from which the transfer is made.

71 (g) No parent, guardian, or person acting as parent or guardian is required to pay for the  
72 transfer of a student or for the tuition of the student after the transfer when the transfer is carried  
73 out under the terms of this section.

74 (h) Nothing in this section supersedes the eligibility requirements for participation in extra-  
75 curricular activities established by the Secondary Schools Activities Commission.

76 (i) The amendments to this section during the 2019 First Extraordinary Session of the  
77 Legislature shall be effective for school years beginning on or after July 1, 2020, and the

78 provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the  
79 Legislature remain in effect for school years beginning prior to July 1, 2020.

**§18-5-16a. Authorization to transfer pupils from one district to another; mandatory transfer; payment of tuition; net enrollment.**

1 (a) The provisions of this section expire effective July 1, 2020: *Provided*, That any  
2 agreement made pursuant to this section prior to July 1, 2020, shall remain in effect.

3 (b) Whenever, in the opinion of the board of education of any county, the education and  
4 welfare of a pupil will be enhanced, the board of education of such county shall have the authority  
5 to transfer any such pupil or pupils on a part-time or full-time basis from one school district to  
6 another school district within the state: *Provided*, That the boards of education of both the  
7 transferor and the transferee districts agree to the same by official action of both boards as  
8 reflected in the minutes of their respective meetings.

9 (c) Any pupil attending a school in a district of this state adjacent to the district of residence  
10 during the school year 1984-1985, is authorized to continue such attendance in the adjacent  
11 district, and, upon written request therefor by the parent or guardian, any person who is entitled  
12 to attend the public schools of this state and who resides in the same household and is a member  
13 of the immediate family of such pupil is authorized to enroll in such adjacent district. The transferor  
14 and transferee school districts shall effectuate any transfer herein authorized in accordance with  
15 the provisions of this section.

16 (d) Whenever a pupil is transferred from one school district to another district on a full-  
17 time or part-time basis, the board of education of the school district in which the pupil is a bona  
18 fide resident shall pay to the board of education of the school district to which the pupil is  
19 transferred a tuition that is agreed upon by both such boards. Tuition for each full-time pupil shall  
20 not exceed the difference between the state aid per pupil received by the county to which the  
21 pupil is transferred and the county cost per pupil in the county to which said pupil is transferred.

(e) For purposes of net enrollment as defined in §18-9A-2 of this code: (1) Whenever a pupil is transferred on a full-time basis from one school district to another district pursuant to the provisions of this section, the county to which the pupil is transferred shall include such pupil in its net enrollment; and (2) whenever a pupil is transferred on a part-time basis from one school district to another school district pursuant to the provisions of this section, the county in which the student is a bona fide resident shall count the pupil in its net enrollment.

**§18-5-18a. Maximum teacher-pupil ratio.**

(a) County boards of education shall provide sufficient personnel, equipment, and facilities as will ensure that each first through sixth grade classroom, or classrooms having two or more grades that include one or more of the first through sixth grades shall not have more than 25 pupils for each teacher of the grade or grades and shall not have more than 20 pupils for each kindergarten teacher per session, unless the state superintendent has excepted a specific classroom upon application therefor by a county board.

(b) County school boards may not maintain a greater number of classrooms having two or more grades that include one or more of the grade levels referred to in this section than were in existence in said county as of January 1, 1983.

(c) The state superintendent is authorized, consistent with sound educational policy, to:

(1) Permit on a statewide basis, in grades four through six, more than 25 pupils per teacher in a classroom for the purposes of instruction in physical education; and

(2) Permit more than 20 pupils per teacher in a specific kindergarten classroom and 25 pupils per teacher in a specific classroom in grades four through six during a school year in the event of extraordinary circumstances as determined by the state superintendent after application by a county board of education.

(d) The state board shall establish guidelines for the exceptions authorized in this section, but in no event shall the superintendent except classrooms having more than three pupils above the pupil-teacher ratio as set forth in this section.

(e) The requirement for approval of an exception to exceed the 20 pupils per kindergarten teacher per session limit or the 25 pupils per teacher limit in grades one through six is waived in schools where the schoolwide pupil-teacher ratio is 25 or less in grades one through six: *Provided*, That a teacher shall not have more than three pupils above the teacher/pupil ratio as set forth in this section. Any kindergarten teacher who has more than 20 pupils per session and any classroom teacher of grades one through six who has more than 25 pupils, shall be paid additional compensation based on the affected classroom teacher's average daily salary divided by 20 for kindergarten teachers, or 25 for teachers of grades one through six, for every day times the number of additional pupils enrolled up to the maximum pupils permitted in the teacher's classroom. All such additional compensation shall be paid from county funds exclusively.

Notwithstanding any other provision of this section to the contrary, commencing with the school year beginning on July 1, 1994, a teacher in grades one, two or three or classrooms having two or more such grade levels, shall not have more than two pupils above the teacher/pupil ratio as set forth in this section: *Provided*, That commencing with the school year beginning on July 1, 1995, such teacher shall not have more than one pupil above the teacher/pupil ratio as set forth in this section: *Provided, however*, That commencing with the school year beginning on July 1, 1996, such teacher shall not have any pupils above the teacher/pupil ratio as set forth in this section.

(f) No provision of this section is intended to limit the number of pupils per teacher in a classroom for the purpose of instruction in choral, band or orchestra music.

(g) Each school principal shall assign students equitably among the classroom teachers, taking into consideration reasonable differences due to subject areas and/or grade levels.

(h) The state board shall collect from each county board of education information on class size and the number of pupils per teacher for all classes in grades seven through 12. The state board shall report such information to the Legislative Oversight Commission on Education Accountability before January 1, of each year.

(i) The West Virginia Department of Education shall survey districts to determine those grade levels, content areas, and geographic locations where class overcrowding is impeding student achievement and report to the Legislature by July 1, 2020 a tailored plan for reducing class overcrowding in such areas.

The study shall include, but is not limited to, an examination of the following issues:

(1) The effect on student learning of limits on the number of pupils per teacher in a classroom in elementary classes and in a middle and high school format in which students have different teachers for different subject matter instruction;

(2) The effect on the equity among teachers in a middle school in which the number of pupils per teacher in a classroom is limited for some teachers and not for others, including the additional pay for certain teachers in whose classrooms the limits are exceeded; and

(3) The effect limits on the number of pupils per teacher in a classroom have on the ability of school systems to offer elective courses in secondary schools.

**§18-5-18b. School counselors in public schools.**

(a) A school counselor means a professional educator who holds a valid school counselor's certificate in accordance with §18A-1-1 of this code.

(b) Each county board shall provide counseling services for each pupil enrolled in the public schools of the county.

(c) The school counselor shall work with individual pupils and groups of pupils in providing developmental, preventive and remedial guidance and counseling programs to meet academic, social, emotional, and physical needs; including programs to identify and address the problem of potential school dropouts. The school counselor also may provide consultant services for parents, teachers, and administrators and may use outside referral services, when appropriate, if no additional cost is incurred by the county board.

(d) The state board may adopt rules consistent with the provisions of this section that define the role of a school counselor based on the "National Standards for School Counseling

Programs” of the American School Counselor Association. A school counselor is authorized to perform such services as are not inconsistent with the provisions of the rule as adopted by the state board. To the extent that any funds are made available for this purpose, county boards shall provide training for counselors and administrators to implement the rule as adopted by the state board.

(e) Each county board shall develop a comprehensive drop-out prevention program utilizing the expertise of school counselors and any other appropriate resources available.

(f) School counselors shall be full-time professional personnel, shall spend at least 80 percent of work time in a direct counseling relationship with pupils, and shall devote no more than 20 percent of the work day to administrative activities: *Provided*, That such activities are counselor related.

(g) Nothing in this section prohibits a county board from exceeding the provisions of this section, or requires any specific level of funding by the Legislature.

**§18-5-46. Requiring teacher to change grade prohibited; teacher recommendation relating to promotion.**

(a) No teacher may be required by a principal or any other person to change a student’s grade on either an individual assignment or a report card unless there is clear and convincing evidence that there was a mathematical error in calculating the student’s grade.

(b) The teacher’s recommendation relating to whether a student should be promoted to the next grade level shall be a primary consideration when making such a determination.

**§18-5-48. County board exceptional needs expenditures from surplus funds.**

Each county board may by policy establish an exceptional needs fund from surpluses for students who are likely to perform better outside of the public school setting. The policy may include:

(1) Allowing the county board to use excess funds or donated funds for expenditures related to services and materials necessary for that student's educational success that are not met within the public education school district;

(2) The amount of funds that is to be deposited into the fund each year which may vary based on availability of surpluses;

(3) The qualifying expenses that funds in the fund may be used for;

(4) Measures for protecting against improper use of the funds which may include auditing all expenditures related to an individual student for services outside of the public education district;

(5) The conditions under which payments from the Exceptional Needs Success Fund are to cease;

(6) Eligibility requirements for education service providers that can accept payments from the fund;

(7) A requirement that any overpayments recaptured from refunded expenditures revert to the Exceptional Student Success Fund; and

(8) Any other provision the county board determines appropriate.

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

##### **§18-5A-2. Local school improvement councils; election and appointment of members and officers; meetings; required meetings with county board; assistance from state board.**

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

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

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

(3) Two service persons elected by the service personnel employed at the school, one of whom shall be a bus operator who transports students enrolled 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. 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. Under no circumstances may a parent member of the council be then employed at that school in any capacity;

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

(6) In the case of vocational-technical schools, comprehensive middle schools and comprehensive high schools, the vocational director or principal, as applicable, shall appoint up to four additional members from any one or more of the following categories: Employer; employer sponsored training program; apprenticeship program; and post-secondary education; and

(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) The principal shall arrange for the election of members to the local school improvement council to be held prior to September 15, 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.

(c) 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

29 than two teachers, no more than two parent(s), guardian(s) or custodian(s) and no more than one  
30 service person are elected in a given year. All other nonex officio members shall serve one-year  
31 terms.

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

39 (e) As soon as practicable after the election of council members, and no later than October  
40 1, of each school year, the principal shall convene an organizational meeting of the school  
41 improvement council. The principal shall notify each member by written or electronic means at  
42 least five employment days in advance of the organizational meeting. At this meeting, the principal  
43 shall provide each member with the following:

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

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

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

50 (f) The council shall elect from its membership a chair and two members to assist the chair  
51 in setting the agenda for each council meeting. The chair shall serve a term of one year. If the  
52 chair's position becomes vacant for any reason, the principal shall call a meeting of the council to

53 elect another qualified person to serve the unexpired term. Once elected, the chair is responsible  
54 for notifying each member of the school improvement council in writing five employment days in  
55 advance of any council meeting.

56 (g) School improvement councils shall meet at least once every nine weeks or equivalent  
57 grading period at the call of the chair or by the petition of three fourths of its members. The  
58 principal shall notify each member by written or electronic means at least five employment days  
59 in advance of the organizational meeting.

60 (h) The school improvement council annually shall conduct at least one meeting to engage  
61 parents, students, school employees, business partners and other interested parties in a positive  
62 and interactive dialogue regarding the school's academic performance and standing as  
63 determined by measures adopted by the state board. The dialogue shall include an opportunity  
64 for the parents, students, school employees, business partners and other interested parties to  
65 make specific suggestions on how to address issues which are seen to affect the school's  
66 academic performance which may include, but not limited to, parent and community involvement,  
67 the learning environment, student engagement, attendance, supports for at-risk students,  
68 curricular offerings, resources and the capacity for school improvement. The council shall  
69 announce any such meeting ten employment days in advance.

70 (i) The local school improvement council of each school deemed to be low performing  
71 under the accountability system established by the state board shall meet at least annually with  
72 the county board. At any such meeting, the principal and local school improvement council chair,  
73 or another member designated by the chair, shall be prepared to address the dialogue at its  
74 meeting or meetings to give the parents, students, school employees, business partners and other  
75 interested parties an opportunity to make specific suggestions on how to address issues which  
76 are seen to affect the school's academic performance and any other matters as may be requested  
77 by the county board as specified in the meeting agenda provided to the council and may further

78 provide any other information, comments or suggestions the local school improvement council  
79 wishes to bring to the county board's attention. Anything presented under this subsection shall be  
80 submitted to the county board in writing.

81 (j) Local school improvement councils shall be considered for the receipt of school of  
82 excellence awards and competitive grant awards and may receive and expend such grants for  
83 the purposes provided. Local school improvement councils may propose alternatives to the  
84 operation of the school in accordance with §18-5A-3 of this code and may include in the proposal  
85 a request for a waiver of rules and policies of the county board and state board, state  
86 superintendent interpretations, and state statutes if necessary to implement the proposal.

87 (k) In any and all matters which may fall within the scope of both the school improvement  
88 councils and the school curriculum teams authorized in section five of this article, the school  
89 curriculum teams have jurisdiction.

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

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

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

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

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

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

100 (6) Encourage students to adopt safe and healthy lifestyles; and

101 (7) Communicate to students the common skills and attributes sought by employers in  
102 prospective employees.

103 (m) Councils may adopt their own guidelines established under this section. In addition,  
104 the councils may adopt all or any part of the guidelines proposed by other local school  
105 improvement councils, as developed under this section, which are not inconsistent with the laws  
106 of this state, the policies of the West Virginia Board of Education or the policies of the county  
107 board.

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

**§18-5A-3. County board authority to designate innovation schools; local school improvement council proposals of alternatives to operation of school; process for requesting waivers of rules, policies, interpretations and statutes to implement alternatives.**

1 (a) The intent of this section is to encourage and facilitate the design and implementation  
2 of innovative initiatives by local schools, working through their local school improvement councils,  
3 that meet the school's needs and circumstances. A school level initiative may propose alternatives  
4 to the operation of the public school that will enable the school to better meet or exceed the high  
5 quality standards established by the state board, increase administrative efficiency, enhance the  
6 delivery of instructional programs, promote student engagement in the learning process, promote  
7 business partnerships, promote parent and community involvement at the school, or improve the  
8 educational performance of the school generally. In accordance with this intent, a local school  
9 improvement council established under the provisions of §18-5A-2 of this code may submit to its

10 county board proposed alternatives to the operation of the public school in accordance with this  
11 section. If the county board approves the proposal in accordance with this section, it may  
12 designate the school as an innovation school and may provide funding to support implementation  
13 of the proposal, if necessary.

14 (b) An alternative proposed by a local school improvement council shall set forth:

15 (1) The objective or objectives to be accomplished under the proposal;

16 (2) How the accomplishment of such objective or objectives will meet or exceed the  
17 standards established by the state board;

18 (3) The indicators upon which the meeting of such standards should be judged;

19 (4) A projection of any funds to be saved by the proposal and how such funds will be  
20 reallocated within the school, or any costs associated with the proposal and proposed funding  
21 sources; and

22 (5) Any policies or rules promulgated by the state or county board, any state  
23 superintendent interpretations and any state statutes for which a waiver will be required for the  
24 proposed alternative to be implemented; and

25 (c) For an alternative to be proposed, at least two thirds of the members of the local school  
26 improvement council must vote in favor of the proposal. If the alternative to be proposed includes  
27 the request for a waiver of policies or rules promulgated by the state or county board, state  
28 superintendent interpretations or state statutes affecting employees, then prior to the proposal of  
29 the alternative, a majority of the local affected employee group must agree.

30 (d) A local school improvement council shall submit its proposed alternative to the county  
31 board. The county board shall acknowledge receipt of the proposal and promptly review the  
32 proposed alternative. The county board may request additional information and clarifications from  
33 the local school improvement council regarding the proposed alternative. The county board shall  
34 approve or disapprove the proposal and return it to the council with a statement of the reasons  
35 for the action taken, subject to the following:

36           (1) If an alternative proposed by the local school improvement council requires the waiver  
37 of any policies or rules promulgated by the county board, approval of the proposal by the county  
38 board constitutes a grant of the waiver;

39           (2) If an alternative proposed by the local school improvement council requires the waiver  
40 of any policies or rules promulgated by the state board and the county board approves the  
41 proposal except that a waiver by the state board is required, the county board shall forward the  
42 approved proposal to the state board for final determination. The state board shall acknowledge  
43 receipt of the proposal and promptly review the proposed alternative in consultation with the  
44 county board or their agents and, in its discretion, approve implementation of the alternative or  
45 reply to the county board and council within a reasonable time as to its reasons for not approving  
46 the proposed alternative. Approval of the proposal by the state board constitutes a grant of the  
47 waiver;

48           (3) If an alternative proposed by the local school improvement council requires the waiver  
49 of a state superintendent's interpretation and the county board approves the proposal except that  
50 a waiver by the state superintendent is required, the county board shall forward the approved  
51 proposal to the state superintendent for final determination. The state superintendent shall  
52 acknowledge receipt of the proposal and promptly review the proposed alternative in consultation  
53 with the county board or their agents and, in his or her discretion, approve implementation of the  
54 alternative or reply to the county board and council within a reasonable time as to its reasons for  
55 not approving the proposed alternative. Approval of the proposal by the state superintendent  
56 constitutes a grant of the waiver;

57           (4) If an alternative proposed by the local school improvement council requires the waiver  
58 of a state statute and the county board approves the proposal except that a waiver of the statute  
59 is required, the county board shall forward the approved proposal to the Legislative Oversight  
60 Commission on Education Accountability. The commission shall acknowledge receipt of the  
61 proposal and promptly review the proposed alternative in consultation with the county board or

62 their agents and determine whether a recommendation should be made for an Act of the  
63 Legislature to waive the statute to permit implementation of the proposed alternative;

64 (5) If an alternative that requires a waiver is proposed by more than one local school  
65 improvement council in the county and the county board approves, the county board may forward  
66 a consolidated proposal requesting the waiver to the appropriate bodies as provided in this  
67 subsection; and

68 (6) When an alternative to the operation of a school is approved, the county board shall  
69 establish a process for evaluation of the operation of the alternative. Approval for the operation of  
70 the alternative may be continued or revoked at any time based on the results and findings of the  
71 evaluation.

72 (e) Notwithstanding any other provisions of the law to the contrary, a local school  
73 improvement council is not prohibited from permitting off-site classrooms to be developed in  
74 conjunction with local businesses if those sites meet the requirements established by the county  
75 board for sites that are located off campus.

76 (f) The state board shall submit a report to the Legislative Oversight commission on  
77 education accountability and the Governor on September 1, of each year summarizing the  
78 proposed alternatives received, approved or rejected, continued or revoked during the preceding  
79 school year and the results and findings of the evaluations. The report shall specifically identify  
80 all policy, rule, and interpretation waiver requests including those requests made to county boards  
81 by local school improvement councils received during the preceding year and the disposition of  
82 each.

**§18-5A-5. Public school faculty senates established; election of officers; powers and  
duties.**

1 (a) There is established at every public school in this state a faculty senate which is  
2 comprised of all permanent, full-time professional educators employed at the school who shall all  
3 be voting members. "Professional educators", as used in this section, means "professional

educators” as defined in chapter eighteen-a of this code. A quorum of more than one half of the voting members of the faculty shall be present at any meeting of the faculty senate at which official business is conducted. Prior to the beginning of the instructional term each year, but within the employment term, the principal shall convene a meeting of the faculty senate to elect a chair, vice chair and secretary and discuss matters relevant to the beginning of the school year. The vice chair shall preside at meetings when the chair is absent. Meetings of the faculty senate shall be held during the times provided in accordance with subdivision (12), subsection (b) of this section as determined by the faculty senate. Emergency meetings may be held during noninstructional time at the call of the chair or a majority of the voting members by petition submitted to the chair and vice chair. An agenda of matters to be considered at a scheduled meeting of the faculty senate shall be available to the members at least two employment days prior to the meeting. For emergency meetings the agenda shall be available as soon as possible prior to the meeting. The chair of the faculty senate may appoint such committees as may be desirable to study and submit recommendations to the full faculty senate, but the acts of the faculty senate shall be voted upon by the full body.

(b) In addition to any other powers and duties conferred by law, or authorized by policies adopted by the state or county board or bylaws which may be adopted by the faculty senate not inconsistent with law, the powers and duties listed in this subsection are specifically reserved for the faculty senate. The intent of these provisions is neither to restrict nor to require the activities of every faculty senate to the enumerated items except as otherwise stated. Each faculty senate shall organize its activities as it considers most effective and efficient based on school size, departmental structure and other relevant factors.

(1) Each faculty senate shall control funds allocated to the school from legislative appropriations pursuant to section nine, article nine-a of this chapter. From those funds, each classroom teacher and librarian shall be allotted \$300 for expenditure during the instructional year for academic materials, supplies or equipment which, in the judgment of the teacher or

librarian, will assist him or her in providing instruction in his or her assigned academic subjects or shall be returned to the faculty senate: *Provided*, That nothing contained herein prohibits the funds from being used for programs and materials that, in the opinion of the teacher, enhance student behavior, increase academic achievement, improve self-esteem and address the problems of students at risk. The remainder of funds shall be expended for academic materials, supplies or equipment in accordance with a budget approved by the faculty senate. Notwithstanding any other provisions of the law to the contrary, funds not expended in one school year are available for expenditure in the next school year: *Provided, however*, That the amount of county funds budgeted in a fiscal year may not be reduced throughout the year as a result of the faculty appropriations in the same fiscal year for such materials, supplies and equipment. Accounts shall be maintained of the allocations and expenditures of such funds for the purpose of financial audit. Academic materials, supplies or equipment shall be interpreted broadly, but does not include materials, supplies or equipment which will be used in or connected with interscholastic athletic events.

(2) A faculty senate may establish a process for members to interview or otherwise obtain information regarding applicants for classroom teaching vacancies that will enable the faculty senate to submit recommendations regarding employment to the principal. To facilitate the establishment of a process that is timely, effective, consistent among schools and counties, and designed to avoid litigation or grievance, the state board shall promulgate a rule pursuant to article three-b, chapter twenty-nine-a of this code to implement the provisions of this subdivision. The rule may include the following:

(A) A process or alternative processes that a faculty senate may adopt;

(B) If determined necessary, a requirement and procedure for training for principals and faculty senate members or their designees who may participate in interviews and provisions that may provide for the compensation based on the appropriate daily rate of a classroom teacher who directly participates in the training for periods beyond his or her individual contract;

(C) Timelines that will assure the timely completion of the recommendation or the forfeiture of the right to make a recommendation upon the failure to complete a recommendation within a reasonable time;

(D) The authorization of the faculty senate to delegate the process for making a recommendation to a committee of no less than three members of the faculty senate; and

(E) Such other provisions as the state board determines are necessary or beneficial for the process to be established by the faculty senate.

(3) A faculty senate may nominate teachers for recognition as outstanding teachers under state and local teacher recognition programs and other personnel at the school, including parents, for recognition under other appropriate recognition programs and may establish such programs for operation at the school.

(4) A faculty senate may submit recommendations to the principal regarding the assignment scheduling of secretaries, clerks, aides and paraprofessionals at the school.

(5) A faculty senate may submit recommendations to the principal regarding establishment of the master curriculum schedule for the next ensuing school year.

(6) A faculty senate may establish a process for the review and comment on sabbatical leave requests submitted by employees at the school pursuant to section eleven, article two of this chapter.

(7) Each faculty senate shall elect three faculty representatives to the local school improvement council established pursuant to section two of this article.

(8) Each faculty senate may nominate a member for election to the county staff development council pursuant to section eight, article three, chapter eighteen-a of this code.

(9) Each faculty senate shall have an opportunity to make recommendations on the selection of faculty to serve as mentors for beginning teachers under beginning teacher internship programs at the school.

81           (10) A faculty senate may solicit, accept and expend any grants, gifts, bequests, donations  
82 and any other funds made available to the faculty senate: *Provided*, That the faculty senate shall  
83 select a member who has the duty of maintaining a record of all funds received and expended by  
84 the faculty senate, which record shall be kept in the school office and is subject to normal auditing  
85 procedures.

86           (11) Any faculty senate may review the evaluation procedure as conducted in their school  
87 to ascertain whether the evaluations were conducted in accordance with the written system  
88 required pursuant to section twelve, article two, chapter eighteen-a of this code or pursuant to  
89 section two, article three-c, chapter eighteen-a of this code, as applicable, and the general intent  
90 of this Legislature regarding meaningful performance evaluations of school personnel. If a  
91 majority of members of the faculty senate determine that such evaluations were not so conducted,  
92 they shall submit a report in writing to the State Board of Education: *Provided*, That nothing herein  
93 creates any new right of access to or review of any individual's evaluations.

94           (12) A local board shall provide to each faculty senate at least six two-hour blocks of time  
95 for faculty senate meetings with at least one two-hour block of time scheduled in the first month  
96 of the employment term, one two-hour block of time scheduled in the last month of the  
97 employment term and at least one two-hour block of time scheduled in each of the months of  
98 October, December, February and April. A faculty senate may meet for an unlimited block of time  
99 during noninstructional days to discuss and plan strategies to improve student instruction and to  
100 conduct other faculty senate business. A faculty senate meeting scheduled on a noninstructional  
101 day shall be considered as part of the purpose for which the noninstructional day is scheduled.  
102 This time may be used and determined at the local school level and includes, but is not limited to,  
103 faculty senate meetings.

104           (13) Each faculty senate shall develop a strategic plan to manage the integration of special  
105 needs students into the regular classroom at their respective schools and submit the strategic  
106 plan to the superintendent of the county board periodically pursuant to guidelines developed by

the State Department of Education. Each faculty senate shall encourage the participation of local school improvement councils, parents and the community at large in developing the strategic plan for each school.

Each strategic plan developed by the faculty senate shall include at least: (A) A mission statement; (B) goals; (C) needs; (D) objectives and activities to implement plans relating to each goal; (E) work in progress to implement the strategic plan; (F) guidelines for placing additional staff into integrated classrooms to meet the needs of exceptional needs students without diminishing the services rendered to the other students in integrated classrooms; (G) guidelines for implementation of collaborative planning and instruction; and (H) training for all regular classroom teachers who serve students with exceptional needs in integrated classrooms.

## **ARTICLE 5G. PUBLIC CHARTER SCHOOLS.**

### **§18-5G-1. Legislative purpose and intent.**

(a) The purpose of this article is to establish a process for the creation, governance and oversight accountability of public charter schools with a renewed the commitment to the mission, goals, and diversity of public education that benefits students, parents, teachers, and community members.

(b) Public charter schools are intended to empower new, innovative, and more flexible ways of educating all children within the public school system to:

(1) Improve student learning by creating more diverse public schools with high standards for student performance;

(2) Allow innovative educational methods, practices and programs that engage students in the learning process, thus resulting in higher student achievement;

(3) Enable schools to establish a distinctive school curriculum, a specialized academic or technical theme, or method of instruction;

13           (4) Provide expanded opportunities within the public schools for parents to choose among  
14 the school curricula, specialized academic or technical themes, and methods of instruction that  
15 best serve the interests or needs of their child;

16           (5) Provide students, parents, community members, and local entities with expanded  
17 opportunities for involvement in the public school system;

18           (6) Allow authorized public schools and programs within public schools exceptional levels  
19 of self-direction and flexibility in exchange for exceptional levels of results-driven accountability  
20 for student learning; and

21           (7) Encourage the replication of successful strategies for improving student learning.

22           (c) All public charter schools established under this article are public schools and are part  
23 of the state's public education system.

24           (d) The provisions of this article shall be interpreted liberally to support the purpose and  
25 intent of this section and to advance a renewed commitment by the state to the mission, goals  
26 and diversity of public education.

27           (e) No provision of this article may be interpreted to allow the conversion of private schools  
28 into public charter schools.

29           (f) An elected official may not profit or receive any monetary consideration from a charter  
30 school: *Provided*, That this prohibition does not apply with respect to the continued employment  
31 of an elected official who was employed by a public school prior to its conversion to a public  
32 charter school.

33           (g) The total number of public charter schools authorized and in operation under an  
34 approved contract in this state shall be limited to 3 pilot public charter schools until July 1, 2023.  
35 The State Board shall report to the Legislative Oversight Commission on Education Accountability  
36 by November 1, 2022, and every 3 years thereafter, on the status of the state's public charter  
37 schools. LOCEA shall report its findings and recommendations, if any, to the Legislature during  
38 its next Regular Session. Beginning July 1, 2023, and every 3 years thereafter, an additional 3

39 public charter schools may be authorized and in operation under an approved contract in this  
40 state. The Mountaineer Challenge Academy, if converted to a public charter school, shall not  
41 count towards the limitation established by this subsection.

**§18-5G-2. Definitions.**

1 The following words used in this article and any proceedings pursuant thereto have the  
2 following meanings unless the context clearly indicates a different meaning:

3 (1) "Applicant" means any one or more in combination of parents, community members,  
4 teachers, school administrators, or institutions of higher education in this state who are interested  
5 in organizing a public charter school and:

6 (A) Have obtained 501(c)(3) tax-exempt status or have submitted an application for  
7 501(c)(3) tax-exempt status; and

8 (B) Have developed and submitted an application to an authorizer to establish a public  
9 charter school;

10 (2) "Authorizer" means the entity empowered under this article to review applications,  
11 decide whether to approve or reject applications, enter into charter contracts with applicants,  
12 oversee public charter schools, and decide whether to renew, not renew, or revoke charter  
13 contracts. Authorizers include:

14 (A) A county school board when the charter school or application to form a charter school  
15 includes a primary recruitment area that is wholly within the county over which the board has  
16 jurisdiction;

17 (B) Two or more county school boards when the charter school or application to form a  
18 charter school includes a primary recruitment area that encompasses territory in the two or more  
19 counties over which the respective boards have jurisdiction; or

20 (C) The West Virginia Board of Education in the following instances:

(i) The charter school or application to form a charter school or to renew a charter contract is in a county where the state board has intervened in the operation of the school system and limited the authority of the county board to act pursuant to §18-2E-5 of this code; and

(ii) The application to form a public charter school or to renew a charter contract is approved by the affected county board or boards and is forwarded it to the West Virginia Board of Education with a request that it perform to the authorizer function.

(3) "Charter application" means a proposal from an applicant to an authorizer to enter into a charter contract whereby the proposed school obtains public charter school status;

(4) "Charter contract" or "contract" means a fixed-term, renewable contract between a public charter school's governing board and an authorizer that identifies the roles, powers, responsibilities, operational duties, accountability, and performance expectations for each party to the contract, consistent with the requirements of this article;

(5) "Conversion public charter school" means a public charter school that existed as a noncharter public school before becoming a public charter school;

(6) "County board" means a board exercising management and control of a school district. A county board's management and control of a public charter school is limited to only that granted under this article. In the case of a school district in which the state board has intervened and limited the authority of the county board to act pursuant to §18-2E-5 of this code, "county board" means the state board. In the case of a multicounty vocational or technical center, "county board" means the administrative council of the multicounty center;

(7) "Education service provider" means an education management organization, school design provider, or any other partner entity with which a public charter school contracts for educational design, implementation, or comprehensive management;

(8) "Governing board" means a public charter school governing board that meets the requirements §18-5G-3 and §18-5G-7 of this code and is party to the charter contract with the authorizer;

(9) "Noncharter public school" means a public school or multicounty vocational center other than a public charter school established pursuant to this article;

(10) "Parent" means a parent, guardian, or other person or entity having legal custody over a child;

(11) "Public charter school" means a public school or program within a public school that is authorized in accordance with the provisions of this article and meets the general criteria, governance structure and statutory compliance requirements described in §18-5G-3 of this code, and other provisions of this article;

(12) "Program conversion public charter school" means a program within an existing noncharter public school that is either preexisting and converted or newly created to become a separate and discreet program governed and operated in accordance with this article within the noncharter public school;

(13) "Start-up public charter school" means a public charter school that did not exist as a noncharter public school prior to becoming a public charter school.

(14) "State board" means the West Virginia Board of Education; and

(15) "Student" means any person that is eligible for attendance in a public school in West Virginia.

**§18-5G-3. Public charter school criteria, governance structure and statutory compliance requirements; applicable federal and state laws.**

(a) Public charter schools authorized pursuant to this article shall meet the following general criteria:

(1) Are part of the state's system of public schools and are subject to general supervision by the West Virginia Board of Education for meeting the student performance standards required of other public school students under §18-2E-5(d) and (e) of this code;

(2) Are subject to the oversight of the school's authorizer for operating in accordance with its approved charter contract and for meeting the terms and performance standards established in the charter contract;

(3) Are not home school-based;

(4) Are not affiliated with or espouse any specific religious denomination, organization, sect, or belief and do not promote or engage in any religious practices in their educational program, admissions, employment policies, or operations;

(5) Are not affiliated with any organized group whose espoused beliefs attack or malign an entire class of people, typically for immutable characteristics, as identified through listings of such groups as may be made by the U. S. Department of Justice, the Federal Bureau of Investigation, or officials having similar jurisdiction in this state;

(6) Are public schools to which parents or legal guardians choose to send their child or children;

(7) Do not charge tuition and may only charge such fees as may be imposed by noncharter public schools in this state; and

(8) Have no requirements that would exclude any child from enrollment who would not be excluded at a noncharter public school.

(b) A public charter school authorized pursuant to this article shall be governed by a board that meets the requirements established in §18-5G-7 of this code and:

(1) Has autonomy over key decisions, including, but not limited to, decisions concerning finance, personnel, scheduling, curriculum, and instruction except as provided in this article;

(2) Has no power to levy taxes;

(3) Operates in pursuit of a specific set of educational objectives as defined in its charter contract;

(4) Provides a program of public education that:

(A) Includes one or more of the following: Prekindergarten and any grade or grades from kindergarten to grade 12 including any associated post-secondary embedded credit, dual credit, advanced placement, internship, and industry or workforce credential programs that the public charter school chooses to incorporate into its programs;

(B) May include in its mission a specific focus on students with special needs, including, but not limited to, at-risk students, English language learners, students with severe disciplinary problems at a noncharter public school, or students involved with the juvenile justice system; and

(C) May include a specific academic approach or theme including, but not limited to, approaches or themes such as STEM education, mastery-based education, early college, or fine and performing arts;

(5) Provides programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, regulations, rules and policies. A charter school shall deliver the services directly or contract with a county board or another provider to deliver the services as set forth in its charter contract;

(6) Is eligible to participate in state-sponsored or district-sponsored athletic and academic interscholastic leagues, competitions, awards, scholarships, and recognition programs for students, educators, administrators, and schools to the same extent as noncharter public schools;

(7) Employs its own personnel as employees of the public charter school and is ultimately responsible for processing employee paychecks, managing its employees' participation in the applicable retirement system, and managing its employees' participation in insurance plans: *Provided*, That nothing in this subdivision prohibits the public charter school from contracting with another person or entity to perform services relating to managing its employees' participation in the retirement system or insurance plan. A county board may not require any employee of its school system to be employed in a public charter school. A county board may not harass, threaten, discipline, discharge, retaliate, or in any manner discriminate against any school system employee involved directly or indirectly with an application to establish a public charter school as

authorized under this section. All personnel in a public charter school who were previously employed by the county board shall continue to accrue seniority with the county board in the same manner that they would accrue seniority if employed in a noncharter public school in the county for purposes of employment in noncharter public schools; and

(8) Is responsible for establishing a staffing plan that includes the requisite qualifications and any associated certification and/or licensure necessary for teachers and other instructional staff to be employed at the public charter school and for verifying that these requirements are met.

(c) A public charter school authorized pursuant to this article is exempt from all statutes and rules applicable to a noncharter public school or board of education except the following:

(1) All federal laws and authorities applicable to noncharter public schools in this state including, but not limited to, the same federal nutrition standards, the same civil rights, disability rights and health, life and safety requirements applicable to noncharter public schools in this state;

(2) The provisions of §29B-1-1 *et seq.* of this code relating to freedom of information and the provisions of §6-9A-1 *et seq.* of this code relating to open governmental proceedings;

(3) The same immunization requirements applicable to noncharter public schools;

(4) The same compulsory school attendance requirements applicable to noncharter public schools;

(5) The same minimum number of days or an equivalent amount of instructional time per year as required of noncharter public school students under §18-5-45 of this code;

(6) The same student assessment requirements applicable to noncharter public schools in this state, but only to the extent that will allow the state board to measure the performance of public charter school students pursuant to §18-2E-5(d) and (e) of this code. Nothing precludes a public charter school from establishing additional student assessment measures that go beyond state requirements;

(7) The Student Data Accessibility, Transparency and Accountability Act pursuant to §18-2-5h of this code;

(8) Use of the electronic education information system established by the West Virginia Department of Education for the purpose of reporting required information;

(9) Reporting information on student and school performance to parents, policy-makers, and the general public in the same manner as noncharter public schools utilizing the electronic format established by the West Virginia Department of Education. Nothing precludes a public charter school from utilizing additional measures for reporting information on student and school performance that go beyond state requirements;

(10) All applicable accounting and financial reporting requirements as prescribed for public schools, including adherence to generally accepted accounting principles. A public charter school shall annually engage an external auditor to perform an independent audit of the school's finances. The public charter school shall submit the audit to its authorizer and to the state superintendent of schools within nine months of the end of the fiscal year for which the audit is performed;

(11) A criminal history check pursuant to §18A-3-10 of this code for any staff person that would be required if the person was employed in a noncharter public school, unless a criminal history check has already been completed for that staff person pursuant to that section. Governing board members and other public charter school personnel are subject to criminal history record checks and fingerprinting requirements applicable to noncharter public schools in this state. Contractors and service providers or their employees are prohibited from making direct, unaccompanied contact with students and from access to school grounds unaccompanied when students are present if it cannot be verified that the contractors, service providers or employees have not previously been convicted of a qualifying offense pursuant to §18-5-15c of this code;

(12) The same zoning rules for its facilities that apply to noncharter public schools in this state;

108 (13) The same building codes, regulations and fees for its facilities that apply to noncharter  
109 public schools in this state, including any inspections required for noncharter public schools under  
110 this chapter and the West Virginia State Fire Marshal for inspection and issuance of a certificate  
111 of occupancy for any facility used by the public charter school; and

112 (14) The same student transportation safety laws applicable to public schools when  
113 transportation is provided.

**§18-5G-4. West Virginia Board of Education; powers and duties for implementation,  
general supervision and support of public charter schools; authorizer  
responsibilities; limit on charter schools authorized.**

1 (a) The state board shall consult with nationally recognized charter school organizations  
2 and establish and maintain a catalogue of best practices for public charter schools applicable for  
3 all applicants, authorizers, governing board members, and administrators that are consistent with  
4 this article and nationally recognized principles and professional standards for quality public  
5 charter school authorizing and governance in all major areas of authorizing and governance  
6 responsibility in the following areas:

- 7 (1) Organizational capacity and infrastructure;  
8 (2) Solicitation and evaluation of charter applications;  
9 (3) A framework to guide the development of charter contracts;  
10 (4) Performance contracting including a performance framework;  
11 (5) Providing transparency and avoiding all conflicts of interest;  
12 (6) Ongoing charter school oversight and evaluation; and  
13 (7) Charter approval, renewal, and revocation decision-making;

14 (b) The state board is responsible for exercising, in accordance with this article, the  
15 following powers and duties with respect to the oversight and authorization of public charter  
16 schools:

(1) Provide forms to promote the quality and ease of use for authorizers to solicit applications for public charter schools, for applicants to complete applications, and for establishing quality charter contracts that include a framework for performance standards. The forms shall be available for use and solicitations made not later than the beginning of February, 2020. The forms shall include an application deadline of August 2020 for any charter school proposing to begin operation for the 2021-22 school year. No charter school may begin operation prior to the 2021-22 school year;

(2) Provide training programs for public charter school applicants, administrators and governing board members, as applicable, that include, but are not limited to:

(i) Pre-application training programs and forms to assist in the development of high quality public charter school applications;

(ii) The required components and the necessary information of the public charter school application and the charter contract as set forth in this article;

(iii) The charter school board's statutory role and responsibilities;

(iv) Charter school employment policies and practices; and

(v) Authorizer responsibilities for charter school contract oversight and performance evaluation;

(3) Receive and expend appropriate gifts, grants and donations of any kind from any public or private entity to carry out the purposes of this act, subject to all lawful terms and conditions under which the gifts, grants or donations are given;

(4) Apply for any federal funds that may be available for the implementation of public charter school programs;

(5) Establish reporting requirements that enable the state board to monitor the performance and legal compliance of authorizers and public charter schools; and

(6) Submit to the Governor and the Legislature an annual report within 60 days of the end of each school year summarizing:

- 43 (A) The student performance of all operating public charter schools; and  
44 (B) The authorization status of all public charter schools within the last school year,  
45 identifying all public charter schools as:
- 46 (i) Application pending;
  - 47 (ii) Application denied;
  - 48 (iii) Application approved, but not yet operating;
  - 49 (iv) Operating and years of operation;
  - 50 (v) Renewed and years of operation;
  - 51 (vi) Terminated;
  - 52 (vii) Closed;
  - 53 (viii) Never opened; and
  - 54 (ix) Any successful innovations applied in authorized schools which may be replicated in  
55 other schools. The report shall provide information about how noncharter public schools may  
56 implement these innovations.
- 57 (c) The state board shall be the authorizer of a public charter school when a county board  
58 or boards approve the application for a public charter school and requests the state board to  
59 perform the authorizer duties and responsibilities or when an application to form a public charter  
60 school or to renew a charter contract is submitted from an applicant within a county in which the  
61 state board has intervened and limited the power of the county board to act pursuant to §18-2E-  
62 5 of this code.

**§18-5G-5. State board rule relating to funding for charter school enrollment and other  
necessary provisions; local education agency status; authorizer oversight fee.**

- 1 (a) The state board shall promulgate a rule pursuant to the provisions of §29A-3B-1 *et*  
2 *seq.* of this code setting forth requirements for public charter school funding. The rule shall include

a requirement that 90 percent of the per pupil total basic foundation allowance follow the student to the public charter school, subject to the following:

(1) Notwithstanding §18-9A-1 *et seq.* of this code, the rule may provide for modifications to the calculations set forth in §18-9A-7 of this code regarding the allowance for student transportation and in §18-9A-9(1) of this code regarding the allowance for current expense for the purpose of making appropriate adjustments to those allowances to account for student transportation and current expense related funding a school district loses in situations where it pays money to a charter school pursuant to this subsection without a corresponding decrease in the county's transportation and current expense related expenditures;

(2) The rule shall designate which county school district is required to pay for a student attending a public charter school, and notwithstanding the terms in the definition of "net enrollment" in §18-9A-2 of this code, shall provide that the county school district paying for the student attending a public charter school have that student included in its net enrollment for the purposes of §18-9A-1 *et seq.* of this code; and

(3) The rule shall require the Department of Education to follow federal requirements in ensuring that federal funding follows the student to a public charter school.

(b) The state board may promulgate a rule in accordance with §29A-3B-1 *et seq.* of this code, if necessary, for ensuring the accountability of public charter schools for meeting the standards for student performance required of other public school students under §18-2E-5 of this code and the accountability of authorizers for ensuring that those standards are met in the schools authorized by it. If an authorizer fails to close a charter school that does not meet the standards, the authorizer shall appear before the state board to justify its decision. The state board may uphold or overturn the authorizer's decision and may revoke the authority of the authorizer to authorize charter schools.

(c) The school district in which the public charter school is located remains the local educational agency for all public charter schools authorized by the county board and the public

29 charter school is a school within that local educational agency except that the public charter school  
30 is treated as a local educational agency for purposes of applying for competitive federal grants.  
31 The state board is the local education agency for public charter schools authorized by the state  
32 board except that the public charter school is treated as a local educational agency for purposes  
33 of applying for competitive federal grants.

34 (d) To cover authorizer costs for overseeing public charter schools, the state board shall  
35 establish a statewide formula for authorizer oversight funding, which shall apply uniformly to every  
36 authorizer in the state. Each public charter school shall remit to its respective authorizer an  
37 oversight fee. The oversight fee shall be drawn from and calculated as a uniform percentage of  
38 the per pupil basic foundation as provided pursuant to state board rule promulgated in accordance  
39 with this section, not to exceed one percent of each public charter school's per-student funding in  
40 a single school year. The state board may establish a sliding scale for authorizing funding, with  
41 the funding percentage decreasing after the authorizer has achieved a certain threshold, such as  
42 after a certain number of schools have been authorized or after a certain number of students are  
43 enrolled in the authorizer's public charter schools. The state board shall establish a cap on the  
44 total amount of funding that an authorizer may withhold from a full-time public charter school. The  
45 state board shall annually review the effectiveness of the state formula for authorizer funding and  
46 shall adjust the formula if necessary to maximize public benefit and strengthen the implementation  
47 of this act.

48 (e) The state board shall promulgate a rule in accordance with §29A-3B-1 *et seq.* of this  
49 code to clarify, if necessary, the requirements of this article and address any unforeseen issues  
50 that might arise relating to the implementation of the requirements of this article. The rule also  
51 shall include a provision prohibiting a county board from discrimination against any district  
52 employee involved directly or indirectly with an application to establish a public charter school  
53 under this article.

(f) All state board rules required to be promulgated by this article shall be promulgated on or before January 1, 2020.

**§18-5G-6. Authorizer powers and duties.**

(a) Each authorizing authority is responsible for exercising in accordance with this article the following powers and duties with respect to the oversight and authorization of public charter schools:

(1) Demonstrate public accountability and transparency in all matters concerning its charter-authorizing practices, decisions, and expenditures;

(2) Establish and maintain policies and practices consistent with the principles and professional standards for authorizers of public charter schools, including standards relating to:

(A) Organizational capacity and infrastructure;

(B) Evaluating applications;

(C) Ongoing public charter school oversight and evaluation; and

(D) Charter approval, renewal, and revocation decision-making.

(3) Solicit applications and guide the development of high-quality public charter school applications;

(4) Approve new charter applications that meet the requirements of this article and on the basis of their application satisfying all requirements of §18-5G-8 of this code, that demonstrate the ability to operate the school in an educationally and fiscally sound manner, and that are likely to improve student achievement through the program detailed in the charter application;

(5) Decline to approve charter applications that fail to meet the requirements of §18-5G-8 of this code;

(6) Negotiate and execute in good faith a charter contract with each public charter school it authorizes;

(7) Monitor the performance and compliance of public charter schools according to the terms of the charter contract; and

24 (8) Determine whether each charter contract it authorizes merits renewal or revocation.

25 (b) After an applicant submits a written application to establish a public charter school, the  
26 authorizer shall:

27 (1) Complete a thorough review process;

28 (2) Conduct an in-person interview with the applicant;

29 (3) Provide an opportunity in a public forum for local residents to provide input and learn  
30 about the charter application;

31 (4) Provide a detailed analysis of the application to the applicant or applicants;

32 (5) Allow an applicant a reasonable time to provide additional materials and amendments  
33 to its application to address any identified deficiencies; and

34 (6) Approve or deny a charter application based on established objective criteria or request  
35 additional information.

36 (c) In deciding to approve a charter application, the authorizer shall:

37 (1) Approve charter applications only to applicants that possess competence in all  
38 elements of the application requirements identified in this section and §18-5G-8 of this code;

39 (2) Base decisions on documented evidence collected through the application review  
40 process; and

41 (3) Follow charter-granting policies and practices that are transparent, based on merit,  
42 and avoid conflicts of interest.

43 (d) No later than 90 days following the filing of the charter application, the authorizer shall  
44 approve or deny the charter application. The authorizer shall provide its decision in writing,  
45 including an explanation stating the reasons for approval or denial of its decision during an open  
46 meeting. Any failure to act on a charter application within the time specified shall be deemed an  
47 approval by the authorizer.

48 (e) An authorizer's charter application approval shall be submitted to the West Virginia  
49 Department of Education.

(f) An authorizer shall conduct or require oversight activities that enable it to fulfill its responsibilities under this article, including conducting appropriate inquiries and investigations, so long as those activities are consistent with the intent of this article, adhere to the terms of the charter contract and do not unduly inhibit the autonomy granted to charter schools. In the event that a public charter school's performance or legal compliance appears unsatisfactory, the authorizer shall promptly notify in writing the public charter school governing board of perceived problems and provide reasonable opportunity for the school to remedy the problems: *Provided*, That if the problem warrants revocation, the revocation time frames will apply;

(g) An authorizer shall take appropriate corrective actions or exercise sanctions in response to apparent deficiencies in a charter school's performance or legal compliance. If warranted, the actions or sanctions may include requiring a charter school to develop and execute a corrective action plan within a specified time frame;

(h) An authorizer may require each charter school it oversees to submit an annual report to assist the authorizer in gathering complete information about each school, consistent with the performance framework.

(i) To cover authorizer costs for overseeing public charter schools, each public charter school shall remit to its respective authorizer an oversight fee drawn from and calculated as a uniform percentage of the per student operational funding allocated to each public charter school as established by the state board by rule pursuant to §18-5G-5 of this code.

(j) An authorizer may receive and expend appropriate gifts, grants and donations of any kind from any public or private entity to carry out the purposes of this act, subject to all lawful terms and conditions under which the gifts, grants or donations are given, and may apply for any federal funds that may be available for the implementation of public charter school programs;

(k) Notwithstanding any provision of this code to the contrary, no civil liability shall attach to an authorizer or to any of its members or employees for any acts or omissions of the public charter school. Neither the county board of education nor the State of West Virginia shall be liable

76 for the debts or financial obligations of a public charter school or any person or entity that operates  
77 a public charter school.

78 (l) Regulation of public charter schools by the state board and a county board shall be  
79 limited to those powers and duties of authorizers prescribed in this article and general supervision  
80 consistent with the spirit and intent of this article.

**§18-5G-7. Public Charter school governing board.**

1 (a) To ensure compliance with this article, a public charter school shall be administered  
2 by a governing board accountable to the authorizer as set forth in the charter contract. A public  
3 charter school governing board shall consist of no fewer than five members elected or selected  
4 in a manner specified in the charter application, including at least the following:

5 (1) Two parents of students attending the public charter school operating under the  
6 governing board; and

7 (2) Two members who reside in the community served by the public charter school.

8 (b) Members of the governing board shall:

9 (A) Not be an employee of the public charter school administered by the governing board;

10 (B) Not be an employee of an education service provider that provides services to the  
11 public charter school;

12 (C) File a full disclosure report to the authorizer identifying potential conflicts of interest,  
13 relationships with management organizations, and relationships with family members who are  
14 employed by the public charter school or have other business dealings with the school, the  
15 management organization of the school, or any other public charter school;

16 (D) Collectively possess expertise in leadership, curriculum and instruction, law, and  
17 finance; and

18 (E) Be considered an officer of a school district under the provisions of §6-6-7 of this code  
19 and removal from office shall be in accordance with the provisions of that section.

20 (c) The public charter school governing board shall:

- (1) Operate under the oversight of its authorizer in accordance with its charter contract;
- (2) As a public corporate body, have the powers necessary for carrying out the terms of its charter contract, including, but not limited to the power to:
- (A) Receive and disburse funds for school purposes;
  - (B) Secure appropriate insurance and enter into contracts and leases;
  - (C) Contract with an education service provider, so long as the governing board retains final oversight and authority over the school;
  - (D) Pledge, assign, or encumber its assets to be used as collateral for loans or extensions of credit;
  - (E) Solicit and accept any gifts or grants for school purposes, subject to applicable laws and the terms of its charter; and
  - (F) Acquire real property for use as its facilities or facilities from public or private sources;
- (3) Enroll students in the public charter school pursuant to §18-5G-11 of this code;
- (4) Require any education service provider contracted with the governing board to provide a monthly detailed budget to the board; and
- (5) Provide programs and services to a student with a disability in accordance with the student's individualized education program and all federal and state laws, rules, and regulations.
- A public charter school shall deliver the services directly or contract with another provider to deliver the services.
- (d) A public charter school authorized under this article may:
- (1) Negotiate and contract with its authorizer or any third party for the use, operation, and maintenance of a building and grounds, liability insurance, and the provision of any service, activity, or undertaking that the public charter school is required to perform in order to carry out the educational program described in its charter contract. Any services for which a public charter school contracts with a school district shall be provided by the district at cost and shall be negotiated as a separate agreement after final charter contract negotiations;

47 (2) Sue and be sued in its own name;

48 (3) Own, rent, or lease its space;

49 (4) Participate in cocurricular activities to the same extent as noncharter public schools;

50 and

51 (5) Participate in extracurricular activities to the same extent as noncharter public schools.

52 (e) The public charter school governing board is responsible for the operation of its public  
53 charter school, including, but not limited to, ensuring compliance with the public charter school  
54 criteria, governance and statutory compliance set forth §18-5G-3 of this code, the preparation of  
55 an annual budget, contracting for services, school curriculum, personnel matters, and achieving  
56 the objectives and goals of the public charter school's program.

57 (f) The public charter school governing board shall comply with the provisions of §29B-1-  
58 1 *et seq.* of this code relating to freedom of information and the provisions of §6-9A-1 *et seq.* of  
59 this code relating to open governmental proceedings;

**§18-5G-8. Application to establish public charter school.**

1 (a) To establish a new public charter school, to convert an existing noncharter public  
2 school to a public charter school or establish a program conversion public charter school, an  
3 applicant shall submit a charter application to an authorizer. Charter authorizers shall accept and  
4 document the date and time of receipt of all charter applications.

5 (b) The application shall contain, at a minimum, the following information:

6 (1) A mission statement and a vision statement for the public charter school, including  
7 specialized academic focus, if any, to be promoted and advanced through the establishment of  
8 the public charter school;

9 (2) A detailed description of the public charter school's proposed program;

10 (3) The student achievement goals for the public charter school's program and the chosen  
11 methods of evaluating whether students have attained the skills and knowledge specified for  
12 those goals;

(4) The school's plan for using data derived from student evaluations and assessments, including the statewide summative assessment, to drive instruction and promote continued school improvement;

(5) An explanation of how the school's proposed program is likely to improve the achievement of traditionally underperforming students in the local school district;

(6) The proposed governance structure of the school, including a list of members of the initial governing board, a draft of bylaws that include the description of the qualifications, terms, and methods of appointment or election of governing board members, and the organizational structure of the school that clearly presents lines of authority and reporting between the governing board, school administrators, staff, any related bodies such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school;

(7) Plans and timelines for student enrollment, including the school primary recruitment area and policies and procedures for conducting transparent and random admission lotteries when applications for enrollment exceed capacity that are open to the public and consistent with this article;

(8) A proposed five-year budget, including the start-up year and projections for four additional years with clearly stated assumptions;

(9) Proposed fiscal and internal control policies for the public charter school;

(10) Acknowledgement that the public charter school will participate in the state's accountability system;

(11) A proposed handbook that outlines the personnel policies of the public charter school, including the criteria to be used in the hiring of qualified teachers, school administrators, and other school employees, a description of staff responsibilities, and the school's plan to evaluate personnel on an annual basis;

(12) An explanation of proposed student discipline procedures, including disciplinary procedures for students with disabilities, which shall be consistent with the requirements of due

39 process and with state and federal laws and regulations governing the placement of students with  
40 disabilities;

41 (13) A description of the facilities to be used by the public charter school, including the  
42 location of the school and how the facility supports the implementation of the school's program.  
43 The school shall obtain all required occupation and operation certificates and licenses prior to the  
44 first instructional day for students;

45 (14) The proposed ages and grade levels to be served by the public charter school,  
46 including the planned minimum and maximum enrollment per grade per year;

47 (15) The school calendar and school day schedule;

48 (16) Types and amounts of insurance coverage to be obtained by the public charter  
49 school, which:

50 (A) Shall include adequate insurance for liability, property loss, and the personal injury of  
51 students comparable to noncharter public schools within the local school district operated by the  
52 county board; and

53 (B) May include coverage from the Board of Risk and Insurance Management pursuant to  
54 §29-12-5a of this code;

55 (17) A description of the food services to be provided to students attending the school;

56 (18) Process and procedures to be followed in the case of the closure or dissolution of the  
57 public charter school, including provisions for the transfer of students and student records to the  
58 appropriate local school district and an assurance and agreement to payment of net assets or  
59 equity after payment of debts;

60 (19) A code of ethics for the school setting forth the standards of conduct expected of its  
61 governing board, officers, and employees;

62 (20) The public charter school's plan for successfully serving students with disabilities,  
63 students who are English language learners, bilingual students, and students who are

academically behind and gifted, including, but not limited to, the school's plan for compliance with all applicable federal and state laws and regulations;

(21) A description of cocurricular and extracurricular programs to be offered by the public charter school and how they will be funded and delivered;

(22) The process by which the school will resolve any disputes with the authorizer;

(23) A detailed start-up plan, including financing, tasks, timelines, and individuals responsible for carrying out the plan;

(24) The public charter school's plan for notice to parents and others of enrollment in the school as an option available for students and the school's primary recruitment area; and

(25) The public charter school's plan for parental involvement.

(c) If the applicant intends to contract with an education service provider for educational program implementation or comprehensive management, the application shall additionally require the applicant to provide the following information with respect to the educational service provider:

(1) Evidence of success in serving student populations similar to the targeted population, including demonstrated academic achievement as well as successful management of nonacademic school functions, if applicable;

(2) Student performance data and financial audit reports for all current and past public charter schools;

(3) Documentation of and explanation for any actions taken, legal or otherwise, against any of its public charter schools for academic, financial, or ethical concerns;

(4) The proposed duration of the service contract;

(5) The annual proposed fees and other amounts to be paid to the education service provider;

(6) The roles and responsibilities of the governing board, the school staff, and the education service provider;

(7) The scope of services and resources to be provided by the education service provider;

- 90 (8) Performance evaluation measures and timelines;
- 91 (9) Methods of contract oversight and enforcement;
- 92 (10) Investment disclosure;
- 93 (11) Conditions for renewal and termination of the contract; and
- 94 (12) Disclosure and explanation any existing or potential conflicts of interest between the
- 95 governing board and the proposed education service provider or any affiliated business entities.

**§18-5G-9. Charter contract requirements; term of contract.**

- 1 (a) Within 90 days of the approval of a charter application, the governing board and the
- 2 authorizer shall negotiate and enter into a charter contract.
- 3 (b) The charter contract shall address, in detail, the following items:
- 4 (1) The term of the contract: *Provided*, That the contract term shall be no longer than five
- 5 years;
- 6 (2) The agreements relating to each item required in the charter application and, if
- 7 applicable, the agreement with an education service provider that the governing boards intends
- 8 to contract with for educational program implementation or comprehensive management;
- 9 (3) The rights and duties of the authorizer and the public charter school;
- 10 (4) The administrative relationship between the authorizer and the public charter school;
- 11 (5) The process the authorizer will use to provide ongoing oversight;
- 12 (6) The specific commitments of the authorizer relating to its obligations to oversee,
- 13 monitor the progress of, and supervise the public charter school;
- 14 (7) The process and criteria the authorizer will use to annually monitor and evaluate the
- 15 overall academic, operating, and fiscal conditions of the public charter school, including the
- 16 process the authorizer will use to oversee the correction of any deficiencies found;
- 17 (8) The process for revision or amendment to the terms of the charter contract agreed to
- 18 by the authorizer and the governing board;

19 (9) The process agreed to by the authorizer and the governing board that identifies how  
20 disputes between the authorizer and the board will be handled;

21 (10) Any other terms and conditions agreed to by the authorizer and the governing board,  
22 including preopening conditions.

23 (c) The charter contract shall include provisions relating to the performance of the public  
24 charter school that set forth the academic and operational performance indicators, measures, and  
25 metrics to be used by the authorizer to evaluate the public charter school. At a minimum, the  
26 performance provisions shall include indicators, measures, and metrics for:

27 (1) Student academic proficiency;

28 (2) Student academic growth;

29 (3) Achievement gaps in both student proficiency and student growth between student  
30 subgroups, including race, sex, socioeconomic status, and areas of exceptionality;

31 (4) Student attendance;

32 (5) Student suspensions;

33 (6) Student withdrawals;

34 (7) Recurrent enrollment from year to year;

35 (8) Governing board's performance and stewardship, including compliance with all  
36 applicable statutes and terms of charter contract; and

37 (9) Additional valid and reliable indicators requested by the public charter school.

38 (d) A charter contract shall include provisions for revoking the charter contract. At a  
39 minimum, these provisions shall include:

40 (1) The information that must be included in the authorizer's initial decision to revoke the  
41 charter contract;

42 (2) Notification requirements to the governing board about the authorizer's initial decision  
43 to revoke a charter contract and the reasons for the revocation;

44           (3) An opportunity and timeframe for the governing board to provide a response to the  
45 authorizer's initial decision to revoke the charter contract;

46           (4) An opportunity for the governing board to submit documentation and provide testimony  
47 as to why the charter contract should not be revoked;

48           (5) An opportunity for a recorded public hearing, at the request of the governing board;

49           (6) That the authorizer shall consider the governing board's response, testimony, and  
50 documentation, as well as the recorded public hearing, prior to rendering a final decision on the  
51 revocation of the charter contract;

52           (7) The information that must be included in the authorizer's final decision if it determines  
53 to revoke the charter contract;

54           (8) A timeline for an authorizer to render a final decision on whether or not to revoke a  
55 charter contract;

56           (9) Rendering of the authorizer's decision shall be adopted during an open meeting; and

57           (10) A provision that the failure of the authorizer to act on a renewal application within the  
58 designated timeframes shall be deemed approval of the application.

59           (e) The authorizer shall be responsible for collecting and reporting to the state board all  
60 state-required assessment and achievement data for the public charter school.

61           (f) The charter contract shall be signed by the chair of the governing board and the  
62 president of the county board, presidents of the county boards, or the president of the public or  
63 private institution of higher education, as applicable. A copy of the charter contract shall be  
64 provided to the State Superintendent of Schools.

65           (g) No public charter school may commence operations without a charter contract that  
66 meets the requirements of this section, has been properly executed, and has been approved by,  
67 as applicable, a county board, county boards, or the state board.

**§18-5G-10. Charter contract renewal; performance report by authorizer and renewal guidance; renewal application; renewal term; nonrenewal and revocation; closure and dissolution.**

(a) No later than June 30 of a public charter school's fourth year of operation under each five-year term of a charter contract, the authorizer shall issue a performance report on the public charter school. The performance report shall summarize the public charter school's performance record to date, based on the data collected under the performance framework in section eleven of this article and the charter contract, and shall provide notice of any weaknesses or concerns perceived by the authorizer concerning the school that may jeopardize its position in seeking renewal if not timely rectified. The school and the authorizer shall mutually agree to a reasonable time period for the charter school to respond to the performance report and submit any corrections for the report.

(b) If the public charter school's contract is expiring, the authorizer shall offer contract renewal application guidance to the school. The renewal application guidance required by this subsection shall include or refer explicitly to the criteria and standards that will guide the authorizer's renewal decisions. These criteria and standards shall be based on the performance framework set forth in section eleven of this article, as set forth in the charter contract and consistent with this article. The renewal application guidance shall, at a minimum, require and provide an opportunity for the public charter school to:

(1) Present additional evidence, beyond the data contained in the performance report, supporting its case for charter renewal;

(2) Describe improvements undertaken or planned for the school; and

(3) Detail the school's plans for the next charter term.

(c) No later than September 30 of a public charter school's final authorized year of operation under a term of a charter contract, the governing board of the public charter school seeking renewal shall submit a renewal application to the authorizer pursuant to the renewal

application guidance offered by the authorizer under subsection (b) of this section. The authorizer shall rule in a public meeting and by resolution on the renewal application no later than 45 days after the filing of the renewal application. In making charter renewal decisions, the authorizer shall:

(1) Ground its decisions on a thorough analysis of evidence of the school's performance over the term of the charter contract in accordance with the terms and measures established in the performance framework set forth in the charter contract;

(2) Ensure that data used in making renewal decisions are available to the public charter school and the public;

(3) Provide a public report summarizing the evidence basis for each decision; and

(4) Include one of the following rulings:

(A) Renew the charter contract for another term of five years based on the school's performance data and demonstrated capacities of the public charter school; or

(B) Decline to renew the charter contract. The authorizer shall clearly state in a resolution the reasons for the nonrenewal. The governing board of the school shall be granted 30 days to respond in writing to the decision and public report before that decision becomes final. The governing board shall be allowed to provide the authorizer with such arguments and supporting information as it sees fit and also shall be granted an opportunity for a recorded public hearing, at the request of the governing board. The authorizer shall consider the governing board's response, testimony, and documentation, as well as the recorded public hearing, prior to rendering a final decision on the revocation of the charter contract. The authorizer shall render its final determination within 10 days of the close of the 30-day period.

(d) The failure of the authorizer to act on a renewal application within the designated timeframes shall be deemed an approval of the renewal application.

(e) Within 10 days of taking final action to renew, not renew or revoke a charter under this section, the authorizer shall report the action taken and reasons for the decision to the school's

49 governing board and the state board or affected county board, as applicable. A copy of the report  
50 shall be submitted at the same time to the state superintendent.

51 (f) A charter contract may be revoked at any time or not renewed if the authorizer  
52 determines that the health and safety of students attending the public charter school is threatened  
53 or the public charter school has:

54 (A) Failed to comply with the provisions of this article:

55 (B) Committed a material violation of any of the terms, conditions, standards or procedures  
56 required under this chapter or the charter contract;

57 (C) Failed to meet the performance expectations set forth in the charter contract;

58 (D) Failed to meet generally accepted standards of fiscal management; or

59 (E) Violated any provision of law from which the school was not exempted.

60 (g) If an authorizer does not renew or revokes a charter contract, the authorizer shall  
61 clearly state in a resolution in a public meeting, the reasons for the nonrenewal or revocation.

62 (h) If an authorizer revokes a charter contract, the authorizer shall close the school:  
63 *Provided, That when the charter is revoked or not renewed for a school that began as a*  
64 *conversion public charter school or program conversion public charter school, the county board*  
65 *of the district in which the school is located may return it to noncharter public school status.*

66 (i) If a public charter school is closed, the authorizer shall clearly state in a resolution in a  
67 public meeting, the reasons for the closure.

68 (j) In the event of a public charter school closure for any reason, the authorizer shall  
69 oversee and work with the closing school to ensure a smooth and orderly closure and transition  
70 for students and parents, as guided by the closure protocol established by the state board  
71 including, but not limited to, the following:

72 (1) Overseeing and working with the closing public charter school to ensure timely  
73 notification to parents, orderly transition of students and student records to new schools and

74 proper disposition of school funds, property and assets in accordance with the requirements of  
75 this chapter; and

76 (2) Distributing the assets of the public charter school first to satisfy outstanding payroll  
77 obligations for employees of the public charter school and then to creditors of the public charter  
78 school. Any remaining funds shall be paid to the county board. If the assets of the public charter  
79 school are insufficient to pay all parties to whom the public charter school owes compensation,  
80 the prioritization of distribution of assets may be determined by decree of a court of law.

81 (k) If a public charter school is subject to closure or transition, following exhaustion of any  
82 appeal allowed under §18-5G-13 of this code, an authorizer may remove at will at any time any  
83 or all of the members of the board of directors of the public charter school in connection with  
84 ensuring a smooth and orderly closure or transition. If the authorizer removes members of the  
85 board of directors such that the board of directors can no longer function, the authorizer shall be  
86 empowered to take any further necessary and proper acts connected with closure or transition of  
87 the public charter school in the name and interest of the public charter school.

**§18-5G-11. Public charter school students; enrollment and eligibility; enrollment preferences; random selection lottery; enrollment discrimination prohibited; credit transfers; participation in interscholastic sports.**

1 (a) Public charter schools are open for enrollment to all students of appropriate grade level  
2 age and all students shall be enrolled in accordance with the following:

3 (1) A public charter school shall provide or publicize to parents and the general public  
4 information about the public charter school as an enrollment option for students and the process  
5 for application and enrollment, including dates and timelines. If the public charter school includes  
6 in its mission a specific focus on students with special needs, including, but not limited to, at-risk  
7 students, English language learners, students with severe disciplinary problems at a noncharter  
8 public school or students involved with the juvenile justice system, it shall include the information

9 in such publication. A public charter school's recruitment effort shall include all segments of the  
10 student populations served by noncharter public schools of comparable grade levels;

11 (2) A county board shall provide or publicize to parents and the general public information  
12 about public charter schools within the county as an enrollment option to the same extent and  
13 through the same means that the county provides and publicizes information about noncharter  
14 public schools in the county;

15 (3) A county board may not require any student residing in the county to enroll in a public  
16 charter school, nor may it prohibit any charter school student from returning to a noncharter public  
17 school;

18 (4) A public charter school shall designate its primary recruitment area in its charter  
19 application and charter contract. The establishment of a primary recruitment area by a public  
20 charter school does not negate any overlapping attendance area or areas established by a county  
21 board or boards for noncharter public schools. A primary recruitment area may include territory in  
22 more than one county;

23 (5) The primary recruitment area shall be based on the public charter school's estimated  
24 facility and program capacity. The capacity of the public charter school shall be determined  
25 annually by the governing board of the public charter school in conjunction with its authorizer and  
26 in consideration of the public charter school's ability to facilitate the academic success of its  
27 students, to achieve the other objectives specified in the charter contract, and to ensure that the  
28 student enrollment does not exceed the capacity of its facility, site and programs. An authorizer  
29 may not restrict the number of students a public charter school may enroll;

30 (6) Public charter schools may not discriminate against any person on any basis which  
31 would be unlawful for noncharter public schools in the school district. A public charter school may  
32 not establish admission policies or limit student admissions in any manner in which a public school  
33 is not permitted to establish admission policies or limit student admissions: *Provided, That this*  
34 subdivision may not be construed to limit the formation of a public charter school that is dedicated

35 to focusing its education program and services on students with special needs, including, but not  
36 limited to, at-risk students, English language learners, students with severe disciplinary problems  
37 at a noncharter public school, or students involved with the juvenile justice system;

38 (7) A public charter school may establish any one or more of the following enrollment  
39 preferences for:

40 (A) Children who reside within the school's primary recruitment area;

41 (B) Students enrolled in the public charter school the previous school year and siblings of  
42 students already enrolled in the public charter school;

43 (C) Children with special needs, including, but not limited to, at-risk students, English  
44 language learners, students with severe disciplinary problems at a noncharter public school, or  
45 students involved with the juvenile justice system, it shall include the information in such  
46 publication; and

47 (D) Children of governing board members and full-time employees of the school as long  
48 as the number of students enrolled under this preference constitute no more than five percent of  
49 the school's total student enrollment;

50 (8) A start-up public charter school shall enroll all students who apply and to whom an  
51 enrollment preference has been established. If the school has excess capacity after enrolling  
52 these students, the school shall enroll all other students who apply: *Provided*, That if the remaining  
53 applicants exceed the enrollment capacity of the program, class, grade level or building of the  
54 public charter school, the public charter school shall select students for enrollment from among  
55 all remaining applicants by a random selection lottery. The school's lottery procedures and  
56 timelines support equal and open access for all students and take place in an open meeting;

57 (9) A conversion public charter school shall guarantee enrollment to all students who were  
58 previously enrolled in the noncharter public school and shall adopt and maintain a policy that  
59 gives enrollment preference to students who reside within the attendance area as established  
60 prior to the conversion of the school. If the school has excess capacity after enrolling these

61 students and all others to whom an enrollment preference has been given, the school shall enroll  
62 all other students who apply: *Provided*, That if the remaining applicants exceed the enrollment  
63 capacity of the program, class, grade level or building of a public charter school, the public charter  
64 school shall select students for enrollment from among all remaining applicants by a random  
65 selection lottery. The school's lottery procedures and timelines support equal and open access  
66 for all students and take place in an open meeting; and

67 (10) A program conversion public charter school shall enroll all students who apply for  
68 enrollment in the program who, at the time of authorization, are enrolled in the noncharter public  
69 school at which the program is operated. A program conversion public charter school shall adopt  
70 and maintain a policy that gives enrollment preference to students who are enrolled in the  
71 noncharter public school at which the program is operated. If the school has excess capacity after  
72 enrolling these students, the school shall enroll all other students who apply: *Provided*, That if the  
73 remaining applicants exceed the enrollment capacity of the program, class, grade level or building  
74 of a public charter school, the public charter school shall select students for enrollment from  
75 among all remaining applicants by a random selection lottery. The school's lottery procedures  
76 and timelines support equal and open access for all students and take place in an open meeting.

77 (b) If a student who was previously enrolled in a public charter school transfers enrollment  
78 to a noncharter public school in this state, the school to which the student transfers shall accept  
79 credits earned by the student in courses or instructional programs at the public charter school in  
80 a uniform and consistent manner and according to the same criteria that are used to accept  
81 academic credits from other noncharter public schools or that consider content competency when  
82 appropriate due to differences in curriculum delivery, instructional methods and strategies, or  
83 course designations and sequence.

84 (c) Each public charter school shall be given access to and shall utilize the electronic  
85 education information system established by the West Virginia Department of Education, is  
86 subject to the Student Data Accessibility, Transparency and Accountability Act pursuant to section

87 §18-2-5h of this code, and shall report information on student and school performance to parents,  
88 policy-makers and the general public in the same manner as noncharter public schools utilizing  
89 the electronic format established by the West Virginia Department of Education.

90 (d) Each public charter school shall certify annually to the State Department of Education  
91 and to the county board of the school district in which the charter school is located its student  
92 enrollment, average daily attendance and student participation in the national school lunch  
93 program, special education, vocational education, gifted education, advanced placement and dual  
94 credit courses, and federal programs in the same manner as school districts.

**§18-5G-12. Access to public facilities.**

1 (a) A public charter school may request usage of public facilities from the county board or  
2 other public entity in the county where the charter school is located or proposes to locate. A county  
3 board or other public entity shall make facilities available to the charter school that are either not  
4 used, in whole or in part, for classroom instruction at the time the charter school seeks to use or  
5 lease the public facility.

6 (b) If a charter school seeks to lease the whole or part of a public facility, the cost of the  
7 lease must be at or under current market value.

8 (c) During the term of the lease, the charter school is solely responsible for the direct  
9 expenses related to the public facility lease, including utilities, insurance, maintenance, repairs,  
10 and remodeling. The county school board is responsible for any debt incurred or liens that are  
11 attached to the school building before the charter school leases the public facility.

**ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

**§18-7A-3. Definitions.**

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

2 "Accumulated contributions" means all deposits and all deductions from the gross salary  
3 of a contributor plus regular interest.

4           “Accumulated net benefit” means the aggregate amount of all benefits paid to or on behalf  
5 of a retired member.

6           “Actuarially equivalent” or “of equal actuarial value” means a benefit of equal value  
7 computed upon the basis of the mortality table and interest rates as set and adopted by the  
8 retirement board in accordance with the provisions of this article: *Provided*, That when used in  
9 the context of compliance with the federal maximum benefit requirements of Section 415 of the  
10 Internal Revenue Code, “actuarially equivalent” shall be computed using the mortality tables and  
11 interest rates required to comply with those requirements.

12           “Annuities” means the annual retirement payments for life granted beneficiaries in  
13 accordance with this article.

14           “Average final salary” means the average of the five highest fiscal year salaries earned as  
15 a member within the last 15 fiscal years of total service credit, including military service as  
16 provided in this article, or if total service is less than 15 years, the average annual salary for the  
17 period on which contributions were made: *Provided*, That salaries for determining benefits during  
18 any determination period may not exceed the maximum compensation allowed as adjusted for  
19 cost of living in accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal  
20 Revenue Code.

21           “Beneficiary” means the recipient of annuity payments made under the retirement system.

22           “Contributor” means a member of the retirement system who has an account in the  
23 Teachers Accumulation Fund.

24           “Deposit” means a voluntary payment to his or her account by a member.

25           “Employer” means the agency of and within the state which has employed or employs a  
26 member.

27           “Employer error” means an omission, misrepresentation, or violation of relevant provisions  
28 of the West Virginia Code, or of the West Virginia Code of State Regulations, or the relevant  
29 provisions of both the West Virginia Code and of the West Virginia Code of State Regulations by

30 the participating public employer that has resulted in an underpayment or overpayment of  
31 contributions required. A deliberate act contrary to the provisions of this section by a participating  
32 public employer does not constitute employer error.

33 "Employment term" means employment for at least 10 months, a month being defined as  
34 20 employment days.

35 "Gross salary" means the fixed annual or periodic cash wages paid by a participating  
36 public employer to a member for performing duties for the participating public employer for which  
37 the member was hired. Gross salary shall be allocated and reported in the fiscal year in which the  
38 work was done. Gross salary also includes retroactive payments made to a member to correct a  
39 clerical error, or made pursuant to a court order or final order of an administrative agency charged  
40 with enforcing federal or state law pertaining to the member's rights to employment or wages, with  
41 all retroactive salary payments to be allocated to and considered paid in the periods in which the  
42 work was or would have been done. Gross salary does not include lump sum payments for  
43 bonuses, early retirement incentives, severance pay, or any other fringe benefit of any kind  
44 including, but not limited to, transportation allowances, automobiles or automobile allowances, or  
45 lump sum payments for unused, accrued leave of any type or character.

46 "Internal Revenue Code" means the Internal Revenue Code of 1986, as it has been  
47 amended.

48 "Member" means any person who has accumulated contributions standing to his or her  
49 credit in the State Teachers Retirement System. A member shall remain a member until the  
50 benefits to which he or she is entitled under this article are paid or forfeited, or until cessation of  
51 membership pursuant to §18-7A-13 of this code.

52 "Members of the administrative staff of the public schools" means deans of instruction,  
53 deans of men, deans of women, and financial and administrative secretaries.

54 "Members of the extension staff of the public schools" means every agricultural agent,  
55 boys and girls club agent, and every member of the agricultural extension staff whose work is not  
56 primarily stenographic, clerical, or secretarial.

57 "New entrant" means a teacher who is not a present teacher.

58 "Nonteaching member" means any person, except a teacher member, who is regularly  
59 employed for full-time service by: (A) Any county board of education or educational services  
60 cooperative; (B) the State Board of Education; (C) the Higher Education Policy Commission; (D)  
61 the West Virginia Council for Community and Technical College Education; (E) a governing board,  
62 as defined in §18B-1-2 of this code; or (F) a public charter school established pursuant to §18-  
63 5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant  
64 to §18-5G-7 of this code a determination to participate in the retirement systems under this article  
65 and §18-7B-1 *et seq.* of this code, subject to §18-7B-7a: *Provided*, That any person whose  
66 employment with the Higher Education Policy Commission, the West Virginia Council for  
67 Community and Technical College Education, or a governing board commences on or after July  
68 1, 1991, is not considered a nonteaching member.

69 "Plan year" means the 12-month period commencing on July 1 and ending the following  
70 June 30 of any designated year.

71 "Present member" means a present teacher or nonteacher who is a member of the  
72 retirement system.

73 "Present teacher" means any person who was a teacher within the 35 years beginning  
74 July 1, 1934, and whose membership in the retirement system is currently active.

75 "Prior service" means all service as a teacher completed prior to July 1, 1941, and all  
76 service of a present member who was employed as a teacher and did not contribute to a  
77 retirement account because he or she was legally ineligible for membership during the service.

78 "Public schools" means all publicly supported schools, including colleges and universities  
79 in this state.

80           “Refund beneficiary” means the estate of a deceased contributor or a person he or she  
81 has nominated as beneficiary of his or her contributions by written designation duly executed and  
82 filed with the retirement board.

83           “Regular interest” means interest at four percent compounded annually, or a higher  
84 earnable rate if set forth in the formula established in legislative rules, series seven of the  
85 Consolidated Public Retirement Board, 162 CSR 7.

86           “Regularly employed for full-time service” means employment in a regular position or job  
87 throughout the employment term regardless of the number of hours worked or the method of pay.

88           “Required beginning date” means April 1 of the calendar year following the later of: (A)  
89 The calendar year in which the member attains age 70 and one-half years; or (B) the calendar  
90 year in which the member retires or ceases covered employment under the system after having  
91 attained the age of 70 and one-half years.

92           “Retirant” means any member who commences an annuity payable by the retirement  
93 system.

94           “Retirement board” means the Consolidated Public Retirement Board created pursuant to  
95 §5-10D-1 *et seq.* of this code.

96           “Retirement system” means the State Teachers Retirement System established by this  
97 article.

98           “Teacher member” means the following persons, if regularly employed for full-time service:  
99 (A) Any person employed for instructional service in the public schools of West Virginia; (B)  
100 principals; (C) public school librarians; (D) superintendents of schools and assistant county  
101 superintendents of schools; (E) any county school attendance director holding a West Virginia  
102 teacher’s certificate; (F) members of the research, extension, administrative, or library staffs of  
103 the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the  
104 divisions under his or her supervision, or any other employee under the state superintendent  
105 performing services of an educational nature; (H) employees of the State Board of Education who

are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, the State Department of Education, or the State Teachers Retirement Board, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections and Rehabilitation, the Division of Health, or the Division of Human Services; (K) an employee of the State Board of School Finance, if that person was formerly employed as a teacher in the public schools; (L) employees of an educational services cooperative who are performing services of an educational nature; (M) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the State Teachers Retirement System provided in this article; and (N) any person employed by a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to participate in the retirement systems under this article and §18-7B-1 *et seq.* of this code.

“Total service” means all service as a teacher or nonteacher while a member of the retirement system since last becoming a member and, in addition thereto, credit for prior service, if any.

Age in excess of 70 years shall be considered to be 70 years.

## **ARTICLE 7B. TEACHERS’ DEFINED CONTRIBUTION RETIREMENT SYSTEM.**

### **§18-7B-2. Definitions.**

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

“Annual addition” means, for purposes of the limitations under Section 415(c) of the Internal Revenue Code, the sum credited to a member’s account for any limitation year of: (A) Employer contributions; (B) employee contributions; and (C) forfeitures. Repayment of cash-outs or contributions as described in Section 415(k)(3) of the Internal Revenue Code, rollover

6 contributions and picked-up employee contributions to a defined benefit plan may not be treated  
7 as annual additions, consistent with the requirements of Treasury Regulation §1.415(c)-1.

8 "Annuity account" or "annuity" means an account established for each member to record  
9 the deposit of member contributions and employer contributions and interest, dividends, or other  
10 accumulations credited on behalf of the member.

11 "Compensation" means the full compensation actually received by members for service  
12 whether or not a part of the compensation is received from other funds, federal or otherwise, than  
13 those provided by the state or its subdivisions: *Provided*, That annual compensation for  
14 determining contributions during any determination period may not exceed the maximum  
15 compensation allowed as adjusted for cost of living in accordance with §5-10D-7 of this code and  
16 Section 401(a)(17) of the Internal Revenue Code: *Provided, however*, That solely for purposes of  
17 applying the limitations of Section 415 of the Internal Revenue Code to any annual addition,  
18 "compensation" has the meaning given it in §18-7B-13(d) of this code.

19 "Consolidated board" or "board" means the Consolidated Public Retirement Board created  
20 and established pursuant to §5-10D-1 *et seq.* of this code.

21 "Defined contribution system" or "system" means the Teachers' Defined Contribution  
22 Retirement System created and established by this article.

23 "Employer" means the agency of and within the State of West Virginia which has employed  
24 or employs a member.

25 "Employer contribution" means an amount deposited into the member's individual annuity  
26 account on a periodic basis coinciding with the employee's regular pay period by an employer  
27 from its own funds.

28 "Employment term" means employment for at least 10 months in any plan year with a  
29 month being defined as 20 employment days.

30 "Existing employer" means any employer who employed or employs a member of the  
31 system.

“Existing retirement system” means the State Teachers Retirement System established in §18-7A-1 *et seq.* of this code.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as it has been amended.

“Member” or “employee” means the following persons, if regularly employed for full-time service: (A) Any person employed for instructional service in the public schools of West Virginia; (B) principals; (C) public school librarians; (D) superintendents of schools and assistant county superintendents of schools; (E) any county school attendance director holding a West Virginia teacher’s certificate; (F) members of the research, extension, administrative, or library staffs of the public schools; (G) the State Superintendent of Schools, heads and assistant heads of the divisions under his or her supervision, or any other employee under the state superintendent performing services of an educational nature; (H) employees of the State Board of Education who are performing services of an educational nature; (I) any person employed in a nonteaching capacity by the State Board of Education, any county board of education, or the State Department of Education, if that person was formerly employed as a teacher in the public schools; (J) all classroom teachers, principals, and educational administrators in schools under the supervision of the Division of Corrections and the Department of Health and Human Resources; (K) any person who is regularly employed for full-time service by any county board of education, educational services cooperative, or the State Board of Education; (L) the administrative staff of the public schools including deans of instruction, deans of men and deans of women, and financial and administrative secretaries; (M) any person designated as a 21st Century Learner Fellow pursuant to §18A-3-11 of this code who elects to remain a member of the Teachers’ Defined Contribution Retirement System established by this article; and (N) any person employed by a public charter school established pursuant to §18-5G-1 *et seq.* of this code if the charter school includes in its charter contract entered into pursuant to §18-5G-7 of this code a determination to

participate in the retirement systems under this article, subject to §18-7B-7a, and §18-7A-1 *et seq.* of this code.

“Member contribution” means an amount reduced from the employee’s regular pay periods, and deposited into the member’s individual annuity account within the Teachers’ Defined Contribution Retirement System.

“Permanent, total disability” means a mental or physical incapacity requiring absence from employment service for at least six months: *Provided*, That the incapacity is shown by an examination by a physician or physicians selected by the board: *Provided, however*, That for employees hired on or after July 1, 2005, “permanent, total disability” means an inability to engage in substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death, or has lasted or can be expected to last for a continuous period of not less than 12 months and the incapacity is so severe that the member is likely to be permanently unable to perform the duties of the position the member occupied immediately prior to his or her disabling injury or illness.

“Plan year” means the 12-month period commencing on July 1 of any designated year and ending on the following June 30.

“Public schools” means all publicly supported schools, including normal schools, colleges, and universities in this state.

“Regularly employed for full-time service” means employment in a regular position or job throughout the employment term regardless of the number of hours worked or the method of pay.

“Required beginning date” means April 1 of the calendar year following the later of: (A) The calendar year in which the member attains age 70 and one-half years; or (B) the calendar year in which the member retires or otherwise ceases employment with a participating employer after having attained the age of 70 and one-half years.

“Retirement” means a member’s withdrawal from the active employment of a participating employer and completion of all conditions precedent to retirement.

83           “Year of employment service” means employment for at least 10 months, with a month  
84 being defined as 20 employment days: *Provided*, That no more than one year of service may be  
85 accumulated in any 12-month period.

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

### **§18-8-4. Duties of attendance director and assistant directors; complaints, warrants and hearings.**

1           (a) The county attendance director and the assistants shall diligently promote regular  
2 school attendance. The director and assistants shall:

3           (1) Ascertain reasons for unexcused absences from school of students of compulsory  
4 school age and students who remain enrolled beyond the compulsory school age as defined  
5 under section one-a of this article;

6           (2) Take such steps as are, in their discretion, best calculated to encourage the attendance  
7 of students and to impart upon the parents and guardians the importance of attendance and the  
8 seriousness of failing to do so;

9           (3) For the purposes of this article, the following definitions apply:

10          (A) “Excused absence” includes:

11          (i) Personal illness or injury of the student;

12          (ii) Personal illness or injury of the student’s parent, guardian, custodian, or family  
13 member: *Provided*, That the excuse must provide a reasonable explanation for why the student’s  
14 absence was necessary and caused by the illness or injury in the family;

15          (iii) Medical or dental appointment with written excuse from physician or dentist;

16          (iv) Chronic medical condition or disability that impacts attendance;

17          (v) Participation in home or hospital instruction due to an illness or injury or other  
18 extraordinary circumstance that warrants home or hospital confinement;

19          (vi) Calamity, such as a fire or flood;

(vii) Death in the family;

(viii) School-approved or county-approved curricular or extra-curricular activities;

(ix) Judicial obligation or court appearance involving the student;

(x) Military requirement for students enlisted or enlisting in the military;

(xi) Personal or academic circumstances approved by the principal; and

(xii) Such other situations as may be further determined by the county board: *Provided,*

That absences of students with disabilities shall be in accordance with the Individuals with Disabilities Education Improvement Act of 2004 and the federal and state regulations adopted in compliance therewith; and

(B) "Unexcused absence" means any absence not specifically included in the definition of "excused absence"; and

(4) All documentation relating to absences shall be provided to the school no later than three instructional days after the first day the student returns to school.

(b) In the case of three total unexcused absences of a student during a school year, the attendance director, assistant, or principal shall make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending and not incurring any additional unexcused absences.

(c) In the case of five total unexcused absences, the attendance director or assistant or principal shall again make meaningful contact with the parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences and what measures the school may employ to assist the student in attending school and not incurring any additional unexcused absences.

(d) In the case of 10 total unexcused absences of a student during a school year, the attendance director or assistant may make a complaint against the parent, guardian or custodian before a magistrate of the county. If it appears from the complaint that there is probable cause to

believe that an offense has been committed and that the accused has committed it, a summons or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the summons or to arrest persons charged with offenses against the state. More than one parent, guardian or custodian may be charged in a complaint. Initial service of a summons or warrant issued pursuant to the provisions of this section shall be attempted within ten calendar days of receipt of the summons or warrant and subsequent attempts at service shall continue until the summons or warrant is executed or until the end of the school term during which the complaint is made, whichever is later.

(e) The magistrate court clerk, or the clerk of the circuit court performing the duties of the magistrate court as authorized in §50-1-8 of this code, shall assign the case to a magistrate within 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the accused at least 10 days' advance notice of the date, time and place of the hearing.

(f) When any doubt exists as to the age of a student absent from school, the attendance director and assistants have authority to require a properly attested birth certificate or an affidavit from the parent, guardian or custodian of the student, stating age of the student. In the performance of his or her duties, the county attendance director and assistants have authority to take without warrant any student absent from school in violation of the provisions of this article and to place the student in the school in which he or she is or should be enrolled.

(g) The county attendance director and assistants shall devote such time as is required by section three of this article to the duties of attendance director in accordance with this section during the instructional term and at such other times as the duties of an attendance director are required. All attendance directors and assistants hired for more than 200 days may be assigned other duties determined by the superintendent during the period in excess of 200 days. The county attendance director is responsible under direction of the county superintendent for efficiently administering school attendance in the county.

(h) In addition to those duties directly relating to the administration of attendance, the county attendance director and assistant directors also shall perform the following duties:

(1) Assist in directing the taking of the school census to see that it is taken at the time and in the manner provided by law;

(2) Confer with principals and teachers on the comparison of school census and enrollment for the detection of possible nonenrollees;

(3) Cooperate with existing state and federal agencies charged with enforcing child labor laws;

(4) Prepare a report for submission by the county superintendent to the State Superintendent of Schools on school attendance, at such times and in such detail as may be required. The state board shall promulgate a legislative rule pursuant to §29A-3B-1 *et seq.* of this code that set forth student absences that are excluded for accountability purposes. The absences that are excluded by rule shall include, but are not limited to, excused student absences, students not in attendance due to disciplinary measures and absent students for whom the attendance director has pursued judicial remedies to compel attendance to the extent of his or her authority. The attendance director shall file with the county superintendent and county board at the close of each month a report showing activities of the school attendance office and the status of attendance in the county at the time;

(5) Promote attendance in the county by compiling data for schools and by furnishing suggestions and recommendations for publication through school bulletins and the press, or in such manner as the county superintendent may direct;

(6) Participate in school teachers' conferences with parents and students;

(7) Assist in such other ways as the county superintendent may direct for improving school attendance;

(8) Make home visits of students who have excessive unexcused absences, as provided in subsection-a of this section, or if requested by the chief administrator, principal or assistant principal; and

(9) Serve as the liaison for homeless children and youth.

## **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 §18A-4-1 *et seq.* of this code.

(d) "Professional educator" shall be synonymous with and shall have the same meaning as "teacher" as defined in §18-1-1 of this code, 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. 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 duties.

(f) "Professional student support personnel" means a "teacher" as defined in §18-1-1 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. Professional student support personnel shall also include professional personnel providing direct social and emotional support services to students, as well as professional personnel addressing chronic absenteeism. For all purposes except for the

determination of the allowance for professional educators pursuant to §18-9A-4 of this code, professional student support personnel are professional educators.

(g) "Service personnel salaries" means the state legally mandated salaries for service personnel as provided in §18A-4-8a of this code.

(h) "Service personnel" means all personnel as provided in §18A-4-8 of this code. For the purpose of computations under this article of ratios of service personnel to 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 200: *Provided*, That the computation for any service person employed for three and one-half hours or fewer per day as provided in §18A-4-8a of this code shall be calculated as one-half an employment day.

(i) "Net enrollment" means the number of pupils enrolled in special education programs, kindergarten programs, and grades one to 12, inclusive, of the public schools of the county. Net enrollment further shall include:

(1) Adults enrolled in vocational programs: *Provided*, That net enrollment includes no more than 2,500 of those adults counted on the basis of full-time equivalency and apportioned annually to each county to support Advanced Career Education programs, as provided in §18-2E-11 of this code, in proportion to the adults participating in vocational programs counted on the basis of full-time equivalency: *Provided further*, That beginning with the 2021 fiscal year and every year thereafter, a career technical education center may only receive the funding for enrollment as authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code;

(2) Students enrolled in early childhood education programs as provided in §18-5-44 of this code, counted on the basis of full-time equivalency;

(3) A pupil may not be counted more than once by reason of transfer within the county or from another county within the state, and a pupil may not be counted who attends school in this state from another state;

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

(5) For the purposes of determining the county's basic foundation program only, for any county whose net enrollment as determined under all other provisions of this definition is less than 1,400, 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 §18-9A-2(i)(5)(A) of this code by the difference between 1,400 and the county's actual net enrollment;

(C) Add the amount derived from the calculation in paragraph (B) of this subdivision to the county's actual net enrollment and increase that total amount by 10 percent; and

(D) If the net enrollment as determined under this subdivision is greater than 1,400, the calculated net enrollment shall be reduced to 1,400; and

(E) During the 2008-2009 interim period and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review this subdivision to determine whether these provisions 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 §18-9A-2(i)(5) of this code, 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 §18-9A-2(i)(5) of this code, of the definition of "net enrollment", to the square miles of the county is equal to or greater than five but less than 10.

(l) "Medium-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition

of “net enrollment”, to the square miles of the county is equal to or greater than 10 but less than 20.

(m) “High-density county” means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition of “net enrollment”, to the square miles of the county is equal to or greater than 20.

(n) “Levies for general current expense purposes” means 85 percent of the levy rate for county boards of education calculated or set by the Legislature pursuant to §11-8-6f of this code.

(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.

(q) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for the 2019-2020 funding year, and the provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for funding years prior to the 2019-2020 funding year.

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

(a) Until the 2019-2020 fiscal year, the basic foundation allowance to the county for professional student support personnel shall be the same amount of money as in the 2013 fiscal year, plus any additional amount of funding necessary to cover any increases in the State Minimum Salary Schedule set forth in §18A-4-2 of this code.

(b) Effective for the 2019-2020 fiscal year and thereafter, the basic foundation allowance to the county for professional student support personnel is the amount of money required to pay

the state minimum salaries, in accordance with provisions of §18A-4-1 *et seq.* of this code, subject to the following:

(1) In making this computation, each county shall receive an allowance for five state aid eligible professional student support personnel positions to each 1,000 students in net enrollment: *Provided*, That nothing in this section precludes the county from entering into public-private partnerships or other contracts to provide these services;

(2) For any professional student support personnel positions, or fraction thereof, determined for a county pursuant to subdivision (1) of this subsection that exceed the number employed, the county's allowance for these positions shall be determined using the average state funded salary of professional student support personnel for the county;

(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 student support personnel 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.

(5) For the 2019-2020 fiscal year only, the number of positions funded for each county by subdivision (1) cannot be less than the number of positions that would have been funded in accordance with the previous methodology for determining the number of professional student support personnel positions funded for each county.

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

The total allowance for other current expense and substitute employees is the sum of the following:

(1) For current expense:

(A) The non-salary related expenditures for operations and maintenance, exclusive of expenditures reported in special revenue funds, for the latest available school year, in each county, divided by the total square footage of school buildings in each county is used to calculate a state average expenditure per square foot for operations and maintenance;

(B) The total square footage of school buildings in each county divided by each county's net enrollment for school aid purposes is used to calculate a state average square footage per student;

(C) Each county's net enrollment for school aid purposes multiplied by the state average expenditure per square foot for operations and maintenance as calculated in paragraph (A) of this subdivision and multiplied by the state average square footage per student as calculated in paragraph (B) of this subdivision is that county's state average costs per square footage per student for operations and maintenance;

(D) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the allowance for current expense may be prorated among the participating counties by adjusting the net enrollment for school aid purposes utilized in the calculation by the number of students enrolled therein for each county; and

(E) Each county's allowance for current expense is 70.25% of the county's state average costs per square footage per student for operations and maintenance amount as calculated in paragraph (C) of this subdivision: *Provided*, That effective for the 2019-2020 fiscal year and each year thereafter, each county's allowance for current expense is 71.25 percent of the county's state average costs per square footage per student for operations and maintenance amount as calculated in paragraph (C) of this subdivision; plus

(2) For professional educator substitutes or current expense, two and five-tenths percent of the computed state allocation for professional educators and professional student support personnel as determined in §18-9A-4 and §18-9A-8 of this code. Distribution to the counties is

made proportional to the number of professional educators and professional student support personnel authorized for the county in compliance with §18-9A-4 and §18-9A-8 of this code; 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 §18-9A-5 of this code. Distribution to the counties is made proportional to the number of service personnel authorized for the county in compliance with §18-9A-5 of this code; plus

(4) For academic materials, supplies and equipment for use in instructional programs, \$400 multiplied by the number of professional instructional personnel and professional student support personnel employed in the schools of the county. Distribution is made to each county for allocation to the faculty senate of each school in the county on the basis of \$400 per professional instructional personnel and professional student support personnel employed at the school. "Faculty Senate" means a faculty senate created pursuant to §18-5A-5 of this code. Decisions for the expenditure of such funds are made at the school level by the faculty senate in accordance with the provisions of said section five, article five-a and may not be used to supplant the current expense expenditures of the county. Beginning on September 1, 1994, 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-19. State Aid Block Grant Funding.**

Beginning for the school year 2019-2020 and thereafter, each county board shall receive its allocated state aid share of the county's basic foundation program as calculated pursuant to this article in the form of block grants. Notwithstanding other provisions within this article, all funds distributed to a county board in a block grant shall be exempt from expenditure requirements and limitations contained within this article and a recipient county board may expend such funds in any authorized and allowable manner the county board deems appropriate: *Provided*, That all expenditures shall be consistent with the provisions of all other articles of this code.

## ARTICLE 9B. SCHOOL FINANCE.

### §18-9B-22. Searchable budget database and website.

(a) Effective July 1, 2020, the state superintendent shall provide the State Auditor with the required data for use by the searchable budget data website: *Provided*, That the state superintendent shall not be required to violate the Family Educational Rights and Privacy Act in providing such data. The data shall also contain the required information for the previous three fiscal years provided such data is available.

(b) The required data shall include for use by the searchable budget database website the following content:

(1) The name and principal location or residence of the entity or recipients of funds: *Provided*, That employee addresses shall not be made public or otherwise displayed on the budget data website;

(2) The name of the person or entity requesting the funds;

(3) The amount of funds expended;

(4) The funding or expending agency;

(5) The funding source of the revenue expended;

(6) The budget program or activity of the expenditure;

(7) A descriptive purpose for the funding action or expenditure;

(8) Any state audit or report relating to the entity or recipient of funds or the budget program or agency; and

(9) Any other relevant information specified by the Legislature.

(c) The information shall be updated for each fiscal year no later than 30 days following the end of the fiscal year. In addition, the State Auditor shall update the searchable budget database website as new data becomes available. The State Auditor shall provide guidance to the state superintendent to ensure compliance with this section.

24 (d) Nothing in this subsection is intended to cause a substantial modification to the West  
25 Virginia Education Information System.

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

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

1 (a) The State Superintendent of Schools shall organize, promote, administer and be  
2 responsible for:

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

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

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

16 (B) A separate appropriation shall be made to the Department of Education to  
17 be disbursed to county boards and public charter schools authorized pursuant to §18-5G-1 *et*  
18 *seq.* of this code to assist them with serving exceptional children with high cost/high  
19 acuity special needs that exceed the capacity of county to provide with funds available. Each  
20 county board and public charter school shall apply to the state superintendent to receive this  
21 funding in a manner set forth by the state superintendent that assesses and takes into account  
22 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 disbursed to county boards and public charter schools for this purpose before any of the state appropriation is disbursed. The state board shall promulgate a rule in accordance with the provisions of §29A-3B-1 *et seq.* of this code that implements the provisions of this subdivision relating to disbursing the funds to the county boards and public charter schools. The rule at least shall include a definition for “children with high acuity needs”.

(4) Receiving from county boards and public charter schools, 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 §18-2-13f of this code 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.

(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 for exceptional children out of funds available from local revenue.

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

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

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

(a) It is the goal of the Legislature to increase the state minimum salary for teachers with zero years of experience and an A. B. degree, including the supplement, to at least \$43,000 by fiscal year 2019.

(b) For school year 2018–2019, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule I 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 §18A-4-5a of this code during the contract year: *Provided*, That for the school year 2019-2020, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule II 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 §18A-4-5a of this code during the contract year.

#### STATE MINIMUM SALARY SCHEDULE I

Years	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	A.B.	A.B.	M.A.	M.A.	M.A.	M.A.	Doc-
Exp	Class	Class	Class		+ 15		+ 15	+ 30	+ 45	torate
0	29,937	30,626	30,892	32,335	33,096	34,863	35,624	36,385	37,146	38,181
1	30,265	30,954	31,220	32,853	33,614	35,382	36,143	36,903	37,664	38,699
2	30,594	31,282	31,548	33,372	34,133	35,900	36,661	37,422	38,183	39,218
3	30,922	31,610	31,876	33,891	34,651	36,419	37,180	37,940	38,701	39,736
4	31,494	32,182	32,448	34,653	35,414	37,182	37,943	38,703	39,464	40,499
5	31,822	32,510	32,776	35,172	35,933	37,700	38,461	39,222	39,983	41,018
6	32,150	32,838	33,104	35,690	36,451	38,219	38,980	39,740	40,501	41,536
7	32,478	33,167	33,432	36,209	36,970	38,737	39,498	40,259	41,020	42,055
8	32,806	33,495	33,761	36,727	37,488	39,256	40,017	40,777	41,538	42,573
9	33,134	33,823	34,089	37,246	38,007	39,774	40,535	41,296	42,057	43,092
10	33,463	34,151	34,417	37,766	38,526	40,294	41,055	41,816	42,576	43,611

11	33,791	34,479	34,745	38,284	39,045	40,813	41,573	42,334	43,095	44,130
12	34,119	34,807	35,073	38,803	39,563	41,331	42,092	42,853	43,613	44,648
13	34,447	35,135	35,401	39,321	40,082	41,850	42,610	43,371	44,132	45,167
14	34,775	35,463	35,729	39,840	40,600	42,368	43,129	43,890	44,650	45,685
15	35,103	35,791	36,057	40,358	41,119	42,887	43,647	44,408	45,169	46,204
16	35,431	36,119	36,385	40,877	41,637	43,405	44,166	44,927	45,687	46,722
17	35,759	36,448	36,713	41,395	42,156	43,924	44,685	45,445	46,206	47,241
18	36,087	36,776	37,042	41,914	42,675	44,442	45,203	45,964	46,725	47,760
19	36,415	37,104	37,370	42,432	43,193	44,961	45,722	46,482	47,243	48,278
20	36,743	37,432	37,698	42,951	43,712	45,479	46,240	47,001	47,762	48,797
21	37,072	37,760	38,026	43,469	44,230	45,998	46,759	47,519	48,280	49,315
22	37,400	38,088	38,354	43,988	44,749	46,516	47,277	48,038	48,799	49,834
23	37,728	38,416	38,682	44,507	45,267	47,035	47,796	48,556	49,317	50,352
24	38,056	38,744	39,010	45,025	45,786	47,554	48,314	49,075	49,836	50,871
25	38,384	39,072	39,338	45,544	46,304	48,072	48,833	49,594	50,354	51,389
26	38,712	39,400	39,666	46,062	46,823	48,591	49,351	50,112	50,873	51,908
27	39,040	39,728	39,994	46,581	47,341	49,109	49,870	50,631	51,391	52,426
28	39,368	40,057	40,322	47,099	47,860	49,628	50,388	51,149	51,910	52,945
29	39,696	40,385	40,651	47,618	48,378	50,146	50,907	51,668	52,428	53,463
30	40,024	40,713	40,979	48,136	48,897	50,665	51,425	52,186	52,947	53,982
31	40,353	41,041	41,307	48,655	49,416	51,183	51,944	52,705	53,465	54,500
32	40,681	41,369	41,635	49,173	49,934	51,702	52,463	53,223	53,984	55,019
33	41,009	41,697	41,963	49,692	50,453	52,220	52,981	53,742	54,503	55,538
34	41,337	42,025	42,291	50,210	50,971	52,739	53,500	54,260	55,021	56,056
35	41,665	42,353	42,619	50,729	51,490	53,257	54,018	54,779	55,540	56,575

## STATE MINIMUM SALARY SCHEDULE II

Years	4 <sup>th</sup>	3 <sup>rd</sup>	2 <sup>nd</sup>	A.B.	A.B.	M.A.	M.A.	M.A.	M.A.	Doc-
Exp.	Class	Class	Class		+15		+15	+30	+45	torate
0	32,057	32,746	33,012	34,455	35,216	36,983	37,744	38,505	39,266	40,301

1	32,385	33,074	33,340	34,973	35,734	37,502	38,263	39,023	39,784	40,819
2	32,714	33,402	33,668	35,492	36,253	38,020	38,781	39,542	40,303	41,338
3	33,042	33,730	33,996	36,011	36,771	38,539	39,300	40,060	40,821	41,856
4	33,614	34,302	34,568	36,773	37,534	39,302	40,063	40,823	41,584	42,619
5	33,942	34,630	34,896	37,292	38,053	39,820	40,581	41,342	42,103	43,138
6	34,270	34,958	35,224	37,810	38,571	40,339	41,100	41,860	42,621	43,656
7	34,598	35,287	35,552	38,329	39,090	40,857	41,618	42,379	43,140	44,175
8	34,926	35,615	35,881	38,847	39,608	41,376	42,137	42,897	43,658	44,693
9	35,254	35,943	36,209	39,366	40,127	41,894	42,655	43,416	44,177	45,212
10	35,583	36,271	36,537	39,886	40,646	42,414	43,175	43,936	44,696	45,731
11	35,911	36,599	36,865	40,404	41,165	42,933	43,693	44,454	45,215	46,250
12	36,239	36,927	37,193	40,923	41,683	43,451	44,212	44,973	45,733	46,768
13	36,567	37,255	37,521	41,441	42,202	43,970	44,730	45,491	46,252	47,287
14	36,895	37,583	37,849	41,960	42,720	44,488	45,249	46,010	46,770	47,805
15	37,223	37,911	38,177	42,478	43,239	45,007	45,767	46,528	47,289	48,324
16	37,551	38,239	38,505	42,997	43,757	45,525	46,286	47,047	47,807	48,842
17	37,879	38,568	38,833	43,515	44,276	46,044	46,805	47,565	48,326	49,361
18	38,207	38,896	39,162	44,034	44,795	46,562	47,323	48,084	48,845	49,880
19	38,535	39,224	39,490	44,552	45,313	47,081	47,842	48,602	49,363	50,398
20	38,863	39,552	39,818	45,071	45,832	47,599	48,360	49,121	49,882	50,917
21	39,192	39,880	40,146	45,589	46,350	48,118	48,879	49,639	50,400	51,435
22	39,520	40,208	40,474	46,108	46,869	48,636	49,397	50,158	50,919	51,954
23	39,848	40,536	40,802	46,627	47,387	49,155	49,916	50,676	51,437	52,472
24	40,176	40,864	41,130	47,145	47,906	49,674	50,434	51,195	51,956	52,991
25	40,504	41,192	41,458	47,664	48,424	50,192	50,953	51,714	52,474	53,509
26	40,832	41,520	41,786	48,182	48,943	50,711	51,471	52,232	52,993	54,028
27	41,160	41,848	42,114	48,701	49,461	51,229	51,990	52,751	53,511	54,546
28	41,488	42,177	42,442	49,219	49,980	51,748	52,508	53,269	54,030	55,065
29	41,816	42,505	42,771	49,738	50,498	52,266	53,027	53,788	54,548	55,583

30	42,144	42,833	43,099	50,256	51,017	52,785	53,545	54,306	55,067	56,102
31	42,473	43,161	43,427	50,775	51,536	53,303	54,064	54,825	55,585	56,620
32	42,801	43,489	43,755	51,293	52,054	53,822	54,583	55,343	56,104	57,139
33	43,129	43,817	44,083	51,812	52,573	54,340	55,101	55,862	56,623	57,658
34	43,457	44,145	44,411	52,330	53,091	54,859	55,620	56,380	57,141	58,176
35	43,785	44,473	44,739	52,849	53,610	55,377	56,138	56,899	57,660	58,695

(c) Six hundred dollars shall be paid annually to each classroom teacher who has at least 20 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.

(d) Effective July 1, 2019, each classroom teacher providing math instruction in the teacher's certified area of study for at least 60 percent of the time the teacher is providing instruction to students shall be considered to have three additional years of experience only for the purposes of the salary schedule set forth in subsection (b) of this section: *Provided*, That for any classroom teacher who satisfies these requirements and whose years of experience plus the three additional years due to them exceeds the years of experience provided for on the salary schedule shall be paid the additional amount equivalent to three additional years of experience notwithstanding the maximum experience provided on the salary schedule.

(e) Effective July 1, 2019, each classroom teacher certified in special education and employed as a full-time special education teacher shall be considered to have three additional years of experience only for the purposes of the salary schedule set forth in subsection (b) of this section: *Provided*, That for any classroom teacher who satisfies these requirements and whose years of experience plus the three additional years due to them exceeds the years of experience provided for on the salary schedule shall be paid the additional amount equivalent to three additional years of experience notwithstanding the maximum experience provided on the salary schedule.

(f) In accordance with §18A-4-5 of this code, each teacher shall be paid the supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to the provisions of that section:

(1) For "4th Class" at zero years of experience, \$1,781. An additional \$38 shall be paid for each year of experience up to and including 35 years of experience;

(2) For "3rd Class" at zero years of experience, \$1,796. An additional \$67 shall be paid for each year of experience up to and including 35 years of experience;

(3) For "2nd Class" at zero years of experience, \$1,877. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(4) For "A. B." at zero years of experience, \$2,360. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(5) For "A. B. + 15" at zero years of experience, \$2,452. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(6) For "M. A." at zero years of experience, \$2,644. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(7) For "M. A. + 15" at zero years of experience, \$2,740. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(8) For "M. A. + 30" at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(9) For "M. A. + 45" at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience; and

(10) For "Doctorate" at zero years of experience, \$2,927. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience.

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5a of this code; (ii) shall be

58 paid in equal monthly installments; and (iii) shall be considered a part of the state minimum  
59 salaries for teachers.

**§18A-4-5.; State salary supplement.**

1 (a) The Legislature recognizes its constitutional responsibility to provide for a thorough  
2 and efficient system of education. To carry out this responsibility the Legislature enacted, and  
3 continues to update, as necessary, the public school support program as set forth in §18-9A-1, *et*  
4 *seq.* of this code. The public school support program is a non-discriminatory funding mechanism  
5 for financing the educational system in this state as it takes into account each county's specific  
6 characteristics, and ensures that all counties are provided equitable funding.

7 (b) The Legislature further finds that the purpose of the public school support program is  
8 not to deter counties from growing economically or from using county resources in a manner that  
9 best meets their specific educational needs and the desires of their citizens. To that end, counties  
10 must have the discretion and flexibility to use local county funds, not otherwise factored into the  
11 public school support program, to provide the best education possible to their students, including,  
12 but not limited to, providing salary supplements to teachers.

13 (c) Subject to available state appropriations and the conditions set forth herein, each  
14 teacher and school service personnel shall receive a supplement amount as specified in §18A-4-  
15 2 and §18A-4-8a of this code, respectively, of this article in addition to the amount from the state  
16 minimum salary schedules provided in those sections. State funds for this purpose shall be paid  
17 within the West Virginia public school support plan in accordance with §18-9A-1 *et seq.* of this  
18 code. The amount allocated for this supplement shall be apportioned between teachers and  
19 school service personnel in direct proportion to that amount necessary to support the professional  
20 salaries and service personnel salaries statewide under §18-9A-4, §18-9A-5, and §18-9A-8 of this  
21 code.

22 (d) Pursuant to this section, each teacher and service person shall receive from state  
23 funds the supplement amount indicated in §18A-4-2(f) and §18A-4-8a(f) of this code, as

24 applicable, reduced by any amount provided by the county as a salary supplement for teachers  
25 and school service personnel on January 1, 1984.

26 (e) The amount received pursuant to this section shall not be decreased as a result of any  
27 county supplement increase instituted after January 1, 1984: *Provided*, That any amount received  
28 pursuant to this section may be reduced proportionately based upon the amount of funds  
29 appropriated for this purpose. No county may reduce any salary supplement that was in effect on  
30 January 1, 1984, except as permitted by §18-4-5a and §18-4-5b of this code.

31 (f) The amendments to this section during the 2019 First Extraordinary Session of the  
32 Legislature shall be effective for school years beginning on or after July 1, 2019, and the  
33 provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the  
34 Legislature remain in effect for school years beginning prior to July 1, 2019.

**§18A-4-5a. County salary supplements for teachers.**

1 (a) County boards of education in fixing the salaries of teachers shall use at least the state  
2 minimum salaries established under the provisions of this article. The board may establish salary  
3 schedules which shall be in excess of the state minimums fixed by this article, such county  
4 schedules to be uniform throughout the county as to the classification of training, experience,  
5 responsibility and other requirements subject to the following:

6 (1) Counties may fix higher salaries for teachers placed in special instructional  
7 assignments, for those assigned to or employed for duties other than regular instructional duties,  
8 and for teachers of one-teacher schools;

9 (2) Counties may provide additional compensation for any teacher assigned duties in  
10 addition to the teacher's regular instructional duties wherein such noninstructional duties are not  
11 a part of the scheduled hours of the regular school day;

12 (3) Counties may provide additional compensation for teachers who are assigned and fully  
13 certified to teach in a subject area in which the county board finds it has a critical need and  
14 shortage of fully certified teachers;

(4) Counties may provide additional compensation or other financial assistance to teachers who teach in schools that are in remote geographical locations or have experienced high rates of turnover in experienced teachers; and

(5) Counties may provide additional compensation to teachers who, in addition to regularly assigned teaching duties, are assigned as a master teacher, mentor, academic coach, or other title whose duties include providing strong school-based support and supervision to assist licensure candidates in a clinical internship, beginning teachers, and other teachers at the school to improve their professional practice as set forth in the county's comprehensive system of support for teacher and leader induction and professional growth provided for in section §18A-3C-3 of this code.

(b) In establishing such local salary schedules authorized in subsection (a) of this section, a county may not reduce local funds allocated for salaries in effect on January 1, 1990, 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 such reduction.

(c) Counties may provide, in a uniform manner, benefits for teachers which require an appropriation from local funds including, but not limited to, dental, optical, health and income protection insurance, vacation time and retirement plans excluding the State Teachers Retirement System. Nothing herein shall prohibit the maintenance nor result in the reduction of any benefits in effect on January 1, 1984, by any county board of education.

**§18A-4-7a. Employment, promotion, and transfer of professional personnel; qualifications.**

(a) A county board of education shall make decisions affecting the filling of vacancies in professional positions of employment on the basis of the applicant with the highest qualifications: *Provided*, That the county superintendent shall be hired under separate criteria pursuant to §18-4-2 of this code.

(b) In judging qualifications for the filling of vacancies of professional positions of employment, consideration shall be given to each of the following:

(1) Appropriate certification, licensure or both;

(2) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(3) The amount of course work, degree level or both in the relevant field and degree level generally;

(4) Academic achievement;

(5) In the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards;

(6) Specialized training relevant to performing the duties of the job;

(7) Past performance evaluations conducted pursuant to §18A-2-12 and §18A-3C-2 of this code or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession;

(8) Seniority;

(9) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(10) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(11) In the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of §18-5A-5 of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties.

(c) When filling of a vacancy pursuant to this section, a county board is entitled to determine the appropriate weight to apply to each of the criterion when assessing an applicant's qualifications: *Provided*, That if one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, each

31 criterion under subsection (b) of this section shall be given equal weight except that the criterion  
32 in subdivisions (10) and (11) shall each be double weighted.

33 (d) For a classroom teaching position, if the principal and faculty senate recommend the  
34 same applicant pursuant to subdivisions (10) and (11), subsection (b) of this section, and the  
35 superintendent concurs with those recommendations, then the other provisions of subsections  
36 (b) and (c) of this section do not apply and the county board shall appoint that applicant  
37 notwithstanding any other provision of this code to the contrary.

38 (e) The state board shall promulgate a rule, including an emergency rule if necessary, in  
39 accordance with the provisions of §29A-3B-1 *et seq.* of this code to implement and interpret the  
40 provisions of this section. The rule may provide for a classroom teacher who directly participates  
41 in making recommendations pursuant to this section to be compensated at the appropriate daily  
42 rate during periods of participation beyond his or her individual contract.

43 (f) The recommendations of the principal and faculty senate made pursuant to  
44 subdivisions (10) and (11), subsection (b) of this section shall be based on a determination as to  
45 which applicant is the most highly qualified for the position: *Provided*, That nothing in this  
46 subsection may require principals or faculty senates to assign any amount of weight to any factor  
47 in making a recommendation.

48 (g) With the exception of guidance counselors, the seniority of classroom teachers, as  
49 defined in section one, article one of this chapter, shall be determined on the basis of the length  
50 of time the employee has been employed as a regular full-time certified and/or licensed  
51 professional educator by the county board of education and shall be granted in all areas that the  
52 employee is certified, licensed or both.

53 (h) If two or more employees with the same certification establish an identical seniority  
54 date as a result of initial employment as a regular teacher on or after July 1, 2019, the priority  
55 between these employees shall be determined by a random selection system established by the  
56 employees and approved by the county board. A board shall conduct the random selection within

30 days of the time the employees with the same certification establish an identical seniority date. All employees with an identical seniority date and the same certification shall participate in the random selection. As long as the affected employees hold the identical seniority date within a certification, the initial random selection conducted by the board shall be permanent for the duration of the employment of the employees by the board.

(i) Upon completion of 133 days of employment in any one school year, substitute teachers, except retired teachers and other retired professional educators employed as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a permanent, full-time professional employee. One hundred thirty-three days or more of said employment shall be prorated and shall vest as a fraction of the school year worked by the permanent, full-time teacher.

(j) Guidance counselors and all other professional employees, as defined in §18A-1-1 of this code, except classroom teachers, shall gain seniority in their nonteaching area of professional employment on the basis of the length of time the employee has been employed by the county board of education in that area: *Provided*, That if an employee is certified as a classroom teacher, the employee accrues classroom teaching seniority for the time that employee is employed in another professional area. For the purposes of accruing seniority under this subsection, employment as principal, supervisor or central office administrator, as defined in §18A-1-1 of this code, shall be considered one area of employment.

(k) Employment for a full employment term equals one year of seniority, but an employee may not accrue more than one year of seniority during any given fiscal year. Employment for less than the full employment term shall be prorated.

(l) All decisions on reductions in force shall be based on qualifications as set forth in a county board policy. Furthermore, for the purposes of this subsection and subsections (m) through (t), inclusive, of this section, the word "qualifications" means the qualifications set forth in county board policy and only means qualifications set forth in subsection (b) of this section to the extent

83 those qualifications are set forth in county board policy: *Provided*, That in defining the word  
84 “qualifications” in its policy, the county board:

85 (1) Shall consider including the following criteria:

86 (A) Seniority;

87 (B) Appropriate certification, licensure, or both;

88 (C) Amount of experience relevant to the position or, in the case of a classroom teaching  
89 position, the amount of teaching experience in the required certification area;

90 (D) The amount of course work, degree level, or both in the relevant field and degree level  
91 generally;

92 (E) Academic achievement;

93 (F) In the case of a principal or classroom teaching position, certification by the National  
94 Board for Professional Teaching Standards;

95 (G) Specialized training relevant to performing the duties of the job;

96 (H) Past performance evaluations conducted pursuant to §18A-2-12 and §18A-3C-2 of  
97 this code or, in the case of a classroom teacher, past evaluations of the applicant’s performance  
98 in the teaching profession;

99 (I) Other measures or indicators upon which the relative qualifications of the applicant  
100 may fairly be judged;

101 (J) In the case of transfer or recall to a classroom teaching position, the recommendation  
102 of the principal of the school at which the applicant will be performing a majority of his or her  
103 duties; and

104 (K) In the case of transfer or recall to a classroom teaching position, the recommendation,  
105 if any, resulting from the process established pursuant to the provisions of §18-5A-5 of this code  
106 by the faculty senate of the school at which the employee will be performing a majority of his or  
107 her duties;

108           (2) Shall consider other criteria set forth in subdivision (1) of this subsection to the extent  
109 they are included in the county board policy only after considering personnel whose last  
110 performance evaluation conducted pursuant to §18A-2-12 or §18A-3C-2 of this code, as  
111 applicable, is less than satisfactory; and

112           (3) May not include salary as one of the criteria in the definition.

113           (m) Whenever a county board is required to reduce the number of professional personnel  
114 in its employment, the selection of the employee to be properly notified and released from  
115 employment pursuant to the provisions of section two, article two of this chapter shall be based  
116 upon seniority, certification, licensure and performance evaluations. The provisions of this  
117 subsection are subject to the following:

118           (1) In the event of a reduction in force, a county board of education may properly notify  
119 and release from employment pursuant to the provisions of section two, article two of this chapter  
120 any classroom teacher with unsatisfactory evaluations for the previous two consecutive years  
121 regardless of years of service instead of release from employment of less senior classroom  
122 teachers with satisfactory performance evaluations;

123           (2) All persons employed in a certification area to be reduced who are employed under a  
124 temporary permit shall be properly notified and released before a fully certified employee in such  
125 a position is subject to release;

126           (3) Notwithstanding any provision of this code to the contrary, for any vacancy in an  
127 established, existing or newly created position that, on or before March 1, is known to exist for  
128 the ensuing school year, upon recommendation of the superintendent, the board shall appoint the  
129 successful applicant from among all qualified applicants. All employees subject to release shall  
130 be considered applicants for the positions for which they are qualified and shall be considered  
131 before posting such vacancies for application by nonemployees;

(4) An employee subject to release shall be employed in any other professional position where the employee is certified and was previously employed or to any lateral area for which the employee is certified, licensed or both, if the employees seniority is greater than the seniority of any other employee in that area of certification, licensure or both;

(5) If an employee subject to release holds certification, licensure or both in more than one lateral area and if the employees seniority is greater than the seniority of any other employee in one or more of those areas of certification, licensure or both, the employee subject to release shall be employed in the professional position held by the employee with the least seniority in any of those areas of certification, licensure or both; and

(6) If, prior to August 1 of the year, a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released employee shall notify the board, in writing, of his or her intent to resume his or her position of employment or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is another employee on the preferred recall list with proper certification and higher seniority, that person shall be placed in the position restored as a result of the reduction in force being rescinded.

(n) For the purpose of this article, all positions which meet the definition of "classroom teacher" as defined in §18A-1-1 of this code shall be lateral positions. For all other professional positions, the county board of education shall adopt a policy by October 31, 1993, and may modify the policy thereafter as necessary, which defines which positions shall be lateral positions. In adopting the policy, the board may give consideration to the rank of each position in terms of title; nature of responsibilities; salary level; and certification, licensure or both; along with the days in the period of employment.

157 (o) All professional personnel whose lesser qualifications, as determined by county board  
158 policy, with the county board is insufficient to allow their retention by the county board during a  
159 reduction in workforce shall be placed upon a preferred recall list. As to any professional position  
160 opening within the area where they had previously been employed or to any lateral area for which  
161 they have certification, licensure or both, the employee shall be recalled on the basis of  
162 qualifications if no regular, full-time professional personnel, or those returning from leaves of  
163 absence with greater qualifications apply for and accept the position.

164 (p) The board shall annually notify professional personnel on the preferred list of the job  
165 application procedures and any websites used to advertise vacancies. The notice shall be sent  
166 by certified mail via the U.S. Postal Service to the last known address of the employee, and it  
167 shall be the duty of each professional person to notify the board of continued availability annually  
168 of any change in address, or of any change in certification, licensure or both.

169 (q) Openings in established, existing or newly created positions shall be processed as  
170 follows:

171 (1) Boards shall be required to post and date notices of each opening at least once. At  
172 their discretion, boards may post an opening for a position other than classroom teacher more  
173 than once in order to attract more qualified applicants. At their discretion, boards may repost an  
174 opening for a classroom teacher after the first posting in order to attract more qualified applicants  
175 subject to the following:

176 (A) Each notice shall be posted in conspicuous working places for all professional  
177 personnel to observe for at least five working days which may include any website maintained by  
178 the county board;

179 (B) At least one notice shall be posted within 20 working days of the position openings  
180 and shall include the job description;

181 (C) Any special criteria or skills that are required by the position shall be specifically stated  
182 in the job description and directly related to the performance of the job;

183 (D) Postings for vacancies made pursuant to this section shall be written so as to ensure  
184 that the largest possible pool of qualified applicants may apply; and

185 (E) Job postings may not require criteria which are not necessary for the successful  
186 performance of the job and may not be written with the intent to favor a specific applicant;

187 (2) No vacancy may be filled until after the five-day minimum posting period of the most  
188 recent posted notice of the vacancy;

189 (3) If one or more applicants under all the postings for a vacancy meets the qualifications  
190 listed in the job posting, the successful applicant to fill the vacancy shall be selected by the board  
191 within 30 working days of the end of the first posting period;

192 (4) A position held by a teacher who is certified, licensed or both, who has been issued a  
193 permit for full-time employment and is working toward certification in the permit area shall not be  
194 subject to posting if the certificate is awarded within five years; and

195 (5) Nothing provided herein may prevent the county board of education from eliminating a  
196 position due to lack of need.

197 (r) Notwithstanding any other provision of the code to the contrary, where the total number  
198 of classroom teaching positions in an elementary school does not increase from one school year  
199 to the next, but there exists in that school a need to realign the number of teachers in one or more  
200 grade levels, kindergarten through six, teachers at the school may be reassigned to grade levels  
201 for which they are certified without that position being posted: *Provided*, That the employee and  
202 the county board mutually agree to the reassignment.

203 (s) Reductions in classroom teaching positions in elementary schools shall be determined  
204 pursuant to the considerations set forth in county board policy and processed as follows:

205 (1) When the total number of classroom teaching positions in an elementary school needs  
206 to be reduced, the reduction shall be made on the basis of qualifications with the least qualified  
207 classroom teacher being recommended for transfer; and

208 (2) When a specified grade level needs to be reduced and the least qualified employee in  
209 the school is not in that grade level, the least qualified classroom teacher in the grade level that  
210 needs to be reduced shall be reassigned to the position made vacant by the transfer of the least  
211 qualified classroom teacher in the school without that position being posted: *Provided*, That the  
212 employee is certified, licensed or both and agrees to the reassignment.

213 (t) Any board failing to comply with the provisions of this article may be compelled to do  
214 so by mandamus and shall be liable to any party prevailing against the board for court costs and  
215 reasonable attorney fees as determined and established by the court. Further, employees denied  
216 promotion or employment in violation of this section shall be awarded the job, pay and any  
217 applicable benefits retroactive to the date of the violation and payable entirely from local funds.  
218 Further, the board shall be liable to any party prevailing against the board for any court reporter  
219 costs including copies of transcripts.

220 (u) Notwithstanding any other provision of this code to the contrary, upon recommendation  
221 of the principal and approval by the classroom teacher and county board, a classroom teacher  
222 assigned to the school may at any time be assigned to a new or existing classroom teacher  
223 position at the school without the position being posted.

224 (v) All personnel in a public charter school shall continue to accrue seniority in the same  
225 manner that they would accrue seniority if employed in a noncharter public school in the county  
226 for the purpose of employment in noncharter public schools.

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

1 (a) The minimum monthly pay for each service employee shall be as follows:

2 (1) For school year 2018–2019, the minimum monthly pay for each service employee  
3 whose employment is for a period of more than three and one-half hours a day shall be at least  
4 the amounts indicated in the State Minimum Pay Scale Pay Grade Schedule I and the minimum  
5 monthly pay for each service employee whose employment is for a period of three and one-half

6 hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay  
 7 Scale Pay Grade Schedule I set forth in this subdivision: *Provided*, That for school year 2019-  
 8 2020, and continuing thereafter, the minimum monthly pay for each service employee whose  
 9 employment is for a period of more than three and one-half hours a day shall be at least the  
 10 amounts indicated in the State Minimum Pay Scale Pay Grade Schedule II and the minimum  
 11 monthly pay for each service employee whose employment is for a period of three and one-half  
 12 hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay  
 13 Scale Pay Grade Schedule II set forth in this subdivision.

## STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE I

Years Exp.	PAY GRADE							
	A	B	C	D	E	F	G	H
0	1,770	1,791	1,833	1,886	1,939	2,002	2,034	2,107
1	1,802	1,824	1,865	1,918	1,972	2,035	2,066	2,140
2	1,835	1,856	1,898	1,951	2,004	2,067	2,099	2,172
3	1,867	1,889	1,931	1,984	2,037	2,100	2,132	2,205
4	1,900	1,922	1,963	2,016	2,069	2,133	2,164	2,239
5	1,933	1,954	1,996	2,049	2,102	2,165	2,197	2,271
6	1,965	1,987	2,030	2,082	2,135	2,198	2,230	2,304
7	1,999	2,019	2,062	2,114	2,167	2,231	2,262	2,337
8	2,032	2,052	2,095	2,147	2,200	2,263	2,295	2,369
9	2,064	2,085	2,128	2,181	2,233	2,296	2,327	2,402
10	2,097	2,118	2,160	2,213	2,265	2,330	2,361	2,435
11	2,130	2,151	2,193	2,246	2,298	2,362	2,394	2,467
12	2,162	2,184	2,225	2,279	2,332	2,395	2,426	2,500
13	2,195	2,216	2,258	2,311	2,364	2,427	2,459	2,533

14	2,228	2,249	2,291	2,344	2,397	2,460	2,492	2,565
15	2,260	2,282	2,323	2,376	2,429	2,493	2,524	2,598
16	2,293	2,314	2,356	2,409	2,462	2,525	2,557	2,631
17	2,325	2,347	2,390	2,442	2,495	2,558	2,590	2,664
18	2,358	2,380	2,422	2,474	2,527	2,591	2,622	2,697
19	2,392	2,412	2,455	2,507	2,560	2,623	2,655	2,729
20	2,424	2,445	2,488	2,541	2,593	2,656	2,688	2,763
21	2,457	2,477	2,520	2,573	2,625	2,689	2,720	2,797
22	2,490	2,511	2,553	2,606	2,658	2,722	2,754	2,829
23	2,522	2,544	2,586	2,639	2,692	2,756	2,788	2,863
24	2,555	2,576	2,618	2,671	2,724	2,790	2,821	2,897
25	2,588	2,609	2,651	2,704	2,758	2,822	2,855	2,929
26	2,620	2,642	2,683	2,738	2,792	2,856	2,887	2,963
27	2,653	2,674	2,716	2,770	2,824	2,888	2,921	2,996
28	2,686	2,707	2,750	2,804	2,858	2,922	2,955	3,030
29	2,718	2,741	2,783	2,836	2,891	2,956	2,987	3,064
30	2,752	2,773	2,817	2,870	2,924	2,988	3,021	3,097
31	2,785	2,807	2,851	2,904	2,958	3,022	3,055	3,130
32	2,819	2,840	2,883	2,937	2,990	3,056	3,087	3,164
33	2,853	2,873	2,917	2,971	3,024	3,088	3,121	3,197
34	2,885	2,907	2,951	3,005	3,058	3,122	3,155	3,230
35	2,919	2,941	2,983	3,037	3,090	3,156	3,188	3,264
36	2,953	2,974	3,017	3,071	3,125	3,189	3,222	3,296
37	2,985	3,008	3,051	3,105	3,159	3,223	3,255	3,330
38	3,019	3,040	3,083	3,137	3,191	3,256	3,288	3,364
39	3,053	3,074	3,117	3,171	3,225	3,289	3,322	3,396
40	3,085	3,108	3,150	3,204	3,259	3,323	3,355	3,430

## STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE II

Years

Exp.

PAY GRADE

	A	B	C	D	E	F	G	H
0	1,885	1,906	1,948	2,001	2,054	2,117	2,149	2,222
1	1,917	1,939	1,980	2,033	2,087	2,150	2,181	2,255
2	1,950	1,971	2,013	2,066	2,119	2,182	2,214	2,287
3	1,982	2,004	2,046	2,099	2,152	2,215	2,247	2,320
4	2,015	2,037	2,078	2,131	2,184	2,248	2,279	2,354
5	2,048	2,069	2,111	2,164	2,217	2,280	2,312	2,386
6	2,080	2,102	2,145	2,197	2,250	2,313	2,345	2,419
7	2,114	2,134	2,177	2,229	2,282	2,346	2,377	2,452
8	2,147	2,167	2,210	2,262	2,315	2,378	2,410	2,484
9	2,179	2,200	2,243	2,296	2,348	2,411	2,442	2,517
10	2,212	2,233	2,275	2,328	2,380	2,445	2,476	2,550
11	2,245	2,266	2,308	2,361	2,413	2,477	2,509	2,582
12	2,277	2,299	2,340	2,394	2,447	2,510	2,541	2,615
13	2,310	2,331	2,373	2,426	2,479	2,542	2,574	2,648
14	2,343	2,364	2,406	2,459	2,512	2,575	2,607	2,680
15	2,375	2,397	2,438	2,491	2,544	2,608	2,639	2,713
16	2,408	2,429	2,471	2,524	2,577	2,640	2,672	2,746
17	2,440	2,462	2,505	2,557	2,610	2,673	2,705	2,779
18	2,473	2,495	2,537	2,589	2,642	2,706	2,737	2,812
19	2,507	2,527	2,570	2,622	2,675	2,738	2,770	2,844
20	2,539	2,560	2,603	2,656	2,708	2,771	2,803	2,878
21	2,572	2,592	2,635	2,688	2,740	2,804	2,835	2,912
22	2,605	2,626	2,668	2,721	2,773	2,837	2,869	2,944
23	2,637	2,659	2,701	2,754	2,807	2,871	2,903	2,978
24	2,670	2,691	2,733	2,786	2,839	2,905	2,936	3,012

25	2,703	2,724	2,766	2,819	2,873	2,937	2,970	3,044
26	2,735	2,757	2,798	2,853	2,907	2,971	3,002	3,078
27	2,768	2,789	2,831	2,885	2,939	3,003	3,036	3,111
28	2,801	2,822	2,865	2,919	2,973	3,037	3,070	3,145
29	2,833	2,856	2,898	2,951	3,006	3,071	3,102	3,179
30	2,867	2,888	2,932	2,985	3,039	3,103	3,136	3,212
31	2,900	2,922	2,966	3,019	3,073	3,137	3,170	3,245
32	2,934	2,955	2,998	3,052	3,105	3,171	3,202	3,279
33	2,968	2,988	3,032	3,086	3,139	3,203	3,236	3,312
34	3,000	3,022	3,066	3,120	3,173	3,237	3,270	3,345
35	3,034	3,056	3,098	3,152	3,205	3,271	3,303	3,379
36	3,068	3,089	3,132	3,186	3,240	3,304	3,337	3,411
37	3,100	3,123	3,166	3,220	3,274	3,338	3,370	3,445
38	3,134	3,155	3,198	3,252	3,306	3,371	3,403	3,479
39	3,168	3,189	3,232	3,286	3,340	3,404	3,437	3,511
40	3,200	3,223	3,265	3,319	3,374	3,438	3,470	3,545

14           (2) Each service employee shall receive the amount prescribed in the State Minimum Pay  
15 Scale Pay Grade in accordance with the provisions of this subsection according to their class title  
16 and pay grade as set forth in this subdivision:

17	CLASS TITLE	PAY GRADE
18	Accountant I .....	D
19	Accountant II .....	E
20	Accountant III .....	F
21	Accounts Payable Supervisor .....	G
22	Aide I .....	A
23	Aide II .....	B
24	Aide III .....	C
25	Aide IV .....	D
26	Audiovisual Technician .....	C

27	Auditor .....	G
28	Autism Mentor .....	F
29	Braille Specialist .....	E
30	Bus Operator .....	D
31	Buyer .....	F
32	Cabinetmaker .....	G
33	Cafeteria Manager .....	D
34	Carpenter I .....	E
35	Carpenter II .....	F
36	Chief Mechanic .....	G
37	Clerk I .....	B
38	Clerk II .....	C
39	Computer Operator .....	E
40	Cook I .....	A
41	Cook II .....	B
42	Cook III .....	C
43	Crew Leader .....	F
44	Custodian I .....	A
45	Custodian II .....	B
46	Custodian III .....	C
47	Custodian IV .....	D
48	Director or Coordinator of Services .....	H
49	Draftsman .....	D
50	Early Childhood Classroom Assistant Teacher I .....	E
51	Early Childhood Classroom Assistant Teacher II .....	E
52	Early Childhood Classroom Assistant Teacher III .....	F
53	Educational Sign Language Interpreter I .....	F
54	Educational Sign Language Interpreter II .....	G
55	Electrician I .....	F
56	Electrician II .....	G

57	Electronic Technician I .....	F
58	Electronic Technician II .....	G
59	Executive Secretary .....	G
60	Food Services Supervisor .....	G
61	Foreman .....	G
62	General Maintenance .....	C
63	Glazier .....	D
64	Graphic Artist .....	D
65	Groundsman .....	B
66	Handyman .....	B
67	Heating and Air Conditioning Mechanic I .....	E
68	Heating and Air Conditioning Mechanic II .....	G
69	Heavy Equipment Operator .....	E
70	Inventory Supervisor .....	D
71	Key Punch Operator .....	B
72	Licensed Practical Nurse .....	F
73	Locksmith .....	G
74	Lubrication Man .....	C
75	Machinist .....	F
76	Mail Clerk .....	D
77	Maintenance Clerk .....	C
78	Mason .....	G
79	Mechanic .....	F
80	Mechanic Assistant .....	E
81	Office Equipment Repairman I .....	F
82	Office Equipment Repairman II .....	G
83	Painter .....	E
84	Paraprofessional .....	F
85	Payroll Supervisor .....	G
86	Plumber I .....	E

87	Plumber II .....	G
88	Printing Operator .....	B
89	Printing Supervisor .....	D
90	Programmer .....	H
91	Roofing/Sheet Metal Mechanic .....	F
92	Sanitation Plant Operator .....	G
93	School Bus Supervisor .....	E
94	Secretary I .....	D
95	Secretary II .....	E
96	Secretary III .....	F
97	Sign Support Specialist .....	E
98	Supervisor of Maintenance .....	H
99	Supervisor of Transportation .....	H
100	Switchboard Operator-Receptionist .....	D
101	Truck Driver .....	D
102	Warehouse Clerk .....	C
103	Watchman .....	B
104	Welder .....	F
105	WVEIS Data Entry and Administrative Clerk .....	B
106	(b) An additional \$12 per month is added to the minimum monthly pay of each service	
107	person who holds a high school diploma or its equivalent.	
108	(c) An additional \$11 per month also is added to the minimum monthly pay of each service	
109	person for each of the following:	
110	(1) A service person who holds 12 college hours or comparable credit obtained in a trade	
111	or vocational school as approved by the state board;	
112	(2) A service person who holds 24 college hours or comparable credit obtained in a trade	
113	or vocational school as approved by the state board;	

114 (3) A service person who holds 36 college hours or comparable credit obtained in a trade  
115 or vocational school as approved by the state board;

116 (4) A service person who holds 48 college hours or comparable credit obtained in a trade  
117 or vocational school as approved by the state board;

118 (5) A service employee who holds 60 college hours or comparable credit obtained in a  
119 trade or vocational school as approved by the state board;

120 (6) A service person who holds 72 college hours or comparable credit obtained in a trade  
121 or vocational school as approved by the state board;

122 (7) A service person who holds 84 college hours or comparable credit obtained in a trade  
123 or vocational school as approved by the state board;

124 (8) A service person who holds 96 college hours or comparable credit obtained in a trade  
125 or vocational school as approved by the state board;

126 (9) A service person who holds 108 college hours or comparable credit obtained in a trade  
127 or vocational school as approved by the state board;

128 (10) A service person who holds 120 college hours or comparable credit obtained in a  
129 trade or vocational school as approved by the state board.

130 (d) An additional \$40 per month also is added to the minimum monthly pay of each service  
131 person for each of the following:

132 (1) A service person who holds an associate's degree;

133 (2) A service person who holds a bachelor's degree;

134 (3) A service person who holds a master's degree;

135 (4) A service person who holds a doctorate degree.

136 (e) An additional \$11 per month is added to the minimum monthly pay of each service  
137 person for each of the following:

138 (1) A service person who holds a bachelor's degree plus 15 college hours;

139 (2) A service person who holds a master's degree plus 15 college hours;

(3) A service person who holds a master's degree plus 30 college hours;

(4) A service person who holds a master's degree plus 45 college hours; and

(5) A service person who holds a master's degree plus 60 college hours.

(f) Each service person is paid a supplement, as set forth in §18A-4-5 of this code, of \$164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5b of this code; (ii) are paid in equal monthly installments; and (iii) are considered a part of the state minimum salaries for service personnel.

(g) When any part of a school service person's daily shift of work is performed between the hours of 6:00 p. m. and 5:00 a. m. the following day, the employee is paid no less than an additional \$10 per month and one half of the pay is paid with local funds.

(h) Any service person required to work on any legal school holiday is paid at a rate one and one-half times the person's usual hourly rate.

(i) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid is paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(j) A service person may not have his or her daily work schedule changed during the school year without the employee's written consent and the person's required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

(k) The minimum hourly rate of pay for extra duty assignments as defined in §18A-4-8b of this code is no less than one seventh of the person's daily total salary for each hour the person is involved in performing the assignment and paid entirely from local funds: *Provided*, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular

category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time persons within that classification category of employment within that county: *Provided, however,* That the vote is by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment is prorated accordingly. When performing extra duty assignments, persons who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the person were employed on a full-day salary basis.

(l) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than an additional \$3 per hour or no less than \$5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos, decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of the employee's regular employment county, the daily rate of pay is no less than the minimum amount as established in the employee's regular employment county for asbestos removal and an additional \$30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in §18A-5-8 of this code, an aide is considered to be exercising the authority of a supervisory aide and control over pupils

192 if the aide is required to supervise, control, direct, monitor, escort, or render service to a child or  
193 children when not under the direct supervision of a certified professional person within the  
194 classroom, library, hallway, lunchroom, gymnasium, school building, school grounds, or wherever  
195 supervision is required. For purposes of this section, "under the direct supervision of a certified  
196 professional person" means that certified professional person is present, with and accompanying  
197 the aide.

**§18A-4-10. Personal leave for illness and other causes; leave banks; substitutes.**

1 (a) *Personal Leave.*

2 (1) At the beginning of the employment term, any full-time employee of a county board is  
3 entitled annually to at least one and one-half days personal leave for each employment month or  
4 major fraction thereof in the employee's employment term. Unused leave shall be accumulative  
5 without limitation and is transferable within the state. A change in job assignment during the school  
6 year does not affect the employee's rights or benefits.

7 (2) A regular full-time employee who is absent from assigned duties due to accident,  
8 sickness, death in the immediate family, or life threatening illness of the employee's spouse,  
9 parents or child, or other cause authorized or approved by the board, shall be paid the full salary  
10 from his or her regular budgeted salary appropriation during the period which the employee is  
11 absent, but not to exceed the total amount of leave to which the employee is entitled.

12 (3) Each employee is permitted to use three days of leave annually without regard to the  
13 cause for the absence: *Provided*, That effective July 1, 2019, each employee is permitted to use  
14 four days of leave annually without regard to the cause for the absence. Personal leave without  
15 cause may not be used on consecutive work days unless authorized or approved by the  
16 employee's principal or immediate supervisor, as appropriate. The employee shall give notice of  
17 leave without cause to the principal or immediate supervisor at least 24 hours in advance, except  
18 that in the case of sudden and unexpected circumstances, notice shall be given as soon as  
19 reasonably practicable. The principal or immediate supervisor may deny use of the day if, at the

time notice is given, either 15 percent of the employees or three employees, whichever is greater, under the supervision of the principal or immediate supervisor, have previously given notice of their intention to use that day for leave. Personal leave may not be used in connection with a concerted work stoppage or strike. Where the cause for leave originated prior to the beginning of the employment term, the employee shall be paid for time lost after the start of the employment term. If an employee uses personal leave which the employee has not yet accumulated on a monthly basis and subsequently leaves the employment, the employee is required to reimburse the board for the salary or wages paid for the unaccumulated leave.

(4) The State Board shall maintain a rule to restrict the payment of personal leave benefits and the charging of personal leave time used to an employee receiving a workers' compensation benefit from a claim filed against and billed to the county board by which the person is employed. If an employee is awarded this benefit, the employee shall receive personal leave compensation only to the extent the compensation is required, when added to the workers' compensation benefit, to equal the amount of compensation regularly paid the employee. If personal leave compensation equal to the employee's regular pay is paid prior to the award of the workers' compensation benefit, the amount which, when added to the benefit, is in excess of the employee's regular pay shall be deducted from the employee's subsequent pay. The employee's accrued personal leave days shall be charged only for such days as equal the amount of personal leave compensation required to compensate the employee at the employee's regular rate of pay.

(5) The county board may establish reasonable rules for reporting and verification of absences for cause. If any error in reporting absences occurs, the county board may make necessary salary adjustments:

(A) In the next pay after the employee has returned to duty; or

(B) In the final pay if the absence occurs during the last month of the employment term.

(b) *Leave Banks.*

(1) Each county board shall establish a personal leave bank that is available to all school personnel. The board may establish joint or separate banks for professional personnel and school service personnel. Each employee may contribute up to two days of personal leave per school year. An employee may not be coerced or compelled to contribute to a personal leave bank.

(2) The personal leave bank shall be established and operated pursuant to a rule adopted by the county board. The rule:

(A) May limit the maximum number of days used by an employee;

(B) Shall limit the use of leave bank days to an active employee with fewer than five days accumulated personal leave who is absent from work due to accident or illness of the employee; and

(C) Shall prohibit the use of days to:

(i) Qualify for or add to service for any retirement system administered by the state; or

(ii) Extend insurance coverage pursuant to §5-16-13 of this code.

(D) Shall require that each personal leave day contributed:

(i) Is deducted from the number of personal leave days to which the donor employee is entitled by this section;

(ii) Is not deducted from the personal leave days without cause to which a donor employee is entitled if sufficient general personal leave days are otherwise available to the donor employee;

(iii) Is credited to the receiving employee as one full personal leave day;

(iv) May not be credited for more or less than a full day by calculating the value of the leave according to the hourly wage of each employee; and

(v) May be used only for an absence due to the purpose for which the leave was transferred. Any transferred days remaining when the catastrophic medical emergency ends revert back to the leave bank.

(3) The administration, subject to county board approval, may use its discretion as to the need for a substitute where limited absence may prevail, when an allowable absence does not:

(i) Directly affect the instruction of the students; or

(ii) Require a substitute employee because of the nature of the work and the duration of the cause for the absence.

(4) If funds in any fiscal year, including transfers, are insufficient to pay the full cost of substitutes for meeting the provisions of this section, the remainder shall be paid on or before the August 31 from the budget of the next fiscal year.

(5) A county board may supplement the leave provisions in any manner it considers advisable in accordance with applicable rules of the state Board and the provisions of this chapter and chapter 18 of this code.

(c) Effective July 1, 2019, a classroom teacher who has not utilized more than four days of personal leave during the 200-day employment term shall receive a bonus of \$500 at the end of the school year. If the appropriations to the Department of Education for this purpose are insufficient to compensate all applicable classroom teachers, the Department of Education shall request a supplemental appropriation in an amount sufficient to compensate all eligible classroom teachers. This bonus may not be counted as part of the final average salary for the purpose of calculating retirement.

## **CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.**

### **ARTICLE 4. UNDERWOOD-SMITH TEACHING SCHOLARS PROGRAM.**

#### **§18C-4-1. Underwood-Smith Teaching Scholars Program Fund created; purposes; funding; effective date.**

(a) It is the purpose of this article and §18C-4A-1 *et seq.* of this code to improve the quality of education in the public schools of West Virginia by encouraging and enabling individuals who have demonstrated outstanding academic abilities to pursue teaching careers in critical shortage fields at the elementary, middle or secondary levels in the public schools of this state. Particular efforts shall be made in the scholarship selection criteria and procedures to reflect the state's present and projected critical teacher shortage fields.

(b) In consultation with the State Board of Education and the State Superintendent of Schools, the commission shall propose legislative rules in accordance with the provisions of §29A-3A-1 *et seq.* of this code. The rules shall provide for the administration of the Underwood-Smith Teaching Scholars Program and the Teacher Education Loan Repayment Program by the Vice Chancellor for Administration in furtherance of the purposes of this article, and §18C-4A-1 *et seq.* of this code including, but not limited to, the following:

- (1) Establishing scholarship selection criteria and procedures;
- (2) Establishing criteria and procedures for identifying critical teacher shortage fields;
- (3) Establishing and updating as necessary a list of critical teacher shortage fields in the public schools for which scholarships are available;
- (4) Requiring scholarship recipients to teach in a public school in this state at the elementary, middle or secondary level in a critical teacher shortage field pursuant to the provisions of §18C-4-3 of this code;
- (5) Awarding loan repayment assistance, including establishing conditions under which partial awards may be granted for less than a full year of teaching in a critical teacher shortage field;
- (6) Determining eligibility for loan repayment assistance renewal;
- (7) Establishing procedures ensuring that loan repayment assistance funds are paid directly to the proper lending entity;
- (8) Establishing criteria for determining participant compliance or noncompliance with terms of the agreement and establishing procedures to address noncompliance including, but not limited to, repayment, deferral and excusal; and
- (9) Developing model agreements.

(c) The commission and State Board of Education jointly shall ensure that Underwood-Smith Teaching Scholars award recipients receive additional academic support and training from mentors in their academic field beginning with the freshman year and continuing through degree completion and the teaching obligation.

34           (d) The Underwood-Smith Teacher Scholarship and Loan Assistance Fund is continued  
35 in the State Treasury as a special revolving fund and is hereafter to be known as the Underwood-  
36 Smith Teaching Scholars Program Fund. The fund shall be administered by the Vice Chancellor  
37 for Administration solely for granting scholarships and loan repayment assistance to teachers and  
38 prospective teachers in accordance with this article and §18C-4A-1 *et seq.* of this code. Any  
39 moneys which may be appropriated by the Legislature, or received by the Vice Chancellor for  
40 Administration from other sources, for the purposes of this article and §18C-4A-1 *et seq.* of this  
41 code shall be deposited in the fund. Any moneys remaining in the fund at the close of a fiscal  
42 year shall be carried forward for use in the next fiscal year. Any moneys repaid to the Vice  
43 Chancellor for Administration by reason of default of a scholarship or loan repayment assistance  
44 agreement under this article or §18C-4A-1 *et seq.* of this code also shall be deposited in the fund.  
45 Fund balances shall be invested with the state's consolidated investment fund, and any and all  
46 interest earnings on these investments shall be used solely for the purposes for which moneys  
47 invested were appropriated or otherwise received.

48           (e) The Vice Chancellor for Administration may accept and expend any gift, grant,  
49 contribution, bequest, endowment, or other money for the purposes of this article and §18C-4A-  
50 1 *et seq.* of this code and shall make a reasonable effort to encourage external support for the  
51 scholarship and loan repayment assistance programs.

52           (f) For the purpose of encouraging support for the scholarship and loan repayment  
53 assistance programs from private sources, the Vice Chancellor for Administration may set aside  
54 no more than half of the funds appropriated by the Legislature for Underwood-Smith Teaching  
55 Scholars Program and loan repayment assistance awards to be used to match two state dollars  
56 to each private dollar from a nonstate source contributed on behalf of a specific institution of  
57 higher education in this state.

(g) In recognition of the high academic achievement necessary to receive an award under this article, each recipient shall be distinguished as an "Underwood-Smith Teaching Scholar" in a manner befitting the distinction as determined by the commission.

(h) Notwithstanding the provisions of subsection (d) of this section, and §18C-4A-3 of this code:

(1) Moneys in the Underwood-Smith Teaching Scholars Program Fund may be used to satisfy loan repayment assistance agreements pursuant to §18C-4A-1 *et seq.* of this code and any renewals for which a recipient would be eligible pursuant to the prior enactment of §18C-4A-1 *et seq.* of this code for any student who is receiving such loan repayment assistance or fulfilling the requirements of an agreement on the effective date of this section;

(2) Moneys in the Underwood-Smith Teaching Scholars Program Fund may be used to fund Underwood-Smith teacher scholarships, and any renewals for which a recipient would be eligible pursuant to the prior enactment of this article, for those students receiving such scholarship on the effective date of this section; and

(3) The terms, conditions, requirements, and agreements applicable to an Underwood-Smith teacher scholarship or loan repayment recipient prior to the effective date of this section shall continue in effect and are not altered by the reenactment of this section during the 2019 First Extraordinary Session of the Legislature.

(i) The amendments to this article during the 2019 First Extraordinary Session of the Legislature shall be effective for school years beginning on or after July 1, 2020, and the provisions of this article existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2020.

**§18C-4-2. Selection criteria and procedures for awarding scholarships.**

(a) Vice Chancellor for Administration shall appoint a selection panel comprised of individuals representing higher education, public education, and the community at large to select Underwood-Smith Teaching Scholars who meet the eligibility criteria set forth in subsection (b) of this section.

(b) Eligibility for an Underwood-Smith Teaching Scholars award shall be limited to students who meet the following criteria:

(1) Have graduated or are graduating from high school with a cumulative grade point average of at least 3.25 on a 4.0 scale;

(2) Have met the college algebra ready assessment standards and college readiness English, reading, and writing standards as established by the commission; and

(3) Agree to teach in a critical teacher shortage field at the elementary, middle or secondary level in a public school in the state pursuant to the provisions of §18C-4-3 of this code.

(c) To be eligible for an award, a non-citizen of the United States shall hold a valid Employment Authorization Document (EAD), or work permit, issued by the United States Citizenship and Immigration Services (USCIS).

(d) In accordance with the rules of the commission, the Vice Chancellor for Administration shall develop criteria and procedures for the selection of scholarship recipients. The selection criteria shall reflect the purposes of this article and shall specify the areas in which particular efforts will be made in the selection of scholars as set forth in §18C-4-1 of this code. Selection procedures and criteria also may include, but are not limited to, the grade point average of the applicant, involvement in extracurricular activities, financial need, current academic standing and an expression of interest in teaching as demonstrated by an essay written by the applicant. These criteria and procedures further may require the applicant to furnish letters of recommendation from teachers and others. It is the intent of the Legislature that academic abilities be the primary criteria for selecting scholarship recipients.

(e) In developing the selection criteria and procedures to be used by the selection panel, the Vice Chancellor for Administration shall solicit the views of public and private education agencies and institutions and other interested parties. Input from interested parties shall be solicited by means of written and published selection criteria and procedures in final form for implementation and may be solicited by means of public hearings on the present and projected

teacher needs of the state or any other methods the Vice Chancellor for Administration may determine to be appropriate to gather the information.

(f) The Vice Chancellor for Administration shall make application forms for Underwood-Smith Teaching Scholars available to public and private high schools in the state and in other locations convenient to applicants, parents and others, and shall make an effort to attract students from low-income backgrounds, ethnic or racial minority students, students with disabilities, and women or minority students who show interest in pursuing teaching careers in mathematics and science and who are under-represented in those fields.

**§18C-4-3. Scholarship agreement.**

(a) Each recipient of an Underwood-Smith Teaching Scholars award shall enter into an agreement with the Vice Chancellor for Administration under which the recipient shall meet the following conditions:

(1) Provide the commission with evidence of compliance with §18C-4-4(a) of this code;

(2) Beginning within one year after completing the teacher education program for which the scholarship was awarded, teach full-time in a critical teacher shortage field at the elementary, middle or secondary level, under contract with a county board of education in a public education program in the state, for a period of not fewer than five consecutive years for the four academic years. Any teaching time accrued during the required five-year period as a substitute teacher for a county board of education in a critical teacher shortage field at the elementary, middle or secondary level shall be credited pro rata in accordance with rules promulgated by the commission; or

(3) Repay all or part of an Underwood-Smith Teaching Scholars award received under this article plus interest and, if applicable, reasonable collection fees in accordance with §18C-4-4 of this code.

16 (b) Scholarship agreements shall disclose fully the terms and conditions under which  
17 assistance under this article is provided and under which repayment may be required. The  
18 agreements shall include the following:

19 (1) A description of the conditions and procedures to be established under §18C-4-4 of  
20 this code; and

21 (2) A description of the appeals procedure required to be established under §18C-4-4 of  
22 this code.

23 (c) The scholarship terms, conditions, requirements, and agreements applicable to an  
24 Underwood-Smith teacher scholarship recipient prior to the effective date of this section shall  
25 continue in effect and are not altered by the reenactment of this section during the 2019 First  
26 Extraordinary Session of the Legislature.

**§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.**

1 (a) The recipient of an Underwood-Smith Teaching Scholars award is eligible for  
2 scholarship renewal only during those periods when the recipient meets the following conditions:

3 (1) Is enrolled as a full-time student in an accredited institution of higher education in this  
4 state;

5 (2) Is pursuing a program of study leading to teacher certification in a critical teacher  
6 shortage field at the elementary, middle or secondary level;

7 (3) Is maintaining satisfactory progress as determined by the institution of higher education  
8 the recipient is attending;

9 (4) Is maintaining a cumulative grade point average of at least 3.0 on a 4.0 scale; and

10 (5) Is complying with such other standards as the commission may establish by rule.

11 (b) Recipients found to be in noncompliance with the agreement entered into under §18C-  
12 4-3 of this code shall be required to repay the amount of the scholarship awards received, plus  
13 interest, and, where applicable, reasonable collection fees, on a schedule and at a rate of interest  
14 prescribed in the program guidelines. Guidelines also shall provide for proration of the amount to

be repaid by a recipient who teaches for part of the period required under §18C-4-3(a) of this code and for appeal procedures under which a recipient may appeal any determination of noncompliance.

(c) A recipient is not in violation of the agreement entered into under §18C-4-3 of this code during any period in which the recipient is meeting any of the following conditions:

(1) Pursuing a full-time course of study at an accredited institution of higher education;

(2) Serving, not in excess of four years, as a member of the armed services of the United States;

(3) Satisfying the provisions of any repayment exemptions that may be prescribed by the commission by rule; or

(4) Failing to comply with the terms of the agreement due to death or permanent or temporary disability as established by sworn affidavit of a qualified physician.

(d) The rules adopted by the commission may provide guidelines under which the Vice Chancellor for Administration may extend the time period for beginning or fulfilling the teaching obligation if extenuating circumstances exist.

**§18C-4-5. Amount and duration of scholarship; relation to other assistance.**

(a) An Underwood-Smith Teaching Scholars award shall be used in preparation for becoming an elementary, middle or secondary teacher in a critical teacher shortage field in the public schools of this state. Each award shall be in the amount of \$10,000 annually, and is available for a maximum of four academic years for the completion of a bachelor's degree.

(b) An individual may not receive a scholarship award under this article which exceeds the cost of attendance at the institution the individual is attending. The cost of attendance shall be based upon the actual cost of tuition and fees, and reasonable allowances for books, educational supplies, room and board and other expenses necessitated by individual circumstances, in accordance with the program guidelines. For the purposes of establishing an award amount, the Vice Chancellor for Administration shall take into account the amount of

financial aid assistance the recipient has or will receive from all other sources. If the amount of the Underwood-Smith Teaching Scholars award and the amount of scholarship and grant awards which the recipient has received from all other sources exceed the cost of attendance, the institution's financial aid officer, in consultation with the scholar, will determine what aid is to be reduced and shall do so in a manner to the best advantage of the scholar.

(c) The amendments to this article during the 2019 First Extraordinary Session of the Legislature shall be effective for academic years beginning on or after July 1, 2019, and the provisions of this article existing immediately prior to the 2019 first extraordinary session of the Legislature remain in effect for academic years beginning prior to July 1, 2019.

#### **ARTICLE 4A. TEACHER EDUCATION LOAN REPAYMENT PROGRAM.**

##### **§18C-4A-1. Selection criteria and procedures for loan assistance; effective date.**

(a) The Higher Education Student Financial Aid Advisory Board created by §18C-1-5 of this code shall select recipients to receive Teacher Education Loan Repayment Program awards. The advisory board shall make decisions regarding loan repayment awards pursuant to §18C-4-1 of this code and rules of the commission.

(b) To be eligible for a loan repayment award, an applicant shall currently be employed in a public school in this state as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or secondary level in a school or geographic area of the state identified as an area of critical need for such field.

(c) In accordance with the rule promulgated pursuant to §18C-4-1 of this code, the Vice Chancellor for Administration shall develop additional eligibility criteria and procedures for the administration of the loan repayment program.

(d) The Vice Chancellor for Administration shall make available program application forms to public and private schools in the state via the website of the commission and the State Department of Education and in other locations convenient to potential applicants.

(e) The amendments to this article during the 2019 First Extraordinary Session of the Legislature shall be effective for school years beginning on or after July 1, 2020, and the provisions of this article existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2020.

**§18C-4A-2. Teacher Education Loan Repayment agreement.**

(a) Before receiving a loan repayment award, each eligible applicant shall enter into an agreement with the Vice Chancellor for Administration and shall meet the following criteria:

(1) Provide the commission with evidence of compliance with §18C-4-4 of this code;

(2) Agree to be employed full time under contract with a county board of education for a period of two school years as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or secondary level in a school or geographic area of critical need for such field for each year for which a loan repayment assistance award is received pursuant to this article. The Vice Chancellor for Administration may grant a partial award to an eligible recipient whose contract term is for less than a full school year pursuant to criteria established by commission rule;

(3) Acknowledge that an award is to be paid to the recipient's student loan institution, not directly to the recipient, and only after the commission determines that the recipient has complied with all terms of the agreement; and

(4) Agree to repay all or part of an award received pursuant to this article if the award is not paid to the student loan institution or if the recipient does not comply with the other terms of the agreement.

(b) Each loan repayment agreement shall disclose fully the terms and conditions under which an award may be granted pursuant to this article and under which repayment may be required. The agreement also is subject to and shall include the terms and conditions established by §18C-4-5 of this code.

**§18C-4A-3. Amount and duration of loan repayment awards; limits.**

(a) Each award recipient is eligible to receive loan assistance in an amount determined annually by the commission based upon available funds, but not less than \$3,000 annually in an amount determined annually by the commission based upon available funds, and subject to limits set forth in subsection (b) of this section, if the recipient:

(1) Has been employed for a full school year under contract with a county board of education as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or secondary level in a school or geographic area of critical need; and

(2) Otherwise has complied with the terms of the agreement and with applicable provisions of this article and §18C-4-1 *et seq.* of this code, and any rules promulgated pursuant thereto.

(b) The recipient is eligible for renewal of a loan repayment assistance award only during periods when the recipient complies with other criteria and conditions established by rule, and is under contract with a county board of education as a teacher in a critical teacher shortage field or as a school counselor at the elementary, middle or secondary level, in a school or geographic area of critical need in such field.

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

**ARTICLE 12. STATE INSURANCE.**

**§29-12-5a. Liability insurance for county boards of education, their employees and members, the county superintendent of schools, public charter schools electing to obtain coverage, and for employees and officers of the state Division of Corrections and Rehabilitation; written notice of coverage to insureds.**

(a) In accordance with the provisions of this article, the State Board of Risk and Insurance Management shall provide appropriate professional or other liability insurance for all county boards of education, teachers, supervisory and administrative staff members, service personnel, county superintendents of schools, and school board members and for all employees and officers

5 of the State Division of Corrections and Rehabilitation: *Provided*, That the Board of Risk and  
6 Insurance Management is not required to provide insurance for every property, activity, or  
7 responsibility of county boards of education, teachers, supervisory and administrative staff  
8 members, service personnel, county superintendents of schools, and school board members, and  
9 for all employees and officers of the state Division of Corrections and Rehabilitation.

10 (b) Insurance provided by the Board of Risk and Insurance Management pursuant to the  
11 provisions of subsection (a) of this section shall cover claims, demands, actions, suits, or  
12 judgments by reason of alleged negligence or other acts resulting in bodily injury or property  
13 damage to any person within or without any school building or correctional institution if, at the  
14 time of the alleged injury, the teacher, supervisor, administrator, service personnel employee,  
15 county superintendent, school board member, or employee or officer of the Division of Corrections  
16 and Rehabilitation was acting in the discharge of his or her duties, within the scope of his or her  
17 office, position or employment, under the direction of the county board of education, or  
18 Commissioner of Corrections, or in an official capacity as a county superintendent or as a school  
19 board member or as Commissioner of Corrections.

20 (c) Insurance coverage provided by the Board of Risk and Insurance Management  
21 pursuant to subsection (a) of this section shall be in an amount to be determined by the state  
22 Board of Risk and Insurance Management, but in no event less than \$1,250,000 for each  
23 occurrence. In addition, each county board of education shall purchase, through the Board of Risk  
24 and Insurance Management, excess coverage of at least \$5 million for each occurrence. The cost  
25 of this excess coverage will be paid by the respective county boards of education. Any insurance  
26 purchased under this section shall be obtained from a company licensed to do business in this  
27 state.

28 (d) The insurance policy provided by the Board of Risk and Insurance Management  
29 pursuant to subsection (a) of this section shall include comprehensive coverage, personal injury  
30 coverage, malpractice coverage, corporal punishment coverage, legal liability coverage, as well

as a provision for the payment of the cost of attorney's fees in connection with any claim, demand, action, suit, or judgment arising from such alleged negligence or other act resulting in bodily injury under the conditions specified in this section.

(e) The county superintendent and other school personnel shall be defended by the county board or an insurer in the case of suit, unless the act or omission shall not have been within the course or scope of employment or official responsibility or was motivated by malicious or criminal intent.

(f) At least annually, beginning with the 2019-2020 school year, county boards shall provide written notice of insurance coverage to each of its insureds, including teachers, supervisors, administrators, service personnel employees, county superintendent, and school board members. The notice shall identify the coverages, monetary limits of insurance, and duty to defend for each occurrence as provided to insureds by the Board of Risk and Insurance Management under this section. The written notice may be sent via email, or via first-class mail to the insured's last mailing address known to the county board. The written notice shall also include contact information for the Board of Risk and Insurance Management.

(g) The provisions of this section apply to public charter schools that have been authorized pursuant to §18-5G-1 *et seq.* of this code and have included in their charter contract entered into pursuant to §18-5G-7 of this code a determination to obtain insurance coverage from the Board of Risk and Insurance Management pursuant to this section. If a public charter school elects to obtain coverage pursuant to this section:

(1) Any provision in this section applicable to a county board also applies to a charter school governing board;

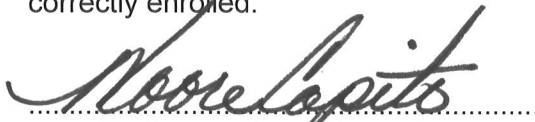
(2) Any provision in this section applicable to a school board member also applies to a member of a charter school governing board; and

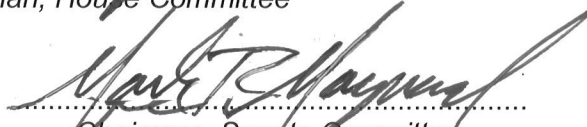
(3) Any provision of this section applicable to teachers, supervisory and administrative staff members, and service personnel employed by a county board also applies to teachers,

57 supervisory or administrative staff members, and service personnel employed by a public charter  
58 school.

59 (h) The amendments to this section during the 2019 First Extraordinary Session of the  
60 Legislature shall be effective for fiscal years beginning on or after July 1, 2019: *Provided, That*  
61 the amendment to subsection (c) of this section during the 2019 First Extraordinary Session of  
62 the Legislature shall be effective for fiscal years beginning on or after July 1, 2020.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman, House Committee

  
Chairman, Senate Committee

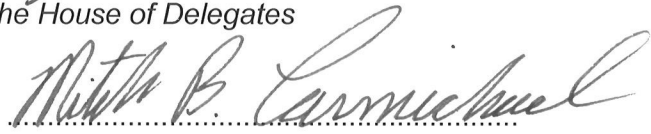
Originating in the House.

In effect from passage.

  
Clerk of the House of Delegates

  
Clerk of the Senate

  
Speaker of the House of Delegates

  
President of the Senate

The within is approved this the 28th  
day of June 2019.

  
Governor

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

2019 JUN 28 P 4:56

FILED

**PRESENTED TO THE GOVERNOR**

JUN 28 2019

Time 12:50 pm