

1 ENGROSSED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **Senate Bill No. 359**

5 (By Senators Kessler (Mr. President) and M. Hall,

6 By Request of the Executive)

7 _____
8 [Originating in the Committee on Education;
9 reported March 13, 2013.]
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12
13 A BILL to repeal §18-2-23a and §18-2-32 of the Code of West
14 Virginia, 1931, as amended; to repeal §18-2E-5c of said code;
15 to repeal §18-2I-6 and §18-2I-7 of said code; to repeal
16 §18A-3A-2a and §18A-3A-6 of said code; to amend and reenact
17 §18-1-4 of said code; to amend and reenact §18-2-24 of said
18 code; to amend said code by adding thereto a new section,
19 designated §18-2-39; to amend and reenact §18-2E-5 of said
20 code; to amend and reenact §18-2I-1, §18-2I-2, §18-2I-3,
21 §18-2I-4 and §18-2I-5 of said code; to amend and reenact
22 §18-3-1 and §18-3-12 of said code; to amend said code by
23 adding thereto a new section, designated §18-3-9b; to amend
24 and reenact §18-5-18, §18-5-44 and §18-5-45 of said code; to
25 amend and reenact §18-5A-5 of said code; to amend and reenact
26 §18A-2-1 and §18A-2-7 of said code; to amend said code by

1 adding thereto a new section, designated §18A-3-1d; to amend
2 and reenact §18A-3A-1, §18A-3A-2 and §18A-3A-3 of said code;
3 to amend and reenact §18A-4-2a, §18A-4-7a, §18A-4-8, §18A-4-8a
4 and §18A-4-14 of said code; to amend and reenact §18A-5-2 of
5 said code; to amend and reenact §18C-1-2 of said code; to
6 amend and reenact §18C-4-1, §18C-4-2, §18C-4-3 and §18C-4-4 of
7 said code; and to amend said code by adding thereto three new
8 sections, designated §18C-4A-1, §18C-4A-2 and §18C-4A-3, all
9 relating to transforming and improving public education;
10 removing outdated language; requiring the State Board of
11 Education, the Higher Education Policy Commission and the
12 Council for Community and Technical College Education to
13 collaborate in formally adopting uniform and specific college-
14 and career-readiness standards for English/language arts and
15 math; providing methods for determining whether students have
16 met the college- and career-readiness standards; requiring
17 that an explicit focus be embedded in each course on the
18 development of English/language arts and math skills;
19 requiring a twelfth-grade transitional course for both
20 English/language arts and math for students not on track to be
21 college ready; requiring professional development on teaching
22 the college- and career-readiness standards to be included in
23 the State Board's Master Plan for Professional Staff
24 Development; requiring the state board to require all teacher
25 preparation programs to include appropriate training for
26 teaching adopted standards in at least grades eight through

1 twelve; requiring the use of certain assessments, exams or
2 tests for determining whether a student is to enroll in a
3 remedial course; requiring accountability for increasing the
4 percentage of students who meet the standards and for
5 increasing the percentage of students who are making adequate
6 progress toward meeting the standards; removing requirement
7 applicable to annual county and school strategic improvement
8 plans; modifying requirements for high-quality education
9 standards for student, school and school system performance
10 and processes; modifying requirements pertaining to a
11 comprehensive statewide student assessment program; removing
12 provisions relating to No Child Left Behind annual measures;
13 modifying provisions pertaining to the state annual
14 performance measures for school and school system
15 accreditation; removing provisions pertaining to requiring the
16 standards to include indicators of exemplary student, school
17 and school system performance and progress; eliminating the
18 Process for Improving Education Council; modifying component
19 of system of education performance audits; expanding state
20 board authority pertaining to the Office of Education
21 Performance Audit's reporting formats; eliminating condition
22 for on-site review; removing prohibition of certain duplicate
23 reviews or inspections; removing provisions pertaining to
24 persons who are to conduct an on-site review; removing list of
25 areas for which the office may not review; modifying
26 provisions pertaining to school accreditation; removing

1 provision allowing a student to transfer from a low-performing
2 school under certain conditions; professional development;
3 establishing clear state-level leadership of professional
4 development; providing findings on the importance of
5 professional development; requiring State Board of Education
6 to develop a master plan for professional development;
7 requiring submission of plan to certain entities; requiring
8 goals to be established and included in the master plan;
9 requiring state board rules; setting forth minimum components
10 of the rule; requiring annual report on the statewide
11 professional development plan; modifying language pertaining
12 to the Strategic Staff Development Fund; modifying State
13 Superintendent of Schools qualifications and removing his or
14 her salary limit; requiring state superintendent to reduce the
15 amount budgeted for personal services, related employee
16 benefits and contractual expenditures related to employment in
17 fiscal years 2014 and 2015; increasing the number of schools
18 to be included in a special community development pilot
19 program; modifying other provisions pertaining to the pilot
20 program; requiring kindergarten and early childhood aides to
21 transition to one of three new assistant teacher positions
22 beginning July 1, 2014; exempting those eligible for
23 retirement before July 1, 2020; requiring early childhood
24 education programs to be made available five days a week for
25 the full day; allowing program to be for fewer than five days
26 per week and less than full day under certain circumstances;

1 allowing parent to withdraw child for good cause; providing
2 for local control of the school calendar; defining terms and
3 establishing findings about the school calendar; requiring a
4 200-day employment term; limiting beginning and closing dates
5 to forty-eight weeks; requiring one hundred eighty separate
6 days of actual instruction are to be provided for students;
7 requiring twenty noninstructional days; requiring school term
8 to include out-of-calendar days that are to be used for
9 instructional days in the event school is canceled; requiring
10 county policy for adding minutes or days to school calendar
11 for certain purpose; limiting noninstructional interruptions
12 to instructional day; requiring state board or state
13 superintendent approval of proposed county calendar; requiring
14 public meetings for discussions of a school system's calendar;
15 allowing the state board to grant a waiver to certain code
16 sections that prevent a school system from meeting one hundred
17 eighty instructional days; requiring state board rule to
18 implement the calendar section provisions; modifying
19 provisions pertaining to a process for a faculty senate to
20 submit recommendations regarding employment to the principal;
21 requiring state board to promulgate rule to implement the
22 provisions relating to the process; removing language about
23 faculty senates on instructional support and enhancement days;
24 requiring the local board to provide at least four additional
25 two-hour blocks of time during noninstructional days, with
26 each block scheduled once at least every forty-five

1 instructional days; prohibiting principals from recommending
2 for employment certain individuals that are related to him or
3 her; allowing reassignment of teachers when a vacancy was not
4 foreseen before March 1 based on pupil-teacher ratio;
5 requiring state board to conduct a study on alternative
6 certification programs; providing for salary bonus for
7 classroom teachers with a National Board for Professional
8 Teaching Standards renewal certificate; providing for
9 reimbursement of the renewal certification fee; removing
10 language that limits the number of board-certified teachers
11 who can receive reimbursement per year; modifying process for
12 filling vacancies in professional positions of employment
13 including the criteria to be considered; allowing a county
14 board to determine the appropriate weight to apply to each
15 criterion except when one or more permanently employed
16 instructional personnel apply for a classroom teaching
17 position and meet the standards set forth in the job posting;
18 providing that for a classroom teaching position if the
19 recommendation of the principal and resulting from the faculty
20 senate process are the same and the superintendent concurs,
21 the county board is required to appoint the applicant;
22 requiring state board rule to implement and interpret certain
23 employment provisions; allowing released employees to be hired
24 for certain vacancies prior to the job being posted; allowing
25 for multiple postings within a thirty-day period under certain
26 conditions; allowing reassignment of a teacher within his or

1 her school upon consent of teacher and county board; creating
2 three new types of early childhood classroom assistant teacher
3 positions; assigning a pay grade to the new positions;
4 modifying provisions pertaining to the length of planning
5 periods; requiring state board study on planning periods;
6 clarifying that not all holidays will be counted as a day of
7 the employment term and that pay per pay period cannot change
8 as a result; providing that snow days are not counted as days
9 of employment or days of instruction; providing definitions;
10 scholarships and loan assistance for teachers in critical need
11 areas; creating loan assistance program; determining subject
12 and geographic areas of critical need; requiring legislative
13 rules for program administration; revising eligibility
14 criteria and specifying effective date; determining
15 eligibility and awarding loan assistance; establishing
16 criteria for inclusion in scholarship and loan assistance
17 agreements; requiring payments to be made directly to a
18 lending entity; requiring model contract agreements;
19 specifying loan amount, limits and duration of loan
20 assistance; requiring repayment under certain conditions;
21 specifying excusal from repayment under certain conditions;
22 and making technical corrections and deleting obsolete
23 language.

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

25 That §18-2-23a and §18-2-32 of the Code of West Virginia,
26 1931, as amended, be repealed; that §18-2E-5c of said code be

1 repealed; that §18-2I-6 and §18-2I-7 of said code be repealed; that
2 §18A-3A-2a and §18A-3A-6 of said code be repealed; that §18-1-4 of
3 said code be amended and reenacted; that §18-2-24 of said code be
4 amended and reenacted; that said code be amended by adding thereto
5 a new section, designated §18-2-39; that §18-2E-5 of said code be
6 amended and reenacted; that §18-2I-1, §18-2I-2, §18-2I-3, §18-2I-4
7 and §18-2I-5 of said code be amended and reenacted; that §18-3-1
8 and §18-3-12 of said code be amended and reenacted; that said code
9 be amended by adding thereto a new section, designated §18-3-9b;
10 that §18-5-18, §18-5-44 and §18-5-45 of said code be amended and
11 reenacted; that §18-5A-5 of said code be amended and reenacted;
12 that §18A-2-1 and §18A-2-7 of said code be amended and reenacted;
13 that said code be amended by adding thereto a new section,
14 designated §18A-3-1d; that §18A-3A-1, §18A-3A-2 and §18A-3A-3 of
15 said code be amended and reenacted; that §18A-4-2a, §18A-4-7a,
16 §18A-4-8, §18A-4-8a and §18A-4-14 of said code be amended and
17 reenacted; that §18A-5-2 of said code be amended and reenacted;
18 that §18C-1-2 of said code be amended and reenacted; that §18C-4-1,
19 §18C-4-2, §18C-4-3 and §18C-4-4 of said code be amended and
20 reenacted; and that said code be amended by adding thereto three
21 new sections, designated §18C-4A-1, §18C-4A-2 and §18C-4A-3, all to
22 read as follows:

23 **CHAPTER 18. EDUCATION.**

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

26 **§18-1-4. Vision 2020: An Education Blueprint for Two Thousand**

1 **Twenty.**

2 (a) This section, together with section one-a, article one,
3 chapter eighteen-b of this code and article one-d of said chapter,
4 shall be known as and may be cited as Vision 2020: An Education
5 Blueprint for Two Thousand Twenty.

6 (b) For the purposes of this section:

7 (1) "Goals" means those long-term public purposes which are
8 the desired end result and only may include those items listed in
9 subsection (e) of this section;

10 (2) "Objectives" means the ends to be accomplished or attained
11 within a specified period of time for the purpose of meeting the
12 established goals; and

13 (3) "Strategies" means specific activities carried out by the
14 public education system which are directed toward accomplishing
15 specific objectives.

16 (c) The Legislature finds that:

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

23 (2) The state recently has embraced and is implementing the
24 Partnership for 21st Century Skills model for teaching and learning
25 including six key elements (core subjects, 21st Century content,
26 learning and thinking skills, information and communications

1 technology literacy, life skills and 21st Century assessments) to
2 help better prepare students for the challenges of the 21st
3 Century;

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

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

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

24 (d) As part of Vision 2020: An Education Blueprint for Two
25 Thousand Twenty, the state board shall establish a plan in
26 accordance with the provisions of this section for submission to

1 and consideration by the ~~Process for Improving Education Council~~
2 ~~pursuant to section five-c, article two-e of this chapter~~
3 Legislative Oversight Commission on Education Accountability. The
4 plan shall include only the goals, objectives, strategies,
5 indicators and benchmarks for public education set forth in this
6 section and that meet the requirements of this section. To add
7 clarity and avoid confusion, the goals for public education set
8 forth in the plan pursuant to this section are the exclusive goals
9 for public education. The plan shall include:

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

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

14 (3) Strategies for achieving the specific objectives;

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

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

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

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

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

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

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

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

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

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

20 (2) *A 21st Century accountability and accreditation system.* -
21 The prekindergarten through twelve education system should have a
22 public accrediting system that: (i) Holds local school districts
23 accountable for the student outcomes the state values; and (ii)
24 provides the public with understandable accountability data for
25 judging the quality of local schools. The outcomes on which the
26 system is based should be rigorous and should align with national

1 and international standards such as the National Assessment of
2 Educational Progress (NAEP), the ACT, the SAT and the Programme for
3 International Assessment (PISA). The broad standards established
4 for these outcomes should include a focus on: (A) Mastery of basic
5 skills by all students; (B) closing the achievement gap among
6 student subgroups; and (C) high levels of proficiency in a wide
7 range of desired 21st Century measures and processes. The system
8 for determining school and district accreditation should include
9 school and district self analysis and generate appropriate
10 research-based strategies for improvement. It also should allow
11 opportunities to create innovative approaches to instructional
12 delivery and design. Thus, the system will incorporate processes
13 for encouraging innovation, including streamlined applications for
14 waivers to state board policy, financial support for successful
15 initiatives and recognition of those practices that can be brought
16 to a district or statewide scale. The primary goal of the
17 accreditation system is to drive school improvement. This 21st
18 Century accountability and accreditation system also should include
19 the methods of addressing capacity set forth in section five,
20 article two-e of this chapter;

21 (3) *A statewide balanced assessment process.* - State,
22 district, school and classroom decisionmaking should be grounded in
23 21st Century balanced assessment processes that reflect national
24 and international rigorous performance standards and examine
25 student proficiency in 21st Century content, skills and technology
26 tools. A balanced assessment system includes statewide summative

1 assessments, local benchmark assessments and classroom assessments
2 for learning;

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

19 (5) *School environments that promote safe, healthy and*
20 *responsible behavior and provide an integrated system of student*
21 *support services.* - Each school should create an environment
22 focused on student learning and one where students know they are
23 valued, respected and safe. Furthermore, the school should
24 incorporate programs and processes that instill healthy, safe and
25 responsible behaviors and prepare students for interactions with
26 individuals of diverse racial, ethnic and social backgrounds.

1 School and district processes should include a focus on developing
2 ethical and responsible character, personal dispositions that
3 promote personal wellness through planned daily physical activity
4 and healthy eating habits consistent with high nutritional
5 guidelines and multicultural experiences that develop an
6 appreciation of and respect for diversity;

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

17 (7) *Equitable access to 21st Century technology and education*
18 *resources and school facilities conducive to 21st Century teaching*
19 *and learning.* - A quality educational system of the 21st Century
20 should have access to technology tools and processes that enhance
21 effective and efficient operation. Administrators should have the
22 digital resources to monitor student performance, manage a variety
23 of data and communicate effectively. In the classroom, every
24 teacher in every school should be provided with the instructional
25 resources and educational technology necessary to deliver the West
26 Virginia content standards and objectives. Schools of the 21st

1 Century require facilities that accommodate changing technologies,
2 21st Century instructional processes and 21st Century staffing
3 needs and patterns. These school facilities should mirror the best
4 in green construction and be environmentally and educationally
5 responsive to the communities in which they are located;

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

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

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

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

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

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

12 (4) By 2012, the gap between the county with the lowest
13 college-going rate and the state average as of the effective date
14 of this act will decrease by fifty percent and the college-going
15 rate of the state will equal the college-going rate of the member
16 states of the Southern Regional Education Board; and

17 (5) By 2012, the gap between the county with the lowest
18 college-going rate and the state average for school year 2012 will
19 decrease by fifty percent and the college-going rate of the state
20 will exceed the college-going rate of the member states of the
21 Southern Regional Education Board by five percentage points.

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

23 **§18-2-24. Collaboration of state institutions of higher education**
24 **having a teacher preparation program with the Center**
25 **for Professional Development, state board and the**
26 **regional education service agencies.**

1 (a) For the purposes of this section, "teacher preparation
2 institution" means a state institution of higher education with a
3 teacher preparation program.

4 (b) The intent of this section is to establish a structure to
5 enhance collaboration between the teacher preparation institutions,
6 the Center for Professional Development, state board and the
7 regional education service agencies in providing professional
8 development.

9 (c) The Legislature finds that:

10 (1) There is insufficient collaboration of the teacher
11 preparation institutions with the Center for Professional
12 Development, state board and each of the regional education service
13 agencies;

14 (2) More collaboration would prevent duplication of services
15 and result in higher quality professional development;

16 (3) Creating a structure and assigning responsibility would
17 promote more effective collaboration;

18 (4) The state's research and doctoral degree-granting public
19 institutions of higher education, West Virginia University and
20 Marshall University, have the most capacity to be important sources
21 of research and expertise on professional development;

22 (5) West Virginia University and Marshall University are the
23 only institutions in the state that offer course work leading to a
24 doctoral degree in education administration;

25 (6) As the largest state institutions of higher education,
26 West Virginia University and Marshall University have more capacity

1 than any other institution in the state to handle the additional
2 responsibilities assigned in this section;

3 (7) The coordination by West Virginia University and Marshall
4 University of the efforts of other teacher preparation institutions
5 to collaborate with the Center for Professional Development, state
6 board and each of the regional education service agencies will
7 provide points of accountability for the collaboration efforts of
8 the other institutions; and

9 (8) The state board's authority over the regional education
10 service agencies can be used to motivate the agencies to
11 collaborate with the teacher preparation institutions in providing
12 professional development and will serve as a point of
13 accountability for the collaboration efforts of the agencies.

14 (d) West Virginia University and Marshall University shall
15 collaborate with the Center for Professional Development in
16 performing the center's duties. This collaboration shall include
17 at least the following:

18 (1) Including the teacher preparation institutions in the
19 proposed professional staff development program plan goals required
20 by section three, article two-i of this chapter to be submitted to
21 the state board by section twenty three a of this article included
22 in the master plan for professional development;

23 (2) Providing any available research-based expertise that
24 would be helpful in the design of the proposed professional staff
25 development program plan goals;

26 (3) Providing any available research-based expertise that

1 would be helpful in the implementation of professional development
2 programs; and

3 (4) Arranging for other state institutions of higher education
4 having a teacher preparation program to assist the center when that
5 assistance would be helpful.

6 (e) All teacher preparation institutions shall collaborate
7 with the regional education service agency of the service area in
8 which the institution is located at least to:

9 (1) Prevent unnecessary duplication of services;

10 (2) Assist in the implementation of the professional
11 development programs of the regional education service agency; and

12 (3) Assist the regional education service agency in obtaining
13 any available grants for professional development or to apply for
14 any available grant with the agency collaboratively.

15 (f) Since no teacher preparation institution exists in the
16 service area of Regional Education Service Agency IV, Marshall
17 University shall collaborate with that agency for the purposes set
18 forth in subdivision (e) of this section.

19 (g) In addition to the collaboration required by subsections
20 (e) and (f) of this section of all teacher preparation
21 institutions, West Virginia University and Marshall University
22 shall:

23 (1) Coordinate the collaboration of each of the other teacher
24 preparation institutions in their designated coordination area with
25 the appropriate regional education service agency. This
26 coordination at least includes ensuring that each of the other

1 institutions are collaborating with the appropriate regional
2 education service agency; and

3 (2) Collaborate with each of the other teacher preparation
4 institutions in their designated coordination area. This
5 collaboration at least includes providing assistance to the other
6 institutions in providing professional development and in their
7 collaboration with the appropriate regional education service
8 agency.

9 (h) The designated coordination area of West Virginia
10 University includes the service areas of Regional Education Service
11 Agencies V, VI, VII and VIII. The designated coordination area of
12 Marshall University includes the service areas of Regional
13 Education Service Agencies I, II, III and IV.

14 (i) The state board shall ensure that each of the regional
15 education service agencies is collaborating with the teacher
16 preparation institution or institutions in its service area for the
17 purposes set forth in subsection (e) of this section. Since
18 Regional Education Service Agency IV does not have a teacher
19 preparation institution in its service area, the state board shall
20 ensure that it is collaborating with Marshall University for the
21 purposes set forth in subsection (e) of this section.

22 (j) Before a regional education service agency, except for
23 Regional Education Service Agency IV, obtains professional
24 development related services or expertise from any teacher
25 preparation institution outside of that agency's service area, the
26 agency shall inform the ~~Center for Professional Development Board~~

1 state board. Before Regional Education Service Agency IV obtains
2 professional development related services or expertise from any
3 teacher preparation institution other than Marshall University, the
4 agency shall inform the ~~Center Board~~ state board.

5 (k) The collaboration and coordination requirements of this
6 section include collaborating and coordinating to provide
7 professional development for at least teachers, principals and
8 paraprofessionals.

9 **§18-2-39. College and career readiness initiative.**

10 (a) The Legislature finds that:

11 (1) According to ACT, only twenty-five percent of ACT-tested
12 high school graduates in the nation met college readiness
13 benchmarks in English, reading, mathematics and science and only
14 seventeen percent in West Virginia met the benchmarks in all four
15 subjects;

16 (2) The post-secondary remediation rates of students entering
17 post-secondary institutions directly out of high school indicate
18 that a large percentage of students are not being adequately
19 prepared at the elementary and secondary levels;

20 (3) This high level of post-secondary remediation is causing
21 both students and the state to expend extra resources that would
22 not have to be expended if the students were adequately prepared at
23 the elementary and secondary levels;

24 (4) A strong foundation in English/language arts and math
25 provides a basis for learning in all other subject areas and for
26 on-the-job training; and

1 (5) A comparison of the percentages of students considered
2 proficient in eighth grade reading and math by the state assessment
3 and the National Assessment of Educational Progress indicate that
4 the state assessment currently does not accurately reflect national
5 standards.

6 (b) Before the 2014-2015 school year, the state board, the
7 Higher Education Policy Commission and the Council for Community
8 and Technical College Education shall collaborate in formally
9 adopting uniform and specific college- and career-readiness
10 standards for English/language arts and math. The standards shall
11 be clearly linked to state content standards and based on skills
12 and competencies rather than high school course titles. The
13 standards shall allow for a determination of whether a student
14 needs to enroll in a post-secondary remedial course. The state
15 board shall develop a plan for gradually bringing the standards for
16 a high school diploma and college and career readiness into
17 uniformity, and report this plan to the Legislative Oversight
18 Commission on Education Accountability not later than December 31,
19 2013.

20 (c) The results on the comprehensive statewide student
21 assessment program in grade eleven in English/language arts and
22 mathematics shall be used to determine whether a student has met
23 the college- and career-readiness standards adopted pursuant to
24 subsection (b) of this section. Beginning with the 2015-2016
25 school year, instead of using the comprehensive statewide student
26 assessment program, the state board may develop and implement

1 end-of-course exams in English/language arts and math courses it
2 determines appropriate. These exams are designed for determining
3 whether a student has met the college- and career-readiness
4 standards. In order to allow for the enrollment in transitional
5 courses in the twelfth grade if necessary pursuant to subsection
6 (e) of this section, the courses, assessments and exams, as
7 applicable, shall be administered before the twelfth grade.

8 (d) Under its authority granted in section one, article three,
9 chapter eighteen-a of this code, the state board shall require all
10 teacher preparation programs in the state to include appropriate
11 training for teachers seeking to teach in at least any of grades
12 eight through twelve with respect to teaching the adopted college-
13 and career-readiness standards. This training shall focus on
14 teaching the standards directly, through embedding the standards in
15 other courses or both, as appropriate.

16 (e) The state board shall develop a twelfth-grade transitional
17 course for both English/language arts and math for those students
18 who are not on track to be college and career ready based on the
19 assessment or exam, as applicable, required pursuant to subsection
20 (c) of this section. The transitional courses shall be aligned
21 with the standards adopted pursuant to subsection (b) of this
22 section. The state board in collaboration with the West Virginia
23 Higher Education Policy Commission and the Council for Community
24 and Technical College Education shall use the American College
25 Testing Program's Computerized Adaptive Placement Assessment and
26 Support System (COMPASS) or other mutually agreed-upon assessment

1 to determine whether a student has met the college- and career-
2 readiness standards after completion of the transitional course.

3 (f) For all West Virginia public high school graduates who
4 graduate during or after the 2016-2017 school year, all state
5 institutions of higher education may use no factor other than the
6 assessment, exam or test, as applicable, required pursuant to
7 subsections (c) and (e) of this section to determine whether a
8 student is to enroll in a remedial course or is to be placed in a
9 college-level introductory course. Nothing in this subsection
10 prohibits an institution from administering a diagnostic test to
11 determine specific areas of weakness so that the specific
12 weaknesses can be remediated rather than requiring a student to
13 take an entire remedial course.

14 (g) The state board shall:

15 (1) Hold high schools and districts accountable for increasing
16 the percentages of students who meet the college- and career-
17 readiness standards as indicated by the assessments, exams or
18 tests, as applicable, required pursuant to subsections (c) and (e)
19 of this section. This accountability shall be achieved through the
20 school and school system accreditation provisions set forth in
21 section five, article two-e of this chapter;

22 (2) Align the comprehensive statewide student assessment for
23 all grade levels in which the test is given with the college- and
24 career-readiness standards adopted pursuant to subsection (b) of
25 this section or develop other aligned tests at each grade level so
26 that progress toward college and career readiness in

1 English/language arts and math can be measured; and

2 (3) Hold all schools and districts accountable for helping
3 students in earlier grade levels achieve scores on math and
4 English/language arts tests that predict success in subsequent
5 levels of related coursework. This accountability shall be
6 achieved through the school and school system accreditation
7 provisions set forth in section five, article two-e of this
8 chapter;

9 (h) Except as otherwise specified, all provisions of this
10 section become effective with the 2014-2015 school year.

11 (i) On or before December 31, 2013, the state board shall
12 promulgate a legislative rule in accordance with article three-b,
13 chapter twenty-nine-a of this code to implement the provisions of
14 this section.

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

16 **§18-2E-5. Process for improving education; education standards;**
17 **statewide assessment program; accountability**
18 **measures; Office of Education Performance Audits;**
19 **school accreditation and school system approval;**
20 **intervention to correct low performance.**

21 (a) *Legislative findings, purpose and intent.* - The
22 Legislature makes the following findings with respect to the
23 process for improving education and its purpose and intent in the
24 enactment of this section:

25 (1) The process for improving education includes four primary
26 elements, these being:

1 (A) Standards which set forth the knowledge and skills that
2 students should know and be able to ~~do~~ perform as the result of a
3 thorough and efficient education that prepares them for the
4 twenty-first century, including measurable criteria to evaluate
5 student performance and progress;

6 (B) Assessments of student performance and progress toward
7 meeting the standards;

8 (C) A system of accountability for continuous improvement
9 defined by high-quality standards for schools and school systems
10 articulated by a rule promulgated by the state board and outlined
11 in subsection (c) of this section that will build capacity in
12 schools and districts to meet rigorous outcomes that assure student
13 performance and progress toward obtaining the knowledge and skills
14 intrinsic to a high-quality education rather than monitoring for
15 compliance with specific laws and regulations; and

16 (D) A method for building the capacity and improving the
17 efficiency of schools and school systems to improve student
18 performance and progress;

19 (2) As the constitutional body charged with the general
20 supervision of schools as provided by general law, the state board
21 has the authority and the responsibility to establish the
22 standards, assess the performance and progress of students against
23 the standards, hold schools and school systems accountable and
24 assist schools and school systems to build capacity and improve
25 efficiency so that the standards are met, including, when
26 necessary, seeking additional resources in consultation with the

1 Legislature and the Governor;

2 (3) As the constitutional body charged with providing for a
3 thorough and efficient system of schools, the Legislature has the
4 authority and the responsibility to establish and be engaged
5 constructively in the determination of the knowledge and skills
6 that students should know and be able to do as the result of a
7 thorough and efficient education. This determination is made by
8 using the process for improving education to determine when school
9 improvement is needed, by evaluating the results and the efficiency
10 of the system of schools, by ensuring accountability and by
11 providing for the necessary capacity and its efficient use;

12 (4) In consideration of these findings, the purpose of this
13 section is to establish a process for improving education that
14 includes the four primary elements as set forth in subdivision (1)
15 of this subsection to provide assurances that the high-quality
16 standards are, at a minimum, being met and that a thorough and
17 efficient system of schools is being provided for all West Virginia
18 public school students on an equal education opportunity basis; and

19 (5) The intent of the Legislature in enacting this section and
20 section five-c of this article is to establish a process through
21 which the Legislature, the Governor and the state board can work in
22 the spirit of cooperation and collaboration intended in the process
23 for improving education to consult and examine the performance and
24 progress of students, schools and school systems and, when
25 necessary, to consider alternative measures to ensure that all
26 students continue to receive the thorough and efficient education

1 to which they are entitled. However, nothing in this section
2 requires any specific level of funding by the Legislature.

3 (b) *Electronic county and school strategic improvement plans.*

4 - The state board shall promulgate a rule consistent with the
5 provisions of this section and in accordance with article three-b,
6 chapter twenty-nine-a of this code establishing an electronic
7 county strategic improvement plan for each county board and an
8 electronic school strategic improvement plan for each public school
9 in this state. Each respective plan shall be a five-year plan that
10 includes the mission and goals of the school or school system to
11 improve student, school or school system performance and progress,
12 as applicable. The strategic plan shall be revised annually in
13 each area in which the school or system is below the standard on
14 the annual performance measures. ~~The revised annual plan also~~
15 ~~shall identify any deficiency which is reported on the check lists~~
16 ~~identified in paragraph (G), subdivision (5), subsection (1) of~~
17 ~~this section including any deficit more than a casual deficit by~~
18 ~~the county board.~~ The plan shall be revised when required pursuant
19 to this section to include each annual performance measure upon
20 which the school or school system fails to meet the standard for
21 performance and progress, the action to be taken to meet each
22 measure, a separate time line and a date certain for meeting each
23 measure, a cost estimate and, when applicable, the assistance to be
24 provided by the department and other education agencies to improve
25 student, school or school system performance and progress to meet
26 the annual performance measure.

1 The department shall make available to all public schools
2 through its website or the West Virginia Education Information
3 System an electronic school strategic improvement plan boilerplate
4 designed for use by all schools to develop an electronic school
5 strategic improvement plan which incorporates all required aspects
6 and satisfies all improvement plan requirements of the No Child
7 Left Behind Act.

8 (c) *High-quality education standards and efficiency standards.*

9 - In accordance with the provisions of article three-b, chapter
10 twenty-nine-a of this code, the state board shall adopt and
11 periodically review and update high-quality education standards for
12 student, school and school system performance and processes in the
13 following areas:

- 14 (1) Curriculum;
- 15 (2) Workplace readiness skills;
- 16 (3) Finance;
- 17 (4) Transportation;
- 18 (5) Special education;
- 19 (6) Facilities;
- 20 (7) Administrative practices;
- 21 (8) Training of county board members and administrators;
- 22 (9) Personnel qualifications;
- 23 (10) Professional development and evaluation;
- 24 (11) Student performance, ~~and~~ progress and attendance;
- 25 (12) Professional personnel, including principals and central
26 office administrators, and service personnel attendance;

- 1 ~~(12)~~ (13) School and school system performance and progress;
2 ~~(13)~~ (14) A code of conduct for students and employees;
3 ~~(14)~~ (15) Indicators of efficiency; and
4 ~~(15)~~ (16) Any other areas determined by the state board.

5 ~~The standards, as applicable, shall incorporate the state's~~
6 ~~21st Century Skills Initiative and shall assure that graduates are~~
7 ~~prepared for continuing post-secondary education, training and work~~
8 ~~and that schools and school systems are making progress toward~~
9 ~~achieving the education goals of the state.~~

10 (d) *Comprehensive statewide student assessment program.* - The
11 state board shall ~~promulgate a rule in accordance with the~~
12 ~~provisions of article three-b, chapter twenty-nine-a of this code~~
13 ~~establishing~~ establish a comprehensive statewide student assessment
14 program to assess student performance and progress in grades three
15 through twelve. The assessment program is subject to the
16 following:

17 (1) The state board shall promulgate a rule in accordance with
18 the provisions of article three-b, chapter twenty-nine-a of this
19 code establishing the comprehensive statewide student assessment
20 program;

21 (2) Prior to the 2014-2015 school year, the state board shall
22 align the comprehensive statewide student assessment for all grade
23 levels in which the test is given with the college-readiness
24 standards adopted pursuant to section thirty-nine, article two of
25 this chapter or develop other aligned tests to be required at each
26 grade level so that progress toward college readiness in

1 English/language arts and math can be measured;

2 (3) The state board may require that student proficiencies be
3 measured through the ACT EXPLORE and the ACT PLAN assessments or
4 other comparable assessments, which are approved by the state board
5 and provided by future vendors;

6 (4) The state board may require that student proficiencies be
7 measured through the West Virginia writing assessment at any ~~of the~~
8 grade levels ~~four, seven and ten~~ determined by the state board to
9 be appropriate; ~~Provided, That, effective July 1, 2008, the state~~
10 ~~board may require that student proficiencies be measured through~~
11 ~~the West Virginia writing assessment at any of the grade levels~~
12 ~~four, seven and eleven determined by the state board to be~~
13 ~~appropriate.~~ and

14 (5) The state board may provide through the statewide
15 assessment program other optional testing or assessment instruments
16 applicable to grade levels kindergarten through grade twelve which
17 may be used by each school to promote student achievement. ~~upon~~
18 ~~approval by the school curriculum team or the process for teacher~~
19 ~~collaboration to improve instruction and learning established by~~
20 ~~the faculty senate as provided in section six, article five-a of~~
21 ~~this chapter~~ The state board annually shall ~~annually~~ publish and
22 make available, electronically or otherwise, to school curriculum
23 teams and teacher collaborative processes the optional testing and
24 assessment instruments. ~~The failure of a school to use any~~
25 ~~optional testing and assessment may not be cited as a deficiency in~~
26 ~~any accreditation review of the school; nor may the exercise of its~~

1 ~~discretion, as provided in section six, article five-a of this~~
2 ~~chapter, in using the assessments and implementing the~~
3 ~~instructional strategies and programs that it determines best to~~
4 ~~promote student achievement at the school be cited as a deficiency~~
5 ~~in any accreditation review of the school or in the personnel~~
6 ~~evaluation of the principal. The use of assessment results are~~
7 ~~subject to the following:~~

8 ~~(1) The assessment results for grade levels three through~~
9 ~~eight and eleven are the only assessment results which may be used~~
10 ~~for determining whether any school or school system has made~~
11 ~~adequate yearly progress (AYP);~~

12 ~~(2) Only the assessment results in the subject areas of~~
13 ~~reading/language arts and mathematics may be used for determining~~
14 ~~whether a school or school system has made adequate yearly progress~~
15 ~~(AYP);~~

16 ~~(3) The results of the West Virginia writing assessment, the~~
17 ~~ACT EXPLORE assessments and the ACT PLAN assessments may not be~~
18 ~~used for determining whether a school or school system has made~~
19 ~~adequate yearly progress (AYP);~~

20 ~~(4) The results of testing or assessment instruments provided~~
21 ~~by the state board for optional use by schools and school systems~~
22 ~~to promote student achievement may not be used for determining~~
23 ~~whether a school or school system has made adequate yearly progress~~
24 ~~(AYP); and~~

25 ~~(5) All assessment provisions of the comprehensive statewide~~
26 ~~student assessment program in effect for the school year 2006-2007~~

1 ~~shall remain in effect until replaced by the state board rule.~~

2 ~~(c) Annual performance measures for Public Law 107-110, the~~
3 ~~Elementary and Secondary Education Act of 1965, as amended (No~~
4 ~~Child Left Behind Act of 2001). -- The standards shall include~~
5 ~~annual measures of student, school and school system performance~~
6 ~~and progress for the grade levels and the content areas defined by~~
7 ~~the act. The following annual measures of student, school and~~
8 ~~school system performance and progress shall be the only measures~~
9 ~~for determining whether adequately yearly progress under the No~~
10 ~~Child Left Behind Act has been achieved:~~

11 ~~(1) The acquisition of student proficiencies as indicated by~~
12 ~~student performance and progress on the required accountability~~
13 ~~assessments at the grade levels and content areas as required by~~
14 ~~the act subject to the limitations set forth in subsection (d) of~~
15 ~~this section.~~

16 ~~(2) The student participation rate in the uniform statewide~~
17 ~~assessment must be at least ninety five percent or the average of~~
18 ~~the participation rate for the current and the preceding two years~~
19 ~~is ninety five percent for the school, county and state;~~

20 ~~(3) Only for schools that do not include grade twelve, the~~
21 ~~school attendance rate which shall be no less than ninety percent~~
22 ~~in attendance for the school, county and state. The following~~
23 ~~absences are excluded:~~

24 ~~(A) Student absences excused in accordance with the state~~
25 ~~board rule promulgated pursuant to section four, article eight of~~
26 ~~this chapter;~~

1 ~~(B) Students not in attendance due to disciplinary measures;~~
2 and

3 ~~(C) Absent students for whom the attendance director has~~
4 ~~pursued judicial remedies compelling attendance to the extent of~~
5 ~~his or her authority; and~~

6 ~~(4) The high school graduation rate which shall be no less~~
7 ~~than eighty percent for the school, county and state; or if the~~
8 ~~high school graduation rate is less than eighty percent, the high~~
9 ~~school graduation rate shall be higher than the high school~~
10 ~~graduation rate of the preceding year as determined from~~
11 ~~information on the West Virginia Education Information System on~~
12 ~~August 15.~~

13 ~~(f) (e) State annual performance measures for school and~~
14 ~~school system accreditation. - The state board shall establish a~~
15 ~~system to assess and weigh annual performance measures for state~~
16 ~~accreditation of schools and school systems in a manner that gives~~
17 ~~credit or points such as an index to prevent any one measure alone~~
18 ~~from causing a school to achieve less than full accreditation~~
19 ~~status or a school system from achieving less than full approval~~
20 ~~status: *Provided,* That a school or school system that achieves~~
21 ~~adequate yearly progress is eligible for no less than full~~
22 ~~accreditation or approval status, as applicable, and the system~~
23 ~~established pursuant to this subsection applies only to schools and~~
24 ~~school systems that do not achieve adequate yearly progress.~~

25 ~~The following types of measures, as may be appropriate at the~~
26 ~~various programmatic levels, may be approved by the state board for~~

1 ~~the school and school system accreditation:~~

2 ~~(1) The acquisition of student proficiencies as indicated by~~
3 ~~student performance and progress on the uniform statewide~~
4 ~~assessment program at the grade levels as provided in subsection~~
5 ~~(d) of this section. The state board may approve providing bonus~~
6 ~~points or credits for students scoring at or above mastery and~~
7 ~~distinguished levels;~~

8 ~~(2) Writing assessment results in grades tested;~~

9 ~~(3) School attendance rates;~~

10 ~~(4) Percentage of courses taught by highly qualified teachers;~~

11 ~~(5) Percentage of students scoring at benchmarks on the~~
12 ~~currently tested ACT EXPLORE and ACT PLAN assessments or other~~
13 ~~comparable assessments, which are approved by the state board and~~
14 ~~provided by future vendors;~~

15 ~~(6) Graduation rates;~~

16 ~~(7) Job placement rates for vocational programs;~~

17 ~~(8) Percent of students passing end-of-course career/technical~~
18 ~~tests;~~

19 ~~(9) Percent of students not requiring college remediation~~
20 ~~classes; and~~

21 ~~(10) Bonus points or credits for subgroup improvement,~~
22 ~~advanced placement percentages, dual credit completers and~~
23 ~~international baccalaureate completers.~~

24 The state board shall promulgate a rule in accordance with the
25 provisions of article three-b, chapter twenty-nine-a of this code
26 that establishes a system to assess and weigh annual performance

1 measures for state accreditation of schools and school systems. The
2 state board also may establish performance incentives for schools
3 and school systems as part of the state accreditation system. On or
4 before December 1, 2013, the state board shall report to the
5 Governor and to the Legislative Oversight Commission on Education
6 Accountability the proposed rule for establishing the measures and
7 incentives of accreditation and the estimated cost therefore, if
8 any. Thereafter, the state board shall provide an annual report to
9 the Governor and to the Legislative Oversight Commission on
10 Education Accountability on the impact and effectiveness of the
11 accreditation system. The rule for school and school system
12 accreditation proposed by the board may include, but is not limited
13 to, the following measures:

14 (1) Student proficiency in English and language arts, math,
15 science and other subjects determined by the board;

16 (2) Graduation and attendance rate;

17 (3) Students taking and passing AP tests;

18 (4) Students completing a career and technical education
19 class;

20 (5) Closing achievement gaps within subgroups of a school's
21 student population; and

22 (6) Students scoring at or above average attainment on SAT or
23 ACT tests.

24 ~~(g) Indicators of exemplary performance and progress. -- The~~
25 ~~standards shall include indicators of exemplary student, school and~~
26 ~~school system performance and progress. The indicators of~~

1 ~~exemplary student, school and school system performance and~~
2 ~~progress shall be used only as indicators for determining whether~~
3 ~~accredited and approved schools and school systems should be~~
4 ~~granted exemplary status. These indicators shall include, but are~~
5 ~~not limited to, the following:~~

6 ~~(1) The percentage of graduates who declare their intent to~~
7 ~~enroll in college and other post-secondary education and training~~
8 ~~following high school graduation;~~

9 ~~(2) The percentage of graduates who receive additional~~
10 ~~certification of their skills, competence and readiness for~~
11 ~~college, other post-secondary education or employment above the~~
12 ~~level required for graduation; and~~

13 ~~(3) The percentage of students who successfully complete~~
14 ~~advanced placement, dual credit and honors classes.~~

15 ~~(h)~~ (f) *Indicators of efficiency.* -- In accordance with the
16 provisions of article three-b, chapter twenty-nine-a of this code,
17 the state board shall adopt by rule and periodically review and
18 update indicators of efficiency for use by the appropriate
19 divisions within the department to ensure efficient management and
20 use of resources in the public schools in the following areas:

21 (1) Curriculum delivery including, but not limited to, the use
22 of distance learning;

23 (2) Transportation;

24 (3) Facilities;

25 (4) Administrative practices;

26 (5) Personnel;

1 (6) Use of regional educational service agency programs and
2 services, including programs and services that may be established
3 by their assigned regional educational service agency or other
4 regional services that may be initiated between and among
5 participating county boards; and

6 (7) Any other indicators as determined by the state board.

7 ~~(i)~~ (g) *Assessment and accountability of school and school*
8 *system performance and processes.* - In accordance with the
9 provisions of article three-b, chapter twenty-nine-a of this code,
10 the state board shall establish by rule a system of education
11 performance audits which measures the quality of education and the
12 preparation of students based on the annual measures of student,
13 school and school system performance and progress. The system of
14 education performance audits shall provide information to the state
15 board, the Legislature and the Governor, ~~individually and~~
16 ~~collectively as the Process for Improving Education Council,~~ upon
17 which they may determine whether a thorough and efficient system of
18 schools is being provided. The system of education performance
19 audits shall include:

20 (1) The assessment of student, school and school system
21 performance and progress based on the annual measures ~~set forth in~~
22 ~~subsection (d)~~ established pursuant to subsection (e) of this
23 section;

24 (2) The evaluation of records, reports and other information
25 collected by the ~~department~~ Office of Education Performance Audits
26 upon which the quality of education and compliance with statutes,

1 policies and standards may be determined;

2 (3) The review of school and school system electronic
3 strategic improvement plans; and

4 (4) The on-site review of the processes in place in schools
5 and school systems to enable school and school system performance
6 and progress and compliance with the standards.

7 ~~(j)~~ (h) *Uses of school and school system assessment*
8 *information.* - The state board ~~and the Process for Improving~~
9 ~~Education Council established pursuant to section five c of this~~
10 ~~article~~ shall use information from the system of education
11 performance audits to assist ~~them~~ it in ensuring that a thorough
12 and efficient system of schools is being provided and to improve
13 student, school and school system performance and progress.
14 Information from the system of education performance audits further
15 shall be used by the state board for these purposes, including, but
16 not limited to, the following:

17 (1) Determining school accreditation and school system
18 approval status;

19 (2) Holding schools and school systems accountable for the
20 efficient use of existing resources to meet or exceed the
21 standards; and

22 (3) Targeting additional resources when necessary to improve
23 performance and progress.

24 The state board shall make accreditation information available
25 to the Legislature, the Governor, the general public and to any
26 individual who requests the information, subject to the provisions

1 of any act or rule restricting the release of information.

2 ~~(k)~~ (i) *Early detection and intervention programs.* - Based on
3 the assessment of student, school and school system performance and
4 progress, the state board shall establish early detection and
5 intervention programs using the available resources of the
6 Department of Education, the regional educational service agencies,
7 the Center for Professional Development and the Principals Academy,
8 as appropriate, to assist underachieving schools and school systems
9 to improve performance before conditions become so grave as to
10 warrant more substantive state intervention. Assistance shall
11 include, but is not limited to, providing additional technical
12 assistance and programmatic, professional staff development,
13 providing monetary, staffing and other resources where appropriate.
14 ~~and, if necessary, making appropriate recommendations to the~~
15 ~~Process for Improving Education Council~~

16 ~~(l)~~ (j) *Office of Education Performance Audits.* -

17 (1) To assist the state board ~~and the Process for Improving~~
18 ~~Education Council~~ in the operation of a system of education
19 performance audits, the state board shall establish an Office of
20 Education Performance Audits consistent with the provisions of this
21 section. The Office of Education Performance Audits shall be
22 operated under the direction of the state board independently of
23 the functions and supervision of the State Department of Education
24 and state superintendent. The Office of Education Performance
25 Audits shall report directly to and be responsible to the state
26 board ~~and the Process for Improving Education Council created in~~

1 ~~section five c of this article~~ in carrying out its duties under the
2 provisions of this section.

3 (2) The office shall be headed by a director who shall be
4 appointed by the state board and who ~~shall serve~~ serves at the will
5 and pleasure of the state board. The annual salary of the director
6 shall be set by the state board and may not exceed eighty percent
7 of the salary cap of the State Superintendent of Schools.

8 (3) The state board shall organize and sufficiently staff the
9 office to fulfill the duties assigned to it by law and by the state
10 board. Employees of the State Department of Education who are
11 transferred to the Office of Education Performance Audits shall
12 retain their benefits and seniority status with the Department of
13 Education.

14 (4) Under the direction of the state board, the Office of
15 Education Performance Audits shall receive from the West Virginia
16 education information system staff research and analysis data on
17 the performance and progress of students, schools and school
18 systems, and shall receive assistance, as determined by the state
19 board, from staff at the State Department of Education, the
20 regional education service agencies, the Center for Professional
21 Development, the Principals Academy and the School Building
22 Authority to carry out the duties assigned to the office.

23 (5) In addition to other duties which may be assigned to it by
24 the state board or by statute, the Office of Education Performance
25 Audits also shall:

26 (A) Assure that all statewide assessments of student

1 performance used as annual performance measures are secure as
2 required in section one-a of this article;

3 (B) Administer all accountability measures as assigned by the
4 state board, including, but not limited to, the following:

5 (i) Processes for the accreditation of schools and the
6 approval of school systems; and

7 (ii) Recommendations to the state board on appropriate action,
8 including, but not limited to, accreditation and approval action;

9 (C) Determine, in conjunction with the assessment and
10 accountability processes, what capacity may be needed by schools
11 and school systems to meet the standards established by the state
12 board and recommend to the state board ~~and the Process for~~
13 ~~Improving Education Council~~ plans to establish those needed
14 capacities;

15 (D) Determine, in conjunction with the assessment and
16 accountability processes, whether statewide system deficiencies
17 exist in the capacity of schools and school systems to meet the
18 standards established by the state board, including the
19 identification of trends and the need for continuing improvements
20 in education, and report those deficiencies and trends to the state
21 board; ~~and the Process for Improving Education Council~~

22 (E) Determine, in conjunction with the assessment and
23 accountability processes, staff development needs of schools and
24 school systems to meet the standards established by the state board
25 and make recommendations to the state board, ~~the Process for~~
26 ~~Improving Education Council~~, the Center for Professional

1 Development, the regional educational service agencies, the Higher
2 Education Policy Commission and the county boards;

3 (F) Identify, in conjunction with the assessment and
4 accountability processes, ~~exemplary schools and school systems and~~
5 best practices that improve student, school and school system
6 performance and ~~make recommendations~~ communicate those to the state
7 board ~~and the Process for Improving Education Council for~~
8 ~~recognizing and rewarding exemplary schools and school systems and~~
9 promoting the use of best practices. The state board shall provide
10 information on best practices to county school systems; ~~and shall~~
11 ~~use information identified through the assessment and~~
12 ~~accountability processes to select schools of excellence and~~

13 (G) Develop reporting formats, such as check lists, which
14 shall be used by the appropriate administrative personnel in
15 schools and school systems to document compliance with ~~various of~~
16 ~~the~~ applicable laws, policies and process standards as considered
17 appropriate and approved by the state board, ~~including~~ which may
18 include, but is not limited to, the following:

19 (i) The use of a policy for the evaluation of all school
20 personnel that meets the requirements of sections twelve and
21 twelve-a, article two, chapter eighteen-a of this code;

22 (ii) The participation of students in appropriate physical
23 assessments as determined by the state board, which assessment may
24 not be used as a part of the assessment and accountability system;

25 (iii) The appropriate licensure of school personnel; and

26 (iv) The ~~school provides~~ appropriate provision of

1 multicultural activities.

2 Information contained in the reporting formats is subject to
3 examination during an on-site review to determine compliance with
4 laws, policies and standards. Intentional and grossly negligent
5 reporting of false information are grounds for dismissal of any
6 employee.

7 ~~(m)~~ (k) *On-site reviews.* -

8 (1) The system of education performance audits shall include
9 on-site reviews of schools and school systems which shall be
10 conducted only at the specific direction of the state board upon
11 its determination that ~~the performance and progress of the school~~
12 ~~or school system are persistently below standard or that other~~
13 circumstances exist that warrant an on-site review. Any discussion
14 by the state board of schools to be subject to an on-site review or
15 dates for which on-site reviews will be conducted may be held in
16 executive session and is not subject to the provisions of article
17 nine-a, chapter six of this code relating to open governmental
18 proceedings. An on-site review shall be conducted by the Office of
19 Education Performance Audits of a school or school system for the
20 purpose of ~~investigating the reasons for performance and progress~~
21 ~~that are persistently below standard and making recommendations to~~
22 the school and school system, as appropriate, and to the state
23 board on such measures as it considers necessary. ~~to improve~~
24 ~~performance and progress to meet the standard~~ The investigation
25 may include, but is not limited to, the following:

26 (A) Verifying data reported by the school or county board;

1 (B) Examining compliance with the laws and policies affecting
2 student, school and school system performance and progress;

3 (C) Evaluating the effectiveness and implementation status of
4 school and school system electronic strategic improvement plans;

5 (D) Investigating official complaints submitted to the state
6 board that allege serious impairments in the quality of education
7 in schools or school systems;

8 (E) Investigating official complaints submitted to the state
9 board that allege that a school or county board is in violation of
10 policies or laws under which schools and county boards operate; and

11 (F) Determining and reporting whether required reviews and
12 inspections have been conducted by the appropriate agencies,
13 including, but not limited to, the State Fire Marshal, the Health
14 Department, the School Building Authority and the responsible
15 divisions within the Department of Education, and whether noted
16 deficiencies have been or are in the process of being corrected.
17 ~~The Office of Education Performance Audits may not conduct a~~
18 ~~duplicate review or inspection of any compliance reviews or~~
19 ~~inspections conducted by the department or its agents or other duly~~
20 ~~authorized agencies of the state, nor may it mandate more stringent~~
21 ~~compliance measures.~~

22 (2) The Director of the Office of Education Performance Audits
23 shall notify the county superintendent of schools five school days
24 prior to commencing an on-site review of the county school system
25 and shall notify both the county superintendent and the principal
26 five school days before commencing an on-site review of an

1 individual school: *Provided*, That the state board may direct the
2 Office of Education Performance Audits to conduct an unannounced
3 on-site review of a school or school system if the state board
4 believes circumstances warrant an unannounced on-site review.

5 (3) The Office of Education Performance Audits shall conduct
6 on-site reviews which are limited in scope to specific areas in
7 which performance and progress are persistently below standard as
8 determined by the state board unless specifically directed by the
9 state board to conduct a review which covers additional areas.

10 ~~(4) An on-site review of a school or school system shall~~
11 ~~include a person or persons from the Department of Education or a~~
12 ~~public education agency in the state who has expert knowledge and~~
13 ~~experience in the area or areas to be reviewed and who has been~~
14 ~~trained and designated by the state board to perform such~~
15 ~~functions. If the size of the school or school system and issues~~
16 ~~being reviewed necessitate the use of an on-site review team or~~
17 ~~teams, the person or persons designated by the state board shall~~
18 ~~advise and assist the director to appoint the team or teams. The~~
19 ~~person or persons designated by the state board shall be the team~~
20 ~~leaders.~~

21 ~~The persons designated by the state board shall be responsible~~
22 ~~for completing the report on the findings and recommendations of~~
23 ~~the on-site review in their area of expertise. It is the intent of~~
24 ~~the Legislature that the persons designated by the state board~~
25 ~~participate in all on-site reviews that involve their area of~~
26 ~~expertise, to the extent practicable, so that the on-site review~~

1 ~~process will evaluate compliance with the standards in a uniform,~~
2 ~~consistent and expert manner.~~

3 ~~(5)~~ (4) The Office of Education Performance Audits shall
4 reimburse a county board for the costs of substitutes required to
5 replace county board employees ~~while they are serving~~ who serve on
6 a review team.

7 ~~(6)~~ (5) At the conclusion of an on-site review of a school
8 system, the director and team leaders shall hold an exit conference
9 with the superintendent and shall provide an opportunity for
10 principals to be present for at least the portion of the conference
11 pertaining to their respective schools. In the case of an on-site
12 review of a school, the exit conference shall be held with the
13 principal and curriculum team of the school and the superintendent
14 shall be provided the opportunity to be present. The purpose of
15 the exit conference is to review the initial findings of the
16 on-site review, clarify and correct any inaccuracies and allow the
17 opportunity for dialogue between the reviewers and the school or
18 school system to promote a better understanding of the findings.

19 ~~(7)~~ (6) The Office of Education Performance Audits shall
20 report the findings of an on-site review to the county
21 superintendent and the principals whose schools were reviewed
22 within thirty days following the conclusion of the on-site review.
23 The Office of Education Performance Audits shall report the
24 findings of the on-site review to the state board within forty-five
25 days after the conclusion of the on-site review. ~~A copy of the~~
26 ~~report shall be provided to the Process for Improving Education~~

1 ~~Council at its request.~~ A school or county that believes one or
2 more findings of a review are clearly inaccurate, incomplete or
3 misleading, misrepresent or fail to reflect the true quality of
4 education in the school or county or address issues unrelated to
5 the health, safety and welfare of students and the quality of
6 education, may appeal to the state board for removal of the
7 findings. The state board shall establish a process for it to
8 receive, review and act upon the appeals. The state board shall
9 report to the Legislative Oversight Commission on Education
10 Accountability during its July interim meetings, or as soon
11 thereafter as practical, on each appeal during the preceding school
12 year.

13 ~~(8)~~ (7) The Legislature finds that the accountability and
14 oversight of ~~the following~~ some activities and programmatic areas
15 in the public schools ~~is~~ are controlled through other mechanisms
16 and agencies and that additional accountability and oversight ~~are~~
17 ~~not only~~ may be unnecessary, ~~but~~ counterproductive in ~~distracting~~
18 and impair necessary resources ~~from~~ for teaching and learning.
19 Therefore, ~~notwithstanding any other provision of this section to~~
20 ~~the contrary, the following activities and programmatic areas are~~
21 ~~not subject to review by the Office of Education Performance Audits~~
22 may rely on other agencies and mechanisms in its review of schools
23 and school systems.

24 ~~(A) Work-based learning;~~

25 ~~(B) Use of advisory councils;~~

26 ~~(C) Program accreditation and student credentials;~~

1 ~~(D) Student transition plans;~~
2 ~~(E) Graduate assessment form;~~
3 ~~(F) Casual deficit;~~
4 ~~(G) Accounting practices;~~
5 ~~(H) Transportation services;~~
6 ~~(I) Special education services;~~
7 ~~(J) Safe, healthy and accessible facilities;~~
8 ~~(K) Health services;~~
9 ~~(L) Attendance director;~~
10 ~~(M) Business/community partnerships;~~
11 ~~(N) Pupil teacher ratio/split grade classes;~~
12 ~~(O) Local school improvement council, faculty senate, student~~
13 ~~assistance team and curriculum team;~~
14 ~~(P) Planning and lunch periods;~~
15 ~~(Q) Skill improvement program;~~
16 ~~(R) Certificate of proficiency;~~
17 ~~(S) Training of county board members;~~
18 ~~(T) Excellence in job performance;~~
19 ~~(U) Staff development; and~~
20 ~~(V) Preventive discipline, character education and student and~~
21 ~~parental involvement.~~

22 ~~(n) (1) School accreditation. - The state board annually shall~~
23 ~~review the information from the system of education performance~~
24 ~~audits submitted for each school and shall issue to every school~~
25 ~~one of the following approval levels: Exemplary accreditation~~
26 ~~status, distinction accreditation status, full accreditation~~

1 ~~status, temporary accreditation status, conditional accreditation~~
2 ~~status or low performing accreditation status.~~

3 ~~(1) Full accreditation status shall be given to a school when~~
4 ~~the school's performance and progress meet or exceed the standards~~
5 ~~adopted by the state board pursuant to subsection (e) or (f), as~~
6 ~~applicable, of this section and it does not have any deficiencies~~
7 ~~which would endanger student health or safety or other~~
8 ~~extraordinary circumstances as defined by the state board. A~~
9 ~~school that meets or exceeds the performance and progress standards~~
10 ~~but has the other deficiencies shall remain on full accreditation~~
11 ~~status for the remainder of the accreditation period and shall have~~
12 ~~an opportunity to correct those deficiencies, notwithstanding other~~
13 ~~provisions of this subsection.~~

14 ~~(2) Temporary accreditation status shall be given to a school~~
15 ~~when the school's performance and progress are below the level~~
16 ~~required for full accreditation status. Whenever a school is given~~
17 ~~temporary accreditation status, the county board shall ensure that~~
18 ~~the school's electronic strategic improvement plan is revised in~~
19 ~~accordance with subsection (b) of this section to increase the~~
20 ~~performance and progress of the school to a full accreditation~~
21 ~~status level. The revised plan shall be submitted to the state~~
22 ~~board for approval.~~

23 ~~(3) Conditional accreditation status shall be given to a~~
24 ~~school when the school's performance and progress are below the~~
25 ~~level required for full accreditation, but the school's electronic~~
26 ~~strategic improvement plan meets the following criteria:~~

1 ~~(A) The plan has been revised to improve performance and~~
2 ~~progress on the standard or standards by a date or dates certain;~~

3 ~~(B) The plan has been approved by the state board; and~~

4 ~~(C) The school is meeting the objectives and time line~~
5 ~~specified in the revised plan.~~

6 ~~(4) Exemplary accreditation status shall be given to a school~~
7 ~~when the school's performance and progress substantially exceed the~~
8 ~~standards adopted by the state board pursuant to subsections (f)~~
9 ~~and (g) of this section. The state board shall promulgate~~
10 ~~legislative rules in accordance with the provisions of article~~
11 ~~three b, chapter twenty nine a of this code designated to establish~~
12 ~~standards of performance and progress to identify exemplary~~
13 ~~schools.~~

14 ~~(5) Distinction accreditation status shall be given to a~~
15 ~~school when the school's performance and progress exceed the~~
16 ~~standards adopted by the state board. The state board shall~~
17 ~~promulgate legislative rules in accordance with the provisions of~~
18 ~~article three b, chapter twenty nine a of this code establishing~~
19 ~~standards of performance and progress to identify schools of~~
20 ~~distinction.~~

21 ~~(6) Low-performing accreditation status shall be given to a~~
22 ~~school whenever extraordinary circumstances exist as defined by the~~
23 ~~state board.~~

24 ~~(A) These circumstances shall include, but are not limited to,~~
25 ~~any one or more of the following:~~

26 ~~(i) The failure of a school on temporary accreditation status~~

1 ~~to obtain approval of its revised electronic school strategic~~
2 ~~improvement plan within a reasonable time period as defined by the~~
3 ~~state board;~~

4 ~~(ii) The failure of a school on conditional accreditation~~
5 ~~status to meet the objectives and time line of its revised~~
6 ~~electronic school strategic improvement plan;~~

7 ~~(iii) The failure of a school to meet a standard by the date~~
8 ~~specified in the revised plan; and~~

9 ~~(iv) The results of the most recent statewide assessment in~~
10 ~~reading and math or other multiple measures as determined by the~~
11 ~~state board that identify the school as low performing at its~~
12 ~~programmatic level in three of the last five years.~~

13 ~~(B) Whenever the state board determines that the quality of~~
14 ~~education in a school is low performing, the state board shall~~
15 ~~appoint a team of improvement consultants from the West Virginia~~
16 ~~Department of Education State System of Support to make~~
17 ~~recommendations for correction of the low performance. These~~
18 ~~recommendations shall be communicated to the county board and a~~
19 ~~process shall be established in conjunction with the State System~~
20 ~~of Support to correct the identified deficiencies. If progress in~~
21 ~~correcting the low performance as determined by the state board is~~
22 ~~not made within one year following the implementation of the~~
23 ~~measures adopted to correct the identified deficiencies or by a~~
24 ~~date certain established by the state board after at least one year~~
25 ~~of implementation, the state board shall place the county board on~~
26 ~~temporary approval status and provide consultation and assistance~~

1 ~~to the county board to assist it in the following areas:~~

2 ~~(i) Improving personnel management;~~

3 ~~(ii) Establishing more efficient financial management~~
4 ~~practices;~~

5 ~~(iii) Improving instructional programs and rules; or~~

6 ~~(iv) Making any other improvements that are necessary to~~
7 ~~correct the low performance.~~

8 ~~(C) If the low performance is not corrected by a date certain~~
9 ~~as set by the state board:~~

10 ~~(i) The state board shall appoint a monitor who shall be paid~~
11 ~~at county expense to cause improvements to be made at the school to~~
12 ~~bring it to full accreditation status within a reasonable time~~
13 ~~period as determined by the state board. The monitor's work~~
14 ~~location shall be at the school and the monitor shall work~~
15 ~~collaboratively with the principal. The monitor shall, at a~~
16 ~~minimum, report monthly to the state board on the measures being~~
17 ~~taken to improve the school's performance and the progress being~~
18 ~~made. The reports may include requests for additional assistance~~
19 ~~and recommendations required in the judgment of the monitor to~~
20 ~~improve the school's performance, including, but not limited to,~~
21 ~~the need for targeting resources strategically to eliminate~~
22 ~~deficiencies;~~

23 ~~(ii) The state board may make a determination, in its sole~~
24 ~~judgment, that the improvements necessary to provide a thorough and~~
25 ~~efficient education to the students at the school cannot be made~~
26 ~~without additional targeted resources, in which case it shall~~

1 ~~establish a plan in consultation with the county board that~~
2 ~~includes targeted resources from sources under the control of the~~
3 ~~state board and the county board to accomplish the needed~~
4 ~~improvements. Nothing in this subsection shall be construed to~~
5 ~~allow a change in personnel at the school to improve school~~
6 ~~performance and progress, except as provided by law;~~

7 ~~(iii) If the low performance is not corrected within one year~~
8 ~~after the appointment of a monitor, the state board may make a~~
9 ~~determination, in its sole judgment, that continuing a monitor~~
10 ~~arrangement is not sufficient to correct the low performance and~~
11 ~~may intervene in the operation of the school to cause improvements~~
12 ~~to be made that will provide assurances that a thorough and~~
13 ~~efficient system of schools will be provided. This intervention~~
14 ~~may include, but is not limited to, establishing instructional~~
15 ~~programs, taking such direct action as may be necessary to correct~~
16 ~~the low performance, declaring the position of principal is vacant~~
17 ~~and assigning a principal for the school who shall serve at the~~
18 ~~will and pleasure of and, under the sole supervision of, the state~~
19 ~~board: *Provided*, That prior to declaring that the position of the~~
20 ~~principal is vacant, the state board must make a determination that~~
21 ~~all other resources needed to correct the low performance are~~
22 ~~present at the school.~~

23 (1) The state board shall establish levels of accreditation to
24 be assigned to schools. The establishment of levels of
25 accreditation and the levels shall be subject to the following:

26 (A) The levels will be designed to demonstrate school

1 performance in all the areas outlined in this section and also
2 those established by the state board;

3 (B) The state board shall promulgate legislative rules in
4 accordance with the provisions of article three-b, chapter twenty-
5 nine-a of this code to establish the performance and standards
6 required for a school to be assigned a particular level of
7 accreditation; and

8 (C) The state board will establish the levels of accreditation
9 in such a manner as to minimize the number of systems of school
10 recognition, both state and federal, that are employed to recognize
11 and accredit schools.

12 (2) The state board annually shall review the information from
13 the system of education performance audits submitted for each
14 school and shall issue to every school a level of accreditation as
15 designated and determined by the state board.

16 (3) The state board, in its exercise of general supervision of
17 the schools and school systems of West Virginia, may exercise any
18 or all of the following powers and actions:

19 (A) To require a school to revise its electronic strategic
20 plan;

21 (B) To define extraordinary circumstances under which the
22 state board may intervene directly or indirectly in the operation
23 of a school;

24 (C) To appoint monitors to work with the principal and staff
25 of a school where extraordinary circumstances are found to exist,
26 and to appoint monitors to assist the school principal after

1 intervention in the operation of a school is completed;

2 (D) To direct a county board to target resources to assist a
3 school where extraordinary circumstances are found to exist;

4 (E) To intervene directly in the operation of a school and
5 declare the position of principal vacant and assign a principal for
6 the school who will serve at the will and pleasure of the state
7 board. If the principal who was removed elects not to remain an
8 employee of the county board, then the principal assigned by the
9 state board shall be paid by the county board. If the principal
10 who was removed elects to remain an employee of the county board,
11 then the following procedure applies:

12 ~~(I)~~ (i) The principal assigned by the state board shall be
13 paid by the state board until the next school term, at which time
14 the principal assigned by the state board shall be paid by the
15 county board;

16 ~~(II)~~ (ii) The principal who was removed is eligible for all
17 positions in the county, including teaching positions, for which
18 the principal is certified, by either being placed on the transfer
19 list in accordance with section seven, article two, chapter
20 eighteen-a of this code, or by being placed on the preferred recall
21 list in accordance with section seven-a, article four, chapter
22 eighteen-a of this code; and

23 ~~(III)~~ (iii) The principal who was removed shall be paid by the
24 county board and may be assigned to administrative duties, without
25 the county board being required to post that position until the end
26 of the school term; and

1 (F) Such other powers and actions the state board determines
2 necessary to fulfill its duties of general supervision of the
3 schools and school systems of West Virginia.

4 ~~(6)~~ (4) The county board ~~shall~~ may take no action nor refuse
5 any action if the effect would be to impair further the school in
6 which the state board has intervened.

7 ~~(7) The state board may appoint a monitor pursuant to the~~
8 ~~provisions of this subsection to assist the school principal after~~
9 ~~intervention in the operation of a school is completed.~~

10 ~~(e) Transfers from low-performing schools. -- Whenever a~~
11 ~~school is determined to be low performing and fails to improve its~~
12 ~~status within one year, following state intervention in the~~
13 ~~operation of the school to correct the low performance, any student~~
14 ~~attending the school may transfer once to the nearest fully~~
15 ~~accredited school in the county, subject to approval of the fully~~
16 ~~accredited school and at the expense of the school from which the~~
17 ~~student transferred.~~

18 ~~(p)~~ (m) *School system approval.* - The state board annually
19 shall review the information submitted for each school system from
20 the system of education performance audits and issue one of the
21 following approval levels to each county board: Full approval,
22 temporary approval, conditional approval or nonapproval.

23 (1) Full approval shall be given to a county board whose
24 schools have all been given full, temporary or conditional
25 accreditation status and which does not have any deficiencies which
26 would endanger student health or safety or other extraordinary

1 circumstances as defined by the state board. A fully approved
2 school system in which other deficiencies are discovered shall
3 remain on full accreditation status for the remainder of the
4 approval period and shall have an opportunity to correct those
5 deficiencies, notwithstanding other provisions of this subsection.

6 (2) Temporary approval shall be given to a county board whose
7 education system is below the level required for full approval.
8 Whenever a county board is given temporary approval status, the
9 county board shall revise its electronic county strategic
10 improvement plan in accordance with subsection (b) of this section
11 to increase the performance and progress of the school system to a
12 full approval status level. The revised plan shall be submitted to
13 the state board for approval.

14 (3) Conditional approval shall be given to a county board
15 whose education system is below the level required for full
16 approval, but whose electronic county strategic improvement plan
17 meets the following criteria:

18 ~~(i)~~ (A) The plan has been revised in accordance with
19 subsection (b) of this section;

20 ~~(ii)~~ (B) The plan has been approved by the state board; and

21 ~~(iii)~~ (C) The county board is meeting the objectives and time
22 line specified in the revised plan.

23 (4) Nonapproval status shall be given to a county board which
24 fails to submit and gain approval for its electronic county
25 strategic improvement plan or revised electronic county strategic
26 improvement plan within a reasonable time period as defined by the

1 state board or which fails to meet the objectives and time line of
2 its revised electronic county strategic improvement plan or fails
3 to achieve full approval by the date specified in the revised plan.

4 (A) The state board shall establish and adopt additional
5 standards to identify school systems in which the program may be
6 nonapproved and the state board may issue nonapproval status
7 whenever extraordinary circumstances exist as defined by the state
8 board.

9 (B) Whenever a county board has more than a casual deficit, as
10 defined in section one, article one of this chapter, the county
11 board shall submit a plan to the state board specifying the county
12 board's strategy for eliminating the casual deficit. The state
13 board either shall approve or reject the plan. If the plan is
14 rejected, the state board shall communicate to the county board the
15 reason or reasons for the rejection of the plan. The county board
16 may resubmit the plan any number of times. However, any county
17 board that fails to submit a plan and gain approval for the plan
18 from the state board before the end of the fiscal year after a
19 deficit greater than a casual deficit occurred or any county board
20 which, in the opinion of the state board, fails to comply with an
21 approved plan may be designated as having nonapproval status.

22 (C) Whenever nonapproval status is given to a school system,
23 the state board shall declare a state of emergency in the school
24 system and shall appoint a team of improvement consultants to make
25 recommendations within sixty days of appointment for correcting the
26 emergency. When the state board approves the recommendations, they

1 shall be communicated to the county board. If progress in
2 correcting the emergency, as determined by the state board, is not
3 made within six months from the time the county board receives the
4 recommendations, the state board shall intervene in the operation
5 of the school system to cause improvements to be made that will
6 provide assurances that a thorough and efficient system of schools
7 will be provided. This intervention may include, but is not
8 limited to, the following:

9 (i) Limiting the authority of the county superintendent and
10 county board as to the expenditure of funds, the employment and
11 dismissal of personnel, the establishment and operation of the
12 school calendar, the establishment of instructional programs and
13 rules and any other areas designated by the state board by rule,
14 which may include delegating decision-making authority regarding
15 these matters to the state superintendent;

16 (ii) Declaring that the office of the county superintendent is
17 vacant;

18 (iii) Delegating to the state superintendent both the
19 authority to conduct hearings on personnel matters and school
20 closure or consolidation matters and, subsequently, to render the
21 resulting decisions and the authority to appoint a designee for the
22 limited purpose of conducting hearings while reserving to the state
23 superintendent the authority to render the resulting decisions;

24 (iv) Functioning in lieu of the county board of education in
25 a transfer, sale, purchase or other transaction regarding real
26 property; and

1 (v) Taking any direct action necessary to correct the
2 emergency including, but not limited to, the following:

3 (I) Delegating to the state superintendent the authority to
4 replace administrators and principals in low performing schools and
5 to transfer them into alternate professional positions within the
6 county at his or her discretion; and

7 (II) Delegating to the state superintendent the authority to
8 fill positions of administrators and principals with individuals
9 determined by the state superintendent to be the most qualified for
10 the positions. Any authority related to intervention in the
11 operation of a county board granted under this paragraph is not
12 subject to the provisions of article four, chapter eighteen-a of
13 this code;

14 ~~(q)~~ (n) Notwithstanding any other provision of this section,
15 the state board may intervene immediately in the operation of the
16 county school system with all the powers, duties and
17 responsibilities contained in subsection ~~(p)~~ (m) of this section,
18 if the state board finds the following:

19 (1) That the conditions precedent to intervention exist as
20 provided in this section; and that delaying intervention for any
21 period of time would not be in the best interests of the students
22 of the county school system; or

23 (2) That the conditions precedent to intervention exist as
24 provided in this section and that the state board had previously
25 intervened in the operation of the same school system and had
26 concluded that intervention within the preceding five years.

1 ~~(r)~~ (o) *Capacity*. - The process for improving education
2 includes a process for targeting resources strategically to improve
3 the teaching and learning process. Development of electronic
4 school and school system strategic improvement plans, pursuant to
5 subsection (b) of this section, is intended, in part, to provide
6 mechanisms to target resources strategically to the teaching and
7 learning process to improve student, school and school system
8 performance. When deficiencies are detected through the assessment
9 and accountability processes, the revision and approval of school
10 and school system electronic strategic improvement plans shall
11 ensure that schools and school systems are efficiently using
12 existing resources to correct the deficiencies. When the state
13 board determines that schools and school systems do not have the
14 capacity to correct deficiencies, the state board shall work with
15 the county board to develop or secure the resources necessary to
16 increase the capacity of schools and school systems to meet the
17 standards and, when necessary, seek additional resources in
18 consultation with the Legislature and the Governor.

19 The state board shall recommend to the appropriate body
20 including, but not limited to, ~~the Process for Improving Education~~
21 ~~Council~~, the Legislature, county boards, schools and communities
22 methods for targeting resources strategically to eliminate
23 deficiencies identified in the assessment and accountability
24 processes. When making determinations on recommendations, the
25 state board shall include, but is not limited to, the following
26 methods:

1 (1) Examining reports and electronic strategic improvement
2 plans regarding the performance and progress of students, schools
3 and school systems relative to the standards and identifying the
4 areas in which improvement is needed;

5 (2) Determining the areas of weakness and of ineffectiveness
6 that appear to have contributed to the substandard performance and
7 progress of students or the deficiencies of the school or school
8 system and requiring the school or school system to work
9 collaboratively with the West Virginia Department of Education
10 State System of Support to correct the deficiencies;

11 (3) Determining the areas of strength that appear to have
12 contributed to exceptional student, school and school system
13 performance and progress and promoting their emulation throughout
14 the system;

15 (4) Requesting technical assistance from the School Building
16 Authority in assessing or designing comprehensive educational
17 facilities plans;

18 (5) Recommending priority funding from the School Building
19 Authority based on identified needs;

20 (6) Requesting special staff development programs from the
21 Center for Professional Development, the Principals Academy, higher
22 education, regional educational service agencies and county boards
23 based on identified needs;

24 (7) Submitting requests to the Legislature for appropriations
25 to meet the identified needs for improving education;

26 (8) Directing county boards to target their funds

1 strategically toward alleviating deficiencies;

2 (9) Ensuring that the need for facilities in counties with
3 increased enrollment are appropriately reflected and recommended
4 for funding;

5 (10) Ensuring that the appropriate person or entity is held
6 accountable for eliminating deficiencies; and

7 (11) Ensuring that the needed capacity is available from the
8 state and local level to assist the school or school system in
9 achieving the standards and alleviating the deficiencies.

10 **ARTICLE 2I. PROFESSIONAL DEVELOPMENT.**

11 **§18-2I-1. Legislative purpose.**

12 The purpose of this article is to establish clear state-level
13 leadership for professional development for all West Virginia
14 public school educators and administrators. As the state
15 institution charged with the general supervision of the state
16 school system, the state board shall institute a system for the
17 coordination and delivery of high-quality professional development.
18 The system shall clearly define the goals for professional
19 development and delineate roles and responsibilities among the
20 various state and regional professional development providers.

21 **§18-2I-2. Legislative findings.**

22 The Legislature finds:

23 (1) That high-quality professional development is critical in
24 supporting improved practice, assuring teacher quality and raising
25 student achievement;

26 (2) That professional development is vital in the state's

1 overall school improvement efforts;

2 (3) That the state board should assure the efficient delivery
3 of high-quality professional development programs and assure that
4 duplication of efforts be minimized and that all stakeholders are
5 appropriately involved in the planning and implementing of programs
6 to meet requisite needs and that high-quality professional
7 development programs be provided to public school educators of West
8 Virginia in the most efficient and cost effective manner; and

9 (4) It should be the goal that professional development occur
10 outside of scheduled instructional time so student learning is not
11 interrupted by the absence of their classroom teacher.

12 **§18-2I-3. Annual professional development master plan established**
13 **by state board.**

14 (a) The state board annually shall establish a master plan for
15 professional development in the public schools of the state. As a
16 first priority, the state board shall require adequate and
17 appropriate professional development to ensure high-quality
18 teaching that will support improved student achievement, enable
19 students to meet the content standards established for the required
20 curriculum in the public schools and to be prepared for college and
21 careers.

22 (b) The state board annually shall submit the master plan to
23 the State Department of Education, the Center for Professional
24 Development, the regional educational service agencies, the Higher
25 Education Policy Commission and the Legislative Oversight
26 Commission on Education Accountability.

1 (c) The state board shall annually establish goals for
2 professional development and include the goals in the master plan.
3 In establishing the goals, the state board shall review reports
4 that may indicate a need for professional staff development
5 including, but not limited to, the report of the Center for
6 Professional Development created in article three-a, chapter
7 eighteen-a of this code, student test scores on the statewide
8 student assessment program, the measures of student and school
9 performance for accreditation purposes, school and school district
10 report cards and the state board's plans for the use of funds in
11 the Strategic Staff Development Fund pursuant to section five of
12 this article.

13 (d) Pursuant to section thirty-nine, article two of this
14 chapter the state board shall include in its Master Plan for
15 Professional Staff Development:

16 (1) Professional development for teachers teaching the
17 transitional courses on how to teach the adopted college- and
18 career-readiness standards for English/language arts and math; and

19 (2) Appropriate professional development for other teachers in
20 at least grades eight through twelve on how to teach the adopted
21 college- and career-readiness standards in English/language arts
22 and math directly, as embedded in other subject areas or both, as
23 appropriate.

24 **§18-2I-4. Coordination, development and evaluation of professional**
25 **development programs.**

26 (a) On or before June 1, 2013, the state board shall

1 promulgate an emergency rule in accordance with article three-b,
2 chapter twenty-nine of this code to ensure the coordination,
3 development and evaluation of high-quality professional development
4 programs. On or before November 1, 2013, the state board shall
5 promulgate a legislative rule for the same purpose. The rules shall
6 include, but are not limited to, the following:

7 (1) Standards for quality professional development that all
8 professional development providers shall use in designing,
9 implementing and evaluating professional development that shall
10 become part of the statewide professional development plan;

11 (2) Processes for assuring professional development resources
12 are appropriately allocated to identified areas of need;

13 (3) Processes for approval by state board of all professional
14 development plans/offerings;

15 (4) Processes for evaluating the effectiveness, efficiency,
16 and impact of the professional development;

17 (5) Processes for ensuring all stakeholders, including
18 affected classroom teachers, have a voice in the identification of
19 needed professional development and various delivery models;

20 (6) Processes for collaboration among West Virginia Department
21 of Education, Center for Professional Development, RESAs, county
22 boards and classroom teachers; and

23 (7) Processes for ensuring that the expertise and experience
24 of state institutions of higher education with teacher preparation
25 programs are included in developing and implementing professional
26 development programs.

1 (b) The state board approval of the proposed professional
2 development plans/offerings shall establish a Master Plan for
3 Professional Development which shall be submitted by the state
4 board to the affected agencies and to the Legislative Oversight
5 Commission on Education Accountability. The Master Plan shall
6 include the state board-approved plans for professional development
7 by the State Department of Education, the Center for Professional
8 Development, the state institutions of higher education and the
9 regional educational service agencies to meet the professional
10 development goals of the state board.

11 (c) The state board shall submit a report on or before
12 December 1 of each year on the effectiveness, efficiency and impact
13 of the statewide professional development plan to the Legislative
14 Oversight Commission on Education Accountability.

15 **§18-2I-5. Strategic Staff Development Fund.**

16 (a) There is created an account within the state board titled
17 the Strategic Staff Development Fund. The allocation of balances
18 which accrue in the General School Fund shall be transferred to the
19 Strategic Staff Development Fund each year when the balances become
20 available. Any remaining funds transferred to the Strategic Staff
21 Development Fund during the fiscal year shall be carried over for
22 use in the same manner the next fiscal year and shall be separate
23 and apart from, and in addition to, the transfer of funds from the
24 General School Fund for the next fiscal year.

25 (b) The money in the Strategic Staff Development Fund shall be
26 used by the state board to provide staff development in schools,

1 counties or both that the state board determines need additional
2 resources. The state board is required to report to the Legislative
3 Oversight Commission on Education Accountability before December 1,
4 annually, on the effectiveness of the staff development resulting
5 from expenditures in this fund.

6 **ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.**

7 **§18-3-1. Appointment; qualifications; compensation; traveling**
8 **expenses; office and residence; evaluation.**

9 There shall be appointed by the state board a State
10 Superintendent of Schools who ~~shall serve~~ serves at the will and
11 pleasure of the state board. He or she shall be a person of good
12 moral character, shall be able to perform the duties listed in this
13 article and possess such other educational, administrative,
14 experiential and other qualifications as determined by the State
15 Board of Education. ~~of recognized ability as a school~~
16 ~~administrator, holding~~ He or she shall hold at least a master's
17 degree from a regionally accredited institution of higher education
18 or equivalent degree as determined by the state board. ~~in~~
19 ~~educational administration, and shall have had not less than five~~
20 ~~years of experience in public school work.~~ He or she shall receive
21 an annual salary set by the state board, to be paid monthly:—
22 ~~Provided, That the annual salary may not exceed \$146,100:—~~
23 ~~Provided, however, That after June 30, 2006, the annual salary may~~
24 ~~not exceed \$175,000.~~ The state superintendent also shall receive
25 necessary traveling expenses incident to the performance of his or
26 her duties to be paid out of the General School Fund upon warrants

1 of the State Auditor. The state superintendent shall have his or
2 her office at the state Capitol. The state board shall report to
3 the Legislative Oversight Commission on Education Accountability
4 upon request concerning its progress during any hiring process for
5 a state superintendent.

6 The state board annually shall evaluate the performance of the
7 state superintendent and publicly announce the results of the
8 evaluation.

9 **§18-3-9b. Reduction in amount budgeted for personal services.**

10 The state superintendent shall reduce the budgeted amount for
11 personal services, related employee benefits and contractual
12 expenditures related to employment by five percent in fiscal years
13 2014 and 2015. The reductions shall be taken department wide,
14 excluding the school aid formula and institutionalized services to
15 juveniles and adults, and other direct-service education
16 expenditures.

17 **§18-3-12. Special Community Development School Pilot Program.**

18 (a) The state superintendent shall establish a Special
19 Community Development School Pilot Program to be implemented in ~~one~~
20 a neighborhood of at least five public school schools, which shall
21 include at least one elementary and middle school, for the duration
22 of five years. The ~~public school~~ neighborhood of public schools
23 designated by the state superintendent for the pilot shall have
24 significant enrollments of disadvantaged, minority and
25 underachieving students. The designated ~~public school~~ neighborhood
26 of public schools under the direction of the county board and

1 county superintendent shall work in collaboration with higher
2 education, community organizations, Center for Professional
3 Development, local community leaders, affected classroom teachers,
4 affected parents and the state board to develop and implement
5 strategies that could be replicated in other public schools with
6 significant enrollments of disadvantaged, minority and
7 underachieving students to improve academic achievement. For
8 purposes of this section "neighborhood" means an area of no more
9 than seven square miles.

10 (b) Beginning in January, ~~2011~~ 2014, on or before the first
11 day of the regular session of the Legislature, and each year
12 thereafter, the state superintendent, county superintendent for the
13 county in which the schools are located and lead community-based
14 organizations shall make a status report to the Legislative
15 Oversight Commission on Education Accountability and to the state
16 board. The report may include any recommendations based on the
17 progress of the demonstration project that he or she considers
18 either necessary for improving the operations of the demonstration
19 project or prudent for improving student achievement in other
20 public schools through replication of successful demonstration
21 school programs.

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

23 **§18-5-18. Kindergarten programs.**

24 (a) County boards shall provide kindergarten programs for all
25 children who have attained the age of five prior to September 1, of
26 the school year in which the pupil enters the kindergarten program

1 and may, pursuant to the provisions of section forty-four, article
2 five, chapter eighteen of this code, establish kindergarten
3 programs designed for children below the age of five. The programs
4 for children who shall have attained the age of five shall be
5 full-day everyday programs.

6 (b) Persons employed as kindergarten teachers, as
7 distinguished from paraprofessional personnel, shall be required to
8 hold a certificate valid for teaching at the assigned level as
9 prescribed by ~~regulations~~ rules established by the state board.
10 The state board shall establish ~~and prescribe guidelines and~~
11 ~~criteria setting forth~~ the minimum requirements for all
12 paraprofessional personnel employed in kindergarten programs
13 established pursuant to the provisions of this section and no such
14 paraprofessional personnel ~~shall~~ may be employed in any
15 kindergarten program unless he or she meets ~~such~~ the minimum
16 requirements. Beginning July 1, 2014, any person previously
17 employed as an aide in a kindergarten program and who is employed
18 in the same capacity on and after that date and any new person
19 employed in that capacity in a kindergarten program on and after
20 that date shall hold the position of either Early Childhood
21 Classroom Assistant Teacher - Temporary Authorization, Early
22 Childhood Classroom Assistant Teacher - Permanent Authorization or
23 Early Childhood Classroom Assistant Teacher - Paraprofessional
24 Certificate. Any person employed as an aide in a kindergarten
25 program that is eligible for full retirement benefits before July
26 1, 2020, may remain employed as an aide in that position and may

1 not be required to acquire licensure pursuant to this section.

2 (c) The state board with the advice of the state
3 superintendent shall establish and prescribe guidelines and
4 criteria relating to the establishment, operation and successful
5 completion of kindergarten programs in accordance with the other
6 provisions of this section. Guidelines and criteria so established
7 and prescribed also are intended to serve for the establishment and
8 operation of nonpublic kindergarten programs and shall be used for
9 the evaluation and approval of ~~such~~ those programs by the state
10 superintendent, provided application for ~~such~~ the evaluation and
11 approval is made in writing by proper authorities in control of
12 ~~such~~ the programs. The state superintendent, annually, shall
13 publish a list of nonpublic kindergarten programs, including
14 Montessori kindergartens that have been approved in accordance with
15 the provisions of this section. Montessori kindergartens
16 established and operated in accordance with usual and customary
17 practices for the use of the Montessori method which have teachers
18 who have training or experience, regardless of additional
19 certification, in the use of the Montessori method of instruction
20 for kindergartens shall be considered to be approved.

21 (d) Pursuant to ~~such~~ the guidelines and criteria, and only
22 pursuant to ~~such~~ the guidelines and criteria, the county boards may
23 establish programs taking kindergarten to the homes of the children
24 involved, using educational television, paraprofessional personnel
25 in addition to and to supplement regularly certified teachers,
26 mobile or permanent classrooms and other means developed to best

1 carry kindergarten to the child in its home and enlist the aid and
2 involvement of its parent or parents in presenting the program to
3 the child; or may develop programs of a more formal kindergarten
4 type, in existing school buildings, or both, as ~~such~~ the county
5 board may determine, taking into consideration the cost, the
6 terrain, the existing available facilities, the distances each
7 child may be required to travel, the time each child may be
8 required to be away from home, the child's health, the involvement
9 of parents and ~~such~~ other factors as each county board may find
10 pertinent. ~~Such~~ The determinations by any county board ~~shall be~~
11 are final and conclusive.

12 **§18-5-44. Early childhood education programs.**

13 (a) For the purposes of this section, "early childhood
14 education" means programs for children who have attained the age of
15 four prior to September 1 of the school year in which the pupil
16 enters the program created in this section.

17 (b) *Findings.* -

18 (1) Among other positive outcomes, early childhood education
19 programs have been determined to:

20 (A) Improve overall readiness when children enter school;

21 (B) Decrease behavioral problems;

22 (C) Improve student attendance;

23 (D) Increase scores on achievement tests;

24 (E) Decrease the percentage of students repeating a grade; and

25 (F) Decrease the number of students placed in special
26 education programs;

1 (2) Quality early childhood education programs improve school
2 performance and low-quality early childhood education programs may
3 have negative effects, especially for at-risk children;

4 (3) West Virginia has the lowest percentage of its adult
5 population twenty-five years of age or older with a bachelor's
6 degree and the education level of parents is a strong indicator of
7 how their children will perform in school;

8 (4) During the 2006-2007 school year, West Virginia ranked
9 thirty-ninth among the fifty states in the percentage of school
10 children eligible for free and reduced lunches and this percentage
11 is a strong indicator of how the children will perform in school;

12 (5) For the school year 2008-2009, 13,135 students were
13 enrolled in prekindergarten, a number equal to approximately
14 sixty-three percent of the number of students enrolled in
15 kindergarten;

16 (6) Excluding projected increases due to increases in
17 enrollment in the early childhood education program, projections
18 indicate that total student enrollment in West Virginia will
19 decline by one percent, or by approximately 2704 students, by the
20 school year 2012-2013;

21 (7) In part, because of the dynamics of the state aid formula,
22 county boards will continue to enroll four-year old students to
23 offset the declining enrollments;

24 (8) West Virginia has a comprehensive kindergarten program for
25 five-year olds, but the program was established in a manner that
26 resulted in unequal implementation among the counties which helped

1 create deficit financial situations for several county boards;

2 (9) Expansion of current efforts to implement a comprehensive
3 early childhood education program should avoid the problems
4 encountered in kindergarten implementation;

5 (10) Because of the dynamics of the state aid formula,
6 counties experiencing growth are at a disadvantage in implementing
7 comprehensive early childhood education programs; and

8 (11) West Virginia citizens will benefit from the
9 establishment of quality comprehensive early childhood education
10 programs.

11 (c) Beginning no later than the school year 2012-2013, and
12 continuing thereafter, county boards shall provide early childhood
13 education programs for all children who have attained the age of
14 four prior to September 1 of the school year in which the pupil
15 enters the early childhood education program. Beginning no later
16 than the school year 2016-2017, and continuing thereafter, early
17 childhood education programs that are full day and five days per
18 week shall be available to all children meeting the age requirement
19 set forth in the subsection.

20 (d) The program shall meet the following criteria:

21 (1) It shall be voluntary, except, upon enrollment, the
22 provisions of section one, article eight of this chapter apply to
23 an enrolled student, ~~and~~ subject to subdivision (3) of this
24 subsection;

25 (2) ~~It may be for fewer than five days per week and may be~~
26 ~~less than full day~~ All children meeting the age requirement set

1 forth in this section shall have the opportunity to enroll in a
2 program that is full day and five days per week. The program may
3 be for fewer than five days per week and may be less than full day
4 based on family need if a sufficient number of families request
5 such programs and the county board finds that such programs are in
6 the best interest of the requesting families and students:

7 Provided, That the ability of families to request programs that are
8 fewer than five days a week or less than a full day does not
9 relieve the county of the obligation to provide all resident
10 children with the opportunity to enroll in a full-day program; and

11 (3) A parent of a child enrolled in an early education program
12 may withdraw a child from that program for good cause by notifying
13 the district. Good cause includes, but is not limited to,
14 enrollment of the child in another program or the immaturity of the
15 child. A child withdrawn under this section is not subject to the
16 attendance provisions of this chapter until that child again
17 enrolls in a public school in this state.

18 (e) Enrollment of students in Head Start, in any other program
19 approved by the state superintendent as provided in subsection (k)
20 of this section ~~shall~~ may be counted toward satisfying the
21 requirement of subsection (c) of this section.

22 (f) For the purposes of implementation financing, all counties
23 are encouraged to make use of funds from existing sources,
24 including:

25 (1) Federal funds provided under the Elementary and Secondary
26 Education Act pursuant to 20 U. S. C. §6301, *et seq.*;

1 (2) Federal funds provided for Head Start pursuant to 42 U. S.
2 C. §9831, *et seq.*;

3 (3) Federal funds for temporary assistance to needy families
4 pursuant to 42 U. S. C. §601, *et seq.*;

5 (4) Funds provided by the School Building Authority pursuant
6 to article nine-d of this chapter;

7 (5) In the case of counties with declining enrollments, funds
8 from the state aid formula above the amount indicated for the
9 number of students actually enrolled in any school year; and

10 (6) Any other public or private funds.

11 (g) Each county board shall develop a plan for implementing
12 the program required by this section. The plan shall include the
13 following elements:

14 (1) An analysis of the demographics of the county related to
15 early childhood education program implementation;

16 (2) An analysis of facility and personnel needs;

17 (3) Financial requirements for implementation and potential
18 sources of funding to assist implementation;

19 (4) Details of how the county board will cooperate and
20 collaborate with other early childhood education programs
21 including, but not limited to, Head Start, to maximize federal and
22 other sources of revenue;

23 (5) Specific time lines for implementation; and

24 (6) Any other items the state board may require by policy.

25 (h) A county board shall submit its plan to the Secretary of
26 the Department of Health and Human Resources. The secretary shall

1 approve the plan if the following conditions are met:

2 (1) The county board has maximized the use of federal and
3 other available funds for early childhood programs;

4 (2) The county board has provided for the maximum
5 implementation of Head Start programs and other public and private
6 programs approved by the state superintendent pursuant to the terms
7 of subsection (k) of this section; and

8 (3) If the Secretary of the Department of Health and Human
9 Resources finds that the county board has not met one or more of
10 the requirements of this subsection, but that the county board has
11 acted in good faith and the failure to comply was not the primary
12 fault of the county board, then the secretary shall approve the
13 plan. Any denial by the secretary may be appealed to the circuit
14 court of the county in which the county board is located.

15 (i) The county board shall submit its plan for approval to the
16 state board. The state board shall approve the plan if the county
17 board has complied substantially with the requirements of
18 subsection (g) of this section and has obtained the approval
19 required in subsection (h) of this section.

20 (j) Every county board shall submit its plan for reapproval by
21 the Secretary of the Department of Health and Human Resources and
22 by the state board at least every two years after the initial
23 approval of the plan and until full implementation of the early
24 childhood education program in the county. As part of the
25 submission, the county board shall provide a detailed statement of
26 the progress made in implementing its plan. The standards and

1 procedures provided for the original approval of the plan apply to
2 any reapproval.

3 (k) A county board may not increase the total number of
4 students enrolled in the county in an early childhood program until
5 its program is approved by the Secretary of the Department of
6 Health and Human Resources and the state board.

7 (l) The state board annually may grant a county board a waiver
8 for total or partial implementation if the state board finds that
9 all of the following conditions exist:

10 (1) The county board is unable to comply either because:

11 (A) It does not have sufficient facilities available; or

12 (B) It does not and has not had available funds sufficient to
13 implement the program;

14 (2) The county has not experienced a decline in enrollment at
15 least equal to the total number of students to be enrolled; and

16 (3) Other agencies of government have not made sufficient
17 funds or facilities available to assist in implementation.

18 Any county board seeking a waiver shall apply with the
19 supporting data to meet the criteria for which they are eligible on
20 or before March 25 for the following school year. The state
21 superintendent shall grant or deny the requested waiver on or
22 before April 15 of that same year.

23 (m) The provisions of subsections (b), (c) and (d), section
24 eighteen of this article relating to kindergarten apply to early
25 childhood education programs in the same manner in which they apply
26 to kindergarten programs.

1 (n) Annually, the state board shall report to the Legislative
2 Oversight Commission on Education Accountability on the progress of
3 implementation of this section.

4 (o) Except as required by federal law or regulation, no county
5 board may enroll students who will be less than four years of age
6 prior to September 1 for the year they enter school.

7 (p) Neither the state board nor the state department may
8 provide any funds to any county board for the purpose of
9 implementing this section unless the county board has a plan
10 approved pursuant to subsections (h), (i) and (j) of this section.

11 (q) The state board shall promulgate a rule in accordance with
12 the provisions of article three-b, chapter twenty-nine-a of this
13 code for the purposes of implementing the provisions of this
14 section. The state board shall consult with the Secretary of the
15 Department of Health and Human Resources in the preparation of the
16 rule. The rule shall contain the following:

- 17 (1) Standards for curriculum;
- 18 (2) Standards for preparing students;
- 19 (3) Attendance requirements;
- 20 (4) Standards for personnel; and
- 21 (5) Any other terms necessary to implement the provisions of
22 this section.

23 (r) The rule shall include the following elements relating to
24 curriculum standards:

- 25 (1) A requirement that the curriculum be designed to address
26 the developmental needs of four-year old children, consistent with

1 prevailing research on how children learn;

2 (2) A requirement that the curriculum be designed to achieve
3 long-range goals for the social, emotional, physical and academic
4 development of young children;

5 (3) A method for including a broad range of content that is
6 relevant, engaging and meaningful to young children;

7 (4) A requirement that the curriculum incorporate a wide
8 variety of learning experiences, materials and equipment, and
9 instructional strategies to respond to differences in prior
10 experience, maturation rates and learning styles that young
11 children bring to the classroom;

12 (5) A requirement that the curriculum be designed to build on
13 what children already know in order to consolidate their learning
14 and foster their acquisition of new concepts and skills;

15 (6) A requirement that the curriculum meet the recognized
16 standards of the relevant subject matter disciplines;

17 (7) A requirement that the curriculum engage children actively
18 in the learning process and provide them with opportunities to make
19 meaningful choices;

20 (8) A requirement that the curriculum emphasize the
21 development of thinking, reasoning, decisionmaking and
22 problem-solving skills;

23 (9) A set of clear guidelines for communicating with parents
24 and involving them in decisions about the instructional needs of
25 their children; and

26 (10) A systematic plan for evaluating program success in

1 meeting the needs of young children and for helping them to be
2 ready to succeed in school.

3 (s) The secretary and the state superintendent shall submit a
4 report to the Legislative Oversight Commission on Education
5 Accountability and the Joint Committee on Government and Finance
6 which addresses, at a minimum, the following issues:

7 (1) A summary of the approved county plans for providing the
8 early childhood education programs pursuant to this section;

9 (2) An analysis of the total cost to the state and county
10 boards of implementing the plans;

11 (3) A separate analysis of the impact of the plans on counties
12 with increasing enrollment; and

13 (4) An analysis of the effect of the programs on the
14 maximization of the use of federal funds for early childhood
15 programs.

16 The intent of this subsection is to enable the Legislature to
17 proceed in a fiscally responsible manner, make any necessary
18 program improvements based on reported information prior to
19 implementation of the early childhood education programs.

20 (t) After the school year 2012-2013, on or before July 1 of
21 each year, each county board shall report the following information
22 to the Secretary of the Department of Health and Human Resources
23 and the state superintendent:

24 (1) Documentation indicating the extent to which county boards
25 are maximizing resources by using the existing capacity of
26 community-based programs, including, but not limited to, Head Start

1 and child care; and

2 (2) For those county boards that are including eligible
3 children attending approved, contracted community-based programs in
4 their net enrollment for the purposes of calculating state aid
5 pursuant to article nine-a of this chapter, documentation that the
6 county board is equitably distributing funding for all children
7 regardless of setting.

8 **§18-5-45. School calendar.**

9 (a) As used in this section:

10 (1) "Instructional day" means a day within the instructional
11 term which meets the following criteria:

12 (A) Instruction is offered to students for at least the
13 minimum amount of hours provided by state board rule;

14 (B) Instructional time is used for instruction and
15 cocurricular activities; and

16 (C) Other criteria as the state board determines appropriate.

17 (2) "Cocurricular activities" are activities that are closely
18 related to identifiable academic programs or areas of study that
19 serve to complement academic curricula as further defined by the
20 state board.

21 (b) *Findings.* -

22 (1) The primary purpose of the school system is to provide
23 instruction for students.

24 (2) The school calendar, as defined in this section, is
25 designed to define the school term both for employees and for
26 instruction.

1 (3) The school calendar shall provide for one hundred eighty
2 separate instructional days.

3 (c) The county board shall provide a school term for its
4 schools that contains the following:

5 (1) An employment term that excludes Saturdays and Sundays and
6 consists of at least two hundred days, which need not be
7 successive. The beginning and closing dates of the employment term
8 may not exceed forty-eight weeks;

9 (2) Within the employment term, an instructional term for
10 students of no less than one hundred eighty separate instructional
11 days, which includes an inclement weather and emergencies plan
12 designed to guarantee an instructional term for students of no less
13 than one hundred eighty separate instructional days;

14 (3) Within the employment term, noninstructional days shall
15 total twenty and shall be comprised of the following:

16 (A) Seven paid holidays;

17 (B) Election day as specified in section two, article five,
18 chapter eighteen-a of this code;

19 (C) Six days to be designated by the county board to be used
20 by the employees outside the school environment, with at least four
21 outside the school environment days scheduled to occur after the
22 one hundred and thirtieth instructional day of the school calendar;
23 and

24 (D) The remaining days to be designated by the county board
25 for purposes to include, but not be limited to:

26 (i) Curriculum development;

1 (ii) Preparation for opening and closing school;
2 (iii) Professional development;
3 (iv) Teacher-pupil-parent conferences;
4 (v) Professional meetings;
5 (vi) Making up days when instruction was scheduled but not
6 conducted; and

7 (vii) At least four two-hour blocks of time for faculty senate
8 meetings with each two-hour block of time scheduled once at least
9 every forty-five instructional days; and

10 (4) Scheduled out-of-calendar days that are to be used for
11 instructional days in the event school is canceled for any reason.

12 (d) A county board of education shall develop a policy that
13 requires additional minutes of instruction in the school day or
14 additional days of instruction to recover time lost due to late
15 arrivals and early dismissals.

16 (e) If it is not possible to complete one hundred eighty
17 separate instructional days with the current school calendar, the
18 county board shall schedule instruction on any available
19 noninstructional day, regardless of the purpose for which the day
20 originally was scheduled, or an out-of-calendar day and the day
21 will be used for instruction of students: *Provided*, That the
22 provisions of this subsection do not apply to:

23 (A) Holidays;

24 (B) Election day;

25 (C) Saturdays and Sundays.

26 (f) The instructional term shall commence and terminate on a

1 date selected by the county board.

2 (g) The state board may not schedule the primary statewide
3 assessment program more than thirty days prior to the end of the
4 instructional year unless the state board determines that the
5 nature of the test mandates an earlier testing date.

6 (h) The following applies to cocurricular activities:

7 (1) The state board shall determine what activities may be
8 considered cocurricular;

9 (2) The state board shall determine the amount of
10 instructional time that may be consumed by cocurricular activities;
11 and

12 (3) Other requirements or restrictions the state board may
13 provide in the rule required to be promulgated by this section.

14 (i) Extracurricular activities may not be used for
15 instructional time.

16 (j) Noninstructional interruptions to the instructional day
17 shall be minimized to allow the classroom teacher to teach.

18 (k) Prior to implementing the school calendar, the county
19 board shall secure approval of its proposed calendar from the state
20 board or, if so designated by the state board, from the state
21 superintendent.

22 (l) In formulation of a school's calendar, a county school
23 board shall hold at least two public meetings that allow parents,
24 teachers, teacher organizations, businesses and other interested
25 parties within the county to discuss the school calendar. The
26 public notice of the date, time and place of the public hearing

1 must be published in a local newspaper of general circulation in
2 the area as a Class II legal advertisement, in accordance with the
3 provisions of article three, chapter fifty-nine of this code.

4 (m) The county board may contract with all or part of the
5 personnel for a longer term of employment.

6 (n) The minimum instructional term may be decreased by order
7 of the state superintendent in any county declared a federal
8 disaster area and where the event causing the declaration is
9 substantially related to a reduction of instructional days.

10 (o) Notwithstanding any provision of this code to the
11 contrary, the state board may grant a waiver to a county board for
12 its noncompliance with provisions of chapter eighteen, eighteen-a,
13 eighteen-b and eighteen-c of this code to maintain compliance in
14 reaching the mandatory one hundred eighty separate instructional
15 days established in this section.

16 (p) The state board shall promulgate a rule in accordance with
17 the provisions of article three-b, chapter twenty-nine-a of this
18 code for the purpose of implementing the provisions of this
19 section.

20 (q) The amendments to this section during the 2013 regular
21 session of the Legislature shall be effective for school years
22 beginning on or after July 1, 2013, and the provisions of this
23 section immediately prior to those amendments remain in effect
24 until July 1, 2013.

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

26 **§18-5A-5. Public school faculty senates established; election of**

1 **officers; powers and duties.**

2 (a) There is established at every public school in this state
3 a faculty senate which is comprised of all permanent, full-time
4 professional educators employed at the school who shall all be
5 voting members. Professional educators, as used in this section,
6 means "professional educators" as defined in chapter eighteen-a of
7 this code. A quorum of more than one half of the voting members of
8 the faculty shall be present at any meeting of the faculty senate
9 at which official business is conducted. Prior to the beginning of
10 the instructional term each year, but within the employment term,
11 the principal shall convene a meeting of the faculty senate to
12 elect a chair, vice chair and secretary and discuss matters
13 relevant to the beginning of the school year. The vice chair shall
14 preside at meetings when the chair is absent. Meetings of the
15 faculty senate shall be held during the times provided in
16 accordance with subdivision (12), subsection (b) of this section as
17 determined by the faculty senate. Emergency meetings may be held
18 during noninstructional time at the call of the chair or a majority
19 of the voting members by petition submitted to the chair and vice
20 chair. An agenda of matters to be considered at a scheduled
21 meeting of the faculty senate shall be available to the members at
22 least two employment days prior to the meeting. For emergency
23 meetings the agenda shall be available as soon as possible prior to
24 the meeting. The chair of the faculty senate may appoint such
25 committees as may be desirable to study and submit recommendations
26 to the full faculty senate, but the acts of the faculty senate

1 shall be voted upon by the full body.

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

12 (1) Each faculty senate shall control funds allocated to the
13 school from legislative appropriations pursuant to section nine,
14 article nine-a of this chapter. From ~~such~~ those funds, each
15 classroom teacher and librarian shall be allotted \$100 for
16 expenditure during the instructional year for academic materials,
17 supplies or equipment which, in the judgment of the teacher or
18 librarian, will assist him or her in providing instruction in his
19 or her assigned academic subjects or shall be returned to the
20 faculty senate: *Provided*, That nothing contained herein prohibits
21 the funds from being used for programs and materials that, in the
22 opinion of the teacher, enhance student behavior, increase academic
23 achievement, improve self esteem and address the problems of
24 students at risk. The remainder of funds shall be expended for
25 academic materials, supplies or equipment in accordance with a
26 budget approved by the faculty senate. Notwithstanding any other

1 provisions of the law to the contrary, funds not expended in one
2 school year are available for expenditure in the next school year:
3 *Provided, however,* That the amount of county funds budgeted in a
4 fiscal year may not be reduced throughout the year as a result of
5 the faculty appropriations in the same fiscal year for such
6 materials, supplies and equipment. Accounts shall be maintained of
7 the allocations and expenditures of such funds for the purpose of
8 financial audit. Academic materials, supplies or equipment shall
9 be interpreted broadly, but does not include materials, supplies or
10 equipment which will be used in or connected with interscholastic
11 athletic events.

12 (2) A faculty senate may establish a process for members to
13 interview ~~new prospective professional educators and~~
14 ~~paraprofessional employees at the school and~~ or otherwise obtain
15 information regarding applicants for classroom teaching vacancies
16 that will enable the faculty senate to submit recommendations
17 regarding employment to the principal. ~~who may also make~~
18 ~~independent recommendations, for submission to the county~~
19 ~~superintendent: *Provided,* That such process shall be chaired by~~
20 ~~the school principal and must permit the timely employment of~~
21 ~~persons to perform necessary duties.~~ To facilitate the
22 establishment of a process that is timely, effective, consistent
23 among schools and counties, and designed to avoid litigation or
24 grievance, the state board shall promulgate a rule pursuant to
25 article three-b, chapter twenty-nine-a of this code to implement
26 the provisions of this subdivision. The rule may include the

1 following:

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

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

10 (C) Time lines that will assure the timely completion of the
11 recommendation or the forfeiture of the right to make a
12 recommendation upon the failure to complete a recommendation within
13 a reasonable time;

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

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

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

25 (4) A faculty senate may submit recommendations to the
26 principal regarding the assignment scheduling of secretaries,

1 clerks, aides and paraprofessionals at the school.

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

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

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

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

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

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

25 (11) Any faculty senate may review the evaluation procedure as
26 conducted in their school to ascertain whether the evaluations were

1 conducted in accordance with the written system required pursuant
2 to section twelve, article two, chapter eighteen-a of this code or
3 pursuant to section two, article three-c, chapter eighteen-a of
4 this code, as applicable, and the general intent of this
5 Legislature regarding meaningful performance evaluations of school
6 personnel. If a majority of members of the faculty senate
7 determine that such evaluations were not so conducted, they shall
8 submit a report in writing to the State Board of Education:
9 *Provided,* That nothing herein creates any new right of access to or
10 review of any individual's evaluations.

11 (12) A local board shall provide to each faculty senate a
12 two-hour block of time for a faculty senate meeting on a day
13 scheduled for the opening of school prior to the beginning of the
14 instructional term and ~~a two-hour block of time on each~~
15 ~~instructional support and enhancement day scheduled by the board~~
16 ~~for instructional activities for students and professional~~
17 ~~activities for teachers pursuant to section forty-five, article~~
18 ~~five of this chapter~~ at least four additional two-hour blocks of
19 time during noninstructional days, with each two-hour block of time
20 scheduled once at least every forty-five instructional days. A
21 faculty senate may meet for an unlimited block of time ~~per month~~
22 during noninstructional days to discuss and plan strategies to
23 improve student instruction and to conduct other faculty senate
24 business. A faculty senate meeting scheduled on a noninstructional
25 day shall be considered as part of the purpose for which the
26 noninstructional day is scheduled. This time may be ~~utilized~~ used

1 and determined at the local school level and includes, but is not
2 limited to, faculty senate meetings.

3 (13) Each faculty senate shall develop a strategic plan to
4 manage the integration of special needs students into the regular
5 classroom at their respective schools and submit the strategic plan
6 to the superintendent of the county board ~~of education~~ periodically
7 pursuant to guidelines developed by the State Department of
8 Education. Each faculty senate shall encourage the participation
9 of local school improvement councils, parents and the community at
10 large in developing the strategic plan for each school.

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

22 **CHAPTER 18A. SCHOOL PERSONNEL.**

23 **ARTICLE 2. SCHOOL PERSONNEL.**

24 **§18A-2-1. Employment in general.**

25 (a) The employment of professional personnel shall be made by
26 the board only upon nomination and recommendation of the

1 superintendent, subject to the following: ~~Provided, That~~

2 (1) The superintendent shall provide the principal at the
3 school at which the professional educator or paraprofessional
4 employee is to be employed an opportunity to interview all
5 qualified applicants and make recommendations to the county
6 superintendent regarding their employment; ~~Provided, however, That~~

7 (2) The principal may not recommend for employment an
8 individual who is related to him or her as father, mother, son,
9 daughter, brother, sister, uncle, aunt, first cousin, nephew,
10 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
11 daughter-in-law, brother-in-law, sister-in-law, stepfather,
12 stepmother, stepson, stepdaughter, stepbrother, stepsister, half
13 brother or half sister;

14 (3) Nothing shall prohibit the timely employment of persons to
15 perform necessary duties;

16 (4) In case the board refuses to employ any or all of the
17 persons nominated, the superintendent shall nominate others and
18 submit the same to the board at such time as the board may direct;

19 (5) All personnel so nominated and recommended for employment
20 and for subsequent assignment shall meet the certification,
21 licensing, training and other eligibility classifications as may be
22 required by provisions of this chapter and by state board
23 ~~regulation~~ rule. In addition to any other information required,
24 the application for any certification or licensing shall include
25 the applicant's Social Security number.

26 (b) Professional personnel employed as deputy, associate or

1 assistant superintendents by the board in offices, departments or
2 divisions at locations other than a school and who are directly
3 answerable to the superintendent shall serve at the will and
4 pleasure of the superintendent and may be removed by the
5 superintendent upon approval of the board. Such professional
6 personnel shall retain seniority rights only in the area or areas
7 in which they hold valid certification or licensure.

8 **§18A-2-7. Assignment, transfer, promotion, demotion, suspension**
9 **and recommendation of dismissal of school personnel by**
10 **superintendent; preliminary notice of transfer; hearing on the**
11 **transfer; proof required.**

12 (a) The superintendent, subject only to approval of the board,
13 may assign, transfer, promote, demote or suspend school personnel
14 and recommend their dismissal pursuant to provisions of this
15 chapter. However, an employee shall be notified in writing by the
16 superintendent on or before March 1 if he or she is being
17 considered for transfer or to be transferred. Only those employees
18 whose consideration for transfer or intended transfer is based upon
19 known or expected circumstances which will require the transfer of
20 employees shall be considered for transfer or intended for transfer
21 and the notification shall be limited to only those employees. Any
22 teacher or employee who desires to protest the proposed transfer
23 may request in writing a statement of the reasons for the proposed
24 transfer. The statement of reasons shall be delivered to the
25 teacher or employee within ten days of the receipt of the request.
26 Within ten days of the receipt of the statement of the reasons, the

1 teacher or employee may make written demand upon the superintendent
2 for a hearing on the proposed transfer before the county board of
3 education. The hearing on the proposed transfer shall be held on
4 or before April 15. At the hearing, the reasons for the proposed
5 transfer must be shown.

6 (b) The superintendent at a meeting of the board on or before
7 April 15 shall furnish in writing to the board a list of teachers
8 and other employees to be considered for transfer and subsequent
9 assignment for the next ensuing school year. An employee who was
10 not provided notice and an opportunity for a hearing pursuant to
11 subsection (a) of this section may not be included on the list.
12 All other teachers and employees not so listed shall be considered
13 as reassigned to the positions or jobs held at the time of this
14 meeting. The list of those recommended for transfer shall be
15 included in the minute record of the meeting and all those so
16 listed shall be notified in writing, which notice shall be
17 delivered in writing, by certified mail, return receipt requested,
18 to the persons' last known addresses within ten days following the
19 board meeting, of their having been so recommended for transfer and
20 subsequent assignment and the reasons therefor.

21 (c) The superintendent's authority to suspend school personnel
22 shall be temporary only pending a hearing upon charges filed by the
23 superintendent with the county board of ~~education~~ and the period of
24 suspension may not exceed thirty days unless extended by order of
25 the board.

26 (d) The provisions of this section respecting hearing upon

1 notice of transfer is not applicable in emergency situations where
2 the school building becomes damaged or destroyed through an
3 unforeseeable act and which act necessitates a transfer of the
4 school personnel because of the aforementioned condition of the
5 building.

6 (e) Notwithstanding this section or any provision of this
7 code, when actual student enrollment in a grade level or program,
8 unforeseen before March 1 of the preceding school year, permits the
9 assignment of fewer teachers or service personnel to or within a
10 school under any pupil-teacher ratio, class size or caseload
11 standard established in section eighteen-a, article five, chapter
12 eighteen of this code or any policy of the state board, the
13 superintendent, with board approval, may reassign the surplus
14 personnel to another school or to another grade level or program
15 within the school if needed there to comply with any such
16 pupil-teacher ratio, class size or caseload standard.

17 (1) Before any reassignment may occur pursuant to this
18 subsection, notice shall be provided to the employee and the
19 employee shall be provided an opportunity to appear before the
20 county board to state the reasons for his or her objections, if
21 any, prior to the board voting on the reassignment.

22 (2) Except as otherwise provided in subdivision (1) of this
23 subsection, the reassignment may be made without following the
24 notice and hearing provisions of this section, and at any time
25 during the school year when the conditions of this subsection are
26 met: *Provided*, That the reassignment may not occur after the last

1 day of the second school month.

2 (3) A professional employee reassigned under this subsection
3 shall be the least senior of the surplus professional personnel who
4 holds certification or licensure to perform the duties at the other
5 school or at the grade level or program within the school.

6 (4) A service employee reassigned under this subsection shall
7 be the least senior of the surplus personnel who holds the same
8 classification or multiclassification needed to perform the duties
9 at the other school or at the grade level or program within the
10 same school.

11 (5) No school employee's annual contract term, compensation or
12 benefits shall be changed as a result of a reassignment under this
13 subsection.

14 **ARTICLE 3. TRAINING; CERTIFICATION; LICENSING; PROFESSIONAL**
15 **DEVELOPMENT.**

16 **§18A-3-1d. Study of alternative certification programs.**

17 The state board shall conduct a study on alternative
18 certification programs, including the effectiveness of the current
19 methods of alternative certification, any improvements needed on
20 current methods of alternative certification and potential
21 additional methods of certification that would enhance the ability
22 of the State of West Virginia to place effective teachers in areas
23 of high need. "Areas of high need" means those subject areas,
24 public schools or geographic areas of the state in which the state
25 board determines that critical teacher shortages exist. The board
26 shall report its findings and recommendations to the Legislative

1 Oversight Commission on Education Accountability no later than
2 December 31, 2013.

3 **ARTICLE 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.**

4 **§18A-3A-1. Center for Professional Development; intent and**
5 **mission; Principals Academy curriculum and**
6 **expenses; authorization to charge fees.**

7 (a) Teaching is a profession that directly correlates to the
8 social and economic well being of a society and its citizens.
9 Superior teaching is essential to a well-educated and productive
10 populace. Strong academic leadership provided by principals and
11 administrators skilled in modern management principles is also
12 essential. The intent of this article is to recognize the value of
13 professional involvement by experienced educators, principals and
14 administrators in building and maintaining a superior force of
15 professional educators and to establish avenues for applying this
16 involvement.

17 (b) The general mission of the center is to advance the
18 quality of teaching and management in the schools of West Virginia
19 through: (1) The implementation primarily of statewide training,
20 professional staff development, including professional staff
21 development for at least teachers, principals and paraprofessionals
22 and technical assistance programs and practices as recommended by
23 the state board to assure the highest quality of teaching and
24 management; and (2) the provision of technical and other assistance
25 and support to regional and local education agencies in identifying
26 and providing high-quality professional staff development,

1 including professional staff development for at least teachers,
2 principals and paraprofessionals, and training programs and
3 implementing best practices to meet their locally identified needs.
4 The center also may implement local programs if the state board, in
5 its Master Plan for Professional Staff Development established
6 pursuant to ~~section twenty-three-a, article two, chapter eighteen~~
7 article two-i, chapter eighteen-a of this code, determines that
8 there is a specific local need for the programs. Additionally, the
9 center shall perform other duties assigned to it by law.

10 Nothing in this article ~~shall be construed to require~~ requires
11 any specific level of funding by the Legislature.

12 (c) The Center for Professional Development Board is
13 reconstituted, and all terms of members elected or appointed prior
14 to the effective date of this section are expired. The center
15 board shall consist of thirteen persons as follows:

16 (1) The Secretary of Education and the Arts, ex officio, and
17 the state superintendent, ex officio, each of whom is:

18 (A) Entitled to vote; and

19 (B) A cochair of the board.

20 (2) Two members of the state board, elected by the state
21 board;

22 (3) One person employed by West Virginia University and one
23 person employed by Marshall University, both of whom are:

24 (A) Appointed by the president of the employing institution;

25 (B) Faculty in the teacher education section of the employing
26 institution; and

1 (C) Knowledgeable in matters relevant to the issues addressed
2 by the center;

3 (4) One regional education service agency executive director,
4 elected by all of the regional education service agency executive
5 directors;

6 (5) Three experienced educators, of whom one is a working
7 classroom teacher, one is a school principal and one is a county
8 administrator. All such educators are:

9 (A) Appointed by the Governor by and with the advice and
10 consent of the Senate;

11 (B) Experienced educators who have achieved recognition for
12 their superior knowledge, ability and performance in teaching or
13 management, as applicable; and

14 (C) Knowledgeable in matters relevant to the issues addressed
15 by the center; and

16 (6) Three citizens of the state who are:

17 (A) Knowledgeable in matters relevant to the issues addressed
18 by the center, including, but not limited to, professional
19 development and management principles; and

20 (B) Appointed by the Governor by and with the advice and
21 consent of the Senate.

22 (C) Not more than two such members may be residents within the
23 same congressional district.

24 (d) Each appointment and election is for a two-year term.
25 Such members may serve no more than two consecutive two-year terms.

26 (1) The state board shall elect another member to fill the

1 unexpired term of any person who vacates state board membership.

2 (2) The regional education service agency executive directors
3 shall elect an executive director to fill the unexpired term of any
4 executive director who ceases to be employed in that capacity.

5 (3) Of the initial members appointed by the Governor, three
6 are appointed for one-year terms and three are appointed for
7 two-year terms. Each successive appointment by the Governor is for
8 a two-year term. The Governor shall appoint a new member to fill
9 the unexpired term of any vacancy in the appointed membership.

10 (4) The President of West Virginia University and Marshall
11 University each appoints an employee to fill the unexpired term of
12 any member who ceases to be employed by that institution.

13 (e) The Center for Professional Development Board shall meet
14 at least quarterly and the appointed members shall be reimbursed
15 for reasonable and necessary expenses actually incurred in the
16 performance of their official duties from funds appropriated or
17 otherwise made available for those purposes upon submission of an
18 itemized statement therefor.

19 (f) The position of executive director is abolished. The
20 Governor shall appoint, by and with the advice and consent of the
21 Senate, a chief executive officer with knowledge and experience in
22 professional development and management principles. Any reference
23 in this code to the Executive Director of the Center for
24 Professional Development means the Chief Executive Officer. From
25 appropriations to the Center for Professional Development, the
26 center board sets the salary of the chief executive officer. The

1 center board, upon the recommendation of the chief executive
2 officer, may employ other staff necessary to carry out the mission
3 and duties of the center. The chief executive officer serves at
4 the will and pleasure of the Governor. Annually, the center board
5 shall evaluate the chief executive officer, and shall report the
6 results to the Governor. The duties of the chief executive officer
7 include:

8 (1) Managing the daily operations of the center;

9 (2) Ensuring the implementation of the center's mission;

10 (3) Ensuring collaboration of the center with other
11 professional development providers;

12 (4) Requesting from the Governor and the Legislature any
13 resources or statutory changes that would help in enhancing the
14 collaboration of all professional development providers in the
15 state, in advancing the quality of professional development through
16 any other means or both;

17 (5) Serving as the Chair of the Principals Standards Advisory
18 Council created in section two-c, article three of this chapter and
19 convening regular meetings of this council to effectuate its
20 purposes; and

21 (6) Other duties as assigned by the Governor or the center
22 board.

23 (g) When practicable, personnel employed by state higher
24 education agencies and state, regional and county public education
25 agencies shall be made available to the center to assist in the
26 operation of projects of limited duration, subject to the

1 provisions of section twenty-four, article two, chapter eighteen of
2 this code.

3 (h) The center shall assist in the delivery of programs and
4 activities pursuant to this article to meet statewide, and if
5 needed as determined by the goals and Master Plan for Professional
6 Staff Development established by the state board pursuant to
7 ~~section twenty-three-a, article two, chapter eighteen~~ article
8 two-i, chapter eighteen-a of this code, the local professional
9 development needs of paraprofessionals, teachers, principals and
10 administrators and may contract with existing agencies or agencies
11 created after the effective date of this section or others to
12 provide training programs in the most efficient manner. Existing
13 programs currently based in agencies of the state shall be
14 continued in the agency of their origin unless the center
15 establishes a compelling need to transfer or cancel the existing
16 program. The center shall recommend to the Governor the transfer
17 of funds to the providing agency, if needed, to provide programs
18 approved by the center.

19 (i) The Center for Professional Development shall implement
20 training and professional development programs for the Principals
21 Academy based upon the minimum qualities, proficiencies and skills
22 necessary for principals in accordance with the standards
23 established by the state board pursuant to the terms of section
24 two-c, article three of this chapter.

25 (j) In accordance with section two-c, article three of this
26 chapter, the center ~~shall be~~ is responsible for paying reasonable

1 and necessary expenses for persons attending the Principals
2 Academy: *Provided*, That nothing in this section ~~shall be construed~~
3 ~~to require~~ requires any specific level of funding by the
4 Legislature.

5 (k) Persons attending the professional development offerings
6 of the center and other courses and services offered by the Center
7 for Professional Development, except the Principals Academy shall
8 be assessed fees which shall be less than the full cost of
9 attendance. There is hereby created in the State Treasury a
10 special revenue account known as the Center for Professional
11 Development Fund. All moneys collected by the center shall be
12 deposited in the fund for expenditure by the center board for the
13 purposes specified in this section. Moneys remaining in the fund
14 at the end of the fiscal year are subject to reappropriation by the
15 Legislature.

16 (1) The center board shall make collaboration with the state
17 board in providing professional development services in the
18 following areas a priority:

19 (1) Services to those public schools selected by the state
20 superintendent pursuant to section three-g, article two-e, chapter
21 eighteen of this code; and

22 (2) Services in any specific subject matter area that the
23 state board, the Legislature or both, determine is justified due to
24 a need to increase student achievement in that area.

25 **§18A-3A-2. Professional development project.**

26 Subject to the provisions of ~~section twenty-three a,~~ article

1 ~~two, chapter eighteen~~ article two-i, chapter eighteen-a of this
2 code, through this project the Center for Professional Development
3 shall:

4 (1) Identify, coordinate, arrange and otherwise assist in the
5 delivery of professional development programs and activities that
6 help professional educators acquire the knowledge, skills,
7 attitudes, practices and other such pertinent complements
8 considered essential for an individual to demonstrate appropriate
9 performance as a professional person in the public schools of West
10 Virginia. The basis for the performance shall be the laws,
11 policies and regulations adopted for the public schools of West
12 Virginia, and amendments thereto. The center also may permit and
13 encourage school personnel such as classroom aides, higher
14 education teacher education faculty and higher education faculty in
15 programs such as articulated tech prep associate degree and other
16 programs to participate in appropriate professional development
17 programs and activities with public school professional educators;

18 (2) Identify, coordinate, arrange and otherwise assist in the
19 delivery of professional development programs and activities that
20 help principals and administrators acquire knowledge, skills,
21 attitudes and practices in academic leadership and management
22 principles for principals and administrators and such other
23 pertinent complements considered essential for principals and
24 administrators to demonstrate appropriate performance in the public
25 schools of West Virginia. The basis for the performance shall be
26 the laws, policies and regulations adopted for the public schools

1 of West Virginia, and amendments thereto;

2 (3) Serve in a coordinating capacity to assure that the
3 knowledge, skills, attitude and other pertinent complements of
4 appropriate professional performance which evolve over time in the
5 public school environment are appropriately reflected in the
6 programs approved for the education of professional personnel,
7 including, but not limited to, advising the teacher education
8 programs of major statutory and policy changes in the public
9 schools which affect the job performance requirements of
10 professional educators, including principals and administrators;

11 (4) Provide for the routine updating of professional skills of
12 professional educators, including principals and administrators,
13 through in-service and other programs. The routine updating may be
14 provided by the center through statewide or regional institutes
15 which may require a registration fee;

16 (5) Provide for the routine education of all professional
17 educators, including principals and administrators, and those
18 service personnel having direct contact with students on warning
19 signs and resources to assist in suicide prevention under
20 guidelines established by the state board. The education may be
21 accomplished through self review of suicide prevention materials
22 and resources approved by the state board. The provisions of this
23 paragraph may be known and cited as the Jason Flatt Act of 2012;

24 (6) Provide consultation and assistance to county staff
25 development councils established under the provisions of section
26 eight, article three of this chapter in planning, designing,

1 coordinating, arranging for and delivering professional development
2 programs to meet the needs of the professional educators of their
3 district. From legislative appropriations to the center, exclusive
4 of the amounts required for the expenses of the principals academy,
5 the center shall, unless otherwise directed by the Legislature,
6 provide assistance in the delivery of programs and activities to
7 meet the expressed needs of the school districts for professional
8 development to help teachers, principals and administrators
9 demonstrate appropriate performance based on the laws, policies and
10 regulations adopted for the public schools of West Virginia; and

11 (7) Cooperate and coordinate with the institutions of higher
12 education to provide professional staff development programs that
13 satisfy some or all of the criteria necessary for currently
14 certified professional educators to meet the requirements for an
15 additional endorsement in an area of certification and for
16 certification to teach in the middle school grades.

17 If the center is not able to reach agreement with the
18 representatives of the institutions providing teacher education
19 programs on which courses will be approved for credit toward
20 additional endorsements, the state board may certify certain
21 professional staff development courses to meet criteria required by
22 the state board. This certification shall be done on a course-by-
23 course basis.

24 **§18A-3A-3. Professional personnel evaluation project.**

25 Subject to the provisions of ~~section twenty-three a, article~~
26 ~~two, chapter eighteen~~ article two-i, chapter eighteen-a of this

1 code, through this project the center shall:

2 (1) Establish programs that provide education and training in
3 evaluation skills to administrative personnel who will evaluate the
4 employment performance of professional personnel pursuant to the
5 provisions of section twelve, article two of this chapter; and

6 (2) Establish programs that provide instruction to classroom
7 teachers who will serve as beginning teacher mentors in accordance
8 with the provisions of section two-b, article three of this
9 chapter.

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

11 **§18A-4-2a. State minimum salary bonus for classroom teachers with**
12 **national board certification.**

13 (a) The Legislature hereby finds and declares that the
14 rigorous standards and processes for certification by the National
15 Board for Professional Teaching Standards (NBPTS) helps to promote
16 the quality of teaching and learning. Therefore, classroom
17 teachers in the public schools of West Virginia should be
18 encouraged to achieve national board certification through a
19 reimbursement of expenses and an additional salary bonus which
20 reflects their additional certification, to be paid in accordance
21 with the provisions of this section.

22 (b) (1) \$3,500 shall be paid annually to each classroom
23 teacher who holds a valid certificate issued by the National Board
24 of Professional Teaching Standards for the life of the
25 certification, but in no event more than ten years for any one
26 certification.

1 (2) \$3,500 shall be paid annually to each classroom teacher
2 who holds a valid renewal certificate issued by the National Board
3 of Professional Teaching Standards for the life of the renewal
4 certificate, but in no event more than ten years for any one
5 renewal certificate.

6 (c) The payments:

7 (1) Shall be in addition to any amounts prescribed in the
8 applicable state minimum salary schedule;

9 (2) Shall be paid in equal monthly installments; and

10 (3) Shall be considered a part of the state minimum salaries
11 for teachers.

12 (d) For initial certification, one half the certification fee
13 shall be paid for reimbursement once to each teacher who enrolls in
14 the program for the National Board for Professional Teaching
15 Standards certification and one half the certification fee shall be
16 paid for reimbursement once to each teacher who completes the
17 National Board for Professional Teaching Standards certification.
18 Completion shall be defined as the completion of ten scorable
19 entries, as verified by the National Board for Professional
20 Teaching Standards. Teachers who achieve National Board for
21 Professional Teaching Standards certification may be reimbursed a
22 maximum of \$600 for expenses actually incurred while obtaining the
23 National Board for Professional Teaching Standards certification.

24 (e) For renewal certification, each teacher who completes the
25 National Board for Professional Teaching Standards certification
26 renewal process shall be reimbursed for the renewal certification

1 fee. Completion of the certification renewal process means the
2 successful renewal of the ten-year certification as verified by the
3 National Board for Professional Teaching Standards.

4 ~~(e) The state board shall limit the number of teachers who~~
5 ~~receive the initial reimbursements of the certification fees set~~
6 ~~forth in subsection (d) to two hundred teachers annually. (f) The~~
7 state board shall establish selection criteria for the teachers by
8 the legislative rule required pursuant to subsection ~~(g)~~ (h) of
9 this section.

10 ~~(f) Subject to the provisions of subsection (e) of this~~
11 ~~section, (g) Funding for reimbursement of the initial certification~~
12 fee and expenses actually incurred while obtaining the National
13 Board for Professional Teaching Standards certifications and
14 funding for reimbursement of the renewal certification fee shall be
15 administered by the State Department of Education from an
16 appropriation established for that purpose by the Legislature. If
17 funds appropriated by the Legislature to accomplish the purposes of
18 this subsection are insufficient, the state department shall
19 prorate the reimbursements for expenses and shall request of the
20 Legislature, at its next regular session, funds sufficient to
21 accomplish the purposes of this subsection, including needed
22 retroactive payments.

23 ~~(g)~~ (h) The state board shall promulgate legislative rules
24 pursuant to article three-b, chapter twenty-nine-a of this code to
25 implement the provisions of this section.

26 **§18A-4-7a. Employment, promotion and transfer of professional**

1 **personnel; seniority.**

2 ~~(a) A county board of education shall make decisions affecting~~
3 ~~the hiring of professional personnel other than classroom teachers~~
4 ~~on the basis of the applicant with the highest qualifications.~~

5 ~~(b) The~~ (a) A county board of education shall make decisions
6 affecting the ~~hiring~~ filling of ~~new classroom teachers~~ vacancies in
7 professional positions of employment on the basis of the applicant
8 with the highest qualifications: Provided, That the county
9 superintendent shall be hired under separate criteria pursuant to
10 section two, article four, chapter eighteen of this code.

11 ~~(c) (b)~~ In judging qualifications for ~~hiring employees~~
12 ~~pursuant to subsections (a) and (b) of this section~~ the filling of
13 vacancies of professional positions of employment, consideration
14 shall be given to each of the following:

15 (1) Appropriate certification, licensure or both;

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

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

21 (4) Academic achievement;

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

25 ~~(5) Relevant~~ (6) Specialized training relevant to the
26 performance of the duties of the job;

1 ~~(6)~~ (7) Past performance evaluations conducted pursuant to
2 section twelve, article two of this chapter and section two,
3 article three-c of this chapter or, in the case of a classroom
4 teacher, past evaluations of the applicant's performance in the
5 teaching profession;

6 (8) Seniority; and

7 ~~(7)~~ (9) Other measures or indicators upon which the relative
8 qualifications of the applicant may fairly be judged;

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

12 (11) In the case of a classroom teaching position, the
13 recommendation, if any, resulting from the process established
14 pursuant to the provisions of section five, article five-a, chapter
15 eighteen of this code by the faculty senate of the school at which
16 the employee will be performing a majority of his or her duties.

17 ~~(d)~~ If (c) In considering the filling of a vacancy pursuant to
18 this section, a county board is entitled to determine the
19 appropriate weight to apply to each of the criterion when assessing
20 an applicant's qualifications: *Provided, That if* one or more
21 permanently employed instructional personnel apply for a classroom
22 teaching position and meet the standards set forth in the job
23 posting, each criterion under subsection (b) of this section shall
24 be given equal weight except that the criterion in subdivisions
25 (10) and (11) shall each be double weighted. ~~the county board of~~
26 education shall make a decision affecting the filling of the

1 ~~position on the basis of the following criteria:~~

2 ~~(1) Appropriate certification, licensure or both;~~

3 ~~(2) Total amount of teaching experience;~~

4 ~~(3) The existence of teaching experience in the required~~
5 ~~certification area;~~

6 ~~(4) Degree level in the required certification area;~~

7 ~~(5) Specialized training directly related to the performance~~
8 ~~of the job as stated in the job description;~~

9 ~~(6) Receiving an overall rating of satisfactory in the~~
10 ~~previous two evaluations conducted pursuant to section twelve,~~
11 ~~article two of this chapter; and~~

12 ~~(7) Seniority.~~

13 ~~(e) In filling positions pursuant to subsection (d) of this~~
14 ~~section, consideration shall be given to each criterion with each~~
15 ~~criterion being given equal weight. If the applicant with the most~~
16 ~~seniority is not selected for the position, upon the request of the~~
17 ~~applicant a written statement of reasons shall be given to the~~
18 ~~applicant with suggestions for improving the applicant's~~
19 ~~qualifications.~~

20 (d) For a classroom teaching position, if the recommendations
21 resulting from the operations of subdivisions (10) and (11),
22 subsection (b) of this section are for the same applicant, and the
23 superintendent concurs with that recommendation, then the other
24 provisions of subsections (b) and (c) of this section do not apply
25 and the county board shall appoint that applicant notwithstanding
26 any other provision of this code to the contrary.

1 (e) The state board shall promulgate a rule, including an
2 emergency rule if necessary, in accordance with the provisions of
3 article three-b, chapter twenty-nine-a of this code to implement
4 and interpret the provisions of this section, including provisions
5 that may provide for the compensation based on the appropriate
6 daily rate of a classroom teacher who directly participates in
7 making recommendations pursuant to this section for periods beyond
8 his or her individual contract.

9 (f) Recommendations made pursuant to subdivisions (10) and
10 (11), subsection (b) of this section shall be made based on a
11 determination as to which of the applicants is the highest
12 qualified for the position: *Provided*, That nothing in this
13 subsection shall require principals or faculty senates to assign
14 any amount of weight to any factor in making a recommendation.

15 ~~(f)~~ (g) With the exception of guidance counselors, the
16 seniority of classroom teachers, as defined in section one, article
17 one of this chapter, shall be determined on the basis of the length
18 of time the employee has been employed as a regular full-time
19 certified and/or licensed professional educator by the county board
20 of education and shall be granted in all areas that the employee is
21 certified, licensed or both.

22 ~~(g)~~ (h) Upon completion of one hundred thirty-three days of
23 employment in any one school year, substitute teachers, except
24 retired teachers and other retired professional educators employed
25 as substitutes, shall accrue seniority exclusively for the purpose
26 of applying for employment as a permanent, full-time professional

1 employee. One hundred thirty-three days or more of said employment
2 shall be prorated and shall vest as a fraction of the school year
3 worked by the permanent, full-time teacher.

4 ~~(h)~~ (i) Guidance counselors and all other professional
5 employees, as defined in section one, article one of this chapter,
6 except classroom teachers, shall gain seniority in their
7 nonteaching area of professional employment on the basis of the
8 length of time the employee has been employed by the county board
9 of education in that area: *Provided*, That if an employee is
10 certified as a classroom teacher, the employee accrues classroom
11 teaching seniority for the time that that employee is employed in
12 another professional area. For the purposes of accruing seniority
13 under this paragraph, employment as principal, supervisor or
14 central office administrator, as defined in section one, article
15 one of this chapter, shall be considered one area of employment.

16 ~~(i)~~ (j) Employment for a full employment term shall equal one
17 year of seniority, but no employee may accrue more than one year of
18 seniority during any given fiscal year. Employment for less than
19 the full employment term shall be prorated. A random selection
20 system established by the employees and approved by the board shall
21 be used to determine the priority if two or more employees
22 accumulate identical seniority: *Provided*, That when two or more
23 principals have accumulated identical seniority, decisions on
24 reductions in force shall be based on qualifications.

25 ~~(j)~~ (k) Whenever a county board is required to reduce the
26 number of professional personnel in its employment, the employee

1 with the least amount of seniority shall be properly notified and
2 released from employment pursuant to the provisions of section two,
3 article two of this chapter. The provisions of this subsection are
4 subject to the following:

5 (1) All persons employed in a certification area to be reduced
6 who are employed under a temporary permit shall be properly
7 notified and released before a fully certified employee in such a
8 position is subject to release;

9 (2) Notwithstanding any provision of this code to the
10 contrary, all employees subject to release shall be considered
11 applicants for any vacancy in an established, existing or newly
12 created position that, on or before February 15, is known to exist
13 for the ensuing school year, and for which they are qualified, and,
14 upon recommendation of the superintendent, the board shall appoint
15 the successful applicant from among them before posting such
16 vacancies for application by other persons;

17 ~~(2)~~ (3) An employee subject to release shall be employed in
18 any other professional position where the employee is certified and
19 was previously employed or to any lateral area for which the
20 employee is certified, licensed or both, if the employee's
21 seniority is greater than the seniority of any other employee in
22 that area of certification, licensure or both;

23 ~~(3)~~ (4) If an employee subject to release holds certification,
24 licensure or both in more than one lateral area and if the
25 employee's seniority is greater than the seniority of any other

1 employee in one or more of those areas of certification, licensure
2 or both, the employee subject to release shall be employed in the
3 professional position held by the employee with the least seniority
4 in any of those areas of certification, licensure or both; and

5 ~~(4)~~ (5) If, prior to August 1 of the year a reduction in force
6 is approved, the reason for any particular reduction in force no
7 longer exists as determined by the county board in its sole and
8 exclusive judgment, the board shall rescind the reduction in force
9 or transfer and shall notify the released employee in writing of
10 his or her right to be restored to his or her position of
11 employment. Within five days of being so notified, the released
12 employee shall notify the board, in writing, of his or her intent
13 to resume his or her position of employment or the right to be
14 restored shall terminate. Notwithstanding any other provision of
15 this subdivision, if there is another employee on the preferred
16 recall list with proper certification and higher seniority, that
17 person shall be placed in the position restored as a result of the
18 reduction in force being rescinded.

19 ~~(k)~~ (l) For the purpose of this article, all positions which
20 meet the definition of "classroom teacher" as defined in section
21 one, article one of this chapter shall be lateral positions. For
22 all other professional positions, the county board of education
23 shall adopt a policy by October 31, 1993, and may modify the policy
24 thereafter as necessary, which defines which positions shall be
25 lateral positions. The board shall submit a copy of its policy to

1 the state board within thirty days of adoption or any modification,
2 and the state board shall compile a report and submit the report to
3 the Legislative Oversight Commission on Education Accountability by
4 December 31, 1993, and by that date in any succeeding year in which
5 any county board submits a modification of its policy relating to
6 lateral positions. In adopting the policy, the board shall give
7 consideration to the rank of each position in terms of title;
8 nature of responsibilities; salary level; certification, licensure
9 or both; and days in the period of employment.

10 ~~(l)~~ (m) After the twentieth day prior to the beginning of the
11 instructional term, no person employed and assigned to a
12 professional position may transfer to another professional position
13 in the county during that instructional term unless the person
14 holding that position does not have valid certification. The
15 provisions of this subsection are subject to the following:

16 (1) The person may apply for any posted, vacant positions with
17 the successful applicant assuming the position at the beginning of
18 the next instructional term;

19 (2) Professional personnel who have been on an approved leave
20 of absence may fill these vacancies upon their return from the
21 approved leave of absence;

22 (3) The county board, upon recommendation of the
23 superintendent may fill a position before the next instructional
24 term when it is determined to be in the best interest of the
25 students. The county superintendent shall notify the state board

1 of each transfer of a person employed in a professional position to
2 another professional position after the twentieth day prior to the
3 beginning of the instructional term;

4 (4) The provisions of this subsection do not apply to the
5 filling of a position vacated because of resignation or retirement
6 that became effective on or before the twentieth day prior to the
7 beginning of the instructional term, but not posted until after
8 that date; and

9 (5) The Legislature finds that it is not in the best interest
10 of the students particularly in the elementary grades to have
11 multiple teachers for any one grade level or course during the
12 instructional term. It is the intent of the Legislature that the
13 filling of positions through transfers of personnel from one
14 professional position to another after the twentieth day prior to
15 the beginning of the instructional term should be kept to a
16 minimum.

17 ~~(m)~~ (n) All professional personnel whose seniority with the
18 county board is insufficient to allow their retention by the county
19 board during a reduction in work force shall be placed upon a
20 preferred recall list. As to any professional position opening
21 within the area where they had previously been employed or to any
22 lateral area for which they have certification, licensure or both,
23 the employee shall be recalled on the basis of seniority if no
24 regular, full-time professional personnel, or those returning from
25 leaves of absence with greater seniority, are qualified, apply for

1 and accept the position.

2 ~~(n)~~ (o) Before position openings that are known or expected to
3 extend for twenty consecutive employment days or longer for
4 professional personnel may be filled by the board, the board shall
5 be required to notify all qualified professional personnel on the
6 preferred list and give them an opportunity to apply, but failure
7 to apply shall not cause the employee to forfeit any right to
8 recall. The notice shall be sent by certified mail to the last
9 known address of the employee, and it shall be the duty of each
10 professional personnel to notify the board of continued
11 availability annually, of any change in address or of any change in
12 certification, licensure or both.

13 ~~(o)~~ (p) Openings in established, existing or newly created
14 positions shall be processed as follows:

15 (1) Boards shall be required to post and date notices ~~which~~
16 ~~shall be~~ of each opening at least once. At their discretion,
17 boards may post an opening for a position other than classroom
18 teacher more than once in order to attract more qualified
19 applicants. At their discretion, boards may post an opening for a
20 classroom teacher one additional time after the first posting in
21 order to attract more qualified applicants only if fewer than three
22 individuals apply during the first posting subject to the
23 following:

24 (A) ~~The notices~~ Each notice shall be posted in conspicuous
25 working places for all professional personnel to observe for at

1 least five working days;

2 (B) ~~The~~ At least one notice shall be posted within twenty
3 working days of the position openings and shall include the job
4 description;

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

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

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

14 (2) No vacancy shall be filled until after the five-day
15 minimum posting period of the most recent posted notice of the
16 vacancy;

17 (3) If one or more applicants under all the postings for a
18 vacancy meets the qualifications listed in the job posting, the
19 successful applicant to fill the vacancy shall be selected by the
20 board within thirty working days of the end of the first posting
21 period;

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

1 and

2 (5) Nothing provided herein shall prevent the county board of
3 education from eliminating a position due to lack of need.

4 ~~(p)~~ (q) Notwithstanding any other provision of the code to the
5 contrary, where the total number of classroom teaching positions in
6 an elementary school does not increase from one school year to the
7 next, but there exists in that school a need to realign the number
8 of teachers in one or more grade levels, kindergarten through six,
9 teachers at the school may be reassigned to grade levels for which
10 they are certified without that position being posted: *Provided,*
11 That the employee and the county board of ~~education~~ mutually agree
12 to the reassignment.

13 ~~(q)~~ (r) Reductions in classroom teaching positions in
14 elementary schools shall be processed as follows:

15 (1) When the total number of classroom teaching positions in
16 an elementary school needs to be reduced, the reduction shall be
17 made on the basis of seniority with the least senior classroom
18 teacher being recommended for transfer; and

19 (2) When a specified grade level needs to be reduced and the
20 least senior employee in the school is not in that grade level, the
21 least senior classroom teacher in the grade level that needs to be
22 reduced shall be reassigned to the position made vacant by the
23 transfer of the least senior classroom teacher in the school
24 without that position being posted: *Provided,* That the employee is
25 certified, licensed or both and agrees to the reassignment.

1 ~~(r)~~ (s) Any board failing to comply with the provisions of
2 this article may be compelled to do so by mandamus and shall be
3 liable to any party prevailing against the board for court costs
4 and reasonable attorney fees as determined and established by the
5 court. Further, employees denied promotion or employment in
6 violation of this section shall be awarded the job, pay and any
7 applicable benefits retroactive to the date of the violation and
8 payable entirely from local funds. Further, the board shall be
9 liable to any party prevailing against the board for any court
10 reporter costs including copies of transcripts.

11 ~~(s)~~ (t) The county board shall compile, update annually on
12 July 1 and make available by electronic or other means to all
13 employees a list of all professional personnel employed by the
14 county, their areas of certification and their seniority.

15 (u) Notwithstanding any other provision of this code to the
16 contrary, upon recommendation of the principal and approval by the
17 classroom teacher and county board, a classroom teacher assigned to
18 the school may at any time be assigned to a new or existing
19 classroom teacher position at the school without the position being
20 posted.

21 (v) The amendments to this section during the 2013 regular
22 session of the Legislature shall be effective for school years
23 beginning on or after July 1, 2013, and the provisions of this
24 section immediately prior to those amendments remain in effect
25 until July 1, 2013.

1 **§18A-4-8. Employment term and class titles of service personnel;**
2 **definitions.**

3 (a) The purpose of this section is to establish an employment
4 term and class titles for service personnel. The employment term
5 for service personnel may not be less than ten months. A month is
6 defined as twenty employment days. The county board may contract
7 with all or part of these service personnel for a longer term. ~~The~~
8 ~~beginning and closing dates of the ten-month employment term may~~
9 ~~not exceed forty-three weeks.~~

10 (b) Service personnel employed on a yearly or twelve-month
11 basis may be employed by calendar months. Whenever there is a
12 change in job assignment during the school year, the minimum pay
13 scale and any county supplement are applicable.

14 (c) Service personnel employed in the same classification for
15 more than the two hundred-day minimum employment term shall be paid
16 for additional employment at a daily rate of not less than the
17 daily rate paid for the two hundred-day minimum employment term.

18 (d) A service person may not be required to report for work
19 more than five days per week without his or her agreement, and no
20 part of any working day may be accumulated by the employer for
21 future work assignments, unless the employee agrees thereto.

22 (e) If a service person whose regular work week is scheduled
23 from Monday through Friday agrees to perform any work assignments
24 on a Saturday or Sunday, the service person shall be paid for at
25 least one-half day of work for each day he or she reports for work.

1 If the service person works more than three and one-half hours on
2 any Saturday or Sunday, he or she shall be paid for at least a full
3 day of work for each day.

4 (f) A custodian, aide, maintenance, office and school lunch
5 service person required to work a daily work schedule that is
6 interrupted shall be paid additional compensation in accordance
7 with this subsection.

8 (1) A "maintenance person" means a person who holds a
9 classification title other than in a custodial, aide, school lunch,
10 office or transportation category as provided in section one,
11 article one of this chapter.

12 (2) A service person's schedule is considered to be
13 interrupted if he or she does not work a continuous period in one
14 day. Aides are not regarded as working an interrupted schedule
15 when engaged exclusively in the duties of transporting students;

16 (3) The additional compensation provided ~~for~~ in this
17 subsection:

18 (A) Is equal to at least one eighth of a service person's
19 total salary as provided by the state minimum pay scale and any
20 county pay supplement; and

21 (B) Is payable entirely from county board funds.

22 (g) When there is a change in classification or when a service
23 person meets the requirements of an advanced classification, his or
24 her salary shall be made to comply with the requirements of this
25 article and any county salary schedule in excess of the minimum

1 requirements of this article, based upon the service person's
2 advanced classification and allowable years of employment.

3 (h) A service person's contract, as provided in section five,
4 article two of this chapter, shall state the appropriate monthly
5 salary the employee is to be paid, based on the class title as
6 provided in this article and on any county salary schedule in
7 excess of the minimum requirements of this article.

8 (i) The column heads of the state minimum pay scale and class
9 titles, set forth in section eight-a of this article, are defined
10 as follows:

11 (1) "Pay grade" means the monthly salary applicable to class
12 titles of service personnel;

13 (2) "Years of employment" means the number of years which an
14 employee classified as a service person has been employed by a
15 county board in any position prior to or subsequent to the
16 effective date of this section and includes service in the Armed
17 Forces of the United States, if the employee was employed at the
18 time of his or her induction. For the purpose of section eight-a
19 of this article, years of employment is limited to the number of
20 years shown and allowed under the state minimum pay scale as set
21 forth in section eight-a of this article;

22 (3) "Class title" means the name of the position or job held
23 by a service person;

24 (4) "Accountant I" means a person employed to maintain payroll
25 records and reports and perform one or more operations relating to

1 a phase of the total payroll;

2 (5) "Accountant II" means a person employed to maintain
3 accounting records and to be responsible for the accounting process
4 associated with billing, budgets, purchasing and related
5 operations;

6 (6) "Accountant III" means a person employed in the county
7 board office to manage and supervise accounts payable, payroll
8 procedures, or both;

9 (7) "Accounts payable supervisor" means a person employed in
10 the county board office who has primary responsibility for the
11 accounts payable function and who either has completed twelve
12 college hours of accounting courses from an accredited institution
13 of higher education or has at least eight years of experience
14 performing progressively difficult accounting tasks.
15 Responsibilities of this class title may include supervision of
16 other personnel;

17 (8) "Aide I" means a person selected and trained for a
18 teacher-aide classification such as monitor aide, clerical aide,
19 classroom aide or general aide;

20 (9) "Aide II" means a service person referred to in the "Aide
21 I" classification who has completed a training program approved by
22 the state board, or who holds a high school diploma or has received
23 a general educational development certificate. Only a person
24 classified in an Aide II class title may be employed as an aide in
25 any special education program;

1 (10) "Aide III" means a service person referred to in the
2 "Aide I" classification who holds a high school diploma or a
3 general educational development certificate; and

4 (A) Has completed six semester hours of college credit at an
5 institution of higher education; or

6 (B) Is employed as an aide in a special education program and
7 has one year's experience as an aide in special education;

8 (11) "Aide IV" means a service person referred to in the "Aide
9 I" classification who holds a high school diploma or a general
10 educational development certificate; and

11 (A) Has completed eighteen hours of state board-approved
12 college credit at a regionally accredited institution of higher
13 education, or

14 (B) Has completed fifteen hours of state board-approved
15 college credit at a regionally accredited institution of higher
16 education; and has successfully completed an in-service training
17 program determined by the state board to be the equivalent of three
18 hours of college credit;

19 (12) "Audiovisual technician" means a person employed to
20 perform minor maintenance on audiovisual equipment, films and
21 supplies and who fills requests for equipment;

22 (13) "Auditor" means a person employed to examine and verify
23 accounts of individual schools and to assist schools and school
24 personnel in maintaining complete and accurate records of their
25 accounts;

1 (14) "Autism mentor" means a person who works with autistic
2 students and who meets standards and experience to be determined by
3 the state board. A person who has held or holds an aide title and
4 becomes employed as an autism mentor shall hold a
5 multiclassification status that includes both aide and autism
6 mentor titles, in accordance with section eight-b of this article;

7 (15) "Braille or sign language specialist" means a person
8 employed to provide braille and/or sign language assistance to
9 students. A service person who has held or holds an aide title and
10 becomes employed as a braille or sign language specialist shall
11 hold a multiclassification status that includes both aide and
12 braille or sign language specialist title, in accordance with
13 section eight-b of this article;

14 (16) "Bus operator" means a person employed to operate school
15 buses and other school transportation vehicles as provided by the
16 state board;

17 (17) "Buyer" means a person employed to review and write
18 specifications, negotiate purchase bids and recommend purchase
19 agreements for materials and services that meet predetermined
20 specifications at the lowest available costs;

21 (18) "Cabinetmaker" means a person employed to construct
22 cabinets, tables, bookcases and other furniture;

23 (19) "Cafeteria manager" means a person employed to direct the
24 operation of a food services program in a school, including
25 assigning duties to employees, approving requisitions for supplies

1 and repairs, keeping inventories, inspecting areas to maintain high
2 standards of sanitation, preparing financial reports and keeping
3 records pertinent to food services of a school;

4 (20) "Carpenter I" means a person classified as a carpenter's
5 helper;

6 (21) "Carpenter II" means a person classified as a journeyman
7 carpenter;

8 (22) "Chief mechanic" means a person employed to be
9 responsible for directing activities which ensure that student
10 transportation or other county board-owned vehicles are properly
11 and safely maintained;

12 (23) "Clerk I" means a person employed to perform clerical
13 tasks;

14 (24) "Clerk II" means a person employed to perform general
15 clerical tasks, prepare reports and tabulations and operate office
16 machines;

17 (25) "Computer operator" means a qualified person employed to
18 operate computers;

19 (26) "Cook I" means a person employed as a cook's helper;

20 (27) "Cook II" means a person employed to interpret menus and
21 to prepare and serve meals in a food service program of a school.
22 This definition includes a service person who has been employed as
23 a "Cook I" for a period of four years;

24 (28) "Cook III" means a person employed to prepare and serve
25 meals, make reports, prepare requisitions for supplies, order

1 equipment and repairs for a food service program of a school
2 system;

3 (29) "Crew leader" means a person employed to organize the
4 work for a crew of maintenance employees to carry out assigned
5 projects;

6 (30) "Custodian I" means a person employed to keep buildings
7 clean and free of refuse;

8 (31) "Custodian II" means a person employed as a watchman or
9 groundsman;

10 (32) "Custodian III" means a person employed to keep buildings
11 clean and free of refuse, to operate the heating or cooling systems
12 and to make minor repairs;

13 (33) "Custodian IV" means a person employed as head
14 custodians. In addition to providing services as defined in
15 "custodian III," duties may include supervising other custodian
16 personnel;

17 (34) "Director or coordinator of services" means an employee
18 of a county board who is assigned to direct a department or
19 division.

20 (A) Nothing in this subdivision prohibits a professional
21 person or a professional educator from holding this class title;

22 (B) Professional personnel holding this class title may not be
23 defined or classified as service personnel unless the professional
24 person held a service personnel title under this section prior to
25 holding the class title of "director or coordinator of services."

1 (C) The director or coordinator of services shall be
2 classified either as a professional person or a service person for
3 state aid formula funding purposes;

4 (D) Funding for the position of director or coordinator of
5 services is based upon the employment status of the director or
6 coordinator either as a professional person or a service person;
7 and

8 (E) A person employed under the class title "director or
9 coordinator of services" may not be exclusively assigned to perform
10 the duties ascribed to any other class title as defined in this
11 subsection: *Provided*, That nothing in this paragraph prohibits a
12 person in this position from being multiclassified;

13 (35) "Draftsman" means a person employed to plan, design and
14 produce detailed architectural/engineering drawings;

15 (36) "Electrician I" means a person employed as an apprentice
16 electrician helper or one who holds an electrician helper license
17 issued by the State Fire Marshal;

18 (37) "Electrician II" means a person employed as an
19 electrician journeyman or one who holds a journeyman electrician
20 license issued by the State Fire Marshal;

21 (38) "Electronic technician I" means a person employed at the
22 apprentice level to repair and maintain electronic equipment;

23 (39) "Electronic technician II" means a person employed at the
24 journeyman level to repair and maintain electronic equipment;

25 (40) "Executive secretary" means a person employed as

1 secretary to the county school superintendent or as a secretary who
2 is assigned to a position characterized by significant
3 administrative duties;

4 (41) "Food services supervisor" means a qualified person who
5 is not a professional person or professional educator as defined in
6 section one, article one of this chapter. The food services
7 supervisor is employed to manage and supervise a county school
8 system's food service program. The duties include preparing
9 in-service training programs for cooks and food service employees,
10 instructing personnel in the areas of quantity cooking with economy
11 and efficiency and keeping aggregate records and reports;

12 (42) "Foreman" means a skilled person employed to supervise
13 personnel who work in the areas of repair and maintenance of school
14 property and equipment;

15 (43) "General maintenance" means a person employed as a helper
16 to skilled maintenance employees and to perform minor repairs to
17 equipment and buildings of a county school system;

18 (44) "Glazier" means a person employed to replace glass or
19 other materials in windows and doors and to do minor carpentry
20 tasks;

21 (45) "Graphic artist" means a person employed to prepare
22 graphic illustrations;

23 (46) "Groundsman" means a person employed to perform duties
24 that relate to the appearance, repair and general care of school
25 grounds in a county school system. Additional assignments may

1 include the operation of a small heating plant and routine cleaning
2 duties in buildings;

3 (47) "Handyman" means a person employed to perform routine
4 manual tasks in any operation of the county school system;

5 (48) "Heating and air conditioning mechanic I" means a person
6 employed at the apprentice level to install, repair and maintain
7 heating and air conditioning plants and related electrical
8 equipment;

9 (49) "Heating and air conditioning mechanic II" means a person
10 employed at the journeyman level to install, repair and maintain
11 heating and air conditioning plants and related electrical
12 equipment;

13 (50) "Heavy equipment operator" means a person employed to
14 operate heavy equipment;

15 (51) "Inventory supervisor" means a person employed to
16 supervise or maintain operations in the receipt, storage, inventory
17 and issuance of materials and supplies;

18 (52) "Key punch operator" means a qualified person employed to
19 operate key punch machines or verifying machines;

20 (53) "Licensed practical nurse" means a nurse, licensed by the
21 West Virginia Board of Examiners for Licensed Practical Nurses,
22 employed to work in a public school under the supervision of a
23 school nurse;

24 (54) "Locksmith" means a person employed to repair and
25 maintain locks and safes;

1 (55) "Lubrication man" means a person employed to lubricate
2 and service gasoline or diesel-powered equipment of a county school
3 system;

4 (56) "Machinist" means a person employed to perform machinist
5 tasks which include the ability to operate a lathe, planer, shaper,
6 threading machine and wheel press. A person holding this class
7 title also should have the ability to work from blueprints and
8 drawings;

9 (57) "Mail clerk" means a person employed to receive, sort,
10 dispatch, deliver or otherwise handle letters, parcels and other
11 mail;

12 (58) "Maintenance clerk" means a person employed to maintain
13 and control a stocking facility to keep adequate tools and supplies
14 on hand for daily withdrawal for all school maintenance crafts;

15 (59) "Mason" means a person employed to perform tasks
16 connected with brick and block laying and carpentry tasks related
17 to these activities;

18 (60) "Mechanic" means a person employed to perform skilled
19 duties independently in the maintenance and repair of automobiles,
20 school buses and other mechanical and mobile equipment to use in a
21 county school system;

22 (61) "Mechanic assistant" means a person employed as a
23 mechanic apprentice and helper;

24 (62) "Multiclassification" means a person employed to perform
25 tasks that involve the combination of two or more class titles in

1 this section. In these instances the minimum salary scale shall be
2 the higher pay grade of the class titles involved;

3 (63) "Office equipment repairman I" means a person employed as
4 an office equipment repairman apprentice or helper;

5 (64) "Office equipment repairman II" means a person
6 responsible for servicing and repairing all office machines and
7 equipment. A person holding this class title is responsible for
8 the purchase of parts necessary for the proper operation of a
9 program of continuous maintenance and repair;

10 (65) "Painter" means a person employed to perform duties
11 painting, finishing and decorating wood, metal and concrete
12 surfaces of buildings, other structures, equipment, machinery and
13 furnishings of a county school system;

14 (66) "Paraprofessional" means a person certified pursuant to
15 section two-a, article three of this chapter to perform duties in
16 a support capacity including, but not limited to, facilitating in
17 the instruction and direct or indirect supervision of students
18 under the direction of a principal, a teacher or another designated
19 professional educator.

20 (A) A person employed on the effective date of this section in
21 the position of an aide may not be subject to a reduction in force
22 or transferred to create a vacancy for the employment of a
23 paraprofessional;

24 (B) A person who has held or holds an aide title and becomes
25 employed as a paraprofessional shall hold a multiclassification

1 status that includes both aide and paraprofessional titles in
2 accordance with section eight-b of this article; and

3 (C) When a service person who holds an aide title becomes
4 certified as a paraprofessional and is required to perform duties
5 that may not be performed by an aide without paraprofessional
6 certification, he or she shall receive the paraprofessional title
7 pay grade;

8 (67) "Payroll supervisor" means a person employed in the
9 county board office who has primary responsibility for the payroll
10 function and who either has completed twelve college hours of
11 accounting from an accredited institution of higher education or
12 has at least eight years of experience performing progressively
13 difficult accounting tasks. Responsibilities of this class title
14 may include supervision of other personnel;

15 (68) "Plumber I" means a person employed as an apprentice
16 plumber and helper;

17 (69) "Plumber II" means a person employed as a journeyman
18 plumber;

19 (70) "Printing operator" means a person employed to operate
20 duplication equipment, and to cut, collate, staple, bind and shelve
21 materials as required;

22 (71) "Printing supervisor" means a person employed to
23 supervise the operation of a print shop;

24 (72) "Programmer" means a person employed to design and
25 prepare programs for computer operation;

1 (73) "Roofing/sheet metal mechanic" means a person employed to
2 install, repair, fabricate and maintain roofs, gutters, flashing
3 and duct work for heating and ventilation;

4 (74) "Sanitation plant operator" means a person employed to
5 operate and maintain a water or sewage treatment plant to ensure
6 the safety of the plant's effluent for human consumption or
7 environmental protection;

8 (75) "School bus supervisor" means a qualified person:

9 (A) Employed to assist in selecting school bus operators and
10 routing and scheduling school buses, operate a bus when needed,
11 relay instructions to bus operators, plan emergency routing of
12 buses and promote good relationships with parents, students, bus
13 operators and other employees; and

14 (B) Certified to operate a bus or previously certified to
15 operate a bus;

16 (76) "Secretary I" means a person employed to transcribe from
17 notes or mechanical equipment, receive callers, perform clerical
18 tasks, prepare reports and operate office machines;

19 (77) "Secretary II" means a person employed in any elementary,
20 secondary, kindergarten, nursery, special education, vocational or
21 any other school as a secretary. The duties may include performing
22 general clerical tasks; transcribing from notes, stenotype,
23 mechanical equipment or a sound-producing machine; preparing
24 reports; receiving callers and referring them to proper persons;
25 operating office machines; keeping records and handling routine

1 correspondence. Nothing in this subdivision prevents a service
2 person from holding or being elevated to a higher classification;

3 (78) "Secretary III" means a person assigned to the county
4 board office administrators in charge of various instructional,
5 maintenance, transportation, food services, operations and health
6 departments, federal programs or departments with particular
7 responsibilities in purchasing and financial control or any person
8 who has served for eight years in a position which meets the
9 definition of "secretary II" or "secretary III";

10 (79) "Supervisor of maintenance" means a skilled person who is
11 not a professional person or professional educator as defined in
12 section one, article one of this chapter. The responsibilities
13 include directing the upkeep of buildings and shops, and issuing
14 instructions to subordinates relating to cleaning, repairs and
15 maintenance of all structures and mechanical and electrical
16 equipment of a county board;

17 (80) "Supervisor of transportation" means a qualified person
18 employed to direct school transportation activities properly and
19 safely, and to supervise the maintenance and repair of vehicles,
20 buses and other mechanical and mobile equipment used by the county
21 school system. After July 1, 2010, all persons employed for the
22 first time in a position with this classification title or in a
23 multi-classification position that includes this title shall have
24 five years of experience working in the transportation department
25 of a county board. Experience working in the transportation

1 department shall consist of serving as a bus operator, bus aide,
2 assistant mechanic, mechanic, chief mechanic or in a clerical
3 position within the transportation department;

4 (81) "Switchboard operator-receptionist" means a person
5 employed to refer incoming calls, to assume contact with the
6 public, to direct and to give instructions as necessary, to operate
7 switchboard equipment and to provide clerical assistance;

8 (82) "Truck driver" means a person employed to operate light
9 or heavy duty gasoline and diesel-powered vehicles;

10 (83) "Warehouse clerk" means a person employed to be
11 responsible for receiving, storing, packing and shipping goods;

12 (84) "Watchman" means a person employed to protect school
13 property against damage or theft. Additional assignments may
14 include operation of a small heating plant and routine cleaning
15 duties;

16 (85) "Welder" means a person employed to provide acetylene or
17 electric welding services for a school system; ~~and~~

18 (86) "WVEIS data entry and administrative clerk" means a
19 person employed to work under the direction of a school principal
20 to assist the school counselor or counselors in the performance of
21 administrative duties, to perform data entry tasks on the West
22 Virginia Education Information System, and to perform other
23 administrative duties assigned by the principal;

24 (87) "Early Childhood Classroom Assistant Teacher - Temporary
25 Authorization" means a person who does not possess minimum

1 requirements for the permanent authorization requirements, but is
2 enrolled in and pursuing requirements;

3 (88) "Early Childhood Classroom Assistant Teacher - Permanent
4 Authorization" means a person who has completed the minimum
5 requirements for a state-awarded certificate for early childhood
6 classroom assistant teachers that meet or exceed the requirements
7 for a child development associate. Equivalency for the West
8 Virginia Department of Education will be determined as the child
9 development associate or the West Virginia Apprenticeship for Child
10 Development Specialists; and

11 (89) "Early Childhood Classroom Assistant Teacher -
12 Paraprofessional Certificate" means a person who has completed
13 permanent authorization requirements, as well as additional
14 requirements comparable to current paraprofessional certificate.

15 (j) Notwithstanding any provision in this code to the
16 contrary, and in addition to the compensation provided for service
17 personnel in section eight-a of this article, each service person
18 is entitled to all service personnel employee rights, privileges
19 and benefits provided under this or any other chapter of this code
20 without regard to the employee's hours of employment or the methods
21 or sources of compensation.

22 (k) A service person whose years of employment exceeds the
23 number of years shown and provided ~~for~~ under the state minimum pay
24 scale set forth in section eight-a of this article may not be paid
25 less than the amount shown for the maximum years of employment

1 shown and provided ~~for~~ in the classification in which he or she is
2 employed.

3 (1) Each county board shall review each service person's job
4 classification annually and shall reclassify all service persons as
5 required by the job classifications. The state superintendent may
6 withhold state funds appropriated pursuant to this article for
7 salaries for service personnel who are improperly classified by the
8 county boards. Further, the state superintendent shall order a
9 county board to correct immediately any improper classification
10 matter and, with the assistance of the Attorney General, shall take
11 any legal action necessary against any county board to enforce the
12 order.

13 (m) Without his or her written consent, a service person may
14 not be:

15 (1) Reclassified by class title; or

16 (2) Relegated to any condition of employment which would
17 result in a reduction of his or her salary, rate of pay,
18 compensation or benefits earned during the current fiscal year; or
19 for which he or she would qualify by continuing in the same job
20 position and classification held during that fiscal year and
21 subsequent years.

22 (n) Any county board failing to comply with the provisions of
23 this article may be compelled to do so by mandamus and is liable to
24 any party prevailing against the board for court costs and the
25 prevailing party's reasonable attorney fee, as determined and

1 established by the court.

2 (o) Notwithstanding any provision of this code to the
3 contrary, a service person who holds a continuing contract in a
4 specific job classification and who is physically unable to perform
5 the job's duties as confirmed by a physician chosen by the employee
6 shall be given priority status over any employee not holding a
7 continuing contract in filling other service personnel job
8 vacancies if the service person is qualified as provided in section
9 eight-e of this article.

10 (p) Any person employed in an aide position on the effective
11 date of this section may not be transferred or subject to a
12 reduction in force for the purpose of creating a vacancy for the
13 employment of a licensed practical nurse.

14 (q) Without the written consent of the service person, a
15 county board may not establish the beginning work station for a bus
16 operator or transportation aide at any site other than a county
17 board-owned facility with available parking. The workday of the
18 bus operator or transportation aide commences at the bus at the
19 designated beginning work station and ends when the employee is
20 able to leave the bus at the designated beginning work station,
21 unless he or she agrees otherwise in writing. The application or
22 acceptance of a posted position may not be construed as the written
23 consent referred to in this subsection.

24 (r) "Itinerant status" means a service person who does not
25 have a fixed work site and may be involuntarily reassigned to

1 another work site. A service person is considered to hold
2 itinerant status if he or she has bid upon a position posted as
3 itinerant or has agreed to accept this status. A county board may
4 establish positions with itinerant status only within the aide and
5 autism mentor classification categories and only when the job
6 duties involve exceptional students. A service person with
7 itinerant status may be assigned to a different work site upon
8 written notice ten days prior to the reassignment without the
9 consent of the employee and without posting the vacancy. A service
10 person with itinerant status may be involuntarily reassigned no
11 more than twice during the school year. At the conclusion of each
12 school year, the county board shall post and fill, pursuant to
13 section eight-b of this article, all positions that have been
14 filled without posting by a service person with itinerant status.
15 A service person who is assigned to a beginning and ending work
16 site and travels at the expense of the county board to other work
17 sites during the daily schedule, shall not be considered to hold
18 itinerant status.

19 **§18A-4-8a. Service personnel minimum monthly salaries.**

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

22 (1) Beginning July 1, 2011, and continuing thereafter, the
23 minimum monthly pay for each service employee whose employment is
24 for a period of more than three and one-half hours a day shall be
25 at least the amounts indicated in the State Minimum Pay Scale Pay

1 Grade and the minimum monthly pay for each service employee whose
 2 employment is for a period of three and one-half hours or less a
 3 day shall be at least one half the amount indicated in the State
 4 Minimum Pay Scale Pay Grade set forth in this subdivision.

5 STATE MINIMUM PAY SCALE PAY GRADE

6	Years								
7	Exp.	Pay Grade							
8		<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
9	0	1,627	1,648	1,689	1,741	1,793	1,855	1,886	1,958
10	1	1,659	1,680	1,721	1,773	1,825	1,887	1,918	1,990
11	2	1,691	1,712	1,753	1,805	1,857	1,919	1,950	2,022
12	3	1,723	1,744	1,785	1,837	1,889	1,951	1,982	2,054
13	4	1,755	1,776	1,817	1,869	1,921	1,983	2,014	2,087
14	5	1,787	1,808	1,849	1,901	1,953	2,015	2,046	2,119
15	6	1,819	1,840	1,882	1,933	1,985	2,047	2,078	2,151
16	7	1,852	1,872	1,914	1,965	2,017	2,079	2,110	2,183
17	8	1,884	1,904	1,946	1,997	2,049	2,111	2,142	2,215
18	9	1,916	1,936	1,978	2,030	2,081	2,143	2,174	2,247
19	10	1,948	1,969	2,010	2,062	2,113	2,176	2,207	2,279
20	11	1,980	2,001	2,042	2,094	2,145	2,208	2,239	2,311
21	12	2,012	2,033	2,074	2,126	2,178	2,240	2,271	2,343
22	13	2,044	2,065	2,106	2,158	2,210	2,272	2,303	2,375
23	14	2,076	2,097	2,138	2,190	2,242	2,304	2,335	2,407
24	15	2,108	2,129	2,170	2,222	2,274	2,336	2,367	2,439
25	16	2,140	2,161	2,202	2,254	2,306	2,368	2,399	2,472
26	17	2,172	2,193	2,235	2,286	2,338	2,400	2,431	2,504
27	18	2,204	2,225	2,267	2,318	2,370	2,432	2,463	2,536
28	19	2,237	2,257	2,299	2,350	2,402	2,464	2,495	2,568
29	20	2,269	2,289	2,331	2,383	2,434	2,496	2,527	2,601
30	21	2,301	2,321	2,363	2,415	2,466	2,528	2,559	2,634
31	22	2,333	2,354	2,395	2,447	2,498	2,561	2,593	2,666
32	23	2,365	2,386	2,427	2,479	2,531	2,594	2,625	2,699

1	24	2,397	2,418	2,459	2,511	2,563	2,627	2,658	2,732
2	25	2,429	2,450	2,491	2,543	2,596	2,659	2,691	2,764
3	26	2,461	2,482	2,523	2,576	2,629	2,692	2,723	2,797
4	27	2,493	2,514	2,555	2,608	2,661	2,724	2,756	2,829
5	28	2,525	2,546	2,588	2,641	2,694	2,757	2,789	2,863
6	29	2,557	2,579	2,621	2,673	2,726	2,790	2,821	2,896
7	30	2,591	2,611	2,654	2,706	2,759	2,822	2,854	2,928
8	31	2,623	2,644	2,687	2,739	2,792	2,855	2,887	2,961
9	32	2,656	2,676	2,719	2,772	2,824	2,888	2,919	2,994
10	33	2,689	2,709	2,752	2,805	2,857	2,920	2,953	3,026
11	34	2,721	2,743	2,785	2,838	2,890	2,954	2,986	3,059
12	35	2,754	2,775	2,817	2,870	2,923	2,987	3,018	3,092
13	36	2,787	2,808	2,850	2,903	2,956	3,019	3,051	3,124
14	37	2,819	2,841	2,883	2,936	2,989	3,052	3,083	3,157
15	38	2,852	2,873	2,915	2,968	3,021	3,084	3,116	3,190
16	39	2,885	2,906	2,948	3,001	3,054	3,117	3,149	3,222
17	40	2,917	2,939	2,980	3,033	3,087	3,150	3,181	3,256

18

19 (2) Each service employee shall receive the amount prescribed
20 in the Minimum Pay Scale in accordance with the provisions of this
21 subsection according to their class title and pay grade as set
22 forth in this subdivision:

23	CLASS TITLE	PAY GRADE
24	Accountant I.	D
25	Accountant II.. . . .	E
26	Accountant III.	F
27	Accounts Payable Supervisor.. . . .	G
28	Aide I.	A
29	Aide II.. . . .	B

1	Aide III.	C
2	Aide IV.. . . .	D
3	Audiovisual Technician.	C
4	Auditor.. . . .	G
5	Autism Mentor.. . . .	F
6	Braille or Sign Language Specialist.. . . .	E
7	Bus Operator.	D
8	Buyer.. . . .	F
9	Cabinetmaker.	G
10	Cafeteria Manager.. . . .	D
11	Carpenter I.. . . .	E
12	Carpenter II.	F
13	Chief Mechanic.	G
14	Clerk I.. . . .	B
15	Clerk II.	C
16	Computer Operator.. . . .	E
17	Cook I.	A
18	Cook II.. . . .	B
19	Cook III.	C
20	Crew Leader.. . . .	F
21	Custodian I.. . . .	A
22	Custodian II.	B
23	Custodian III.. . . .	C
24	Custodian IV.	D
25	Director or Coordinator of Services.. . . .	H

1	Draftsman..	D
2	<u>Early Childhood Classroom Assistant Teacher - Temporary</u>	
3	<u>Authorization..</u>	<u>E</u>
4	<u>Early Childhood Classroom Assistant Teacher - Permanent</u>	
5	<u>Authorization..</u>	<u>E</u>
6	<u>Early Childhood Classroom Assistant Teacher - Paraprofessional</u>	
7	<u>Certificate..</u>	<u>E</u>
8	Electrician I..	F
9	Electrician II..	G
10	Electronic Technician I..	F
11	Electronic Technician II..	G
12	Executive Secretary..	G
13	Food Services Supervisor..	G
14	Foreman..	G
15	General Maintenance..	C
16	Glazier..	D
17	Graphic Artist..	D
18	Groundsman..	B
19	Handyman..	B
20	Heating and Air Conditioning Mechanic I..	E
21	Heating and Air Conditioning Mechanic II..	G
22	Heavy Equipment Operator..	E
23	Inventory Supervisor..	D
24	Key Punch Operator..	B
25	Licensed Practical Nurse..	F

1	Locksmith..	G
2	Lubrication Man..	C
3	Machinist..	F
4	Mail Clerk.	D
5	Maintenance Clerk..	C
6	Mason..	G
7	Mechanic.	F
8	Mechanic Assistant.	E
9	Office Equipment Repairman I.	F
10	Office Equipment Repairman II..	G
11	Painter..	E
12	Paraprofessional.	F
13	Payroll Supervisor.	G
14	Plumber I..	E
15	Plumber II.	G
16	Printing Operator..	B
17	Printing Supervisor..	D
18	Programmer.	H
19	Roofing/Sheet Metal Mechanic.	F
20	Sanitation Plant Operator..	G
21	School Bus Supervisor..	E
22	Secretary I..	D
23	Secretary II.	E
24	Secretary III..	F
25	Supervisor of Maintenance..	H

1	Supervisor of Transportation.	H
2	Switchboard Operator-Receptionist.. . . .	D
3	Truck Driver.	D
4	Warehouse Clerk.. . . .	C
5	Watchman.	B
6	Welder.	F
7	WVEIS Data Entry and Administrative Clerk.. . . .	B

8 (b) An additional \$12 per month shall be added to the minimum
9 monthly pay of each service employee who holds a high school
10 diploma or its equivalent.

11 (c) An additional \$11 per month also shall be added to the
12 minimum monthly pay of each service employee for each of the
13 following:

14 (1) A service employee who holds twelve college hours or
15 comparable credit obtained in a trade or vocational school as
16 approved by the state board;

17 (2) A service employee who holds twenty-four college hours or
18 comparable credit obtained in a trade or vocational school as
19 approved by the state board;

20 (3) A service employee who holds thirty-six college hours or
21 comparable credit obtained in a trade or vocational school as
22 approved by the state board;

23 (4) A service employee who holds forty-eight college hours or
24 comparable credit obtained in a trade or vocational school as
25 approved by the state board;

1 (5) A service employee who holds sixty college hours or
2 comparable credit obtained in a trade or vocational school as
3 approved by the state board;

4 (6) A service employee who holds seventy-two college hours or
5 comparable credit obtained in a trade or vocational school as
6 approved by the state board;

7 (7) A service employee who holds eighty-four college hours or
8 comparable credit obtained in a trade or vocational school as
9 approved by the state board;

10 (8) A service employee who holds ninety-six college hours or
11 comparable credit obtained in a trade or vocational school as
12 approved by the state board;

13 (9) A service employee who holds one hundred eight college
14 hours or comparable credit obtained in a trade or vocational school
15 as approved by the state board;

16 (10) A service employee who holds one hundred twenty college
17 hours or comparable credit obtained in a trade or vocational school
18 as approved by the state board;

19 (d) An additional \$40 per month also shall be added to the
20 minimum monthly pay of each service employee for each of the
21 following:

22 (1) A service employee who holds an associate's degree;

23 (2) A service employee who holds a bachelor's degree;

24 (3) A service employee who holds a master's degree;

25 (4) A service employee who holds a doctorate degree.

1 (e) An additional \$11 per month shall be added to the minimum
2 monthly pay of each service employee for each of the following:

3 (1) A service employee who holds a bachelor's degree plus
4 fifteen college hours;

5 (2) A service employee who holds a master's degree plus
6 fifteen college hours;

7 (3) A service employee who holds a master's degree plus thirty
8 college hours;

9 (4) A service employee who holds a master's degree plus forty-
10 five college hours; and

11 (5) A service employee who holds a master's degree plus sixty
12 college hours.

13 (f) To meet the objective of salary equity among the counties,
14 each service employee shall be paid an equity supplement, as set
15 forth in section five of this article, of \$152 per month, subject
16 to the provisions of that section. These payments: (i) Shall be in
17 addition to any amounts prescribed in the applicable State Minimum
18 Pay Scale Pay Grade, any specific additional amounts prescribed in
19 this section and article and any county supplement in effect in a
20 county pursuant to section five-b of this article; (ii) shall be
21 paid in equal monthly installments; and (iii) shall be considered
22 a part of the state minimum salaries for service personnel.

23 (g) When any part of a school service employee's daily shift
24 of work is performed between the hours of six o'clock p. m. and
25 five o'clock a. m. the following day, the employee shall be paid no

1 less than an additional \$10 per month and one half of the pay shall
2 be paid with local funds.

3 (h) Any service employee required to work on any legal school
4 holiday shall be paid at a rate one and one-half times the
5 employee's usual hourly rate.

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

12 (j) No service employee may have his or her daily work
13 schedule changed during the school year without the employee's
14 written consent and the employee's required daily work hours may
15 not be changed to prevent the payment of time and one-half wages or
16 the employment of another employee.

17 (k) The minimum hourly rate of pay for extra duty assignments
18 as defined in section eight-b of this article shall be no less than
19 one seventh of the employee's daily total salary for each hour the
20 employee is involved in performing the assignment and paid entirely
21 from local funds: *Provided*, That an alternative minimum hourly
22 rate of pay for performing extra duty assignments within a
23 particular category of employment may be used if the alternate
24 hourly rate of pay is approved both by the county board and by the
25 affirmative vote of a two-thirds majority of the regular full-time

1 employees within that classification category of employment within
2 that county: *Provided, however,* That the vote shall be by secret
3 ballot if requested by a service person within that classification
4 category within that county. The salary for any fraction of an
5 hour the employee is involved in performing the assignment shall be
6 prorated accordingly. When performing extra duty assignments,
7 employees who are regularly employed on a one-half day salary basis
8 shall receive the same hourly extra duty assignment pay computed as
9 though the employee were employed on a full-day salary basis.

10 (1) The minimum pay for any service personnel employees
11 engaged in the removal of asbestos material or related duties
12 required for asbestos removal shall be their regular total daily
13 rate of pay and no less than an additional \$3 per hour or no less
14 than \$5 per hour for service personnel supervising asbestos removal
15 responsibilities for each hour these employees are involved in
16 asbestos-related duties. Related duties required for asbestos
17 removal include, but are not limited to, travel, preparation of the
18 work site, removal of asbestos decontamination of the work site,
19 placing and removal of equipment and removal of structures from the
20 site. If any member of an asbestos crew is engaged in asbestos
21 related duties outside of the employee's regular employment county,
22 the daily rate of pay shall be no less than the minimum amount as
23 established in the employee's regular employment county for
24 asbestos removal and an additional \$30 per each day the employee is
25 engaged in asbestos removal and related duties. The additional pay

1 for asbestos removal and related duties shall be payable entirely
2 from county funds. Before service personnel employees may be used
3 in the removal of asbestos material or related duties, they shall
4 have completed a federal Environmental Protection Act approved
5 training program and be licensed. The employer shall provide all
6 necessary protective equipment and maintain all records required by
7 the Environmental Protection Act.

8 (m) For the purpose of qualifying for additional pay as
9 provided in section eight, article five of this chapter, an aide
10 shall be considered to be exercising the authority of a supervisory
11 aide and control over pupils if the aide is required to supervise,
12 control, direct, monitor, escort or render service to a child or
13 children when not under the direct supervision of a certified
14 professional person within the classroom, library, hallway,
15 lunchroom, gymnasium, school building, school grounds or wherever
16 supervision is required. For purposes of this section, "under the
17 direct supervision of a certified professional person" means that
18 certified professional person is present, with and accompanying the
19 aide.

20 **§18A-4-14. Duty-free lunch and daily planning period for certain**
21 **employees.**

22 ~~(1)~~ (a) Notwithstanding the provisions of section seven,
23 article two of this chapter, every teacher who is employed for a
24 period of time more than one half the class periods of the regular
25 school day and every service ~~personnel~~ person whose employment is

1 for a period of more than three and one-half hours per day and
2 whose pay is at least the amount indicated in the state minimum pay
3 scale as set forth in section eight-a of this article shall be
4 provided a daily lunch recess of not less than thirty consecutive
5 minutes, and ~~such~~ the employee shall not be assigned any
6 responsibilities during this recess. ~~Such~~ The recess shall be
7 included in the number of hours worked, and no county shall
8 increase the number of hours to be worked by an employee as a
9 result of ~~such~~ the employee being granted a recess under the
10 provisions of this section.

11 ~~(2)~~ (b) Every teacher who is regularly employed for a period
12 of time more than one half the class periods of the regular school
13 day shall be provided at least one planning period within each
14 school instructional day to be used to complete necessary
15 preparations for the instruction of pupils. ~~Such planning period~~
16 ~~shall be the length of the usual class period in the school to~~
17 ~~which such teacher is assigned, and shall be not less than thirty~~
18 ~~minutes.~~ No teacher ~~shall~~ may be assigned any responsibilities
19 during this period, and no county shall increase the number of
20 hours to be worked by a teacher as a result of such teacher being
21 granted a planning period subsequent to the adoption of this
22 section (March 13, 1982).

23 The duration of the planning period shall be in accordance
24 with the following:

25 (1) For grades where the majority of the student instruction

1 is delivered by only one teacher, the planning period shall be no
2 less than forty minutes; and

3 (2) For grades where students take separate courses during at
4 least four separate periods of instruction, most usually delivered
5 by different teachers for each subject, the planning period shall
6 be the length of the usual class period taught by the teacher, but
7 no less than forty minutes.

8 Principals, and assistant principals, where applicable, shall
9 cooperate in carrying out the provisions of this subsection,
10 including, but not limited to, assuming control of the class period
11 or supervision of students during the time the teacher is engaged
12 in the planning period. Substitute teachers may also be utilized
13 to assist with classroom responsibilities under this subsection:
14 *Provided*, That any substitute teacher who is employed to teach a
15 minimum of two consecutive days in the same position shall be
16 granted a planning period pursuant to this section.

17 ~~(3) (c) Nothing in this section shall be construed to prevent~~
18 prevents any teacher from exchanging his or her lunch recess or a
19 planning period or any service ~~personnel~~ person from exchanging his
20 or her lunch recess for any compensation or benefit mutually agreed
21 upon by the employee and the county superintendent ~~of schools~~ or
22 his or her agent: *Provided*, That a teacher and the superintendent
23 or his or her agent may not agree to terms which are different from
24 those available to any other teacher granted rights under this
25 section within the individual school or to terms which in any way

1 discriminate among ~~such~~ those teachers within the individual
2 school, and ~~that service personnel~~ a service person granted rights
3 under this section and the superintendent or his or her agent may
4 not agree to terms which are different from those available to any
5 other service personnel within the same classification category
6 granted rights under this section within the individual school or
7 to terms which in any way discriminate among ~~such~~ those service
8 personnel within the same classification category within the
9 individual school.

10 (d) The state board shall conduct a study on planning periods.
11 The study shall include, but not be limited to, the appropriate
12 length for planning periods at the various grade levels and for the
13 different types of class schedules. The board shall report its
14 findings and recommendations to the Legislative Oversight
15 Commission on Education Accountability no later than December 31,
16 2013.

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

18 **§18A-5-2. Holidays; closing of schools; time lost because of such;**
19 **special Saturday classes.**

20 (a) Schools shall not be kept open closed on any Saturday
21 Saturdays ~~nor~~ and on the following days which are designated as
22 legal school holidays: ~~namely:~~ Independence Day, Labor Day,
23 Veterans Day, Thanksgiving Day, Christmas Day, New Year's Day,
24 Martin Luther King's birthday, Memorial Day and West Virginia Day.
25 ~~and~~ Schools also shall be closed on any day on which a primary

1 election, general election or special election is held throughout
2 the state or school district and on any day appointed and set apart
3 by the president or the Governor as a holiday of special observance
4 by the people of the state.

5 ~~When any such holiday falls within the employment term, it~~
6 ~~shall be considered as a day of the employment term and the full-~~
7 ~~time school personnel shall receive his or her pay for same.~~

8 (b) When any of the above designated holidays, except a
9 special election, falls on Saturday, the schools shall be closed on
10 the preceding Friday. When any ~~such~~ designated holiday falls on
11 Sunday, the schools shall be closed on the following Monday.

12 (c) Special classes may be conducted on Saturdays ~~provided~~
13 ~~they are conducted on a voluntary basis,~~ for pupils and by teachers
14 and service personnel. Saturday classes shall be conducted on a
15 voluntary basis and ~~that such~~ teachers and service personnel shall
16 be remunerated in ratio to the regularly contracted pay.

17 (d) Any school or schools may be closed by proper authorities
18 on account of the prevalence of contagious disease, conditions of
19 weather or any other calamitous cause over which the board has no
20 control.

21 (1) Under any or all of the above provisions, the time lost by
22 the ~~closing of schools is~~ school closings may not be counted as
23 days of employment and may not be counted as meeting a part of the
24 requirements of the minimum term of one hundred eighty days of
25 instruction. A school employee's pay per pay period may not change

1 as a result of a school closing not being counted as a day of
2 employment, and the employee shall be paid the same amount during
3 any pay period in which a school closing occurs that the employee
4 would have been paid during the pay period if a school closing had
5 not occurred.

6 (2) On ~~such~~ the day or days when a school or schools are
7 closed, county boards ~~of education~~ may provide appropriate
8 alternate work schedules for professional and service personnel
9 affected by the closing of any school or schools under any or all
10 of the ~~above~~ provisions of this subsection. Professional and
11 service personnel shall receive pay the same as if school were in
12 session.

13 (3) Insofar as funds are available or can be made available
14 during the school year, the board may extend the employment term
15 for the purpose of making up time that might affect the
16 instructional term.

17 (e) In addition to any other provisions of this chapter, the
18 board ~~is~~ further is authorized to provide in its annual budget for
19 meetings, workshops, vacation time or other holidays through
20 extended employment of personnel at the same rate of pay.

21 **CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.**

22 **ARTICLE 1. FINANCIAL ASSISTANCE GENERALLY.**

23 **§18C-1-2. Definitions.**

24 Definitions for terms used in this chapter have the meanings
25 ascribed to them in section two, article one, chapter eighteen-b of

1 this code unless the context clearly indicates a different meaning:

2 (a) "Board" or "governing board" in the singular or plural
3 means the vice chancellor for administration employed pursuant to
4 section two, article four, chapter eighteen-b of this code when a
5 power or duty assigned to a governing board is delegated by it to
6 the senior administrator. In other instances as used in this
7 chapter, "board" or "governing board" in the singular or plural
8 means the Higher Education Policy Commission or the Council for
9 Community and Technical College Education, as appropriate.

10 (b) "Senior administrator" means the vice chancellor for
11 administration employed pursuant to section two, article four,
12 chapter eighteen-b of this code.

13 **ARTICLE 4. UNDERWOOD-SMITH TEACHER SCHOLARSHIP PROGRAM.**

14 **§18C-4-1. Scholarship and loan assistance fund created; purposes;**
15 **funding.**

16 (a) It is the purpose of this article and article four-a of
17 this chapter to improve the quality of education in the public
18 schools of West Virginia by encouraging and enabling individuals
19 who have demonstrated outstanding academic abilities to pursue
20 teaching careers at the preschool, elementary, middle or secondary
21 levels in the public schools of this state. In addition, of those
22 individuals who have demonstrated outstanding academic abilities to
23 pursue teaching careers, for scholarships initially awarded for the
24 fall semester, ~~one thousand nine hundred ninety-eight~~ 2014, and
25 thereafter, particular efforts ~~will~~ shall be made in the

1 scholarship selection criteria and procedures to reflect the
2 state's present and projected ~~teacher needs, including needs~~
3 ~~statewide and in different geographic areas and for teachers with~~
4 ~~education and training in specific disciplines~~ subject and
5 geographic areas of critical need.

6 (b) In consultation with the State Board of Education and the
7 State Superintendent of Schools the ~~higher education governing~~
8 ~~boards~~ commission shall ~~in consultation with the State~~
9 ~~Superintendent of Schools promulgate reasonable~~ propose legislative
10 rules in accordance with the provisions of article three-a, chapter
11 twenty-nine-a of this code. The rules shall provide for the
12 administration of the Underwood-Smith Teacher Scholarship and Loan
13 Assistance ~~program~~ programs by the ~~senior administrator~~ vice
14 chancellor for administration in furtherance of the purposes of
15 this article and article four-a of this chapter, including, but not
16 limited to, ~~scholarship selection criteria and procedures, renewal,~~
17 ~~compliance, noncompliance and repayment, deferral and excusal.~~ In
18 accordance with such rules, the ~~senior administrator~~ shall
19 establish appropriate guidelines for program operation the
20 following:

21 (1) Establishing scholarship selection criteria and
22 procedures;

23 (2) Establishing criteria and procedures for identifying
24 subject areas, public schools or geographic areas in critical need
25 of teachers;

1 (3) Awarding loan assistance, including establishing
2 conditions under which partial awards may be granted for less than
3 a full year of teaching in an area of critical need;

4 (4) Determining eligibility for loan assistance renewal;

5 (5) Establishing procedures ensuring that loan assistance
6 funds are paid directly to the proper lending entity; and

7 (6) Establishing criteria for determining participant
8 compliance or noncompliance with terms of the agreement and
9 establishing procedures to address noncompliance including, but not
10 limited to, repayment, deferral and excusal; and

11 (7) Developing model agreements.

12 (c) There is ~~hereby~~ created in the State Treasury a special
13 revolving fund to be known as the Underwood-Smith Teacher
14 Scholarship and Loan Assistance Fund to be administered by the
15 senior administrator vice chancellor for administration solely for
16 granting scholarships and loan assistance to teachers and
17 prospective teachers in accordance with this article and article
18 four-a of this chapter. Any moneys which may be appropriated by
19 the Legislature, or received by the ~~senior administrator vice~~
20 chancellor for administration from other sources, for the purposes
21 of this article and article four-a of this chapter, shall be
22 deposited in the fund. Any moneys remaining in the fund at the
23 close of a fiscal year shall be carried forward for use in the next
24 fiscal year. Any moneys repaid to the ~~senior administrator vice~~
25 chancellor for administration by reason of default of a scholarship

1 or loan assistance agreement under this article or article four-a
2 of this chapter also shall ~~also~~ be deposited in the fund. Fund
3 balances shall be invested with the state's consolidated investment
4 fund, and any and all interest earnings on these investments shall
5 be used solely for the purposes for which moneys invested were
6 appropriated or otherwise received.

7 (d) The ~~senior administrator~~ vice chancellor for
8 administration may accept and expend any gift, grant, contribution,
9 bequest, endowment or other money for the purposes of this article
10 and article four-a of this chapter and shall make a reasonable
11 effort to encourage external support for the scholarship and loan
12 assistance programs.

13 (e) For the purpose of encouraging support for the scholarship
14 and loan assistance ~~program~~ programs from private sources, the
15 ~~senior administrator~~ vice chancellor for administration may set
16 aside no more than half of the funds appropriated by the
17 Legislature for Underwood-Smith Teacher Scholarships and Loan
18 Assistance Awards to be used to match two state dollars to each
19 private dollar from a nonstate source contributed on behalf of a
20 specific institution of higher education in this state.

21 **§18C-4-2. Selection criteria and procedures for awarding**
22 **scholarships.**

23 (a) The Governor shall designate ~~an existing scholarship~~
24 ~~selection agency or panel~~ the Higher Education Student Financial
25 Aid Advisory Board created by section five, article one of this

1 chapter to select the recipients of Underwood-Smith teacher
2 scholarships who meet the eligibility criteria set forth in
3 subsection (b) of this section. ~~If no such agency or panel exists,~~
4 ~~the Governor shall appoint a scholarship selection panel for this~~
5 ~~purpose which shall consist of seven persons representative of~~
6 ~~public school administrators, teachers, including preschool~~
7 ~~teachers, and parents.~~

8 (b) Eligibility for an Underwood-Smith Teacher Scholarship
9 award shall be limited to ~~West Virginia resident~~ students who meet
10 the following criteria:

11 (1) Have graduated or are graduating from a West Virginia high
12 school and rank in the top ten percent of their graduating class or
13 the top ten percent statewide of those West Virginia students
14 taking the ~~American college~~ ACT test;

15 (2) Have a cumulative grade point average of at least 3.25 on
16 a possible scale of four after successfully completing two years of
17 course work at an approved institution of higher education in West
18 Virginia;

19 (3) Are public school aides or paraprofessionals as defined in
20 section eight, article four, chapter eighteen-a of this code and
21 who have a cumulative grade point average of at least 3.25 on a
22 possible scale of four after successfully completing two years of
23 course work at an approved institution of higher education in West
24 Virginia; or

25 (4) Are graduate students at the master's degree level who

1 have graduated or are graduating in the top ten percent of their
2 college graduating class.

3 (c) In accordance with the rules of the commission, the vice
4 chancellor for administration shall develop criteria and procedures
5 for the selection of scholarship recipients. ~~that~~ The selection
6 criteria shall reflect the purposes of this article and shall
7 specify the areas in which particular efforts will be made in the
8 selection of scholars as set forth in section one of this article.
9 ~~and which~~ Selection procedures and criteria also may include, but
10 are not ~~be~~ limited to, the grade point average of the applicant,
11 involvement in extracurricular activities, financial need, current
12 academic standing and an expression of interest in teaching as
13 ~~expressed in~~ demonstrated by an essay written by the applicant.

14 ~~Such~~ These criteria and procedures further may require the
15 applicant to furnish letters of recommendation from teachers and
16 others.

17 It is the intent of the Legislature that academic abilities be
18 the primary criteria for selecting scholarship recipients.
19 ~~Provided, That~~ However, the qualified applicants with the highest
20 academic abilities who intend to pursue teaching careers in areas
21 of critical need and shortage ~~as determined by the State Board of~~
22 ~~Education~~ pursuant to section one of this article shall be given
23 priority.

24 (d) In developing the selection criteria and procedures to be
25 used by the ~~panel~~ Higher Education Student Financial Aid Advisory

1 Board, the vice chancellor for administration shall solicit the
2 views of public and private education agencies and institutions and
3 other interested parties. ~~These views:~~ (1) Input from interested
4 parties shall be solicited by means of written and published
5 selection criteria and procedures in final form for implementation
6 and ~~(2)~~ may be solicited by means of public hearings on the present
7 and projected teacher needs of the state or any other methods the
8 vice chancellor for administration may determine to be appropriate
9 to gather the information.

10 (e) The vice chancellor for administration shall make
11 application forms for Underwood-Smith Teacher Scholarships
12 available to public and private high schools in the state and in
13 other locations convenient to applicants, parents and others, and
14 shall make an effort to attract students from low-income
15 backgrounds, ethnic or racial minority students, students with
16 disabilities, and women or minority students who show interest in
17 pursuing teaching careers in mathematics and science and who are
18 underrepresented in those fields.

19 **§18C-4-3. Scholarship agreement.**

20 (a) Each recipient of an Underwood-Smith teacher scholarship
21 shall enter into an agreement with the ~~senior administrator~~ vice
22 chancellor for administration under which the recipient shall meet
23 the following conditions:

24 (1) Provide the ~~board~~ commission with evidence of compliance
25 with subsection (a), section four of this article;

1 (2) Within a ten-year period after completing the teacher
2 education for which the scholarship was awarded:

3 (A) Teach full time under contract with a county board of
4 education in a public education program in the state for a period
5 of not ~~less~~ fewer than two years for each year for which a
6 scholarship was received; or

7 (B) Teach full time under contract for not less than one year
8 for each year for which a scholarship was received with a county
9 board of education in this state in a teacher shortage area ~~as~~
10 ~~determined by the state Board of Education pursuant to section one~~
11 of this article, in an exceptional children program in this state,
12 in a school having less than average academic results or in a
13 school in an economically disadvantaged area of this state ~~for not~~
14 ~~less than one year for each year for which a scholarship was~~
15 ~~received; or~~

16 ~~(B)~~ (C) Within ~~such~~ the ten-year period, while seeking and
17 unable to secure a full-time teaching position under contract with
18 a county board of education which satisfies the conditions of
19 paragraph (A) of this subdivision:

20 (i) Teach full-time in a private school, parochial or other
21 school approved ~~under exemption (A) or (K)~~ for the instruction of
22 students of compulsory school age pursuant to section one, article
23 eight, chapter eighteen of this code; or

24 (ii) Teach in a an institution of higher educational
25 institution education in this state as defined in section two,

1 article one, chapter eighteen-b of this code or in a post-secondary
2 vocational education program in this state ~~as defined in section~~
3 ~~two, article one, chapter eighteen-b of this code~~ for a period of
4 not ~~less~~ fewer than two years for each year for which a scholarship
5 was received; or

6 ~~(ii)~~ (iii) Perform alternative service or employment in this
7 state pursuant to ~~guidelines adopted in accordance with the rules~~
8 ~~of the governing boards~~ promulgated by the commission, in federal,
9 state, county or local supported programs with an educational
10 component, including mental or physical health care, or with bona
11 fide tax exempt charitable organizations dedicated to the above,
12 for a period of not ~~less~~ fewer than two years for each year for
13 which a scholarship was received.

14 Any teaching time accrued as a substitute teacher for a county
15 board of education under paragraph (A) or (B) of this subdivision
16 shall be credited pro rata in accordance with ~~rules of the~~
17 ~~governing boards~~ rules promulgated by the commission; or

18 (3) Repay all or part of an Underwood-Smith teacher
19 scholarship received under this article plus interest and, if
20 applicable, reasonable collection fees in accordance with
21 subsection ~~(b)~~ (c), section four of this article, except as
22 provided in ~~subsections (c) and~~ subsection (d) of ~~said~~ section four
23 of this article.

24 (b) Scholarship agreements shall ~~fully~~ disclose fully the
25 terms and conditions under which assistance under this article is

1 provided and under which repayment may be required. ~~including~~ The
2 agreements shall include the following:

3 (1) A description of the conditions and procedures to be
4 established under section four of this article; and

5 (2) A description of the appeals procedure required to be
6 established under section four of this article.

7 (c) Individuals who were awarded an Underwood-Smith teacher
8 scholarship prior to the effective date of this section may apply
9 the provisions of paragraph (A), ~~or~~ (B) or (C), subdivision (2),
10 subsection (a) of this section to teaching or other service
11 performed by them after July 1, 1997.

12 **§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.**

13 (a) The recipient of an Underwood-Smith Teacher Scholarship is
14 eligible for scholarship renewal only during ~~such~~ those periods
15 ~~that~~ when the recipient ~~is~~ meets the following conditions:

16 (1) Is enrolled as a full-time student in an accredited
17 institution of higher education in this state;

18 (2) Is pursuing a course of study leading to teacher
19 certification at the preschool, elementary, middle or secondary
20 level in this state;

21 (3) Is maintaining satisfactory progress as determined by the
22 institution of higher education the recipient is attending; and

23 (4) Is complying with such other standards as the ~~boards~~
24 commission may establish by rule.

25 (b) Recipients found to be in noncompliance with the agreement

1 entered into under section three of this article shall be required
2 to repay the amount of the scholarship awards received, plus
3 interest, and, where applicable, reasonable collection fees, on a
4 schedule and at a rate of interest prescribed in the program
5 guidelines. ~~Such~~ Guidelines also shall ~~also~~ provide for proration
6 of the amount to be repaid by a recipient who teaches for part of
7 the period required under subsection (a), section three of this
8 article and for appeal procedures under which a recipient may
9 appeal any determination of noncompliance.

10 (c) A recipient ~~shall~~ is not ~~be considered~~ in violation of the
11 agreement entered into under section three of this article during
12 any period in which the recipient is meeting any of the following
13 conditions:

14 (1) Pursuing a full-time course of study at an accredited
15 institution of higher education;

16 (2) Serving, not in excess of four years, as a member of the
17 armed services of the United States;

18 (3) Seeking and unable to find full-time employment in
19 accordance with paragraph (A), subdivision (2), subsection (a),
20 section three of this article and is fulfilling any of the
21 alternatives specified in paragraph (B) or (C) of ~~said that~~
22 subdivision; ~~or~~

23 (4) Satisfying the provisions of additional repayment
24 exemptions that may be prescribed by the ~~boards~~ commission by rule;
25 or

1 (5) Failing to comply with the terms of the agreement due to
2 death or permanent or temporary disability as established by sworn
3 affidavit of a qualified physician.

4 ~~(d) A recipient shall be excused from repayment of a teacher~~
5 ~~scholarship received under this article if the recipient dies or~~
6 ~~becomes permanently and totally disabled as established by sworn~~
7 ~~affidavit of a qualified physician.~~

8 ~~(e) (d)~~ The rules adopted by the ~~governing boards~~ commission
9 may provide guidelines under which the ~~senior administrator~~ vice
10 chancellor for administration may ~~if extenuating circumstances~~
11 ~~exist,~~ extend the period for fulfilling the obligation to fifteen
12 years, if extenuating circumstances exist.

13 **ARTICLE 4A. UNDERWOOD-SMITH TEACHER LOAN ASSISTANCE PROGRAM.**

14 **§18C-4A-1. Selection criteria and procedures for loan assistance.**

15 (a) The Governor shall designate the Higher Education Student
16 Financial Aid Advisory Board created by section five, article one
17 of this chapter to select recipients to receive Underwood-Smith
18 Teacher Loan Assistance Awards.

19 (b) The advisory board shall make decisions regarding loan
20 assistance pursuant to section one, article four of this chapter
21 and the following criteria:

22 (A) Eligibility for an award is limited to a teacher who has
23 earned a teaching degree and is certified to teach a subject area
24 of critical need in the public schools of West Virginia. A
25 certified teacher in a subject area of critical need who is

1 enrolled in an advanced in-field degree course or who has earned an
2 advanced in-field degree may apply for an award to be paid toward
3 current education loans;

4 (B) To be eligible for a loan award, a teacher shall agree to
5 teach, or shall currently be teaching, a subject area of critical
6 need in a state school or geographic area of the state identified
7 as an area of critical need pursuant to section one, article four
8 of this chapter.

9 (c) In accordance with the rule promulgated pursuant to
10 section one, article four of this chapter, the vice chancellor for
11 administration shall develop criteria and procedures for the
12 administration of the loan program.

13 (d) The vice chancellor for administration shall make
14 available program application forms to public and private schools
15 in the state via the commission and the State Department of
16 Education's websites and in other locations convenient to potential
17 applicants.

18 **§18C-4A-2. Loan assistance agreement.**

19 (a) Before receiving an award, each eligible teacher shall
20 enter into an agreement with the vice chancellor for administration
21 and shall meet the following criteria:

22 (1) Provide the commission with evidence of compliance with
23 subsection (b), section four, article four of this chapter;

24 (2) Teach in a subject area or geographic area of critical
25 need full time under contract with a county board for a period of

1 two school years for each year for which loan assistance is
2 received pursuant to this article. The vice chancellor for
3 administration may grant a partial award to an eligible recipient
4 whose contract term is for less than a full school year pursuant to
5 criteria established by commission rule.

6 (3) Acknowledge that an award is to be paid to the recipient's
7 educational loan institution, not directly to the recipient, only
8 after the commission determines that the recipient has complied
9 with all terms of the agreement; and

10 (4) Repay all or part of an award received pursuant to this
11 article if the award is not paid to the educational loan
12 institution or if the recipient does not comply with the other
13 terms of the agreement.

14 (b) Each loan agreement shall disclose fully the terms and
15 conditions under which an award may be granted pursuant to this
16 article and under which repayment may be required. The agreement
17 also is subject to and shall include the terms and conditions
18 established by section five, article four of this chapter.

19 **§18C-4A-3. Amount and duration of loan assistance; limits.**

20 (a) Each award recipient is eligible to receive loan
21 assistance of up to \$2,000 annually subject to limits set forth in
22 subsection (b) of this section:

23 (1) If the recipient has taught math or science for a full
24 school year under contract with a county board in a school or
25 geographic area of critical need; and

1 (2) If the recipient otherwise has complied with the terms of
2 the agreement and with applicable provisions of this article and
3 article four of this chapter, and any rules promulgated pursuant
4 thereto.

5 (b) The recipient is eligible for renewal of loan assistance
6 only during the periods when the recipient is under contract with
7 a county board to teach in a subject area of critical need in a
8 school or geographic area of critical need, and complies with other
9 criteria and conditions established by rule, except that a teacher
10 who is teaching under a contract in a position that no longer meets
11 the definition of critical need under rules established in
12 accordance with section one, article four of this chapter is
13 eligible for renewal of loan assistance until the teacher leaves
14 his or her current position.

15 (c) No recipient may receive loan assistance pursuant to this
16 article which accumulates in excess of \$15,000.