

1 **ENROLLED**

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 [Passed March 22, 2013; in effect ninety days from passage.]
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11
12 AN ACT to repeal §18-2-23a and §18-2-32 of the Code of West
13 Virginia, 1931, as amended; to repeal §18-2E-5c of said code;
14 to repeal §18-2I-6 and §18-2I-7 of said code; to repeal
15 §18A-3A-2a and §18A-3A-6 of said code; to amend and reenact
16 §18-1-4 of said code; to amend and reenact §18-2-24 of said
17 code; to amend said code by adding thereto a new section,
18 designated §18-2-39; to amend and reenact §18-2E-5 of said
19 code; to amend and reenact §18-2I-1, §18-2I-2, §18-2I-3,
20 §18-2I-4 and §18-2I-5 of said code; to amend and reenact
21 §18-3-1 and §18-3-12 of said code; to amend said code by
22 adding thereto a new section, designated §18-3-9b; to amend
23 and reenact §18-5-18, §18-5-44 and §18-5-45 of said code; to
24 amend and reenact §18-5A-5 of said code; to amend and reenact
25 §18A-2-1 and §18A-2-7 of said code; to amend said code by
26 adding thereto a new section, designated §18A-3-1d; to amend

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9 removing outdated language; requiring the State Board of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

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

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

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

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

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

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

24 That §18-2-23a and §18-2-32 of the Code of West Virginia,
25 1931, as amended, be repealed; that §18-2E-5c of said code be
26 repealed; that §18-2I-6 and §18-2I-7 of said code be repealed; that

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

22 **CHAPTER 18. EDUCATION.**

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

25 **§18-1-4. Vision 2020: An Education Blueprint for Two Thousand**
26 **Twenty.**

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

5 (b) For the purposes of this section:

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

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

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

15 (c) The Legislature finds that:

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

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

1 help better prepare students for the challenges of the 21st
2 Century;

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

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

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

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

1 Education Accountability. The plan shall include only the goals,
2 objectives, strategies, indicators and benchmarks for public
3 education set forth in this section and that meet the requirements
4 of this section. To add clarity and avoid confusion, the goals for
5 public education set forth in the plan pursuant to this section are
6 the exclusive goals for public education. The plan shall include:

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

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

11 (3) Strategies for achieving the specific objectives;

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

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

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

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

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

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

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

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

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

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

17 (2) *A 21st Century accountability and accreditation system.*
18 - The prekindergarten through twelve education system should have
19 a public accrediting system that: (i) Holds local school districts
20 accountable for the student outcomes the state values; and (ii)
21 provides the public with understandable accountability data for
22 judging the quality of local schools. The outcomes on which the
23 system is based should be rigorous and should align with national
24 and international standards such as the National Assessment of
25 Educational Progress (NAEP), the ACT, the SAT and the Programme for
26 International Assessment (PISA). The broad standards established

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

18 (3) *A statewide balanced assessment process.* - State,
19 district, school and classroom decisionmaking should be grounded in
20 21st Century balanced assessment processes that reflect national
21 and international rigorous performance standards and examine
22 student proficiency in 21st Century content, skills and technology
23 tools. A balanced assessment system includes statewide summative
24 assessments, local benchmark assessments and classroom assessments
25 for learning;

26 (4) *A personnel allocation, licensure and funding process that*

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

16 (5) *School environments that promote safe, healthy and*
17 *responsible behavior and provide an integrated system of student*
18 *support services.* - Each school should create an environment
19 focused on student learning and one where students know they are
20 valued, respected and safe. Furthermore, the school should
21 incorporate programs and processes that instill healthy, safe and
22 responsible behaviors and prepare students for interactions with
23 individuals of diverse racial, ethnic and social backgrounds.
24 School and district processes should include a focus on developing
25 ethical and responsible character, personal dispositions that
26 promote personal wellness through planned daily physical activity

1 and healthy eating habits consistent with high nutritional
2 guidelines and multicultural experiences that develop an
3 appreciation of and respect for diversity;

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

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

1 in green construction and be environmentally and educationally
2 responsive to the communities in which they are located;

3 (8) *Aligned public school with post-secondary and workplace*
4 *readiness programs and standards.* - An educational system in the
5 21st Century should be seen as a continuum from the public school
6 (prekindergarten through twelve) program through post-secondary
7 education. In order to be successful in a global competitive
8 marketplace, learning should be an ongoing, life-long experience.
9 Thus, the public schools and the institutions of post-secondary
10 education in West Virginia should create a system of common
11 standards, expectations and accountability. Creating such an
12 aligned system will enhance opportunities for success and assure a
13 seamless educational process for West Virginia students; and

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

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

1 oriented objectives:

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

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

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

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

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

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

20 **§18-2-24. Collaboration of state institutions of higher education**
21 **having a teacher preparation program with the Center**
22 **for Professional Development, state board and the**
23 **regional education service agencies.**

24 (a) For the purposes of this section, "teacher preparation
25 institution" means a state institution of higher education with a
26 teacher preparation program.

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

6 (c) The Legislature finds that:

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

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

13 (3) Creating a structure and assigning responsibility would
14 promote more effective collaboration;

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

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

22 (6) As the largest state institutions of higher education,
23 West Virginia University and Marshall University have more capacity
24 than any other institution in the state to handle the additional
25 responsibilities assigned in this section;

26 (7) The coordination by West Virginia University and Marshall

1 University of the efforts of other teacher preparation institutions
2 to collaborate with the Center for Professional Development, state
3 board and each of the regional education service agencies will
4 provide points of accountability for the collaboration efforts of
5 the other institutions; and

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

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

15 (1) Including the teacher preparation institutions in the
16 proposed professional staff development program goals required by
17 section three, article two-i of this chapter to be included in the
18 master plan for professional development;

19 (2) Providing any available research-based expertise that
20 would be helpful in the design of the proposed professional staff
21 development program goals;

22 (3) Providing any available research-based expertise that
23 would be helpful in the implementation of professional development
24 programs; and

25 (4) Arranging for other state institutions of higher education
26 having a teacher preparation program to assist the center when that

1 assistance would be helpful.

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

5 (1) Prevent unnecessary duplication of services;

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

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

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

15 (g) In addition to the collaboration required by subsections
16 (e) and (f) of this section of all teacher preparation
17 institutions, West Virginia University and Marshall University
18 shall:

19 (1) Coordinate the collaboration of each of the other teacher
20 preparation institutions in their designated coordination area with
21 the appropriate regional education service agency. This
22 coordination at least includes ensuring that each of the other
23 institutions are collaborating with the appropriate regional
24 education service agency; and

25 (2) Collaborate with each of the other teacher preparation
26 institutions in their designated coordination area. This

1 collaboration at least includes providing assistance to the other
2 institutions in providing professional development and in their
3 collaboration with the appropriate regional education service
4 agency.

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

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

18 (j) Before a regional education service agency, except for
19 Regional Education Service Agency IV, obtains professional
20 development related services or expertise from any teacher
21 preparation institution outside of that agency's service area, the
22 agency shall inform the state board. Before Regional Education
23 Service Agency IV obtains professional development related services
24 or expertise from any teacher preparation institution other than
25 Marshall University, the agency shall inform the state board.

26 (k) The collaboration and coordination requirements of this

1 section include collaborating and coordinating to provide
2 professional development for at least teachers, principals and
3 paraprofessionals.

4 **§18-2-39. College and career readiness initiative.**

5 (a) The Legislature finds that:

6 (1) According to ACT, only twenty-five percent of ACT-tested
7 high school graduates in the nation met college readiness
8 benchmarks in English, reading, mathematics and science and only
9 seventeen percent in West Virginia met the benchmarks in all four
10 subjects;

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

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

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

22 (5) A comparison of the percentages of students considered
23 proficient in eighth grade reading and math by the state assessment
24 and the National Assessment of Educational Progress indicate that
25 the state assessment currently does not accurately reflect national
26 standards.

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

15 (c) The results on the comprehensive statewide student
16 assessment program in grade eleven in English/language arts and
17 mathematics shall be used to determine whether a student has met
18 the college- and career-readiness standards adopted pursuant to
19 subsection (b) of this section. Beginning with the 2015-2016
20 school year, instead of using the comprehensive statewide student
21 assessment program, the state board may develop and implement
22 end-of-course exams in English/language arts and math courses it
23 determines appropriate. These exams are designed for determining
24 whether a student has met the college- and career-readiness
25 standards. In order to allow for the enrollment in transitional
26 courses in the twelfth grade if necessary pursuant to subsection

1 (e) of this section, the courses, assessments and exams, as
2 applicable, shall be administered before the twelfth grade.

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

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

24 (f) For all West Virginia public high school graduates who
25 graduate during or after the 2016-2017 school year, all state
26 institutions of higher education may use no factor other than the

1 assessment, exam or test, as applicable, required pursuant to
2 subsections (c) and (e) of this section to determine whether a
3 student is to enroll in a remedial course or is to be placed in a
4 college-level introductory course. Nothing in this subsection
5 prohibits an institution from administering a diagnostic test to
6 determine specific areas of weakness so that the specific
7 weaknesses can be remediated rather than requiring a student to
8 take an entire remedial course.

9 (g) The state board shall:

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

17 (2) Align the comprehensive statewide student assessment for
18 all grade levels in which the test is given with the college- and
19 career-readiness standards adopted pursuant to subsection (b) of
20 this section or develop other aligned tests at each grade level so
21 that progress toward college and career readiness in
22 English/language arts and math can be measured; and

23 (3) Hold all schools and districts accountable for helping
24 students in earlier grade levels achieve scores on math and
25 English/language arts tests that predict success in subsequent
26 levels of related coursework. This accountability shall be

1 achieved through the school and school system accreditation
2 provisions set forth in section five, article two-e of this
3 chapter;

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

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

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

11 **§18-2E-5. Process for improving education; education standards;**
12 **statewide assessment program; accountability**
13 **measures; Office of Education Performance Audits;**
14 **school accreditation and school system approval;**
15 **intervention to correct low performance.**

16 (a) *Legislative findings, purpose and intent.* - The
17 Legislature makes the following findings with respect to the
18 process for improving education and its purpose and intent in the
19 enactment of this section:

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

22 (A) Standards which set forth the knowledge and skills that
23 students should know and be able to perform as the result of a
24 thorough and efficient education that prepares them for the
25 twenty-first century, including measurable criteria to evaluate
26 student performance and progress;

1 (B) Assessments of student performance and progress toward
2 meeting the standards;

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

11 (D) A method for building the capacity and improving the
12 efficiency of schools and school systems to improve student
13 performance and progress;

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

23 (3) As the constitutional body charged with providing for a
24 thorough and efficient system of schools, the Legislature has the
25 authority and the responsibility to establish and be engaged
26 constructively in the determination of the knowledge and skills

1 that students should know and be able to do as the result of a
2 thorough and efficient education. This determination is made by
3 using the process for improving education to determine when school
4 improvement is needed, by evaluating the results and the efficiency
5 of the system of schools, by ensuring accountability and by
6 providing for the necessary capacity and its efficient use;

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

14 (5) The intent of the Legislature in enacting this section and
15 section five-c of this article is to establish a process through
16 which the Legislature, the Governor and the state board can work in
17 the spirit of cooperation and collaboration intended in the process
18 for improving education to consult and examine the performance and
19 progress of students, schools and school systems and, when
20 necessary, to consider alternative measures to ensure that all
21 students continue to receive the thorough and efficient education
22 to which they are entitled. However, nothing in this section
23 requires any specific level of funding by the Legislature.

24 (b) *Electronic county and school strategic improvement plans.*
25 - The state board shall promulgate a rule consistent with the
26 provisions of this section and in accordance with article three-b,

1 chapter twenty-nine-a of this code establishing an electronic
2 county strategic improvement plan for each county board and an
3 electronic school strategic improvement plan for each public school
4 in this state. Each respective plan shall be a five-year plan that
5 includes the mission and goals of the school or school system to
6 improve student, school or school system performance and progress,
7 as applicable. The strategic plan shall be revised annually in
8 each area in which the school or system is below the standard on
9 the annual performance measures. The plan shall be revised when
10 required pursuant to this section to include each annual
11 performance measure upon which the school or school system fails to
12 meet the standard for performance and progress, the action to be
13 taken to meet each measure, a separate time line and a date certain
14 for meeting each measure, a cost estimate and, when applicable, the
15 assistance to be provided by the department and other education
16 agencies to improve student, school or school system performance
17 and progress to meet the annual performance measure.

18 The department shall make available to all public schools
19 through its website or the West Virginia Education Information
20 System an electronic school strategic improvement plan boilerplate
21 designed for use by all schools to develop an electronic school
22 strategic improvement plan which incorporates all required aspects
23 and satisfies all improvement plan requirements of the No Child
24 Left Behind Act.

25 (c) *High-quality education standards and efficiency standards.*
26 - In accordance with the provisions of article three-b, chapter

1 twenty-nine-a of this code, the state board shall adopt and
2 periodically review and update high-quality education standards for
3 student, school and school system performance and processes in the
4 following areas:

5 (1) Curriculum;

6 (2) Workplace readiness skills;

7 (3) Finance;

8 (4) Transportation;

9 (5) Special education;

10 (6) Facilities;

11 (7) Administrative practices;

12 (8) Training of county board members and administrators;

13 (9) Personnel qualifications;

14 (10) Professional development and evaluation;

15 (11) Student performance, progress and attendance;

16 (12) Professional personnel, including principals and central
17 office administrators, and service personnel attendance;

18 (13) School and school system performance and progress;

19 (14) A code of conduct for students and employees;

20 (15) Indicators of efficiency; and

21 (16) Any other areas determined by the state board.

22 (d) *Comprehensive statewide student assessment program.* - The
23 state board shall establish a comprehensive statewide student
24 assessment program to assess student performance and progress in
25 grades three through twelve. The assessment program is subject to
26 the following:

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

5 (2) Prior to the 2014-2015 school year, the state board shall
6 align the comprehensive statewide student assessment for all grade
7 levels in which the test is given with the college-readiness
8 standards adopted pursuant to section thirty-nine, article two of
9 this chapter or develop other aligned tests to be required at each
10 grade level so that progress toward college readiness in
11 English/language arts and math can be measured;

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

16 (4) The state board may require that student proficiencies be
17 measured through the West Virginia writing assessment at any grade
18 levels determined by the state board to be appropriate; and

19 (5) The state board may provide through the statewide
20 assessment program other optional testing or assessment instruments
21 applicable to grade levels kindergarten through grade twelve which
22 may be used by each school to promote student achievement. The
23 state board annually shall publish and make available,
24 electronically or otherwise, to school curriculum teams and teacher
25 collaborative processes the optional testing and assessment
26 instruments.

1 (e) *State annual performance measures for school and school*
2 *system accreditation.* -

3 The state board shall promulgate a rule in accordance with the
4 provisions of article three-b, chapter twenty-nine-a of this code
5 that establishes a system to assess and weigh annual performance
6 measures for state accreditation of schools and school systems.
7 The state board also may establish performance incentives for
8 schools and school systems as part of the state accreditation
9 system. On or before December 1, 2013, the state board shall
10 report to the Governor and to the Legislative Oversight Commission
11 on Education Accountability the proposed rule for establishing the
12 measures and incentives of accreditation and the estimated cost
13 therefore, if any. Thereafter, the state board shall provide an
14 annual report to the Governor and to the Legislative Oversight
15 Commission on Education Accountability on the impact and
16 effectiveness of the accreditation system. The rule for school and
17 school system accreditation proposed by the board may include, but
18 is not limited to, the following measures:

- 19 (1) Student proficiency in English and language arts, math,
20 science and other subjects determined by the board;
- 21 (2) Graduation and attendance rate;
- 22 (3) Students taking and passing AP tests;
- 23 (4) Students completing a career and technical education
24 class;
- 25 (5) Closing achievement gaps within subgroups of a school's
26 student population; and

1 (6) Students scoring at or above average attainment on SAT or
2 ACT tests.

3 (f) *Indicators of efficiency.* - In accordance with the
4 provisions of article three-b, chapter twenty-nine-a of this code,
5 the state board shall adopt by rule and periodically review and
6 update indicators of efficiency for use by the appropriate
7 divisions within the department to ensure efficient management and
8 use of resources in the public schools in the following areas:

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

11 (2) Transportation;

12 (3) Facilities;

13 (4) Administrative practices;

14 (5) Personnel;

15 (6) Use of regional educational service agency programs and
16 services, including programs and services that may be established
17 by their assigned regional educational service agency or other
18 regional services that may be initiated between and among
19 participating county boards; and

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

21 (g) *Assessment and accountability of school and school system*
22 *performance and processes.* - In accordance with the provisions of
23 article three-b, chapter twenty-nine-a of this code, the state
24 board shall establish by rule a system of education performance
25 audits which measures the quality of education and the preparation
26 of students based on the annual measures of student, school and

1 school system performance and progress. The system of education
2 performance audits shall provide information to the state board,
3 the Legislature and the Governor, upon which they may determine
4 whether a thorough and efficient system of schools is being
5 provided. The system of education performance audits shall
6 include:

7 (1) The assessment of student, school and school system
8 performance and progress based on the annual measures established
9 pursuant to subsection (e) of this section;

10 (2) The evaluation of records, reports and other information
11 collected by the Office of Education Performance Audits upon which
12 the quality of education and compliance with statutes, policies and
13 standards may be determined;

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

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

19 (h) *Uses of school and school system assessment information.*
20 - The state board shall use information from the system of
21 education performance audits to assist it in ensuring that a
22 thorough and efficient system of schools is being provided and to
23 improve student, school and school system performance and progress.
24 Information from the system of education performance audits further
25 shall be used by the state board for these purposes, including, but
26 not limited to, the following:

1 (1) Determining school accreditation and school system
2 approval status;

3 (2) Holding schools and school systems accountable for the
4 efficient use of existing resources to meet or exceed the
5 standards; and

6 (3) Targeting additional resources when necessary to improve
7 performance and progress.

8 The state board shall make accreditation information available
9 to the Legislature, the Governor, the general public and to any
10 individual who requests the information, subject to the provisions
11 of any act or rule restricting the release of information.

12 (i) *Early detection and intervention programs.* - Based on the
13 assessment of student, school and school system performance and
14 progress, the state board shall establish early detection and
15 intervention programs using the available resources of the
16 Department of Education, the regional educational service agencies,
17 the Center for Professional Development and the Principals Academy,
18 as appropriate, to assist underachieving schools and school systems
19 to improve performance before conditions become so grave as to
20 warrant more substantive state intervention. Assistance shall
21 include, but is not limited to, providing additional technical
22 assistance and programmatic, professional staff development,
23 providing monetary, staffing and other resources where appropriate.

24 (j) *Office of Education Performance Audits.* -

25 (1) To assist the state board in the operation of a system of
26 education performance audits, the state board shall establish an

1 Office of Education Performance Audits consistent with the
2 provisions of this section. The Office of Education Performance
3 Audits shall be operated under the direction of the state board
4 independently of the functions and supervision of the State
5 Department of Education and state superintendent. The Office of
6 Education Performance Audits shall report directly to and be
7 responsible to the state board in carrying out its duties under the
8 provisions of this section.

9 (2) The office shall be headed by a director who shall be
10 appointed by the state board and who serves at the will and
11 pleasure of the state board. The annual salary of the director
12 shall be set by the state board and may not exceed eighty percent
13 of the salary cap of the State Superintendent of Schools.

14 (3) The state board shall organize and sufficiently staff the
15 office to fulfill the duties assigned to it by law and by the state
16 board. Employees of the State Department of Education who are
17 transferred to the Office of Education Performance Audits shall
18 retain their benefits and seniority status with the Department of
19 Education.

20 (4) Under the direction of the state board, the Office of
21 Education Performance Audits shall receive from the West Virginia
22 education information system staff research and analysis data on
23 the performance and progress of students, schools and school
24 systems, and shall receive assistance, as determined by the state
25 board, from staff at the State Department of Education, the
26 regional education service agencies, the Center for Professional

1 Development, the Principals Academy and the School Building
2 Authority to carry out the duties assigned to the office.

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

6 (A) Assure that all statewide assessments of student
7 performance used as annual performance measures are secure as
8 required in section one-a of this article;

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

11 (i) Processes for the accreditation of schools and the
12 approval of school systems; and

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

15 (C) Determine, in conjunction with the assessment and
16 accountability processes, what capacity may be needed by schools
17 and school systems to meet the standards established by the state
18 board and recommend to the state board plans to establish those
19 needed capacities;

20 (D) Determine, in conjunction with the assessment and
21 accountability processes, whether statewide system deficiencies
22 exist in the capacity of schools and school systems to meet the
23 standards established by the state board, including the
24 identification of trends and the need for continuing improvements
25 in education, and report those deficiencies and trends to the state
26 board;

1 (E) Determine, in conjunction with the assessment and
2 accountability processes, staff development needs of schools and
3 school systems to meet the standards established by the state board
4 and make recommendations to the state board, the Center for
5 Professional Development, the regional educational service
6 agencies, the Higher Education Policy Commission and the county
7 boards;

8 (F) Identify, in conjunction with the assessment and
9 accountability processes, school systems and best practices that
10 improve student, school and school system performance and
11 communicate those to the state board for promoting the use of best
12 practices. The state board shall provide information on best
13 practices to county school systems; and

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

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

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

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

1 (iv) The appropriate provision of 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 (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 circumstances exist that warrant an on-site
12 review. Any discussion by the state board of schools to be subject
13 to an on-site review or dates for which on-site reviews will be
14 conducted may be held in executive session and is not subject to
15 the provisions of article nine-a, chapter six of this code relating
16 to open governmental proceedings. An on-site review shall be
17 conducted by the Office of Education Performance Audits of a school
18 or school system for the purpose of making recommendations to the
19 school and school system, as appropriate, and to the state board on
20 such measures as it considers necessary. The investigation may
21 include, but is not limited to, the following:

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

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

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

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

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

7 (F) Determining and reporting whether required reviews and
8 inspections have been conducted by the appropriate agencies,
9 including, but not limited to, the State Fire Marshal, the Health
10 Department, the School Building Authority and the responsible
11 divisions within the Department of Education, and whether noted
12 deficiencies have been or are in the process of being corrected.

13 (2) The Director of the Office of Education Performance Audits
14 shall notify the county superintendent of schools five school days
15 prior to commencing an on-site review of the county school system
16 and shall notify both the county superintendent and the principal
17 five school days before commencing an on-site review of an
18 individual school: *Provided*, That the state board may direct the
19 Office of Education Performance Audits to conduct an unannounced
20 on-site review of a school or school system if the state board
21 believes circumstances warrant an unannounced on-site review.

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

1 (4) The Office of Education Performance Audits shall reimburse
2 a county board for the costs of substitutes required to replace
3 county board employees who serve on a review team.

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

16 (6) The Office of Education Performance Audits shall report
17 the findings of an on-site review to the county superintendent and
18 the principals whose schools were reviewed within thirty days
19 following the conclusion of the on-site review. The Office of
20 Education Performance Audits shall report the findings of the
21 on-site review to the state board within forty-five days after the
22 conclusion of the on-site review. A school or county that believes
23 one or more findings of a review are clearly inaccurate, incomplete
24 or misleading, misrepresent or fail to reflect the true quality of
25 education in the school or county or address issues unrelated to
26 the health, safety and welfare of students and the quality of

1 education, may appeal to the state board for removal of the
2 findings. The state board shall establish a process for it to
3 receive, review and act upon the appeals. The state board shall
4 report to the Legislative Oversight Commission on Education
5 Accountability during its July interim meetings, or as soon
6 thereafter as practical, on each appeal during the preceding school
7 year.

8 (7) The Legislature finds that the accountability and
9 oversight of some activities and programmatic areas in the public
10 schools are controlled through other mechanisms and agencies and
11 that additional accountability and oversight may be unnecessary,
12 counterproductive and impair necessary resources for teaching and
13 learning. Therefore, the Office of Education Performance Audits
14 may rely on other agencies and mechanisms in its review of schools
15 and school systems.

16 (1) *School accreditation.* -

17 (1) The state board shall establish levels of accreditation to
18 be assigned to schools. The establishment of levels of
19 accreditation and the levels shall be subject to the following:

20 (A) The levels will be designed to demonstrate school
21 performance in all the areas outlined in this section and also
22 those established by the state board;

23 (B) The state board shall promulgate legislative rules in
24 accordance with the provisions of article three-b, chapter twenty-
25 nine-a of this code to establish the performance and standards
26 required for a school to be assigned a particular level of

1 accreditation; and

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

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

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

13 (A) To require a school to revise its electronic strategic
14 plan;

15 (B) To define extraordinary circumstances under which the
16 state board may intervene directly or indirectly in the operation
17 of a school;

18 (C) To appoint monitors to work with the principal and staff
19 of a school where extraordinary circumstances are found to exist,
20 and to appoint monitors to assist the school principal after
21 intervention in the operation of a school is completed;

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

24 (E) To intervene directly in the operation of a school and
25 declare the position of principal vacant and assign a principal for
26 the school who will serve at the will and pleasure of the state

1 board. If the principal who was removed elects not to remain an
2 employee of the county board, then the principal assigned by the
3 state board shall be paid by the county board. If the principal
4 who was removed elects to remain an employee of the county board,
5 then the following procedure applies:

6 (i) The principal assigned by the state board shall be paid by
7 the state board until the next school term, at which time the
8 principal assigned by the state board shall be paid by the county
9 board;

10 (ii) The principal who was removed is eligible for all
11 positions in the county, including teaching positions, for which
12 the principal is certified, by either being placed on the transfer
13 list in accordance with section seven, article two, chapter
14 eighteen-a of this code, or by being placed on the preferred recall
15 list in accordance with section seven-a, article four, chapter
16 eighteen-a of this code; and

17 (iii) The principal who was removed shall be paid by the
18 county board and may be assigned to administrative duties, without
19 the county board being required to post that position until the end
20 of the school term; and

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

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

1 (m) *School system approval.* - The state board annually shall
2 review the information submitted for each school system from the
3 system of education performance audits and issue one of the
4 following approval levels to each county board: Full approval,
5 temporary approval, conditional approval or nonapproval.

6 (1) Full approval shall be given to a county board whose
7 schools have all been given full, temporary or conditional
8 accreditation status and which does not have any deficiencies which
9 would endanger student health or safety or other extraordinary
10 circumstances as defined by the state board. A fully approved
11 school system in which other deficiencies are discovered shall
12 remain on full accreditation status for the remainder of the
13 approval period and shall have an opportunity to correct those
14 deficiencies, notwithstanding other provisions of this subsection.

15 (2) Temporary approval shall be given to a county board whose
16 education system is below the level required for full approval.
17 Whenever a county board is given temporary approval status, the
18 county board shall revise its electronic county strategic
19 improvement plan in accordance with subsection (b) of this section
20 to increase the performance and progress of the school system to a
21 full approval status level. The revised plan shall be submitted to
22 the state board for approval.

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

1 (A) The plan has been revised in accordance with subsection
2 (b) of this section;

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

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

6 (4) Nonapproval status shall be given to a county board which
7 fails to submit and gain approval for its electronic county
8 strategic improvement plan or revised electronic county strategic
9 improvement plan within a reasonable time period as defined by the
10 state board or which fails to meet the objectives and time line of
11 its revised electronic county strategic improvement plan or fails
12 to achieve full approval by the date specified in the revised plan.

13 (A) The state board shall establish and adopt additional
14 standards to identify school systems in which the program may be
15 nonapproved and the state board may issue nonapproval status
16 whenever extraordinary circumstances exist as defined by the state
17 board.

18 (B) Whenever a county board has more than a casual deficit, as
19 defined in section one, article one of this chapter, the county
20 board shall submit a plan to the state board specifying the county
21 board's strategy for eliminating the casual deficit. The state
22 board either shall approve or reject the plan. If the plan is
23 rejected, the state board shall communicate to the county board the
24 reason or reasons for the rejection of the plan. The county board
25 may resubmit the plan any number of times. However, any county
26 board that fails to submit a plan and gain approval for the plan

1 from the state board before the end of the fiscal year after a
2 deficit greater than a casual deficit occurred or any county board
3 which, in the opinion of the state board, fails to comply with an
4 approved plan may be designated as having nonapproval status.

5 (C) Whenever nonapproval status is given to a school system,
6 the state board shall declare a state of emergency in the school
7 system and shall appoint a team of improvement consultants to make
8 recommendations within sixty days of appointment for correcting the
9 emergency. When the state board approves the recommendations, they
10 shall be communicated to the county board. If progress in
11 correcting the emergency, as determined by the state board, is not
12 made within six months from the time the county board receives the
13 recommendations, the state board shall intervene in the operation
14 of the school system to cause improvements to be made that will
15 provide assurances that a thorough and efficient system of schools
16 will be provided. This intervention may include, but is not
17 limited to, the following:

18 (i) Limiting the authority of the county superintendent and
19 county board as to the expenditure of funds, the employment and
20 dismissal of personnel, the establishment and operation of the
21 school calendar, the establishment of instructional programs and
22 rules and any other areas designated by the state board by rule,
23 which may include delegating decision-making authority regarding
24 these matters to the state superintendent;

25 (ii) Declaring that the office of the county superintendent is
26 vacant;

1 (iii) Delegating to the state superintendent both the
2 authority to conduct hearings on personnel matters and school
3 closure or consolidation matters and, subsequently, to render the
4 resulting decisions and the authority to appoint a designee for the
5 limited purpose of conducting hearings while reserving to the state
6 superintendent the authority to render the resulting decisions;

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

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

12 (I) Delegating to the state superintendent the authority to
13 replace administrators and principals in low performing schools and
14 to transfer them into alternate professional positions within the
15 county at his or her discretion; and

16 (II) Delegating to the state superintendent the authority to
17 fill positions of administrators and principals with individuals
18 determined by the state superintendent to be the most qualified for
19 the positions. Any authority related to intervention in the
20 operation of a county board granted under this paragraph is not
21 subject to the provisions of article four, chapter eighteen-a of
22 this code;

23 (n) Notwithstanding any other provision of this section, the
24 state board may intervene immediately in the operation of the
25 county school system with all the powers, duties and
26 responsibilities contained in subsection (m) of this section, if

1 the state board finds the following:

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

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

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

1 consultation with the Legislature and the Governor.

2 The state board shall recommend to the appropriate body
3 including, but not limited to, the Legislature, county boards,
4 schools and communities methods for targeting resources
5 strategically to eliminate deficiencies identified in the
6 assessment and accountability processes. When making
7 determinations on recommendations, the state board shall include,
8 but is not limited to, the following methods:

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

13 (2) Determining the areas of weakness and of ineffectiveness
14 that appear to have contributed to the substandard performance and
15 progress of students or the deficiencies of the school or school
16 system and requiring the school or school system to work
17 collaboratively with the West Virginia Department of Education
18 State System of Support to correct the deficiencies;

19 (3) Determining the areas of strength that appear to have
20 contributed to exceptional student, school and school system
21 performance and progress and promoting their emulation throughout
22 the system;

23 (4) Requesting technical assistance from the School Building
24 Authority in assessing or designing comprehensive educational
25 facilities plans;

26 (5) Recommending priority funding from the School Building

1 Authority based on identified needs;

2 (6) Requesting special staff development programs from the
3 Center for Professional Development, the Principals Academy, higher
4 education, regional educational service agencies and county boards
5 based on identified needs;

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

8 (8) Directing county boards to target their funds
9 strategically toward alleviating deficiencies;

10 (9) Ensuring that the need for facilities in counties with
11 increased enrollment are appropriately reflected and recommended
12 for funding;

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

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

18 **ARTICLE 2I. PROFESSIONAL DEVELOPMENT.**

19 **§18-2I-1. Legislative purpose.**

20 The purpose of this article is to establish clear state-level
21 leadership for professional development for all West Virginia
22 public school educators and administrators. As the state
23 institution charged with the general supervision of the state
24 school system, the state board shall institute a system for the
25 coordination and delivery of high-quality professional development.
26 The system shall clearly define the goals for professional

1 development and delineate roles and responsibilities among the
2 various state and regional professional development providers.

3 **§18-2I-2. Legislative findings.**

4 The Legislature finds:

5 (1) That high-quality professional development is critical in
6 supporting improved practice, assuring teacher quality and raising
7 student achievement;

8 (2) That professional development is vital in the state's
9 overall school improvement efforts;

10 (3) That the state board should assure the efficient delivery
11 of high-quality professional development programs and assure that
12 duplication of efforts be minimized and that all stakeholders are
13 appropriately involved in the planning and implementing of programs
14 to meet requisite needs and that high-quality professional
15 development programs be provided to public school educators of West
16 Virginia in the most efficient and cost effective manner; and

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

20 **§18-2I-3. Annual professional development master plan established**
21 **by state board.**

22 (a) The state board annually shall establish a master plan for
23 professional development in the public schools of the state. As a
24 first priority, the state board shall require adequate and
25 appropriate professional development to ensure high-quality
26 teaching that will support improved student achievement, enable

1 students to meet the content standards established for the required
2 curriculum in the public schools and to be prepared for college and
3 careers.

4 (b) The state board annually shall submit the master plan to
5 the State Department of Education, the Center for Professional
6 Development, the regional educational service agencies, the Higher
7 Education Policy Commission and the Legislative Oversight
8 Commission on Education Accountability.

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

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

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

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

6 **§18-2I-4. Coordination, development and evaluation of professional**
7 **development programs.**

8 (a) On or before June 1, 2013, the state board shall
9 promulgate an emergency rule in accordance with article three-b,
10 chapter twenty-nine of this code to ensure the coordination,
11 development and evaluation of high-quality professional development
12 programs. On or before November 1, 2013, the state board shall
13 promulgate a legislative rule for the same purpose. The rules
14 shall include, but are not limited to, the following:

15 (1) Standards for quality professional development that all
16 professional development providers shall use in designing,
17 implementing and evaluating professional development that shall
18 become part of the statewide professional development plan;

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

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

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

25 (5) Processes for ensuring all stakeholders, including
26 affected classroom teachers, have a voice in the identification of

1 needed professional development and various delivery models;

2 (6) Processes for collaboration among West Virginia Department
3 of Education, Center for Professional Development, RESAs, county
4 boards and classroom teachers; and

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

9 (b) The state board approval of the proposed professional
10 development plans/offerings shall establish a Master Plan for
11 Professional Development which shall be submitted by the state
12 board to the affected agencies and to the Legislative Oversight
13 Commission on Education Accountability. The Master Plan shall
14 include the state board-approved plans for professional development
15 by the State Department of Education, the Center for Professional
16 Development, the state institutions of higher education and the
17 regional educational service agencies to meet the professional
18 development goals of the state board.

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

23 **§18-2I-5. Strategic Staff Development Fund.**

24 (a) There is created an account within the state board titled
25 the Strategic Staff Development Fund. The allocation of balances
26 which accrue in the General School Fund shall be transferred to the

1 Strategic Staff Development Fund each year when the balances become
2 available. Any remaining funds transferred to the Strategic Staff
3 Development Fund during the fiscal year shall be carried over for
4 use in the same manner the next fiscal year and shall be separate
5 and apart from, and in addition to, the transfer of funds from the
6 General School Fund for the next fiscal year.

7 (b) The money in the Strategic Staff Development Fund shall be
8 used by the state board to provide staff development in schools,
9 counties or both that the state board determines need additional
10 resources. The state board is required to report to the
11 Legislative Oversight Commission on Education Accountability before
12 December 1, annually, on the effectiveness of the staff development
13 resulting from expenditures in this fund.

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

15 **§18-3-1. Appointment; qualifications; compensation; traveling**
16 **expenses; office and residence; evaluation.**

17 There shall be appointed by the state board a State
18 Superintendent of Schools who serves at the will and pleasure of
19 the state board. He or she shall be a person of good moral
20 character, shall be able to perform the duties listed in this
21 article and possess such other educational, administrative,
22 experiential and other qualifications as determined by the State
23 Board of Education. He or she shall hold at least a master's
24 degree from a regionally accredited institution of higher education
25 or equivalent degree as determined by the state board. He or she
26 shall receive an annual salary set by the state board, to be paid

1 monthly:. The state superintendent also shall receive necessary
2 traveling expenses incident to the performance of his or her duties
3 to be paid out of the General School Fund upon warrants of the
4 State Auditor. The state superintendent shall have his or her
5 office at the state Capitol. The state board shall report to the
6 Legislative Oversight Commission on Education Accountability upon
7 request concerning its progress during any hiring process for a
8 state superintendent.

9 The state board annually shall evaluate the performance of the
10 state superintendent and publicly announce the results of the
11 evaluation.

12 **§18-3-9b. Reduction in amount budgeted for personal services.**

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

20 **§18-3-12. Special Community Development School Pilot Program.**

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

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

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

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

25 **§18-5-18. Kindergarten programs.**

26 (a) County boards shall provide kindergarten programs for all

1 children who have attained the age of five prior to September 1, of
2 the school year in which the pupil enters the kindergarten program
3 and may, pursuant to the provisions of section forty-four, article
4 five, chapter eighteen of this code, establish kindergarten
5 programs designed for children below the age of five. The programs
6 for children who shall have attained the age of five shall be
7 full-day everyday programs.

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

1 as an aide in that position and may not be required to acquire
2 licensure pursuant to this section.

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

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

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

24 (2) All children meeting the age requirement set forth in this
25 section shall have the opportunity to enroll in a program that is
26 full day and five days per week. The program may be for fewer than

1 five days per week and may be less than full day based on family
2 need if a sufficient number of families request such programs and
3 the county board finds that such programs are in the best interest
4 of the requesting families and students: *Provided*, That the ability
5 of families to request programs that are fewer than five days a
6 week or less than a full day does not relieve the county of the
7 obligation to provide all resident children with the opportunity to
8 enroll in a full-day program; and

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

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

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

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

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

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

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

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

8 (6) Any other public or private funds.

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

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

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

15 (3) Financial requirements for implementation and potential
16 sources of funding to assist implementation;

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

21 (5) Specific time lines for implementation; and

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

23 (h) A county board shall submit its plan to the Secretary of
24 the Department of Health and Human Resources. The secretary shall
25 approve the plan if the following conditions are met:

26 (1) The county board has maximized the use of federal and

1 other available funds for early childhood programs;

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (n) Annually, the state board shall report to the Legislative
26 Oversight Commission on Education Accountability on the progress of

1 implementation of this section.

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

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

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

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

21 (r) The rule shall include the following elements relating to
22 curriculum standards:

- 23 (1) A requirement that the curriculum be designed to address
24 the developmental needs of four-year old children, consistent with
25 prevailing research on how children learn;
- 26 (2) A requirement that the curriculum be designed to achieve

1 long-range goals for the social, emotional, physical and academic
2 development of young children;

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

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

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

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

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

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

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

24 (10) A systematic plan for evaluating program success in
25 meeting the needs of young children and for helping them to be
26 ready to succeed in school.

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

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

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

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

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

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

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

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

26 (2) For those county boards that are including eligible

1 children attending approved, contracted community-based programs in
2 their net enrollment for the purposes of calculating state aid
3 pursuant to article nine-a of this chapter, documentation that the
4 county board is equitably distributing funding for all children
5 regardless of setting.

6 **§18-5-45. School calendar.**

7 (a) As used in this section:

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

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

12 (B) Instructional time is used for instruction and
13 cocurricular activities; and

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

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

19 (b) *Findings.* -

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

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

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

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

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

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

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

14 (A) Seven paid holidays;

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

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

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

24 (i) Curriculum development;

25 (ii) Preparation for opening and closing school;

26 (iii) Professional development;

1 (iv) Teacher-pupil-parent conferences;

2 (v) Professional meetings;

3 (vi) Making up days when instruction was scheduled but not
4 conducted; and

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

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

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

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

21 (A) Holidays;

22 (B) Election day;

23 (C) Saturdays and Sundays.

24 (f) The instructional term shall commence and terminate on a
25 date selected by the county board.

26 (g) The state board may not schedule the primary statewide

1 assessment program more than thirty days prior to the end of the
2 instructional year unless the state board determines that the
3 nature of the test mandates an earlier testing date.

4 (h) The following applies to cocurricular activities:

5 (1) The state board shall determine what activities may be
6 considered cocurricular;

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

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

12 (i) Extracurricular activities may not be used for
13 instructional time.

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

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

20 (l) In formulation of a school's calendar, a county school
21 board shall hold at least two public meetings that allow parents,
22 teachers, teacher organizations, businesses and other interested
23 parties within the county to discuss the school calendar. The
24 public notice of the date, time and place of the public hearing
25 must be published in a local newspaper of general circulation in
26 the area as a Class II legal advertisement, in accordance with the

1 provisions of article three, chapter fifty-nine of this code.

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

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

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

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

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

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

24 **§18-5A-5. Public school faculty senates established; election of**
25 **officers; powers and duties.**

26 (a) There is established at every public school in this state

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

26 (b) In addition to any other powers and duties conferred by

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

10 (1) Each faculty senate shall control funds allocated to the
11 school from legislative appropriations pursuant to section nine,
12 article nine-a of this chapter. From those funds, each classroom
13 teacher and librarian shall be allotted \$100 for expenditure during
14 the instructional year for academic materials, supplies or
15 equipment which, in the judgment of the teacher or librarian, will
16 assist him or her in providing instruction in his or her assigned
17 academic subjects or shall be returned to the faculty senate:
18 *Provided*, That nothing contained herein prohibits the funds from
19 being used for programs and materials that, in the opinion of the
20 teacher, enhance student behavior, increase academic achievement,
21 improve self esteem and address the problems of students at risk.
22 The remainder of funds shall be expended for academic materials,
23 supplies or equipment in accordance with a budget approved by the
24 faculty senate. Notwithstanding any other provisions of the law to
25 the contrary, funds not expended in one school year are available
26 for expenditure in the next school year: *Provided, however*, That

1 the amount of county funds budgeted in a fiscal year may not be
2 reduced throughout the year as a result of the faculty
3 appropriations in the same fiscal year for such materials, supplies
4 and equipment. Accounts shall be maintained of the allocations and
5 expenditures of such funds for the purpose of financial audit.
6 Academic materials, supplies or equipment shall be interpreted
7 broadly, but does not include materials, supplies or equipment
8 which will be used in or connected with interscholastic athletic
9 events.

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

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

22 (B) If determined necessary, a requirement and procedure for
23 training for principals and faculty senate members or their
24 designees who may participate in interviews and provisions that may
25 provide for the compensation based on the appropriate daily rate of
26 a classroom teacher who directly participates in the training for

1 periods beyond his or her individual contract;

2 (C) Time lines that will assure the timely completion of the
3 recommendation or the forfeiture of the right to make a
4 recommendation upon the failure to complete a recommendation within
5 a reasonable time;

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

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

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

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

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

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

26 (7) Each faculty senate shall elect three faculty

1 representatives to the local school improvement council established
2 pursuant to section two of this article.

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

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

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

17 (11) Any faculty senate may review the evaluation procedure as
18 conducted in their school to ascertain whether the evaluations were
19 conducted in accordance with the written system required pursuant
20 to section twelve, article two, chapter eighteen-a of this code or
21 pursuant to section two, article three-c, chapter eighteen-a of
22 this code, as applicable, and the general intent of this
23 Legislature regarding meaningful performance evaluations of school
24 personnel. If a majority of members of the faculty senate
25 determine that such evaluations were not so conducted, they shall
26 submit a report in writing to the State Board of Education:

1 *Provided*, That nothing herein creates any new right of access to or
2 review of any individual's evaluations.

3 (12) A local board shall provide to each faculty senate a
4 two-hour block of time for a faculty senate meeting on a day
5 scheduled for the opening of school prior to the beginning of the
6 instructional term and at least four additional two-hour blocks of
7 time during noninstructional days, with each two-hour block of time
8 scheduled once at least every forty-five instructional days. A
9 faculty senate may meet for an unlimited block of time during
10 noninstructional days to discuss and plan strategies to improve
11 student instruction and to conduct other faculty senate business.
12 A faculty senate meeting scheduled on a noninstructional day shall
13 be considered as part of the purpose for which the noninstructional
14 day is scheduled. This time may be used and determined at the
15 local school level and includes, but is not limited to, faculty
16 senate meetings.

17 (13) Each faculty senate shall develop a strategic plan to
18 manage the integration of special needs students into the regular
19 classroom at their respective schools and submit the strategic plan
20 to the superintendent of the county board periodically pursuant to
21 guidelines developed by the State Department of Education. Each
22 faculty senate shall encourage the participation of local school
23 improvement councils, parents and the community at large in
24 developing the strategic plan for each school.

25 Each strategic plan developed by the faculty senate shall
26 include at least: (A) A mission statement; (B) goals; (C) needs;

1 (D) objectives and activities to implement plans relating to each
2 goal; (E) work in progress to implement the strategic plan; (F)
3 guidelines for placing additional staff into integrated classrooms
4 to meet the needs of exceptional needs students without diminishing
5 the services rendered to the other students in integrated
6 classrooms; (G) guidelines for implementation of collaborative
7 planning and instruction; and (H) training for all regular
8 classroom teachers who serve students with exceptional needs in
9 integrated classrooms.

10 **CHAPTER 18A. SCHOOL PERSONNEL.**

11 **ARTICLE 2. SCHOOL PERSONNEL.**

12 **§18A-2-1. Employment in general.**

13 (a) The employment of professional personnel shall be made by
14 the board only upon nomination and recommendation of the
15 superintendent, subject to the following:

16 (1) The superintendent shall provide the principal at the
17 school at which the professional educator or paraprofessional
18 employee is to be employed an opportunity to interview all
19 qualified applicants and make recommendations to the county
20 superintendent regarding their employment;

21 (2) The principal may not recommend for employment an
22 individual who is related to him or her as father, mother, son,
23 daughter, brother, sister, uncle, aunt, first cousin, nephew,
24 niece, husband, wife, father-in-law, mother-in-law, son-in-law,
25 daughter-in-law, brother-in-law, sister-in-law, stepfather,
26 stepmother, stepson, stepdaughter, stepbrother, stepsister, half

1 brother or half sister;

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

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

7 (5) All personnel so nominated and recommended for employment
8 and for subsequent assignment shall meet the certification,
9 licensing, training and other eligibility classifications as may be
10 required by provisions of this chapter and by state board rule. In
11 addition to any other information required, the application for any
12 certification or licensing shall include the applicant's Social
13 Security number.

14 (b) Professional personnel employed as deputy, associate or
15 assistant superintendents by the board in offices, departments or
16 divisions at locations other than a school and who are directly
17 answerable to the superintendent shall serve at the will and
18 pleasure of the superintendent and may be removed by the
19 superintendent upon approval of the board. Such professional
20 personnel shall retain seniority rights only in the area or areas
21 in which they hold valid certification or licensure.

22 **§18A-2-7. Assignment, transfer, promotion, demotion, suspension**
23 **and recommendation of dismissal of school personnel by**
24 **superintendent; preliminary notice of transfer; hearing on the**
25 **transfer; proof required.**

26 (a) The superintendent, subject only to approval of the board,

1 may assign, transfer, promote, demote or suspend school personnel
2 and recommend their dismissal pursuant to provisions of this
3 chapter. However, an employee shall be notified in writing by the
4 superintendent on or before March 1 if he or she is being
5 considered for transfer or to be transferred. Only those employees
6 whose consideration for transfer or intended transfer is based upon
7 known or expected circumstances which will require the transfer of
8 employees shall be considered for transfer or intended for transfer
9 and the notification shall be limited to only those employees. Any
10 teacher or employee who desires to protest the proposed transfer
11 may request in writing a statement of the reasons for the proposed
12 transfer. The statement of reasons shall be delivered to the
13 teacher or employee within ten days of the receipt of the request.
14 Within ten days of the receipt of the statement of the reasons, the
15 teacher or employee may make written demand upon the superintendent
16 for a hearing on the proposed transfer before the county board.
17 The hearing on the proposed transfer shall be held on or before
18 April 15. At the hearing, the reasons for the proposed transfer
19 must be shown.

20 (b) The superintendent at a meeting of the board on or before
21 April 15 shall furnish in writing to the board a list of teachers
22 and other employees to be considered for transfer and subsequent
23 assignment for the next ensuing school year. An employee who was
24 not provided notice and an opportunity for a hearing pursuant to
25 subsection (a) of this section may not be included on the list.
26 All other teachers and employees not so listed shall be considered

1 as reassigned to the positions or jobs held at the time of this
2 meeting. The list of those recommended for transfer shall be
3 included in the minute record of the meeting and all those so
4 listed shall be notified in writing, which notice shall be
5 delivered in writing, by certified mail, return receipt requested,
6 to the persons' last known addresses within ten days following the
7 board meeting, of their having been so recommended for transfer and
8 subsequent assignment and the reasons therefor.

9 (c) The superintendent's authority to suspend school personnel
10 shall be temporary only pending a hearing upon charges filed by the
11 superintendent with the county board and the period of suspension
12 may not exceed thirty days unless extended by order of the board.

13 (d) The provisions of this section respecting hearing upon
14 notice of transfer is not applicable in emergency situations where
15 the school building becomes damaged or destroyed through an
16 unforeseeable act and which act necessitates a transfer of the
17 school personnel because of the aforementioned condition of the
18 building.

19 (e) Notwithstanding this section or any provision of this
20 code, when actual student enrollment in a grade level or program,
21 unforeseen before March 1 of the preceding school year, permits the
22 assignment of fewer teachers or service personnel to or within a
23 school under any pupil-teacher ratio, class size or caseload
24 standard established in section eighteen-a, article five, chapter
25 eighteen of this code or any policy of the state board, the
26 superintendent, with board approval, may reassign the surplus

1 personnel to another school or to another grade level or program
2 within the school if needed there to comply with any such
3 pupil-teacher ratio, class size or caseload standard.

4 (1) Before any reassignment may occur pursuant to this
5 subsection, notice shall be provided to the employee and the
6 employee shall be provided an opportunity to appear before the
7 county board to state the reasons for his or her objections, if
8 any, prior to the board voting on the reassignment.

9 (2) Except as otherwise provided in subdivision (1) of this
10 subsection, the reassignment may be made without following the
11 notice and hearing provisions of this section, and at any time
12 during the school year when the conditions of this subsection are
13 met: *Provided*, That the reassignment may not occur after the last
14 day of the second school month.

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

19 (4) A service employee reassigned under this subsection shall
20 be the least senior of the surplus personnel who holds the same
21 classification or multiclassification needed to perform the duties
22 at the other school or at the grade level or program within the
23 same school.

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

1 **ARTICLE 3. TRAINING; CERTIFICATION; LICENSING; PROFESSIONAL**
2 **DEVELOPMENT.**

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

4 The state board shall conduct a study on alternative
5 certification programs, including the effectiveness of the current
6 methods of alternative certification, any improvements needed on
7 current methods of alternative certification and potential
8 additional methods of certification that would enhance the ability
9 of the State of West Virginia to place effective teachers in areas
10 of high need. "Areas of high need" means those subject areas,
11 public schools or geographic areas of the state in which the state
12 board determines that critical teacher shortages exist. The board
13 shall report its findings and recommendations to the Legislative
14 Oversight Commission on Education Accountability no later than
15 December 31, 2013.

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

17 **§18A-3A-1. Center for Professional Development; intent and**
18 **mission; Principals Academy curriculum and**
19 **expenses; authorization to charge fees.**

20 (a) Teaching is a profession that directly correlates to the
21 social and economic well being of a society and its citizens.
22 Superior teaching is essential to a well-educated and productive
23 populace. Strong academic leadership provided by principals and
24 administrators skilled in modern management principles is also
25 essential. The intent of this article is to recognize the value of
26 professional involvement by experienced educators, principals and

1 administrators in building and maintaining a superior force of
2 professional educators and to establish avenues for applying this
3 involvement.

4 (b) The general mission of the center is to advance the
5 quality of teaching and management in the schools of West Virginia
6 through: (1) The implementation primarily of statewide training,
7 professional staff development, including professional staff
8 development for at least teachers, principals and paraprofessionals
9 and technical assistance programs and practices as recommended by
10 the state board to assure the highest quality of teaching and
11 management; and (2) the provision of technical and other assistance
12 and support to regional and local education agencies in identifying
13 and providing high-quality professional staff development,
14 including professional staff development for at least teachers,
15 principals and paraprofessionals, and training programs and
16 implementing best practices to meet their locally identified needs.
17 The center also may implement local programs if the state board, in
18 its Master Plan for Professional Staff Development established
19 pursuant to article two-i, chapter eighteen-a of this code,
20 determines that there is a specific local need for the programs.
21 Additionally, the center shall perform other duties assigned to it
22 by law.

23 Nothing in this article requires any specific level of funding
24 by the Legislature.

25 (c) The Center for Professional Development Board is
26 reconstituted, and all terms of members elected or appointed prior

1 to the effective date of this section are expired. The center
2 board shall consist of thirteen persons as follows:

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

5 (A) Entitled to vote; and

6 (B) A cochair of the board.

7 (2) Two members of the state board, elected by the state
8 board;

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

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

12 (B) Faculty in the teacher education section of the employing
13 institution; and

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

16 (4) One regional education service agency executive director,
17 elected by all of the regional education service agency executive
18 directors;

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

22 (A) Appointed by the Governor by and with the advice and
23 consent of the Senate;

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

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

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

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

7 (B) Appointed by the Governor by and with the advice and
8 consent of the Senate.

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

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

13 (1) The state board shall elect another member to fill the
14 unexpired term of any person who vacates state board membership.

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

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

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

26 (e) The Center for Professional Development Board shall meet

1 at least quarterly and the appointed members shall be reimbursed
2 for reasonable and necessary expenses actually incurred in the
3 performance of their official duties from funds appropriated or
4 otherwise made available for those purposes upon submission of an
5 itemized statement therefor.

6 (f) The position of executive director is abolished. The
7 Governor shall appoint, by and with the advice and consent of the
8 Senate, a chief executive officer with knowledge and experience in
9 professional development and management principles. Any reference
10 in this code to the Executive Director of the Center for
11 Professional Development means the Chief Executive Officer. From
12 appropriations to the Center for Professional Development, the
13 center board sets the salary of the chief executive officer. The
14 center board, upon the recommendation of the chief executive
15 officer, may employ other staff necessary to carry out the mission
16 and duties of the center. The chief executive officer serves at
17 the will and pleasure of the Governor. Annually, the center board
18 shall evaluate the chief executive officer, and shall report the
19 results to the Governor. The duties of the chief executive officer
20 include:

- 21 (1) Managing the daily operations of the center;
- 22 (2) Ensuring the implementation of the center's mission;
- 23 (3) Ensuring collaboration of the center with other
24 professional development providers;
- 25 (4) Requesting from the Governor and the Legislature any
26 resources or statutory changes that would help in enhancing the

1 collaboration of all professional development providers in the
2 state, in advancing the quality of professional development through
3 any other means or both;

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

8 (6) Other duties as assigned by the Governor or the center
9 board.

10 (g) When practicable, personnel employed by state higher
11 education agencies and state, regional and county public education
12 agencies shall be made available to the center to assist in the
13 operation of projects of limited duration, subject to the
14 provisions of section twenty-four, article two, chapter eighteen of
15 this code.

16 (h) The center shall assist in the delivery of programs and
17 activities pursuant to this article to meet statewide, and if
18 needed as determined by the goals and Master Plan for Professional
19 Staff Development established by the state board pursuant to
20 article two-i, chapter eighteen-a of this code, the local
21 professional development needs of paraprofessionals, teachers,
22 principals and administrators and may contract with existing
23 agencies or agencies created after the effective date of this
24 section or others to provide training programs in the most
25 efficient manner. Existing programs currently based in agencies of
26 the state shall be continued in the agency of their origin unless

1 the center establishes a compelling need to transfer or cancel the
2 existing program. The center shall recommend to the Governor the
3 transfer of funds to the providing agency, if needed, to provide
4 programs approved by the center.

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

11 (j) In accordance with section two-c, article three of this
12 chapter, the center is responsible for paying reasonable and
13 necessary expenses for persons attending the Principals Academy:
14 *Provided*, That nothing in this section requires any specific level
15 of funding by the Legislature.

16 (k) Persons attending the professional development offerings
17 of the center and other courses and services offered by the Center
18 for Professional Development, except the Principals Academy shall
19 be assessed fees which shall be less than the full cost of
20 attendance. There is hereby created in the State Treasury a
21 special revenue account known as the Center for Professional
22 Development Fund. All moneys collected by the center shall be
23 deposited in the fund for expenditure by the center board for the
24 purposes specified in this section. Moneys remaining in the fund
25 at the end of the fiscal year are subject to reappropriation by the
26 Legislature.

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

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

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

10 **§18A-3A-2. Professional development project.**

11 Subject to the provisions of article two-i, chapter eighteen-a
12 of this code, through this project the Center for Professional
13 Development shall:

14 (1) Identify, coordinate, arrange and otherwise assist in the
15 delivery of professional development programs and activities that
16 help professional educators acquire the knowledge, skills,
17 attitudes, practices and other such pertinent complements
18 considered essential for an individual to demonstrate appropriate
19 performance as a professional person in the public schools of West
20 Virginia. The basis for the performance shall be the laws,
21 policies and regulations adopted for the public schools of West
22 Virginia, and amendments thereto. The center also may permit and
23 encourage school personnel such as classroom aides, higher
24 education teacher education faculty and higher education faculty in
25 programs such as articulated tech prep associate degree and other
26 programs to participate in appropriate professional development

1 programs and activities with public school professional educators;

2 (2) Identify, coordinate, arrange and otherwise assist in the
3 delivery of professional development programs and activities that
4 help principals and administrators acquire knowledge, skills,
5 attitudes and practices in academic leadership and management
6 principles for principals and administrators and such other
7 pertinent complements considered essential for principals and
8 administrators to demonstrate appropriate performance in the public
9 schools of West Virginia. The basis for the performance shall be
10 the laws, policies and regulations adopted for the public schools
11 of West Virginia, and amendments thereto;

12 (3) Serve in a coordinating capacity to assure that the
13 knowledge, skills, attitude and other pertinent complements of
14 appropriate professional performance which evolve over time in the
15 public school environment are appropriately reflected in the
16 programs approved for the education of professional personnel,
17 including, but not limited to, advising the teacher education
18 programs of major statutory and policy changes in the public
19 schools which affect the job performance requirements of
20 professional educators, including principals and administrators;

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

26 (5) Provide for the routine education of all professional

1 educators, including principals and administrators, and those
2 service personnel having direct contact with students on warning
3 signs and resources to assist in suicide prevention under
4 guidelines established by the state board. The education may be
5 accomplished through self review of suicide prevention materials
6 and resources approved by the state board. The provisions of this
7 paragraph may be known and cited as the Jason Flatt Act of 2012;

8 (6) Provide consultation and assistance to county staff
9 development councils established under the provisions of section
10 eight, article three of this chapter in planning, designing,
11 coordinating, arranging for and delivering professional development
12 programs to meet the needs of the professional educators of their
13 district. From legislative appropriations to the center, exclusive
14 of the amounts required for the expenses of the principals academy,
15 the center shall, unless otherwise directed by the Legislature,
16 provide assistance in the delivery of programs and activities to
17 meet the expressed needs of the school districts for professional
18 development to help teachers, principals and administrators
19 demonstrate appropriate performance based on the laws, policies and
20 regulations adopted for the public schools of West Virginia; and

21 (7) Cooperate and coordinate with the institutions of higher
22 education to provide professional staff development programs that
23 satisfy some or all of the criteria necessary for currently
24 certified professional educators to meet the requirements for an
25 additional endorsement in an area of certification and for
26 certification to teach in the middle school grades.

1 If the center is not able to reach agreement with the
2 representatives of the institutions providing teacher education
3 programs on which courses will be approved for credit toward
4 additional endorsements, the state board may certify certain
5 professional staff development courses to meet criteria required by
6 the state board. This certification shall be done on a course-by-
7 course basis.

8 **§18A-3A-3. Professional personnel evaluation project.**

9 Subject to the provisions of article two-i, chapter eighteen-a
10 of this code, through this project the center shall:

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

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

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

20 **§18A-4-2a. State minimum salary bonus for classroom teachers with**
21 **national board certification.**

22 (a) The Legislature finds and declares that the rigorous
23 standards and processes for certification by the National Board for
24 Professional Teaching Standards (NBPTS) helps to promote the
25 quality of teaching and learning. Therefore, classroom teachers in
26 the public schools of West Virginia should be encouraged to achieve

1 national board certification through a reimbursement of expenses
2 and an additional salary bonus which reflects their additional
3 certification, to be paid in accordance with the provisions of this
4 section.

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

10 (2) \$3,500 shall be paid annually to each classroom teacher
11 who holds a valid renewal certificate issued by the National Board
12 of Professional Teaching Standards for the life of the renewal
13 certificate, but in no event more than ten years for any one
14 renewal certificate.

15 (c) The payments:

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

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

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

21 (d) For initial certification, one half the certification fee
22 shall be paid for reimbursement once to each teacher who enrolls in
23 the program for the National Board for Professional Teaching
24 Standards certification and one half the certification fee shall be
25 paid for reimbursement once to each teacher who completes the
26 National Board for Professional Teaching Standards certification.

1 Completion shall be defined as the completion of ten scorable
2 entries, as verified by the National Board for Professional
3 Teaching Standards. Teachers who achieve National Board for
4 Professional Teaching Standards certification may be reimbursed a
5 maximum of \$600 for expenses actually incurred while obtaining the
6 National Board for Professional Teaching Standards certification.

7 (e) For renewal certification, each teacher who completes the
8 National Board for Professional Teaching Standards certification
9 renewal process shall be reimbursed for the renewal certification
10 fee. Completion of the certification renewal process means the
11 successful renewal of the ten-year certification as verified by the
12 National Board for Professional Teaching Standards.

13 (f) The state board shall establish selection criteria for the
14 teachers by the legislative rule required pursuant to subsection
15 (h) of this section.

16 (g) Funding for reimbursement of the initial certification fee
17 and expenses actually incurred while obtaining the National Board
18 for Professional Teaching Standards certifications and funding for
19 reimbursement of the renewal certification fee shall be
20 administered by the State Department of Education from an
21 appropriation established for that purpose by the Legislature. If
22 funds appropriated by the Legislature to accomplish the purposes of
23 this subsection are insufficient, the state department shall
24 prorate the reimbursements for expenses and shall request of the
25 Legislature, at its next regular session, funds sufficient to
26 accomplish the purposes of this subsection, including needed

1 retroactive payments.

2 (h) The state board shall promulgate legislative rules
3 pursuant to article three-b, chapter twenty-nine-a of this code to
4 implement the provisions of this section.

5 **§18A-4-7a. Employment, promotion and transfer of professional**
6 **personnel; seniority.**

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

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

16 (1) Appropriate certification, licensure or both;

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

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

22 (4) Academic achievement;

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

26 (6) Specialized training relevant to the performance of the

1 duties of the job;

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

7 (8) Seniority;

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

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

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

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

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

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

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

(g) With the exception of guidance counselors, the seniority of classroom teachers, as defined in section one, article one of this chapter, shall be determined on the basis of the length of time the employee has been employed as a regular full-time

1 certified and/or licensed professional educator by the county board
2 of education and shall be granted in all areas that the employee is
3 certified, licensed or both.

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

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

24 (j) Employment for a full employment term shall equal one year
25 of seniority, but no employee may accrue more than one year of
26 seniority during any given fiscal year. Employment for less than

1 the full employment term shall be prorated. A random selection
2 system established by the employees and approved by the board shall
3 be used to determine the priority if two or more employees
4 accumulate identical seniority: *Provided*, That when two or more
5 principals have accumulated identical seniority, decisions on
6 reductions in force shall be based on qualifications.

7 (k) Whenever a county board is required to reduce the number
8 of professional personnel in its employment, the employee with the
9 least amount of seniority shall be properly notified and released
10 from employment pursuant to the provisions of section two, article
11 two of this chapter. The provisions of this subsection are subject
12 to the following:

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

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

25 (3) An employee subject to release shall be employed in any
26 other professional position where the employee is certified and was

1 previously employed or to any lateral area for which the employee
2 is certified, licensed or both, if the employee's seniority is
3 greater than the seniority of any other employee in that area of
4 certification, licensure or both;

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

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

26 (1) For the purpose of this article, all positions which meet

1 the definition of "classroom teacher" as defined in section one,
2 article one of this chapter shall be lateral positions. For all
3 other professional positions, the county board of education shall
4 adopt a policy by October 31, 1993, and may modify the policy
5 thereafter as necessary, which defines which positions shall be
6 lateral positions. The board shall submit a copy of its policy to
7 the state board within thirty days of adoption or any modification,
8 and the state board shall compile a report and submit the report to
9 the Legislative Oversight Commission on Education Accountability by
10 December 31, 1993, and by that date in any succeeding year in which
11 any county board submits a modification of its policy relating to
12 lateral positions. In adopting the policy, the board shall give
13 consideration to the rank of each position in terms of title;
14 nature of responsibilities; salary level; certification, licensure
15 or both; and days in the period of employment.

16 (m) After the twentieth day prior to the beginning of the
17 instructional term, no person employed and assigned to a
18 professional position may transfer to another professional position
19 in the county during that instructional term unless the person
20 holding that position does not have valid certification. The
21 provisions of this subsection are subject to the following:

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

25 (2) Professional personnel who have been on an approved leave
26 of absence may fill these vacancies upon their return from the

1 approved leave of absence;

2 (3) The county board, upon recommendation of the
3 superintendent may fill a position before the next instructional
4 term when it is determined to be in the best interest of the
5 students. The county superintendent shall notify the state board
6 of each transfer of a person employed in a professional position to
7 another professional position after the twentieth day prior to the
8 beginning of the instructional term;

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

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

22 (n) All professional personnel whose seniority with the county
23 board is insufficient to allow their retention by the county board
24 during a reduction in work force shall be placed upon a preferred
25 recall list. As to any professional position opening within the
26 area where they had previously been employed or to any lateral area

1 for which they have certification, licensure or both, the employee
2 shall be recalled on the basis of seniority if no regular,
3 full-time professional personnel, or those returning from leaves of
4 absence with greater seniority, are qualified, apply for and accept
5 the position.

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

17 (p) Openings in established, existing or newly created
18 positions shall be processed as follows:

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

1 (A) Each notice shall be posted in conspicuous working places
2 for all professional personnel to observe for at least five working
3 days;

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

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

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

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

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

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

24 (4) A position held by a teacher who is certified, licensed or
25 both, who has been issued a permit for full-time employment and is
26 working toward certification in the permit area shall not be

1 subject to posting if the certificate is awarded within five years;
2 and

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

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

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

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

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

1 (s) Any board failing to comply with the provisions of this
2 article may be compelled to do so by mandamus and shall be liable
3 to any party prevailing against the board for court costs and
4 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 (t) The county board shall compile, update annually on July 1
12 and make available by electronic or other means to all employees a
13 list of all professional personnel employed by the county, their
14 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.

26 **§18A-4-8. Employment term and class titles of service personnel;**

1 **definitions.**

2 (a) The purpose of this section is to establish an employment
3 term and class titles for service personnel. The employment term
4 for service personnel may not be less than ten months. A month is
5 defined as twenty employment days. The county board may contract
6 with all or part of these service personnel for a longer term.

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

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

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

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

26 (f) A custodian, aide, maintenance, office and school lunch

1 service person required to work a daily work schedule that is
2 interrupted shall be paid additional compensation in accordance
3 with this subsection.

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

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

12 (3) The additional compensation provided in this subsection:

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

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

17 (g) When there is a change in classification or when a service
18 person meets the requirements of an advanced classification, his or
19 her salary shall be made to comply with the requirements of this
20 article and any county salary schedule in excess of the minimum
21 requirements of this article, based upon the service person's
22 advanced classification and allowable years of employment.

23 (h) A service person's contract, as provided in section five,
24 article two of this chapter, shall state the appropriate monthly
25 salary the employee is to be paid, based on the class title as
26 provided in this article and on any county salary schedule in

1 excess of the minimum requirements of this article.

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

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

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

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

18 (4) "Accountant I" means a person employed to maintain payroll
19 records and reports and perform one or more operations relating to
20 a phase of the total payroll;

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

25 (6) "Accountant III" means a person employed in the county
26 board office to manage and supervise accounts payable, payroll

1 procedures, or both;

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

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

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

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

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

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

26 (11) "Aide IV" means a service person referred to in the "Aide

1 I" classification who holds a high school diploma or a general
2 educational development certificate; and

3 (A) Has completed eighteen hours of state board-approved
4 college credit at a regionally accredited institution of higher
5 education, or

6 (B) Has completed fifteen hours of state board-approved
7 college credit at a regionally accredited institution of higher
8 education; and has successfully completed an in-service training
9 program determined by the state board to be the equivalent of three
10 hours of college credit;

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

14 (13) "Auditor" means a person employed to examine and verify
15 accounts of individual schools and to assist schools and school
16 personnel in maintaining complete and accurate records of their
17 accounts;

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

24 (15) "Braille or sign language specialist" means a person
25 employed to provide braille and/or sign language assistance to
26 students. A service person who has held or holds an aide title and

1 becomes employed as a braille or sign language specialist shall
2 hold a multiclassification status that includes both aide and
3 braille or sign language specialist title, in accordance with
4 section eight-b of this article;

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

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

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

14 (19) "Cafeteria manager" means a person employed to direct the
15 operation of a food services program in a school, including
16 assigning duties to employees, approving requisitions for supplies
17 and repairs, keeping inventories, inspecting areas to maintain high
18 standards of sanitation, preparing financial reports and keeping
19 records pertinent to food services of a school;

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

22 (21) "Carpenter II" means a person classified as a journeyman
23 carpenter;

24 (22) "Chief mechanic" means a person employed to be
25 responsible for directing activities which ensure that student
26 transportation or other county board-owned vehicles are properly

1 and safely maintained;

2 (23) "Clerk I" means a person employed to perform clerical
3 tasks;

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

7 (25) "Computer operator" means a qualified person employed to
8 operate computers;

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

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

14 (28) "Cook III" means a person employed to prepare and serve
15 meals, make reports, prepare requisitions for supplies, order
16 equipment and repairs for a food service program of a school
17 system;

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

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

23 (31) "Custodian II" means a person employed as a watchman or
24 groundsman;

25 (32) "Custodian III" means a person employed to keep buildings
26 clean and free of refuse, to operate the heating or cooling systems

1 and to make minor repairs;

2 (33) "Custodian IV" means a person employed as head
3 custodians. In addition to providing services as defined in
4 "custodian III," duties may include supervising other custodian
5 personnel;

6 (34) "Director or coordinator of services" means an employee
7 of a county board who is assigned to direct a department or
8 division.

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

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

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

18 (D) Funding for the position of director or coordinator of
19 services is based upon the employment status of the director or
20 coordinator either as a professional person or a service person;
21 and

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

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

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

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

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

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

13 (40) "Executive secretary" means a person employed as
14 secretary to the county school superintendent or as a secretary who
15 is assigned to a position characterized by significant
16 administrative duties;

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

25 (42) "Foreman" means a skilled person employed to supervise

1 personnel who work in the areas of repair and maintenance of school
2 property and equipment;

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

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

9 (45) "Graphic artist" means a person employed to prepare
10 graphic illustrations;

11 (46) "Groundsman" means a person employed to perform duties
12 that relate to the appearance, repair and general care of school
13 grounds in a county school system. Additional assignments may
14 include the operation of a small heating plant and routine cleaning
15 duties in buildings;

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

18 (48) "Heating and air conditioning mechanic I" means a person
19 employed at the apprentice level to install, repair and maintain
20 heating and air conditioning plants and related electrical
21 equipment;

22 (49) "Heating and air conditioning mechanic II" means a person
23 employed at the journeyman level to install, repair and maintain
24 heating and air conditioning plants and related electrical
25 equipment;

1 (50) "Heavy equipment operator" means a person employed to
2 operate heavy equipment;

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

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

8 (53) "Licensed practical nurse" means a nurse, licensed by the
9 West Virginia Board of Examiners for Licensed Practical Nurses,
10 employed to work in a public school under the supervision of a
11 school nurse;

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

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

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

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

25 (58) "Maintenance clerk" means a person employed to maintain

1 and control a stocking facility to keep adequate tools and supplies
2 on hand for daily withdrawal for all school maintenance crafts;

3 (59) "Mason" means a person employed to perform tasks
4 connected with brick and block laying and carpentry tasks related
5 to these activities;

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

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

12 (62) "Multiclassification" means a person employed to perform
13 tasks that involve the combination of two or more class titles in
14 this section. In these instances the minimum salary scale shall be
15 the higher pay grade of the class titles involved;

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

18 (64) "Office equipment repairman II" means a person
19 responsible for servicing and repairing all office machines and
20 equipment. A person holding this class title is responsible for
21 the purchase of parts necessary for the proper operation of a
22 program of continuous maintenance and repair;

23 (65) "Painter" means a person employed to perform duties
24 painting, finishing and decorating wood, metal and concrete
25 surfaces of buildings, other structures, equipment, machinery and

1 furnishings of a county school system;

2 (66) "Paraprofessional" means a person certified pursuant to
3 section two-a, article three of this chapter to perform duties in
4 a support capacity including, but not limited to, facilitating in
5 the instruction and direct or indirect supervision of students
6 under the direction of a principal, a teacher or another designated
7 professional educator.

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

12 (B) A person who has held or holds an aide title and becomes
13 employed as a paraprofessional shall hold a multiclassification
14 status that includes both aide and paraprofessional titles in
15 accordance with section eight-b of this article; and

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

21 (67) "Payroll supervisor" means a person employed in the
22 county board office who has primary responsibility for the payroll
23 function and who either has completed twelve college hours of
24 accounting from an accredited institution of higher education or
25 has at least eight years of experience performing progressively

1 difficult accounting tasks. Responsibilities of this class title
2 may include supervision of other personnel;

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

5 (69) "Plumber II" means a person employed as a journeyman
6 plumber;

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

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

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

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

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

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

22 (A) Employed to assist in selecting school bus operators and
23 routing and scheduling school buses, operate a bus when needed,
24 relay instructions to bus operators, plan emergency routing of
25 buses and promote good relationships with parents, students, bus

1 operators and other employees; and

2 (B) Certified to operate a bus or previously certified to
3 operate a bus;

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

7 (77) "Secretary II" means a person employed in any elementary,
8 secondary, kindergarten, nursery, special education, vocational or
9 any other school as a secretary. The duties may include performing
10 general clerical tasks; transcribing from notes, stenotype,
11 mechanical equipment or a sound-producing machine; preparing
12 reports; receiving callers and referring them to proper persons;
13 operating office machines; keeping records and handling routine
14 correspondence. Nothing in this subdivision prevents a service
15 person from holding or being elevated to a higher classification;

16 (78) "Secretary III" means a person assigned to the county
17 board office administrators in charge of various instructional,
18 maintenance, transportation, food services, operations and health
19 departments, federal programs or departments with particular
20 responsibilities in purchasing and financial control or any person
21 who has served for eight years in a position which meets the
22 definition of "secretary II" or "secretary III";

23 (79) "Supervisor of maintenance" means a skilled person who is
24 not a professional person or professional educator as defined in
25 section one, article one of this chapter. The responsibilities

1 include directing the upkeep of buildings and shops, and issuing
2 instructions to subordinates relating to cleaning, repairs and
3 maintenance of all structures and mechanical and electrical
4 equipment of a county board;

5 (80) "Supervisor of transportation" means a qualified person
6 employed to direct school transportation activities properly and
7 safely, and to supervise the maintenance and repair of vehicles,
8 buses and other mechanical and mobile equipment used by the county
9 school system. After July 1, 2010, all persons employed for the
10 first time in a position with this classification title or in a
11 multi-classification position that includes this title shall have
12 five years of experience working in the transportation department
13 of a county board. Experience working in the transportation
14 department shall consist of serving as a bus operator, bus aide,
15 assistant mechanic, mechanic, chief mechanic or in a clerical
16 position within the transportation department;

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

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

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

25 (84) "Watchman" means a person employed to protect school

1 property against damage or theft. Additional assignments may
2 include operation of a small heating plant and routine cleaning
3 duties;

4 (85) "Welder" means a person employed to provide acetylene or
5 electric welding services for a school system;

6 (86) "WVEIS data entry and administrative clerk" means a
7 person employed to work under the direction of a school principal
8 to assist the school counselor or counselors in the performance of
9 administrative duties, to perform data entry tasks on the West
10 Virginia Education Information System, and to perform other
11 administrative duties assigned by the principal;

12 (87) "Early Childhood Classroom Assistant Teacher - Temporary
13 Authorization" means a person who does not possess minimum
14 requirements for the permanent authorization requirements, but is
15 enrolled in and pursuing requirements;

16 (88) "Early Childhood Classroom Assistant Teacher - Permanent
17 Authorization" means a person who has completed the minimum
18 requirements for a state-awarded certificate for early childhood
19 classroom assistant teachers that meet or exceed the requirements
20 for a child development associate. Equivalency for the West
21 Virginia Department of Education will be determined as the child
22 development associate or the West Virginia Apprenticeship for Child
23 Development Specialists; and

24 (89) "Early Childhood Classroom Assistant Teacher -
25 Paraprofessional Certificate" means a person who has completed

1 permanent authorization requirements, as well as additional
2 requirements comparable to current paraprofessional certificate.

3 (j) Notwithstanding any provision in this code to the
4 contrary, and in addition to the compensation provided for service
5 personnel in section eight-a of this article, each service person
6 is entitled to all service personnel employee rights, privileges
7 and benefits provided under this or any other chapter of this code
8 without regard to the employee's hours of employment or the methods
9 or sources of compensation.

10 (k) A service person whose years of employment exceeds the
11 number of years shown and provided under the state minimum pay
12 scale set forth in section eight-a of this article may not be paid
13 less than the amount shown for the maximum years of employment
14 shown and provided in the classification in which he or she is
15 employed.

16 (l) Each county board shall review each service person's job
17 classification annually and shall reclassify all service persons as
18 required by the job classifications. The state superintendent may
19 withhold state funds appropriated pursuant to this article for
20 salaries for service personnel who are improperly classified by the
21 county boards. Further, the state superintendent shall order a
22 county board to correct immediately any improper classification
23 matter and, with the assistance of the Attorney General, shall take
24 any legal action necessary against any county board to enforce the
25 order.

1 (m) Without his or her written consent, a service person may
2 not be:

3 (1) Reclassified by class title; or

4 (2) Relegated to any condition of employment which would
5 result in a reduction of his or her salary, rate of pay,
6 compensation or benefits earned during the current fiscal year; or
7 for which he or she would qualify by continuing in the same job
8 position and classification held during that fiscal year and
9 subsequent years.

10 (n) Any county board failing to comply with the provisions of
11 this article may be compelled to do so by mandamus and is liable to
12 any party prevailing against the board for court costs and the
13 prevailing party's reasonable attorney fee, as determined and
14 established by the court.

15 (o) Notwithstanding any provision of this code to the
16 contrary, a service person who holds a continuing contract in a
17 specific job classification and who is physically unable to perform
18 the job's duties as confirmed by a physician chosen by the employee
19 shall be given priority status over any employee not holding a
20 continuing contract in filling other service personnel job
21 vacancies if the service person is qualified as provided in section
22 eight-e of this article.

23 (p) Any person employed in an aide position on the effective
24 date of this section may not be transferred or subject to a
25 reduction in force for the purpose of creating a vacancy for the

1 employment of a licensed practical nurse.

2 (q) Without the written consent of the service person, a
3 county board may not establish the beginning work station for a bus
4 operator or transportation aide at any site other than a county
5 board-owned facility with available parking. The workday of the
6 bus operator or transportation aide commences at the bus at the
7 designated beginning work station and ends when the employee is
8 able to leave the bus at the designated beginning work station,
9 unless he or she agrees otherwise in writing. The application or
10 acceptance of a posted position may not be construed as the written
11 consent referred to in this subsection.

12 (r) "Itinerant status" means a service person who does not
13 have a fixed work site and may be involuntarily reassigned to
14 another work site. A service person is considered to hold
15 itinerant status if he or she has bid upon a position posted as
16 itinerant or has agreed to accept this status. A county board may
17 establish positions with itinerant status only within the aide and
18 autism mentor classification categories and only when the job
19 duties involve exceptional students. A service person with
20 itinerant status may be assigned to a different work site upon
21 written notice ten days prior to the reassignment without the
22 consent of the employee and without posting the vacancy. A service
23 person with itinerant status may be involuntarily reassigned no
24 more than twice during the school year. At the conclusion of each
25 school year, the county board shall post and fill, pursuant to

1 section eight-b of this article, all positions that have been
 2 filled without posting by a service person with itinerant status.
 3 A service person who is assigned to a beginning and ending work
 4 site and travels at the expense of the county board to other work
 5 sites during the daily schedule, shall not be considered to hold
 6 itinerant status.

7 **§18A-4-8a. Service personnel minimum monthly salaries.**

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

10 (1) Beginning July 1, 2011, and continuing thereafter, the
 11 minimum monthly pay for each service employee whose employment is
 12 for a period of more than three and one-half hours a day shall be
 13 at least the amounts indicated in the State Minimum Pay Scale Pay
 14 Grade and the minimum monthly pay for each service employee whose
 15 employment is for a period of three and one-half hours or less a
 16 day shall be at least one half the amount indicated in the State
 17 Minimum Pay Scale Pay Grade set forth in this subdivision.

18 STATE MINIMUM PAY SCALE PAY GRADE

19 Years

20 Exp.	Pay Grade								
	<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>	
21 0	1,627	1,648	1,689	1,741	1,793	1,855	1,886	1,958	
22 1	1,659	1,680	1,721	1,773	1,825	1,887	1,918	1,990	
23 2	1,691	1,712	1,753	1,805	1,857	1,919	1,950	2,022	
24 3	1,723	1,744	1,785	1,837	1,889	1,951	1,982	2,054	
25 4	1,755	1,776	1,817	1,869	1,921	1,983	2,014	2,087	
26 5	1,787	1,808	1,849	1,901	1,953	2,015	2,046	2,119	
27 6	1,819	1,840	1,882	1,933	1,985	2,047	2,078	2,151	

1	7	1,852	1,872	1,914	1,965	2,017	2,079	2,110	2,183
2	8	1,884	1,904	1,946	1,997	2,049	2,111	2,142	2,215
3	9	1,916	1,936	1,978	2,030	2,081	2,143	2,174	2,247
4	10	1,948	1,969	2,010	2,062	2,113	2,176	2,207	2,279
5	11	1,980	2,001	2,042	2,094	2,145	2,208	2,239	2,311
6	12	2,012	2,033	2,074	2,126	2,178	2,240	2,271	2,343
7	13	2,044	2,065	2,106	2,158	2,210	2,272	2,303	2,375
8	14	2,076	2,097	2,138	2,190	2,242	2,304	2,335	2,407
9	15	2,108	2,129	2,170	2,222	2,274	2,336	2,367	2,439
10	16	2,140	2,161	2,202	2,254	2,306	2,368	2,399	2,472
11	17	2,172	2,193	2,235	2,286	2,338	2,400	2,431	2,504
12	18	2,204	2,225	2,267	2,318	2,370	2,432	2,463	2,536
13	19	2,237	2,257	2,299	2,350	2,402	2,464	2,495	2,568
14	20	2,269	2,289	2,331	2,383	2,434	2,496	2,527	2,601
15	21	2,301	2,321	2,363	2,415	2,466	2,528	2,559	2,634
16	22	2,333	2,354	2,395	2,447	2,498	2,561	2,593	2,666
17	23	2,365	2,386	2,427	2,479	2,531	2,594	2,625	2,699
18	24	2,397	2,418	2,459	2,511	2,563	2,627	2,658	2,732
19	25	2,429	2,450	2,491	2,543	2,596	2,659	2,691	2,764
20	26	2,461	2,482	2,523	2,576	2,629	2,692	2,723	2,797
21	27	2,493	2,514	2,555	2,608	2,661	2,724	2,756	2,829
22	28	2,525	2,546	2,588	2,641	2,694	2,757	2,789	2,863
23	29	2,557	2,579	2,621	2,673	2,726	2,790	2,821	2,896
24	30	2,591	2,611	2,654	2,706	2,759	2,822	2,854	2,928
25	31	2,623	2,644	2,687	2,739	2,792	2,855	2,887	2,961
26	32	2,656	2,676	2,719	2,772	2,824	2,888	2,919	2,994
27	33	2,689	2,709	2,752	2,805	2,857	2,920	2,953	3,026
28	34	2,721	2,743	2,785	2,838	2,890	2,954	2,986	3,059
29	35	2,754	2,775	2,817	2,870	2,923	2,987	3,018	3,092
30	36	2,787	2,808	2,850	2,903	2,956	3,019	3,051	3,124
31	37	2,819	2,841	2,883	2,936	2,989	3,052	3,083	3,157
32	38	2,852	2,873	2,915	2,968	3,021	3,084	3,116	3,190
33	39	2,885	2,906	2,948	3,001	3,054	3,117	3,149	3,222

1 40 2,917 2,939 2,980 3,033 3,087 3,150 3,181 3,256

2

3 (2) Each service employee shall receive the amount prescribed
4 in the Minimum Pay Scale in accordance with the provisions of this
5 subsection according to their class title and pay grade as set
6 forth in this subdivision:

7	CLASS TITLE	PAY GRADE
8	Accountant I.	D
9	Accountant II.. . . .	E
10	Accountant III.	F
11	Accounts Payable Supervisor.. . . .	G
12	Aide I.	A
13	Aide II.. . . .	B
14	Aide III.	C
15	Aide IV.. . . .	D
16	Audiovisual Technician.	C
17	Auditor.. . . .	G
18	Autism Mentor.. . . .	F
19	Braille or Sign Language Specialist.. . . .	E
20	Bus Operator.	D
21	Buyer.. . . .	F
22	Cabinetmaker.	G
23	Cafeteria Manager.. . . .	D
24	Carpenter I.. . . .	E
25	Carpenter II.	F

1	Chief Mechanic.	G
2	Clerk I..	B
3	Clerk II..	C
4	Computer Operator..	E
5	Cook I.	A
6	Cook II..	B
7	Cook III.	C
8	Crew Leader..	F
9	Custodian I..	A
10	Custodian II.	B
11	Custodian III..	C
12	Custodian IV.	D
13	Director or Coordinator of Services..	H
14	Draftsman..	D
15	Early Childhood Classroom Assistant Teacher - Temporary	
16	Authorization..	E
17	Early Childhood Classroom Assistant Teacher - Permanent	
18	Authorization..	E
19	Early Childhood Classroom Assistant Teacher - Paraprofessional	
20	Certificate..	E
21	Electrician I..	F
22	Electrician II.	G
23	Electronic Technician I..	F
24	Electronic Technician II.	G
25	Executive Secretary..	G

1	Food Services Supervisor.	G
2	Foreman.. . . .	G
3	General Maintenance.. . . .	C
4	Glazier.. . . .	D
5	Graphic Artist.	D
6	Groundsman.	B
7	Handyman.	B
8	Heating and Air Conditioning Mechanic I.. . . .	E
9	Heating and Air Conditioning Mechanic II.	G
10	Heavy Equipment Operator.	E
11	Inventory Supervisor.	D
12	Key Punch Operator.	B
13	Licensed Practical Nurse.	F
14	Locksmith.. . . .	G
15	Lubrication Man.. . . .	C
16	Machinist.. . . .	F
17	Mail Clerk.	D
18	Maintenance Clerk.. . . .	C
19	Mason.. . . .	G
20	Mechanic.	F
21	Mechanic Assistant.	E
22	Office Equipment Repairman I.	F
23	Office Equipment Repairman II.. . . .	G
24	Painter.. . . .	E
25	Paraprofessional.	F

1	Payroll Supervisor.	G
2	Plumber I..	E
3	Plumber II.	G
4	Printing Operator..	B
5	Printing Supervisor..	D
6	Programmer.	H
7	Roofing/Sheet Metal Mechanic.	F
8	Sanitation Plant Operator..	G
9	School Bus Supervisor..	E
10	Secretary I..	D
11	Secretary II.	E
12	Secretary III..	F
13	Supervisor of Maintenance..	H
14	Supervisor of Transportation.	H
15	Switchboard Operator-Receptionist..	D
16	Truck Driver.	D
17	Warehouse Clerk..	C
18	Watchman.	B
19	Welder.	F
20	WVEIS Data Entry and Administrative Clerk..	B

21 (b) An additional \$12 per month shall be added to the minimum
22 monthly pay of each service employee who holds a high school
23 diploma or its equivalent.

24 (c) An additional \$11 per month also shall be added to the
25 minimum monthly pay of each service employee for each of the

1 following:

2 (1) A service employee who holds twelve college hours or
3 comparable credit obtained in a trade or vocational school as
4 approved by the state board;

5 (2) A service employee who holds twenty-four college hours or
6 comparable credit obtained in a trade or vocational school as
7 approved by the state board;

8 (3) A service employee who holds thirty-six college hours or
9 comparable credit obtained in a trade or vocational school as
10 approved by the state board;

11 (4) A service employee who holds forty-eight college hours or
12 comparable credit obtained in a trade or vocational school as
13 approved by the state board;

14 (5) A service employee who holds sixty college hours or
15 comparable credit obtained in a trade or vocational school as
16 approved by the state board;

17 (6) A service employee who holds seventy-two college hours or
18 comparable credit obtained in a trade or vocational school as
19 approved by the state board;

20 (7) A service employee who holds eighty-four college hours or
21 comparable credit obtained in a trade or vocational school as
22 approved by the state board;

23 (8) A service employee who holds ninety-six college hours or
24 comparable credit obtained in a trade or vocational school as
25 approved by the state board;

1 (9) A service employee who holds one hundred eight college
2 hours or comparable credit obtained in a trade or vocational school
3 as approved by the state board;

4 (10) A service employee who holds one hundred twenty college
5 hours or comparable credit obtained in a trade or vocational school
6 as approved by the state board;

7 (d) An additional \$40 per month also shall be added to the
8 minimum monthly pay of each service employee for each of the
9 following:

10 (1) A service employee who holds an associate's degree;

11 (2) A service employee who holds a bachelor's degree;

12 (3) A service employee who holds a master's degree;

13 (4) A service employee who holds a doctorate degree.

14 (e) An additional \$11 per month shall be added to the minimum
15 monthly pay of each service employee for each of the following:

16 (1) A service employee who holds a bachelor's degree plus
17 fifteen college hours;

18 (2) A service employee who holds a master's degree plus
19 fifteen college hours;

20 (3) A service employee who holds a master's degree plus thirty
21 college hours;

22 (4) A service employee who holds a master's degree plus forty-
23 five college hours; and

24 (5) A service employee who holds a master's degree plus sixty
25 college hours.

1 (f) To meet the objective of salary equity among the counties,
2 each service employee shall be paid an equity supplement, as set
3 forth in section five of this article, of \$152 per month, subject
4 to the provisions of that section. These payments: (i) Shall be in
5 addition to any amounts prescribed in the applicable State Minimum
6 Pay Scale Pay Grade, any specific additional amounts prescribed in
7 this section and article and any county supplement in effect in a
8 county pursuant to section five-b of this article; (ii) shall be
9 paid in equal monthly installments; and (iii) shall be considered
10 a part of the state minimum salaries for service personnel.

11 (g) When any part of a school service employee's daily shift
12 of work is performed between the hours of six o'clock p. m. and
13 five o'clock a. m. the following day, the employee shall be paid no
14 less than an additional \$10 per month and one half of the pay shall
15 be paid with local funds.

16 (h) Any service employee required to work on any legal school
17 holiday shall be paid at a rate one and one-half times the
18 employee's usual hourly rate.

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

25 (j) No service employee may have his or her daily work

1 schedule changed during the school year without the employee's
2 written consent and the employee's required daily work hours may
3 not be changed to prevent the payment of time and one-half wages or
4 the employment of another employee.

5 (k) The minimum hourly rate of pay for extra duty assignments
6 as defined in section eight-b of this article shall be no less than
7 one seventh of the employee's daily total salary for each hour the
8 employee is involved in performing the assignment and paid entirely
9 from local funds: *Provided*, That an alternative minimum hourly rate
10 of pay for performing extra duty assignments within a particular
11 category of employment may be used if the alternate hourly rate of
12 pay is approved both by the county board and by the affirmative
13 vote of a two-thirds majority of the regular full-time employees
14 within that classification category of employment within that
15 county: *Provided, however*, That the vote shall be by secret ballot
16 if requested by a service person within that classification
17 category within that county. The salary for any fraction of an
18 hour the employee is involved in performing the assignment shall be
19 prorated accordingly. When performing extra duty assignments,
20 employees who are regularly employed on a one-half day salary basis
21 shall receive the same hourly extra duty assignment pay computed as
22 though the employee were employed on a full-day salary basis.

23 (l) The minimum pay for any service personnel employees
24 engaged in the removal of asbestos material or related duties
25 required for asbestos removal shall be their regular total daily

1 rate of pay and no less than an additional \$3 per hour or no less
2 than \$5 per hour for service personnel supervising asbestos removal
3 responsibilities for each hour these employees are involved in
4 asbestos-related duties. Related duties required for asbestos
5 removal include, but are not limited to, travel, preparation of the
6 work site, removal of asbestos decontamination of the work site,
7 placing and removal of equipment and removal of structures from the
8 site. If any member of an asbestos crew is engaged in asbestos
9 related duties outside of the employee's regular employment county,
10 the daily rate of pay shall be no less than the minimum amount as
11 established in the employee's regular employment county for
12 asbestos removal and an additional \$30 per each day the employee is
13 engaged in asbestos removal and related duties. The additional pay
14 for asbestos removal and related duties shall be payable entirely
15 from county funds. Before service personnel employees may be used
16 in the removal of asbestos material or related duties, they shall
17 have completed a federal Environmental Protection Act approved
18 training program and be licensed. The employer shall provide all
19 necessary protective equipment and maintain all records required by
20 the Environmental Protection Act.

21 (m) For the purpose of qualifying for additional pay as
22 provided in section eight, article five of this chapter, an aide
23 shall be considered to be exercising the authority of a supervisory
24 aide and control over pupils if the aide is required to supervise,
25 control, direct, monitor, escort or render service to a child or

1 children when not under the direct supervision of a certified
2 professional person within the classroom, library, hallway,
3 lunchroom, gymnasium, school building, school grounds or wherever
4 supervision is required. For purposes of this section, "under the
5 direct supervision of a certified professional person" means that
6 certified professional person is present, with and accompanying the
7 aide.

8 **§18A-4-14. Duty-free lunch and daily planning period for certain**
9 **employees.**

10 (a) Notwithstanding the provisions of section seven, article
11 two of this chapter, every teacher who is employed for a period of
12 time more than one half the class periods of the regular school day
13 and every service person whose employment is for a period of more
14 than three and one-half hours per day and whose pay is at least the
15 amount indicated in the state minimum pay scale as set forth in
16 section eight-a of this article shall be provided a daily lunch
17 recess of not less than thirty consecutive minutes, and the
18 employee shall not be assigned any responsibilities during this
19 recess. The recess shall be included in the number of hours
20 worked, and no county shall increase the number of hours to be
21 worked by an employee as a result of the employee being granted a
22 recess under the provisions of this section.

23 (b) Every teacher who is regularly employed for a period of
24 time more than one half the class periods of the regular school day
25 shall be provided at least one planning period within each school

1 instructional day to be used to complete necessary preparations for
2 the instruction of pupils. No teacher may be assigned any
3 responsibilities during this period, and no county shall increase
4 the number of hours to be worked by a teacher as a result of such
5 teacher being granted a planning period subsequent to the adoption
6 of this section (March 13, 1982).

7 The duration of the planning period shall be in accordance
8 with the following:

9 (1) For grades where the majority of the student instruction
10 is delivered by only one teacher, the planning period shall be no
11 less than forty minutes; and

12 (2) For grades where students take separate courses during at
13 least four separate periods of instruction, most usually delivered
14 by different teachers for each subject, the planning period shall
15 be the length of the usual class period taught by the teacher, but
16 no less than forty minutes. Principals, and assistant principals,
17 where applicable, shall cooperate in carrying out the provisions of
18 this subsection, including, but not limited to, assuming control of
19 the class period or supervision of students during the time the
20 teacher is engaged in the planning period. Substitute teachers may
21 also be utilized to assist with classroom responsibilities under
22 this subsection: *Provided*, That any substitute teacher who is
23 employed to teach a minimum of two consecutive days in the same
24 position shall be granted a planning period pursuant to this
25 section.

1 (c) Nothing in this section prevents any teacher from
2 exchanging his or her lunch recess or a planning period or any
3 service person from exchanging his or her lunch recess for any
4 compensation or benefit mutually agreed upon by the employee and
5 the county superintendent or his or her agent: *Provided*, That a
6 teacher and the superintendent or his or her agent may not agree to
7 terms which are different from those available to any other teacher
8 granted rights under this section within the individual school or
9 to terms which in any way discriminate among those teachers within
10 the individual school, and a service person granted rights under
11 this section and the superintendent or his or her agent may not
12 agree to terms which are different from those available to any
13 other service personnel within the same classification category
14 granted rights under this section within the individual school or
15 to terms which in any way discriminate among those service
16 personnel within the same classification category within the
17 individual school.

18 (d) The state board shall conduct a study on planning periods.
19 The study shall include, but not be limited to, the appropriate
20 length for planning periods at the various grade levels and for the
21 different types of class schedules. The board shall report its
22 findings and recommendations to the Legislative Oversight
23 Commission on Education Accountability no later than December 31,
24 2013.

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

1 **§18A-5-2. Holidays; closing of schools; time lost because of such;**
2 **special Saturday classes.**

3 (a) Schools shall be closed on Saturdays and on the following
4 days which are designated as legal school holidays: Independence
5 Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day, New
6 Year's Day, Martin Luther King's birthday, Memorial Day and West
7 Virginia Day. Schools also shall be closed on any day on which a
8 primary election, general election or special election is held
9 throughout the state or school district and on any day appointed
10 and set apart by the president or the Governor as a holiday of
11 special observance by the people of the state.

12 (b) When any of the above designated holidays, except a
13 special election, falls on Saturday, the schools shall be closed on
14 the preceding Friday. When any designated holiday falls on Sunday,
15 the schools shall be closed on the following Monday.

16 (c) Special classes may be conducted on Saturdays for pupils
17 and by teachers and service personnel. Saturday classes shall be
18 conducted on a voluntary basis and teachers and service personnel
19 shall be remunerated in ratio to the regularly contracted pay.

20 (d) Any school or schools may be closed by proper authorities
21 on account of the prevalence of contagious disease, conditions of
22 weather or any other calamitous cause over which the board has no
23 control.

24 (1) Under any or all of the above provisions, the time lost by
25 the school closings may not be counted as days of employment and

1 may not be counted as meeting a part of the requirements of the
2 minimum term of one hundred eighty days of instruction. A school
3 employee's pay per pay period may not change as a result of a
4 school closing not being counted as a day of employment, and the
5 employee shall be paid the same amount during any pay period in
6 which a school closing occurs that the employee would have been
7 paid during the pay period if a school closing had not occurred.

8 (2) On the day or days when a school or schools are closed,
9 county boards may provide appropriate alternate work schedules for
10 professional and service personnel affected by the closing of any
11 school or schools under any or all of the provisions of this
12 subsection. Professional and service personnel shall receive pay
13 the same as if school were in session.

14 (3) Insofar as funds are available or can be made available
15 during the school year, the board may extend the employment term
16 for the purpose of making up time that might affect the
17 instructional term.

18 (e) In addition to any other provisions of this chapter, the
19 board further is authorized to provide in its annual budget for
20 meetings, workshops, vacation time or other holidays through
21 extended employment of personnel at the same rate of pay.

22 **CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.**

23 **ARTICLE 1. FINANCIAL ASSISTANCE GENERALLY.**

24 **§18C-1-2. Definitions.**

25 Definitions for terms used in this chapter have the meanings

1 ascribed to them in section two, article one, chapter eighteen-b of
2 this code unless the context clearly indicates a different meaning:

3 (a) "Board" or "governing board" in the singular or plural
4 means the vice chancellor for administration employed pursuant to
5 section two, article four, chapter eighteen-b of this code when a
6 power or duty assigned to a governing board is delegated by it to
7 the senior administrator. In other instances as used in this
8 chapter, "board" or "governing board" in the singular or plural
9 means the Higher Education Policy Commission or the Council for
10 Community and Technical College Education, as appropriate.

11 (b) "Senior administrator" means the vice chancellor for
12 administration employed pursuant to section two, article four,
13 chapter eighteen-b of this code.

14 **ARTICLE 4. UNDERWOOD-SMITH TEACHER SCHOLARSHIP PROGRAM.**

15 **§18C-4-1. Scholarship and loan assistance fund created; purposes;**
16 **funding.**

17 (a) It is the purpose of this article and article four-a of
18 this chapter to improve the quality of education in the public
19 schools of West Virginia by encouraging and enabling individuals
20 who have demonstrated outstanding academic abilities to pursue
21 teaching careers at the preschool, elementary, middle or secondary
22 levels in the public schools of this state. In addition, of those
23 individuals who have demonstrated outstanding academic abilities to
24 pursue teaching careers, for scholarships initially awarded for the
25 fall semester, 2014, and thereafter, particular efforts shall be

1 made in the scholarship selection criteria and procedures to
2 reflect the state's present and projected subject and geographic
3 areas of critical need.

4 (b) In consultation with the State Board of Education and the
5 State Superintendent of Schools the commission shall propose
6 legislative rules in accordance with the provisions of article
7 three-a, chapter twenty-nine-a of this code. The rules shall
8 provide for the administration of the Underwood-Smith Teacher
9 Scholarship and Loan Assistance programs by the vice chancellor for
10 administration in furtherance of the purposes of this article and
11 article four-a of this chapter, including, but not limited to, the
12 following:

13 (1) Establishing scholarship selection criteria and
14 procedures;

15 (2) Establishing criteria and procedures for identifying
16 subject areas, public schools or geographic areas in critical need
17 of teachers;

18 (3) Awarding loan assistance, including establishing
19 conditions under which partial awards may be granted for less than
20 a full year of teaching in an area of critical need;

21 (4) Determining eligibility for loan assistance renewal;

22 (5) Establishing procedures ensuring that loan assistance
23 funds are paid directly to the proper lending entity; and

24 (6) Establishing criteria for determining participant
25 compliance or noncompliance with terms of the agreement and

1 establishing procedures to address noncompliance including, but not
2 limited to, repayment, deferral and excusal; and

3 (7) Developing model agreements.

4 (c) There is created in the State Treasury a special revolving
5 fund to be known as the Underwood-Smith Teacher Scholarship and
6 Loan Assistance Fund to be administered by the vice chancellor for
7 administration solely for granting scholarships and loan assistance
8 to teachers and prospective teachers in accordance with this
9 article and article four-a of this chapter. Any moneys which may
10 be appropriated by the Legislature, or received by the vice
11 chancellor for administration from other sources, for the purposes
12 of this article and article four-a of this chapter, shall be
13 deposited in the fund. Any moneys remaining in the fund at the
14 close of a fiscal year shall be carried forward for use in the next
15 fiscal year. Any moneys repaid to the vice chancellor for
16 administration by reason of default of a scholarship or loan
17 assistance agreement under this article or article four-a of this
18 chapter also shall be deposited in the fund. Fund balances shall
19 be invested with the state's consolidated investment fund, and any
20 and all interest earnings on these investments shall be used solely
21 for the purposes for which moneys invested were appropriated or
22 otherwise received.

23 (d) The vice chancellor for administration may accept and
24 expend any gift, grant, contribution, bequest, endowment or other
25 money for the purposes of this article and article four-a of this

1 chapter and shall make a reasonable effort to encourage external
2 support for the scholarship and loan assistance programs.

3 (e) For the purpose of encouraging support for the scholarship
4 and loan assistance programs from private sources, the vice
5 chancellor for administration may set aside no more than half of
6 the funds appropriated by the Legislature for Underwood-Smith
7 Teacher Scholarships and Loan Assistance Awards to be used to match
8 two state dollars to each private dollar from a nonstate source
9 contributed on behalf of a specific institution of higher education
10 in this state.

11 **§18C-4-2. Selection criteria and procedures for awarding**
12 **scholarships.**

13 (a) The Governor shall designate the Higher Education Student
14 Financial Aid Advisory Board created by section five, article one
15 of this chapter to select the recipients of Underwood-Smith teacher
16 scholarships who meet the eligibility criteria set forth in
17 subsection (b) of this section.

18 (b) Eligibility for an Underwood-Smith Teacher Scholarship
19 award shall be limited to students who meet the following criteria:

20 (1) Have graduated or are graduating from a West Virginia high
21 school and rank in the top ten percent of their graduating class or
22 the top ten percent statewide of those West Virginia students
23 taking the ACT test;

24 (2) Have a cumulative grade point average of at least 3.25 on
25 a possible scale of four after successfully completing two years of

1 course work at an approved institution of higher education in West
2 Virginia;

3 (3) Are public school aides or paraprofessionals as defined in
4 section eight, article four, chapter eighteen-a of this code and
5 who have a cumulative grade point average of at least 3.25 on a
6 possible scale of four after successfully completing two years of
7 course work at an approved institution of higher education in West
8 Virginia; or

9 (4) Are graduate students at the master's degree level who
10 have graduated or are graduating in the top ten percent of their
11 college graduating class.

12 (c) In accordance with the rules of the commission, the vice
13 chancellor for administration shall develop criteria and procedures
14 for the selection of scholarship recipients. The selection
15 criteria shall reflect the purposes of this article and shall
16 specify the areas in which particular efforts will be made in the
17 selection of scholars as set forth in section one of this article.
18 Selection procedures and criteria also may include, but are not
19 limited to, the grade point average of the applicant, involvement
20 in extracurricular activities, financial need, current academic
21 standing and an expression of interest in teaching as demonstrated
22 by an essay written by the applicant. These criteria and
23 procedures further may require the applicant to furnish letters of
24 recommendation from teachers and others.

25 It is the intent of the Legislature that academic abilities be

1 the primary criteria for selecting scholarship recipients.
2 However, the qualified applicants with the highest academic
3 abilities who intend to pursue teaching careers in areas of
4 critical need and shortage pursuant to section one of this article
5 shall be given priority.

6 (d) In developing the selection criteria and procedures to be
7 used by the Higher Education Student Financial Aid Advisory Board,
8 the vice chancellor for administration shall solicit the views of
9 public and private education agencies and institutions and other
10 interested parties. Input from interested parties shall be
11 solicited by means of written and published selection criteria and
12 procedures in final form for implementation and may be solicited by
13 means of public hearings on the present and projected teacher needs
14 of the state or any other methods the vice chancellor for
15 administration may determine to be appropriate to gather the
16 information.

17 (e) The vice chancellor for administration shall make
18 application forms for Underwood-Smith Teacher Scholarships
19 available to public and private high schools in the state and in
20 other locations convenient to applicants, parents and others, and
21 shall make an effort to attract students from low-income
22 backgrounds, ethnic or racial minority students, students with
23 disabilities, and women or minority students who show interest in
24 pursuing teaching careers in mathematics and science and who are
25 underrepresented in those fields.

1 **§18C-4-3. Scholarship agreement.**

2 (a) Each recipient of an Underwood-Smith teacher scholarship
3 shall enter into an agreement with the vice chancellor for
4 administration under which the recipient shall meet the following
5 conditions:

6 (1) Provide the commission with evidence of compliance with
7 subsection (a), section four of this article;

8 (2) Within a ten-year period after completing the teacher
9 education for which the scholarship was awarded:

10 (A) Teach full time under contract with a county board of
11 education in a public education program in the state for a period
12 of not fewer than two years for each year for which a scholarship
13 was received; or

14 (B) Teach full time under contract for not less than one year
15 for each year for which a scholarship was received with a county
16 board of education in this state in a teacher shortage area
17 pursuant to section one of this article, in an exceptional children
18 program in this state, in a school having less than average
19 academic results or in a school in an economically disadvantaged
20 area of this state; or

21 (C) Within the ten-year period, while seeking and unable to
22 secure a full-time teaching position under contract with a county
23 board of education which satisfies the conditions of paragraph (A)
24 of this subdivision:

25 (i) Teach full-time in a private school, parochial or other

1 school approved for the instruction of students of compulsory
2 school age pursuant to section one, article eight, chapter eighteen
3 of this code; or

4 (ii) Teach in an institution of higher education in this state
5 as defined in section two, article one, chapter eighteen-b of this
6 code or in a post-secondary vocational education program in this
7 state for a period of not fewer than two years for each year for
8 which a scholarship was received; or

9 (iii) Perform alternative service or employment in this state
10 pursuant to rules promulgated by the commission, in federal, state,
11 county or local supported programs with an educational component,
12 including mental or physical health care, or with bona fide tax
13 exempt charitable organizations dedicated to the above, for a
14 period of not fewer than two years for each year for which a
15 scholarship was received.

16 Any teaching time accrued as a substitute teacher for a county
17 board of education under paragraph (A) or (B) of this subdivision
18 shall be credited pro rata in accordance with rules promulgated by
19 the commission; or

20 (3) Repay all or part of an Underwood-Smith teacher
21 scholarship received under this article plus interest and, if
22 applicable, reasonable collection fees in accordance with
23 subsection (c), section four of this article, except as provided in
24 subsection (d) of section four of this article.

25 (b) Scholarship agreements shall disclose fully the terms and

1 conditions under which assistance under this article is provided
2 and under which repayment may be required. The agreements shall
3 include the following:

4 (1) A description of the conditions and procedures to be
5 established under section four of this article; and

6 (2) A description of the appeals procedure required to be
7 established under section four of this article.

8 (c) Individuals who were awarded an Underwood-Smith teacher
9 scholarship prior to the effective date of this section may apply
10 the provisions of paragraph (A), (B) or (C), subdivision (2),
11 subsection (a) of this section to teaching or other service
12 performed by them after July 1, 1997.

13 **§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.**

14 (a) The recipient of an Underwood-Smith Teacher Scholarship is
15 eligible for scholarship renewal only during those periods when the
16 recipient meets the following conditions:

17 (1) Is enrolled as a full-time student in an accredited
18 institution of higher education in this state;

19 (2) Is pursuing a course of study leading to teacher
20 certification at the preschool, elementary, middle or secondary
21 level in this state;

22 (3) Is maintaining satisfactory progress as determined by the
23 institution of higher education the recipient is attending; and

24 (4) Is complying with such other standards as the commission
25 may establish by rule.

1 (b) Recipients found to be in noncompliance with the agreement
2 entered into under section three of this article shall be required
3 to repay the amount of the scholarship awards received, plus
4 interest, and, where applicable, reasonable collection fees, on a
5 schedule and at a rate of interest prescribed in the program
6 guidelines. Guidelines also shall provide for proration of the
7 amount to be repaid by a recipient who teaches for part of the
8 period required under subsection (a), section three of this article
9 and for appeal procedures under which a recipient may appeal any
10 determination of noncompliance.

11 (c) A recipient is not in violation of the agreement entered
12 into under section three of this article during any period in which
13 the recipient is meeting any of the following 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 that subdivision;

22 (4) Satisfying the provisions of additional repayment
23 exemptions that may be prescribed by the commission by rule; or

24 (5) Failing to comply with the terms of the agreement due to
25 death or permanent or temporary disability as established by sworn

1 affidavit of a qualified physician.

2 (d) The rules adopted by the commission may provide guidelines
3 under which the vice chancellor for administration may extend the
4 period for fulfilling the obligation to fifteen years, if
5 extenuating circumstances exist.

6 **ARTICLE 4A. UNDERWOOD-SMITH TEACHER LOAN ASSISTANCE PROGRAM.**

7 **§18C-4A-1. Selection criteria and procedures for loan assistance.**

8 (a) The Governor shall designate the Higher Education Student
9 Financial Aid Advisory Board created by section five, article one
10 of this chapter to select recipients to receive Underwood-Smith
11 Teacher Loan Assistance Awards.

12 (b) The advisory board shall make decisions regarding loan
13 assistance pursuant to section one, article four of this chapter
14 and the following criteria:

15 (A) Eligibility for an award is limited to a teacher who has
16 earned a teaching degree and is certified to teach a subject area
17 of critical need in the public schools of West Virginia. A
18 certified teacher in a subject area of critical need who is
19 enrolled in an advanced in-field degree course or who has earned an
20 advanced in-field degree may apply for an award to be paid toward
21 current education loans;

22 (B) To be eligible for a loan award, a teacher shall agree to
23 teach, or shall currently be teaching, a subject area of critical
24 need in a state school or geographic area of the state identified
25 as an area of critical need pursuant to section one, article four

1 of this chapter.

2 (c) In accordance with the rule promulgated pursuant to
3 section one, article four of this chapter, the vice chancellor for
4 administration shall develop criteria and procedures for the
5 administration of the loan program.

6 (d) The vice chancellor for administration shall make
7 available program application forms to public and private schools
8 in the state via the commission and the State Department of
9 Education's websites and in other locations convenient to potential
10 applicants.

11 **§18C-4A-2. Loan assistance agreement.**

12 (a) Before receiving an award, each eligible teacher shall
13 enter into an agreement with the vice chancellor for administration
14 and shall meet the following criteria:

15 (1) Provide the commission with evidence of compliance with
16 subsection (b), section four, article four of this chapter;

17 (2) Teach in a subject area or geographic area of critical
18 need full time under contract with a county board for a period of
19 two school years for each year for which loan assistance is
20 received pursuant to this article. The vice chancellor for
21 administration may grant a partial award to an eligible recipient
22 whose contract term is for less than a full school year pursuant to
23 criteria established by commission rule.

24 (3) Acknowledge that an award is to be paid to the recipient's
25 educational loan institution, not directly to the recipient, only

1 after the commission determines that the recipient has complied
2 with all terms of the agreement; and

3 (4) Repay all or part of an award received pursuant to this
4 article if the award is not paid to the educational loan
5 institution or if the recipient does not comply with the other
6 terms of the agreement.

7 (b) Each loan agreement shall disclose fully the terms and
8 conditions under which an award may be granted pursuant to this
9 article and under which repayment may be required. The agreement
10 also is subject to and shall include the terms and conditions
11 established by section five, article four of this chapter.

12 **§18C-4A-3. Amount and duration of loan assistance; limits.**

13 (a) Each award recipient is eligible to receive loan
14 assistance of up to \$2,000 annually subject to limits set forth in
15 subsection (b) of this section:

16 (1) If the recipient has taught math or science for a full
17 school year under contract with a county board in a school or
18 geographic area of critical need; and

19 (2) If the recipient otherwise has complied with the terms of
20 the agreement and with applicable provisions of this article and
21 article four of this chapter, and any rules promulgated pursuant
22 thereto.

23 (b) The recipient is eligible for renewal of loan assistance
24 only during the periods when the recipient is under contract with
25 a county board to teach in a subject area of critical need in a

1 school or geographic area of critical need, and complies with other
2 criteria and conditions established by rule, except that a teacher
3 who is teaching under a contract in a position that no longer meets
4 the definition of critical need under rules established in
5 accordance with section one, article four of this chapter is
6 eligible for renewal of loan assistance until the teacher leaves
7 his or her current position.

8 (c) No recipient may receive loan assistance pursuant to this
9 article which accumulates in excess of \$15,000.