

E N G R O S S E D  
COMMITTEE SUBSTITUTE  
FOR

**Senate Bill No. 359**

(By Senators Kessler (Mr. President) and M. Hall,  
By Request of the Executive)

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[Originating in the Committee on Education;  
reported March 13, 2013.]

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A BILL to repeal §18-2-23a and §18-2-32 of the Code of West Virginia, 1931, as amended; to repeal §18-2E-5c of said code; to repeal §18-2I-6 and §18-2I-7 of said code; to repeal §18A-3A-2a and §18A-3A-6 of said code; to amend and reenact §18-1-4 of said code; to amend and reenact §18-2-24 of said code; to amend said code by adding thereto a new section, designated §18-2-39; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-1, §18-2I-2, §18-2I-3, §18-2I-4 and §18-2I-5 of said code; to amend and reenact §18-3-1 and §18-3-12 of said code; to amend said code by adding thereto a new section, designated §18-3-9b; to amend and reenact §18-5-18, §18-5-44 and §18-5-45 of said code; to

amend and reenact §18-5A-5 of said code; to amend and reenact §18A-2-1 and §18A-2-7 of said code; to amend said code by adding thereto a new section, designated §18A-3-1d; to amend and reenact §18A-3A-1, §18A-3A-2 and §18A-3A-3 of said code; to amend and reenact §18A-4-2a, §18A-4-7a, §18A-4-8, §18A-4-8a and §18A-4-14 of said code; to amend and reenact §18A-5-2 of said code; to amend and reenact §18C-1-2 of said code; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3 and §18C-4-4 of said code; and to amend said code by adding thereto three new sections, designated §18C-4A-1, §18C-4A-2 and §18C-4A-3, all relating to transforming and improving public education; removing outdated language; requiring the State Board of Education, the Higher Education Policy Commission and the Council for Community and Technical College Education to collaborate in formally adopting uniform and specific college- and career-readiness standards for English/language arts and math; providing methods for determining whether students have met the college- and career-readiness standards; requiring that an explicit focus be embedded in each course on the development of English/language arts and math skills; requiring a twelfth-grade transitional course for both English/language arts

and math for students not on track to be college ready; requiring professional development on teaching the college- and career-readiness standards to be included in the State Board's Master Plan for Professional Staff Development; requiring the state board to require all teacher preparation programs to include appropriate training for teaching adopted standards in at least grades eight through twelve; requiring the use of certain assessments, exams or tests for determining whether a student is to enroll in a remedial course; requiring accountability for increasing the percentage of students who meet the standards and for increasing the percentage of students who are making adequate progress toward meeting the standards; removing requirement applicable to annual county and school strategic improvement plans; modifying requirements for high-quality education standards for student, school and school system performance and processes; modifying requirements pertaining to a comprehensive statewide student assessment program; removing provisions relating to No Child Left Behind annual measures; modifying provisions pertaining to the state annual performance measures for school and school system accreditation; removing provisions pertaining to requiring the standards to include

indicators of exemplary student, school and school system performance and progress; eliminating the Process for Improving Education Council; modifying component of system of education performance audits; expanding state board authority pertaining to the Office of Education Performance Audit's reporting formats; eliminating condition for on-site review; removing prohibition of certain duplicate reviews or inspections; removing provisions pertaining to persons who are to conduct an on-site review; removing list of areas for which the office may not review; modifying provisions pertaining to school accreditation; removing provision allowing a student to transfer from a low-performing school under certain conditions; professional development; establishing clear state-level leadership of professional development; providing findings on the importance of professional development; requiring State Board of Education to develop a master plan for professional development; requiring submission of plan to certain entities; requiring goals to be established and included in the master plan; requiring state board rules; setting forth minimum components of the rule; requiring annual report on the statewide professional development plan; modifying language pertaining to the Strategic Staff Development Fund; modifying

State Superintendent of Schools qualifications and removing his or her salary limit; requiring state superintendent to reduce the amount budgeted for personal services, related employee benefits and contractual expenditures related to employment in fiscal years 2014 and 2015; increasing the number of schools to be included in a special community development pilot program; modifying other provisions pertaining to the pilot program; requiring kindergarten and early childhood aides to transition to one of three new assistant teacher positions beginning July 1, 2014; exempting those eligible for retirement before July 1, 2020; requiring early childhood education programs to be made available five days a week for the full day; allowing program to be for fewer than five days per week and less than full day under certain circumstances; allowing parent to withdraw child for good cause; providing for local control of the school calendar; defining terms and establishing findings about the school calendar; requiring a 200-day employment term; limiting beginning and closing dates to forty-eight weeks; requiring one hundred eighty separate days of actual instruction are to be provided for students; requiring twenty noninstructional days; requiring school term to include out-of-calendar days that are to be used for instructional days

in the event school is canceled; requiring county policy for adding minutes or days to school calendar for certain purpose; limiting noninstructional interruptions to instructional day; requiring state board or state superintendent approval of proposed county calendar; requiring public meetings for discussions of a school system's calendar; allowing the state board to grant a waiver to certain code sections that prevent a school system from meeting one hundred eighty instructional days; requiring state board rule to implement the calendar section provisions; modifying provisions pertaining to a process for a faculty senate to submit recommendations regarding employment to the principal; requiring state board to promulgate rule to implement the provisions relating to the process; removing language about faculty senates on instructional support and enhancement days; requiring the local board to provide at least four additional two-hour blocks of time during noninstructional days, with each block scheduled once at least every forty-five instructional days; prohibiting principals from recommending for employment certain individuals that are related to him or her; allowing reassignment of teachers when a vacancy was not foreseen

before March 1 based on pupil-teacher ratio; requiring state board to conduct a study on alternative certification programs; providing for salary bonus for classroom teachers with a National Board for Professional Teaching Standards renewal certificate; providing for reimbursement of the renewal certification fee; removing language that limits the number of board-certified teachers who can receive reimbursement per year; modifying process for filling vacancies in professional positions of employment including the criteria to be considered; allowing a county board to determine the appropriate weight to apply to each criterion except when one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting; providing that for a classroom teaching position if the recommendation of the principal and resulting from the faculty senate process are the same and the superintendent concurs, the county board is required to appoint the applicant; requiring state board rule to implement and interpret certain employment provisions; allowing released employees to be hired for certain vacancies prior to the job being posted; allowing for multiple postings within a thirty-day period under certain conditions;

allowing reassignment of a teacher within his or her school upon consent of teacher and county board; creating three new types of early childhood classroom assistant teacher positions; assigning a pay grade to the new positions; modifying provisions pertaining to the length of planning periods; requiring state board study on planning periods; clarifying that not all holidays will be counted as a day of the employment term and that pay per pay period cannot change as a result; providing that snow days are not counted as days of employment or days of instruction; providing definitions; scholarships and loan assistance for teachers in critical need areas; creating loan assistance program; determining subject and geographic areas of critical need; requiring legislative rules for program administration; revising eligibility criteria and specifying effective date; determining eligibility and awarding loan assistance; establishing criteria for inclusion in scholarship and loan assistance agreements; requiring payments to be made directly to a lending entity; requiring model contract agreements; specifying loan amount, limits and duration of loan assistance; requiring repayment under certain conditions; specifying excusal from repayment under certain conditions;



and making technical corrections and deleting obsolete language.

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

That §18-2-23a and §18-2-32 of the Code of West Virginia, 1931, as amended, be repealed; that §18-2E-5c of said code be repealed; that §18-2I-6 and §18-2I-7 of said code be repealed; that §18A-3A-2a and §18A-3A-6 of said code be repealed; that §18-1-4 of said code be amended and reenacted; that §18-2-24 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-2-39; that §18-2E-5 of said code be amended and reenacted; that §18-2I-1, §18-2I-2, §18-2I-3, §18-2I-4 and §18-2I-5 of said code be amended and reenacted; that §18-3-1 and §18-3-12 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-3-9b; that §18-5-18, §18-5-44 and §18-5-45 of said code be amended and reenacted; that §18-5A-5 of said code be amended and reenacted; that §18A-2-1 and §18A-2-7 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18A-3-1d; that §18A-3A-1, §18A-3A-2 and §18A-3A-3 of said code be amended and reenacted; that §18A-4-2a, §18A-4-7a, §18A-4-8, §18A-4-8a and §18A-4-14 of said code be amended and reenacted; that §18A-5-2 of said code be amended and

reenacted; that §18C-1-2 of said code be amended and reenacted; that §18C-4-1, §18C-4-2, §18C-4-3 and §18C-4-4 of said code be amended and reenacted; and that said code be amended by adding thereto three new sections, designated §18C-4A-1, §18C-4A-2 and §18C-4A-3, all to read as follows:

**CHAPTER 18. EDUCATION.**

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

**§18-1-4. Vision 2020: An Education Blueprint for Two  
Thousand 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  
3 chapter, shall be known as and may be cited as Vision 2020:  
4 An Education Blueprint for Two Thousand Twenty.

5 (b) For the purposes of this section:

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

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

12 (3) “Strategies” means specific activities carried out by  
13 the public education system which are directed toward  
14 accomplishing 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  
19 and that these challenges change, becoming ever more  
20 complex and involving a global context more than at any  
21 other time in the history of our nation;

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

29 (3) Published national studies by several organizations  
30 routinely examine various elements of state education  
31 systems and selected underlying socioeconomic variables and  
32 rate and rank West Virginia and the other states, the District

33 of Columbia and the territories based on the measurement  
34 systems and priorities established by the organizations, and  
35 these measurement systems and priorities change;

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

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

51 (d) As part of Vision 2020: An Education Blueprint for  
52 Two Thousand Twenty, the state board shall establish a plan  
53 in accordance with the provisions of this section for

54 submission to and consideration by the ~~Process for~~  
55 ~~Improving Education Council pursuant to section five-c,~~  
56 ~~article two-e of this chapter~~ Legislative Oversight  
57 Commission on Education Accountability. The plan shall  
58 include only the goals, objectives, strategies, indicators and  
59 benchmarks for public education set forth in this section and  
60 that meet the requirements of this section. To add clarity and  
61 avoid confusion, the goals for public education set forth in  
62 the plan pursuant to this section are the exclusive goals for  
63 public education. The plan shall include:

- 64 (1) The goals set forth in this section and no other goals;  
65 (2) At least the objectives set forth in this section and  
66 specified periods of time for achieving those objectives and  
67 any other objectives that may be included in the plan;  
68 (3) Strategies for achieving the specific objectives;  
69 (4) Indicators for measuring progress toward the goals  
70 and objectives established in this section; and  
71 (5) Benchmarks for determining when the goals and  
72 objectives have been achieved.  
73 (e) The plan shall include the following list of exclusive  
74 goals for the public education system in West Virginia:

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

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

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

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

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

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

94 (1) *Rigorous 21st Century curriculum and engaging*  
95 *instruction for all students.* – All students in West Virginia

96 public schools should have access to and benefit from a  
97 rigorous 21st Century curriculum that develops proficiency  
98 in core subjects, 21st Century content, learning skills and  
99 technology tools. These students also should have that  
100 curriculum delivered through engaging, research-based  
101 instructional strategies that develop deep understanding and  
102 the ability to apply content to real-world situations;

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

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

132 (3) *A statewide balanced assessment process.* – State,  
133 district, school and classroom decisionmaking should be  
134 grounded in 21st Century balanced assessment processes that  
135 reflect national and international rigorous performance  
136 standards and examine student proficiency in 21st Century  
137 content, skills and technology tools. A balanced assessment



138 system includes statewide summative assessments, local  
139 benchmark assessments and classroom assessments for  
140 learning;

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

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

174       (6) *A leadership recruitment, development and support*  
175 *continuum.* – Quality schools and school systems of the 21st  
176 Century cannot be created without high-quality leaders.  
177 Thus, West Virginia should have an aligned leadership  
178 professional development continuum that attracts, develops  
179 and supports educational leadership at the classroom, school

180 and district level. This leadership development continuum  
181 should focus on creating: (i) Learning-centered schools and  
182 school systems; (ii) collaborative processes for staff learning  
183 and continuous improvement; and (iii) accountability  
184 measures for student achievement;

185       (7) *Equitable access to 21st Century technology and*  
186 *education resources and school facilities conducive to 21st*  
187 *Century teaching and learning.* – A quality educational  
188 system of the 21st Century should have access to technology  
189 tools and processes that enhance effective and efficient  
190 operation. Administrators should have the digital resources  
191 to monitor student performance, manage a variety of data and  
192 communicate effectively. In the classroom, every teacher in  
193 every school should be provided with the instructional  
194 resources and educational technology necessary to deliver the  
195 West Virginia content standards and objectives. Schools of  
196 the 21st Century require facilities that accommodate  
197 changing technologies, 21st Century instructional processes  
198 and 21st Century staffing needs and patterns. These school  
199 facilities should mirror the best in green construction and be  
200 environmentally and educationally responsive to the  
201 communities in which they are located;

202       (8) *Aligned public school with post-secondary and*  
203 *workplace readiness programs and standards.* – An  
204 educational system in the 21st Century should be seen as a  
205 continuum from the public school (prekindergarten through  
206 twelve) program through post-secondary education. In order  
207 to be successful in a global competitive marketplace, learning  
208 should be an ongoing, life-long experience. Thus, the public  
209 schools and the institutions of post-secondary education in  
210 West Virginia should create a system of common standards,  
211 expectations and accountability. Creating such an aligned  
212 system will enhance opportunities for success and assure a  
213 seamless educational process for West Virginia students; and  
214       (9) *A universal prekindergarten system.* – A high-quality,  
215 universal prekindergarten system should be readily available  
216 to every eligible student. The system should promote oral  
217 language and preliteracy skills and reduce the deficit of these  
218 foundational skills through proactive, early intervention.  
219 Research indicates that universal prekindergarten systems  
220 improve graduation rates, reduce grade level retentions and  
221 reduce the number of special education placements.  
222 Therefore, local school systems should create the supports

223 and provide the resources to assure a quality prekindergarten  
224 foundation is available to all eligible students.

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

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

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

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

236 (4) By 2012, the gap between the county with the lowest  
237 college-going rate and the state average as of the effective  
238 date of this act will decrease by fifty percent and the college-  
239 going rate of the state will equal the college-going rate of the  
240 member states of the Southern Regional Education Board;  
241 and

242 (5) By 2012, the gap between the county with the lowest  
243 college-going rate and the state average for school year 2012

244 will decrease by fifty percent and the college-going rate of  
245 the state will exceed the college-going rate of the member  
246 states of the Southern Regional Education Board by five  
247 percentage points.

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

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

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

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

9 (c) The Legislature finds that:

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

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

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

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

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

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

31 (7) The coordination by West Virginia University and  
32 Marshall University of the efforts of other teacher  
33 preparation institutions to collaborate with the Center for  
34 Professional Development, state board and each of the

35 regional education service agencies will provide points of  
36 accountability for the collaboration efforts of the other  
37 institutions; and

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

44 (d) West Virginia University and Marshall University  
45 shall collaborate with the Center for Professional  
46 Development in performing the center's duties. This  
47 collaboration shall include at least the following:

48 (1) Including the teacher preparation institutions in the  
49 proposed professional staff development program plan goals  
50 required by section three, article two-i of this chapter to be  
51 ~~submitted to the state board by section twenty-three-a of this~~  
52 article included in the master plan for professional  
53 development;

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



57 (3) Providing any available research-based expertise that  
58 would be helpful in the implementation of professional  
59 development programs; and

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

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

66 (1) Prevent unnecessary duplication of services;

67 (2) Assist in the implementation of the professional  
68 development programs of the regional education service  
69 agency; and

70 (3) Assist the regional education service agency in  
71 obtaining any available grants for professional development  
72 or to apply for any available grant with the agency  
73 collaboratively.

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

78 (g) In addition to the collaboration required by  
79 subsections (e) and (f) of this section of all teacher  
80 preparation institutions, West Virginia University and  
81 Marshall University shall:

82 (1) Coordinate the collaboration of each of the other  
83 teacher preparation institutions in their designated  
84 coordination area with the appropriate regional education  
85 service agency. This coordination at least includes ensuring  
86 that each of the other institutions are collaborating with the  
87 appropriate regional education service agency; and

88 (2) Collaborate with each of the other teacher preparation  
89 institutions in their designated coordination area. This  
90 collaboration at least includes providing assistance to the  
91 other institutions in providing professional development and  
92 in their collaboration with the appropriate regional education  
93 service agency.

94 (h) The designated coordination area of West Virginia  
95 University includes the service areas of Regional Education  
96 Service Agencies V, VI, VII and VIII. The designated  
97 coordination area of Marshall University includes the service  
98 areas of Regional Education Service Agencies I, II, III and IV.

99 (i) The state board shall ensure that each of the regional  
100 education service agencies is collaborating with the teacher  
101 preparation institution or institutions in its service area for the  
102 purposes set forth in subsection (e) of this section. Since  
103 Regional Education Service Agency IV does not have a  
104 teacher preparation institution in its service area, the state  
105 board shall ensure that it is collaborating with Marshall  
106 University for the purposes set forth in subsection (e) of this  
107 section.

108 (j) Before a regional education service agency, except for  
109 Regional Education Service Agency IV, obtains professional  
110 development related services or expertise from any teacher  
111 preparation institution outside of that agency's service area,  
112 the agency shall inform the ~~Center for Professional~~  
113 ~~Development Board~~ state board. Before Regional Education  
114 Service Agency IV obtains professional development related  
115 services or expertise from any teacher preparation institution  
116 other than Marshall University, the agency shall inform the  
117 ~~Center Board~~ state board.

118 (k) The collaboration and coordination requirements of  
119 this section include collaborating and coordinating to provide

120 professional development for at least teachers, principals and  
121 paraprofessionals.

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

1 (a) The Legislature finds that:

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

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

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

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

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

24 (b) Before the 2014-2015 school year, the state board, the  
25 Higher Education Policy Commission and the Council for  
26 Community and Technical College Education shall  
27 collaborate in formally adopting uniform and specific  
28 college- and career-readiness standards for English/language  
29 arts and math. The standards shall be clearly linked to state  
30 content standards and based on skills and competencies  
31 rather than high school course titles. The standards shall  
32 allow for a determination of whether a student needs to enroll  
33 in a post-secondary remedial course. The state board shall  
34 develop a plan for gradually bringing the standards for a high  
35 school diploma and college and career readiness into  
36 uniformity, and report this plan to the Legislative Oversight  
37 Commission on Education Accountability not later than  
38 December 31, 2013.

39 (c) The results on the comprehensive statewide student  
40 assessment program in grade eleven in English/language arts  
41 and mathematics shall be used to determine whether a student  
42 has met the college- and career-readiness standards adopted  
43 pursuant to subsection (b) of this section. Beginning with the  
44 2015-2016 school year, instead of using the comprehensive  
45 statewide student assessment program, the state board may  
46 develop and implement end-of-course exams in  
47 English/language arts and math courses it determines  
48 appropriate. These exams are designed for determining  
49 whether a student has met the college- and career-readiness  
50 standards. In order to allow for the enrollment in transitional  
51 courses in the twelfth grade if necessary pursuant to  
52 subsection (e) of this section, the courses, assessments and  
53 exams, as applicable, shall be administered before the twelfth  
54 grade.

55 (d) Under its authority granted in section one, article  
56 three, chapter eighteen-a of this code, the state board shall  
57 require all teacher preparation programs in the state to  
58 include appropriate training for teachers seeking to teach in  
59 at least any of grades eight through twelve with respect to

60 teaching the adopted college- and career-readiness standards.  
61 This training shall focus on teaching the standards directly,  
62 through embedding the standards in other courses or both, as  
63 appropriate.

64 (e) The state board shall develop a twelfth-grade  
65 transitional course for both English/language arts and math  
66 for those students who are not on track to be college and  
67 career ready based on the assessment or exam, as applicable,  
68 required pursuant to subsection (c) of this section. The  
69 transitional courses shall be aligned with the standards  
70 adopted pursuant to subsection (b) of this section. The state  
71 board in collaboration with the West Virginia Higher  
72 Education Policy Commission and the Council for  
73 Community and Technical College Education shall use the  
74 American College Testing Program's Computerized  
75 Adaptive Placement Assessment and Support System  
76 (COMPASS) or other mutually agreed-upon assessment to  
77 determine whether a student has met the college- and career-  
78 readiness standards after completion of the transitional  
79 course.

80 (f) For all West Virginia public high school graduates  
81 who graduate during or after the 2016-2017 school year, all  
82 state institutions of higher education may use no factor other  
83 than the assessment, exam or test, as applicable, required  
84 pursuant to subsections (c) and (e) of this section to  
85 determine whether a student is to enroll in a remedial course  
86 or is to be placed in a college-level introductory course.  
87 Nothing in this subsection prohibits an institution from  
88 administering a diagnostic test to determine specific areas of  
89 weakness so that the specific weaknesses can be remediated  
90 rather than requiring a student to take an entire remedial  
91 course.

92 (g) The state board shall:

93 (1) Hold high schools and districts accountable for  
94 increasing the percentages of students who meet the college-  
95 and career-readiness standards as indicated by the  
96 assessments, exams or tests, as applicable, required pursuant  
97 to subsections (c) and (e) of this section. This accountability  
98 shall be achieved through the school and school system  
99 accreditation provisions set forth in section five, article two-e  
100 of this chapter;



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

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

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

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

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

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

1 (a) *Legislative findings, purpose and intent.* – The  
2 Legislature makes the following findings with respect to the  
3 process for improving education and its purpose and intent in  
4 the enactment of this section:

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

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

12 (B) Assessments of student performance and progress  
13 toward meeting the standards;

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

23 (D) A method for building the capacity and improving  
24 the efficiency of schools and school systems to improve  
25 student performance and progress;

26 (2) As the constitutional body charged with the general  
27 supervision of schools as provided by general law, the state  
28 board has the authority and the responsibility to establish the  
29 standards, assess the performance and progress of students  
30 against the standards, hold schools and school systems  
31 accountable and assist schools and school systems to build  
32 capacity and improve efficiency so that the standards are met,  
33 including, when necessary, seeking additional resources in  
34 consultation with the Legislature and the Governor;

35 (3) As the constitutional body charged with providing for  
36 a thorough and efficient system of schools, the Legislature  
37 has the authority and the responsibility to establish and be  
38 engaged constructively in the determination of the knowledge  
39 and skills that students should know and be able to do as the  
40 result of a thorough and efficient education. This  
41 determination is made by using the process for improving  
42 education to determine when school improvement is needed,  
43 by evaluating the results and the efficiency of the system of  
44 schools, by ensuring accountability and by providing for the  
45 necessary capacity and its efficient use;

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

54 (5) The intent of the Legislature in enacting this section  
55 and section five-c of this article is to establish a process

56 through which the Legislature, the Governor and the state  
57 board can work in the spirit of cooperation and collaboration  
58 intended in the process for improving education to consult  
59 and examine the performance and progress of students,  
60 schools and school systems and, when necessary, to consider  
61 alternative measures to ensure that all students continue to  
62 receive the thorough and efficient education to which they  
63 are entitled. However, nothing in this section requires any  
64 specific level of funding by the Legislature.

65 (b) *Electronic county and school strategic improvement*  
66 *plans.* – The state board shall promulgate a rule consistent  
67 with the provisions of this section and in accordance with  
68 article three-b, chapter twenty-nine-a of this code  
69 establishing an electronic county strategic improvement plan  
70 for each county board and an electronic school strategic  
71 improvement plan for each public school in this state. Each  
72 respective plan shall be a five-year plan that includes the  
73 mission and goals of the school or school system to improve  
74 student, school or school system performance and progress,  
75 as applicable. The strategic plan shall be revised annually in  
76 each area in which the school or system is below the standard

77 on the annual performance measures. ~~The revised annual~~  
78 ~~plan also shall identify any deficiency which is reported on~~  
79 ~~the check lists identified in paragraph (G), subdivision (5);~~  
80 ~~subsection (f) of this section including any deficit more than~~  
81 ~~a casual deficit by the county board.~~ The plan shall be  
82 revised when required pursuant to this section to include each  
83 annual performance measure upon which the school or  
84 school system fails to meet the standard for performance and  
85 progress, the action to be taken to meet each measure, a  
86 separate time line and a date certain for meeting each  
87 measure, a cost estimate and, when applicable, the assistance  
88 to be provided by the department and other education  
89 agencies to improve student, school or school system  
90 performance and progress to meet the annual performance  
91 measure.

92 The department shall make available to all public schools  
93 through its website or the West Virginia Education  
94 Information System an electronic school strategic  
95 improvement plan boilerplate designed for use by all schools  
96 to develop an electronic school strategic improvement plan  
97 which incorporates all required aspects and satisfies all

98 improvement plan requirements of the No Child Left Behind  
99 Act.

100 (c) *High-quality education standards and efficiency*  
101 *standards.* – In accordance with the provisions of article  
102 three-b, chapter twenty-nine-a of this code, the state board  
103 shall adopt and periodically review and update high-quality  
104 education standards for student, school and school system  
105 performance and processes in the following areas:

- 106 (1) Curriculum;
- 107 (2) Workplace readiness skills;
- 108 (3) Finance;
- 109 (4) Transportation;
- 110 (5) Special education;
- 111 (6) Facilities;
- 112 (7) Administrative practices;
- 113 (8) Training of county board members and  
114 administrators;
- 115 (9) Personnel qualifications;
- 116 (10) Professional development and evaluation;
- 117 (11) Student performance, ~~and~~ progress and attendance;

118 (12) Professional personnel, including principals and  
119 central office administrators, and service personnel  
120 attendance;

121 ~~(12)~~ (13) School and school system performance and  
122 progress;

123 ~~(13)~~ (14) A code of conduct for students and employees;

124 ~~(14)~~ (15) Indicators of efficiency; and

125 ~~(15)~~ (16) Any other areas determined by the state board.

126 ~~The standards, as applicable, shall incorporate the state's~~  
127 ~~21st Century Skills Initiative and shall assure that graduates~~  
128 ~~are prepared for continuing post-secondary education,~~  
129 ~~training and work and that schools and school systems are~~  
130 ~~making progress toward achieving the education goals of the~~  
131 ~~state.~~

132 (d) *Comprehensive statewide student assessment program.*

133 – The state board shall ~~promulgate a rule in accordance with~~  
134 ~~the provisions of article three-b, chapter twenty-nine-a of this~~  
135 ~~code establishing~~ establish a comprehensive statewide student  
136 assessment program to assess student performance and  
137 progress in grades three through twelve. The assessment  
138 program is subject to the following:



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

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

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

155       (4) The state board may require that student proficiencies  
156 be measured through the West Virginia writing assessment at  
157 any of the grade levels ~~four, seven and ten~~ determined by the  
158 state board to be appropriate; ~~Provided, That, effective July~~  
159 ~~1, 2008, the state board may require that student proficiencies~~

160 ~~be measured through the West Virginia writing assessment at~~  
161 ~~any of the grade levels four, seven and eleven determined by~~  
162 ~~the state board to be appropriate. and~~

163 (5) The state board may provide through the statewide  
164 assessment program other optional testing or assessment  
165 instruments applicable to grade levels kindergarten through  
166 grade twelve which may be used by each school to promote  
167 student achievement. ~~upon approval by the school curriculum~~  
168 ~~team or the process for teacher collaboration to improve~~  
169 ~~instruction and learning established by the faculty senate as~~  
170 ~~provided in section six, article five-a of this chapter~~ The  
171 state board annually shall ~~annually~~ publish and make  
172 available, electronically or otherwise, to school curriculum  
173 teams and teacher collaborative processes the optional testing  
174 and assessment instruments. ~~The failure of a school to use~~  
175 ~~any optional testing and assessment may not be cited as a~~  
176 ~~deficiency in any accreditation review of the school; nor may~~  
177 ~~the exercise of its discretion, as provided in section six,~~  
178 ~~article five-a of this chapter, in using the assessments and~~  
179 ~~implementing the instructional strategies and programs that~~  
180 ~~it determines best to promote student achievement at the~~

181 ~~school be cited as a deficiency in any accreditation review of~~  
182 ~~the school or in the personnel evaluation of the principal.~~  
183 ~~The use of assessment results are subject to the following:~~

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

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

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

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

202       ~~(5) All assessment provisions of the comprehensive~~  
203 ~~statewide student assessment program in effect for the school~~  
204 ~~year 2006-2007 shall remain in effect until replaced by the~~  
205 ~~state board rule.~~

206       ~~(e) Annual performance measures for Public Law~~  
207 ~~107-110, the Elementary and Secondary Education Act of~~  
208 ~~1965, as amended (No Child Left Behind Act of 2001). -- The~~  
209 ~~standards shall include annual measures of student, school~~  
210 ~~and school system performance and progress for the grade~~  
211 ~~levels and the content areas defined by the act. The~~  
212 ~~following annual measures of student, school and school~~  
213 ~~system performance and progress shall be the only measures~~  
214 ~~for determining whether adequately yearly progress under the~~  
215 ~~No Child Left Behind Act has been achieved:~~

216       ~~(1) The acquisition of student proficiencies as indicated~~  
217 ~~by student performance and progress on the required~~  
218 ~~accountability assessments at the grade levels and content~~  
219 ~~areas as required by the act subject to the limitations set forth~~  
220 ~~in subsection (d) of this section.~~

221       ~~(2) The student participation rate in the uniform statewide~~  
222 ~~assessment must be at least ninety-five percent or the average~~

223 of the participation rate for the current and the preceding two  
224 years is ninety-five percent for the school, county and state;

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

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

232 ~~(B) Students not in attendance due to disciplinary~~  
233 ~~measures; and~~

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

237 ~~(4) The high school graduation rate which shall be no less~~  
238 ~~than eighty percent for the school, county and state; or if the~~  
239 ~~high school graduation rate is less than eighty percent, the~~  
240 ~~high school graduation rate shall be higher than the high~~  
241 ~~school graduation rate of the preceding year as determined~~  
242 ~~from information on the West Virginia Education~~  
243 ~~Information System on August 15.~~

244        ~~(f)~~ (e) *State annual performance measures for school and*  
245 *school system accreditation.* – ~~The state board shall establish~~  
246 ~~a system to assess and weigh annual performance measures~~  
247 ~~for state accreditation of schools and school systems in a~~  
248 ~~manner that gives credit or points such as an index to prevent~~  
249 ~~any one measure alone from causing a school to achieve less~~  
250 ~~than full accreditation status or a school system from~~  
251 ~~achieving less than full approval status.~~ *Provided, That a*  
252 *school or school system that achieves adequate yearly*  
253 *progress is eligible for no less than full accreditation or*  
254 *approval status, as applicable, and the system established*  
255 *pursuant to this subsection applies only to schools and school*  
256 *systems that do not achieve adequate yearly progress.*

257        ~~The following types of measures, as may be appropriate~~  
258 ~~at the various programmatic levels, may be approved by the~~  
259 ~~state board for the school and school system accreditation:~~

260        (1) ~~The acquisition of student proficiencies as indicated~~  
261 ~~by student performance and progress on the uniform~~  
262 ~~statewide assessment program at the grade levels as provided~~  
263 ~~in subsection (d) of this section. The state board may~~  
264 ~~approve providing bonus points or credits for students~~  
265 ~~scoring at or above mastery and distinguished levels;~~

- 266 ~~(2) Writing assessment results in grades tested;~~  
267 ~~(3) School attendance rates;~~  
268 ~~(4) Percentage of courses taught by highly qualified~~  
269 ~~teachers;~~  
270 ~~(5) Percentage of students scoring at benchmarks on the~~  
271 ~~currently tested ACT EXPLORE and ACT PLAN~~  
272 ~~assessments or other comparable assessments, which are~~  
273 ~~approved by the state board and provided by future vendors;~~  
274 ~~(6) Graduation rates;~~  
275 ~~(7) Job placement rates for vocational programs;~~  
276 ~~(8) Percent of students passing end-of-course~~  
277 ~~career/technical tests;~~  
278 ~~(9) Percent of students not requiring college remediation~~  
279 ~~classes; and~~  
280 ~~(10) Bonus points or credits for subgroup improvement,~~  
281 ~~advanced placement percentages, dual credit completers and~~  
282 ~~international baccalaureate completers.~~  
283 The state board shall promulgate a rule in accordance  
284 with the provisions of article three-b, chapter twenty-nine-a  
285 of this code that establishes a system to assess and weigh  
286 annual performance measures for state accreditation of

287 schools and school systems. The state board also may  
288 establish performance incentives for schools and school  
289 systems as part of the state accreditation system. On or before  
290 December 1, 2013, the state board shall report to the  
291 Governor and to the Legislative Oversight Commission on  
292 Education Accountability the proposed rule for establishing  
293 the measures and incentives of accreditation and the  
294 estimated cost therefore, if any. Thereafter, the state board  
295 shall provide an annual report to the Governor and to the  
296 Legislative Oversight Commission on Education  
297 Accountability on the impact and effectiveness of the  
298 accreditation system. The rule for school and school system  
299 accreditation proposed by the board may include, but is not  
300 limited to, the following measures:

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

303 (2) Graduation and attendance rate;

304 (3) Students taking and passing AP tests;

305 (4) Students completing a career and technical education  
306 class;



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

309 (6) Students scoring at or above average attainment on  
310 SAT or ACT tests.

311 *(g) Indicators of exemplary performance and progress.*

312 ~~= The standards shall include indicators of exemplary~~  
313 ~~student, school and school system performance and progress.~~

314 ~~The indicators of exemplary student, school and school~~  
315 ~~system performance and progress shall be used only as~~

316 ~~indicators for determining whether accredited and approved~~  
317 ~~schools and school systems should be granted exemplary~~

318 ~~status. These indicators shall include, but are not limited to,~~  
319 ~~the following:~~

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

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

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

329       ~~(h)~~ (f) *Indicators of efficiency.* – In accordance with the  
330   provisions of article three-b, chapter twenty-nine-a of this  
331   code, the state board shall adopt by rule and periodically  
332   review and update indicators of efficiency for use by the  
333   appropriate divisions within the department to ensure  
334   efficient management and use of resources in the public  
335   schools in the following areas:

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

338       (2) Transportation;

339       (3) Facilities;

340       (4) Administrative practices;

341       (5) Personnel;

342       (6) Use of regional educational service agency programs  
343   and services, including programs and services that may be  
344   established by their assigned regional educational service  
345   agency or other regional services that may be initiated  
346   between and among participating county boards; and

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

348 (i) (g) *Assessment and accountability of school and*  
349 *school system performance and processes.* – In accordance  
350 with the provisions of article three-b, chapter twenty-nine-a  
351 of this code, the state board shall establish by rule a system  
352 of education performance audits which measures the quality  
353 of education and the preparation of students based on the  
354 annual measures of student, school and school system  
355 performance and progress. The system of education  
356 performance audits shall provide information to the state  
357 board, the Legislature and the Governor, ~~individually and~~  
358 ~~collectively as the Process for Improving Education Council,~~  
359 upon which they may determine whether a thorough and  
360 efficient system of schools is being provided. The system of  
361 education performance audits shall include:

362 (1) The assessment of student, school and school system  
363 performance and progress based on the annual measures ~~set~~  
364 ~~forth in subsection (d)~~ established pursuant to subsection (e)  
365 of this section;

366 (2) The evaluation of records, reports and other  
367 information collected by the ~~department~~ Office of Education

368 Performance Audits upon which the quality of education and  
369 compliance with statutes, policies and standards may be  
370 determined;

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

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

376 (j) (h) *Uses of school and school system assessment*  
377 *information.* – The state board ~~and the Process for Improving~~  
378 ~~Education Council established pursuant to section five-c of~~  
379 ~~this article~~ shall use information from the system of education  
380 performance audits to assist ~~them~~ it in ensuring that a  
381 thorough and efficient system of schools is being provided  
382 and to improve student, school and school system  
383 performance and progress. Information from the system of  
384 education performance audits further shall be used by the  
385 state board for these purposes, including, but not limited to,  
386 the following:

387 (1) Determining school accreditation and school system  
388 approval status;

389 (2) Holding schools and school systems accountable for  
390 the efficient use of existing resources to meet or exceed the  
391 standards; and

392 (3) Targeting additional resources when necessary to  
393 improve performance and progress.

394 The state board shall make accreditation information  
395 available to the Legislature, the Governor, the general public  
396 and to any individual who requests the information, subject  
397 to the provisions of any act or rule restricting the release of  
398 information.

399 ~~(k)~~ (i) *Early detection and intervention programs.* –  
400 Based on the assessment of student, school and school system  
401 performance and progress, the state board shall establish  
402 early detection and intervention programs using the available  
403 resources of the Department of Education, the regional  
404 educational service agencies, the Center for Professional  
405 Development and the Principals Academy, as appropriate, to  
406 assist underachieving schools and school systems to improve  
407 performance before conditions become so grave as to warrant  
408 more substantive state intervention. Assistance shall include,  
409 but is not limited to, providing additional technical assistance

410 and programmatic, professional staff development, providing  
411 monetary, staffing and other resources where appropriate.  
412 ~~and, if necessary, making appropriate recommendations to~~  
413 ~~the Process for Improving Education Council~~

414 (†) (i) *Office of Education Performance Audits.* –

415 (1) To assist the state board ~~and the Process for~~  
416 ~~Improving Education Council~~ in the operation of a system of  
417 education performance audits, the state board shall establish  
418 an Office of Education Performance Audits consistent with  
419 the provisions of this section. The Office of Education  
420 Performance Audits shall be operated under the direction of  
421 the state board independently of the functions and  
422 supervision of the State Department of Education and state  
423 superintendent. The Office of Education Performance Audits  
424 shall report directly to and be responsible to the state board  
425 ~~and the Process for Improving Education Council created in~~  
426 ~~section five-c of this article~~ in carrying out its duties under  
427 the provisions of this section.

428 (2) The office shall be headed by a director who shall be  
429 appointed by the state board and who ~~shall serve~~ serves at the  
430 will and pleasure of the state board. The annual salary of the

431 director shall be set by the state board and may not exceed  
432 eighty percent of the salary cap of the State Superintendent  
433 of Schools.

434 (3) The state board shall organize and sufficiently staff  
435 the office to fulfill the duties assigned to it by law and by the  
436 state board. Employees of the State Department of Education  
437 who are transferred to the Office of Education Performance  
438 Audits shall retain their benefits and seniority status with the  
439 Department of Education.

440 (4) Under the direction of the state board, the Office of  
441 Education Performance Audits shall receive from the West  
442 Virginia education information system staff research and  
443 analysis data on the performance and progress of students,  
444 schools and school systems, and shall receive assistance, as  
445 determined by the state board, from staff at the State  
446 Department of Education, the regional education service  
447 agencies, the Center for Professional Development, the  
448 Principals Academy and the School Building Authority to  
449 carry out the duties assigned to the office.

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

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

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

458 (i) Processes for the accreditation of schools and the  
459 approval of school systems; and

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

463 (C) Determine, in conjunction with the assessment and  
464 accountability processes, what capacity may be needed by  
465 schools and school systems to meet the standards established  
466 by the state board and recommend to the state board ~~and the~~  
467 ~~Process for Improving Education Council~~ plans to establish  
468 those needed capacities;

469 (D) Determine, in conjunction with the assessment and  
470 accountability processes, whether statewide system  
471 deficiencies exist in the capacity of schools and school  
472 systems to meet the standards established by the state board,  
473 including the identification of trends and the need for



474 continuing improvements in education, and report those  
475 deficiencies and trends to the state board; ~~and the Process for~~  
476 ~~Improving Education Council~~

477 (E) Determine, in conjunction with the assessment and  
478 accountability processes, staff development needs of schools  
479 and school systems to meet the standards established by the  
480 state board and make recommendations to the state board, ~~the~~  
481 ~~Process for Improving Education Council~~, the Center for  
482 Professional Development, the regional educational service  
483 agencies, the Higher Education Policy Commission and the  
484 county boards;

485 (F) Identify, in conjunction with the assessment and  
486 accountability processes, ~~exemplary schools and school~~  
487 ~~systems and best practices that improve student, school and~~  
488 ~~school system performance and make recommendations~~  
489 communicate those to the state board ~~and the Process for~~  
490 ~~Improving Education Council for recognizing and rewarding~~  
491 ~~exemplary schools and school systems and promoting the use~~  
492 of best practices. The state board shall provide information  
493 on best practices to county school systems; ~~and shall use~~  
494 ~~information identified through the assessment and~~  
495 ~~accountability processes to select schools of excellence and~~

496 (G) Develop reporting formats, such as check lists, which  
497 shall be used by the appropriate administrative personnel in  
498 schools and school systems to document compliance with  
499 ~~various of the~~ applicable laws, policies and process standards  
500 as considered appropriate and approved by the state board,  
501 including which may include, but is not limited to, the  
502 following:

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

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

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

511 (iv) The ~~school provides~~ appropriate provision of  
512 multicultural activities.

513 Information contained in the reporting formats is subject  
514 to examination during an on-site review to determine  
515 compliance with laws, policies and standards. Intentional  
516 and grossly negligent reporting of false information are  
517 grounds for dismissal of any employee.

518 (m) (k) *On-site reviews.* –

519 (1) The system of education performance audits shall  
520 include on-site reviews of schools and school systems which  
521 shall be conducted only at the specific direction of the state  
522 board upon its determination that ~~the performance and~~  
523 ~~progress of the school or school system are persistently~~  
524 ~~below standard or that other~~ circumstances exist that warrant  
525 an on-site review. Any discussion by the state board of  
526 schools to be subject to an on-site review or dates for which  
527 on-site reviews will be conducted may be held in executive  
528 session and is not subject to the provisions of article nine-a,  
529 chapter six of this code relating to open governmental  
530 proceedings. An on-site review shall be conducted by the  
531 Office of Education Performance Audits of a school or  
532 school system for the purpose of ~~investigating the reasons for~~  
533 ~~performance and progress that are persistently below~~  
534 ~~standard and~~ making recommendations to the school and  
535 school system, as appropriate, and to the state board on such  
536 measures as it considers necessary. ~~to improve performance~~  
537 ~~and progress to meet the standard~~ The investigation may  
538 include, but is not limited to, the following:

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

541 (B) Examining compliance with the laws and policies  
542 affecting student, school and school system performance and  
543 progress;

544 (C) Evaluating the effectiveness and implementation  
545 status of school and school system electronic strategic  
546 improvement plans;

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

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

554 (F) Determining and reporting whether required reviews  
555 and inspections have been conducted by the appropriate  
556 agencies, including, but not limited to, the State Fire Marshal,  
557 the Health Department, the School Building Authority and  
558 the responsible divisions within the Department of  
559 Education, and whether noted deficiencies have been or are

560 in the process of being corrected. ~~The Office of Education~~  
561 ~~Performance Audits may not conduct a duplicate review or~~  
562 ~~inspection of any compliance reviews or inspections~~  
563 ~~conducted by the department or its agents or other duly~~  
564 ~~authorized agencies of the state, nor may it mandate more~~  
565 ~~stringent compliance measures.~~

566 (2) The Director of the Office of Education Performance  
567 Audits shall notify the county superintendent of schools five  
568 school days prior to commencing an on-site review of the  
569 county school system and shall notify both the county  
570 superintendent and the principal five school days before  
571 commencing an on-site review of an individual school:  
572 *Provided*, That the state board may direct the Office of  
573 Education Performance Audits to conduct an unannounced  
574 on-site review of a school or school system if the state board  
575 believes circumstances warrant an unannounced on-site  
576 review.

577 (3) The Office of Education Performance Audits shall  
578 conduct on-site reviews which are limited in scope to specific  
579 areas in which performance and progress are persistently  
580 below standard as determined by the state board unless

581 specifically directed by the state board to conduct a review  
582 which covers additional areas.

583 ~~(4) An on-site review of a school or school system shall~~  
584 ~~include a person or persons from the Department of~~  
585 ~~Education or a public education agency in the state who has~~  
586 ~~expert knowledge and experience in the area or areas to be~~  
587 ~~reviewed and who has been trained and designated by the~~  
588 ~~state board to perform such functions. If the size of the~~  
589 ~~school or school system and issues being reviewed~~  
590 ~~necessitate the use of an on-site review team or teams, the~~  
591 ~~person or persons designated by the state board shall advise~~  
592 ~~and assist the director to appoint the team or teams. The~~  
593 ~~person or persons designated by the state board shall be the~~  
594 ~~team leaders.~~

595 ~~The persons designated by the state board shall be~~  
596 ~~responsible for completing the report on the findings and~~  
597 ~~recommendations of the on-site review in their area of~~  
598 ~~expertise. It is the intent of the Legislature that the persons~~  
599 ~~designated by the state board participate in all on-site reviews~~  
600 ~~that involve their area of expertise, to the extent practicable,~~  
601 ~~so that the on-site review process will evaluate compliance~~

602 ~~with the standards in a uniform, consistent and expert~~  
603 ~~manner.~~

604 (5) (4) The Office of Education Performance Audits shall  
605 reimburse a county board for the costs of substitutes required  
606 to replace county board employees ~~while they are serving~~  
607 who serve on a review team.

608 (6) (5) At the conclusion of an on-site review of a school  
609 system, the director and team leaders shall hold an exit  
610 conference with the superintendent and shall provide an  
611 opportunity for principals to be present for at least the portion  
612 of the conference pertaining to their respective schools. In  
613 the case of an on-site review of a school, the exit conference  
614 shall be held with the principal and curriculum team of the  
615 school and the superintendent shall be provided the  
616 opportunity to be present. The purpose of the exit conference  
617 is to review the initial findings of the on-site review, clarify  
618 and correct any inaccuracies and allow the opportunity for  
619 dialogue between the reviewers and the school or school  
620 system to promote a better understanding of the findings.

621 (7) (6) The Office of Education Performance Audits shall  
622 report the findings of an on-site review to the county

623 superintendent and the principals whose schools were  
624 reviewed within thirty days following the conclusion of the  
625 on-site review. The Office of Education Performance Audits  
626 shall report the findings of the on-site review to the state  
627 board within forty-five days after the conclusion of the  
628 on-site review. ~~A copy of the report shall be provided to the~~  
629 ~~Process for Improving Education Council at its request.~~ A  
630 school or county that believes one or more findings of a  
631 review are clearly inaccurate, incomplete or misleading,  
632 misrepresent or fail to reflect the true quality of education in  
633 the school or county or address issues unrelated to the health,  
634 safety and welfare of students and the quality of education,  
635 may appeal to the state board for removal of the findings.  
636 The state board shall establish a process for it to receive,  
637 review and act upon the appeals. The state board shall report  
638 to the Legislative Oversight Commission on Education  
639 Accountability during its July interim meetings, or as soon  
640 thereafter as practical, on each appeal during the preceding  
641 school year.

642 (8) ~~(7)~~ The Legislature finds that the accountability and  
643 oversight of ~~the following~~ some activities and programmatic



644 areas in the public schools ~~is~~ are controlled through other  
645 mechanisms and agencies and that additional accountability  
646 and oversight ~~are not only~~ may be unnecessary, but  
647 counterproductive ~~in distracting~~ and impair necessary  
648 resources ~~from~~ for teaching and learning. Therefore,  
649 ~~notwithstanding any other provision of this section to the~~  
650 ~~contrary, the following activities and programmatic areas are~~  
651 ~~not subject to review by the Office of Education Performance~~  
652 Audits may rely on other agencies and mechanisms in its  
653 review of schools and school systems.

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

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

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

657 (D) ~~Student transition plans;~~

658 (E) ~~Graduate assessment form;~~

659 (F) ~~Casual deficit;~~

660 (G) ~~Accounting practices;~~

661 (H) ~~Transportation services;~~

662 (I) ~~Special education services;~~

663 (J) ~~Safe, healthy and accessible facilities;~~

664 (K) ~~Health services;~~

- 665 ~~(L) Attendance director;~~
- 666 ~~(M) Business/community partnerships;~~
- 667 ~~(N) Pupil-teacher ratio/split grade classes;~~
- 668 ~~(O) Local school improvement council, faculty senate,~~
- 669 ~~student assistance team and curriculum team;~~
- 670 ~~(P) Planning and lunch periods;~~
- 671 ~~(Q) Skill improvement program;~~
- 672 ~~(R) Certificate of proficiency;~~
- 673 ~~(S) Training of county board members;~~
- 674 ~~(T) Excellence in job performance;~~
- 675 ~~(U) Staff development; and~~
- 676 ~~(V) Preventive discipline, character education and student~~
- 677 ~~and parental involvement.~~

678 ~~(n) (l) *School accreditation.* – The state board annually~~

679 ~~shall review the information from the system of education~~

680 ~~performance audits submitted for each school and shall issue~~

681 ~~to every school one of the following approval levels:~~

682 ~~Exemplary accreditation status, distinction accreditation~~

683 ~~status, full accreditation status, temporary accreditation~~

684 ~~status, conditional accreditation status or low performing~~

685 ~~accreditation status.~~

686       (1) ~~Full accreditation status shall be given to a school~~  
687 ~~when the school's performance and progress meet or exceed~~  
688 ~~the standards adopted by the state board pursuant to~~  
689 ~~subsection (e) or (f), as applicable, of this section and it does~~  
690 ~~not have any deficiencies which would endanger student~~  
691 ~~health or safety or other extraordinary circumstances as~~  
692 ~~defined by the state board. A school that meets or exceeds~~  
693 ~~the performance and progress standards but has the other~~  
694 ~~deficiencies shall remain on full accreditation status for the~~  
695 ~~remainder of the accreditation period and shall have an~~  
696 ~~opportunity to correct those deficiencies, notwithstanding~~  
697 ~~other provisions of this subsection.~~

698       (2) ~~Temporary accreditation status shall be given to a~~  
699 ~~school when the school's performance and progress are below~~  
700 ~~the level required for full accreditation status. Whenever a~~  
701 ~~school is given temporary accreditation status, the county~~  
702 ~~board shall ensure that the school's electronic strategic~~  
703 ~~improvement plan is revised in accordance with subsection (b)~~  
704 ~~of this section to increase the performance and progress of the~~  
705 ~~school to a full accreditation status level. The revised plan~~  
706 ~~shall be submitted to the state board for approval.~~

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

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

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

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

718       ~~(4) Exemplary accreditation status shall be given to a~~  
719 ~~school when the school's performance and progress~~  
720 ~~substantially exceed the standards adopted by the state board~~  
721 ~~pursuant to subsections (f) and (g) of this section. The state~~  
722 ~~board shall promulgate legislative rules in accordance with~~  
723 ~~the provisions of article three-b, chapter twenty-nine-a of this~~  
724 ~~code designated to establish standards of performance and~~  
725 ~~progress to identify exemplary schools.~~

726       ~~(5) Distinction accreditation status shall be given to a~~  
727 ~~school when the school's performance and progress exceed~~

728 ~~the standards adopted by the state board. The state board~~  
729 ~~shall promulgate legislative rules in accordance with the~~  
730 ~~provisions of article three-b, chapter twenty-nine-a of this~~  
731 ~~code establishing standards of performance and progress to~~  
732 ~~identify schools of distinction.~~

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

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

738 ~~(i) The failure of a school on temporary accreditation~~  
739 ~~status to obtain approval of its revised electronic school~~  
740 ~~strategic improvement plan within a reasonable time period~~  
741 ~~as defined by the state board;~~

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

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

747 ~~(iv) The results of the most recent statewide assessment~~  
748 ~~in reading and math or other multiple measures as determined~~

749 by the state board that identify the school as low performing  
750 at its programmatic level in three of the last five years:

751 ~~(B) Whenever the state board determines that the quality of~~  
752 ~~education in a school is low performing, the state board shall~~  
753 ~~appoint a team of improvement consultants from the West~~  
754 ~~Virginia Department of Education State System of Support to~~  
755 ~~make recommendations for correction of the low performance.~~  
756 ~~These recommendations shall be communicated to the county~~  
757 ~~board and a process shall be established in conjunction with the~~  
758 ~~State System of Support to correct the identified deficiencies.~~  
759 ~~If progress in correcting the low performance as determined by~~  
760 ~~the state board is not made within one year following the~~  
761 ~~implementation of the measures adopted to correct the~~  
762 ~~identified deficiencies or by a date certain established by the~~  
763 ~~state board after at least one year of implementation, the state~~  
764 ~~board shall place the county board on temporary approval status~~  
765 ~~and provide consultation and assistance to the county board to~~  
766 ~~assist it in the following areas:~~

767 (i) Improving personnel management;

768 (ii) Establishing more efficient financial management  
769 practices;

770 (iii) Improving instructional programs and rules; or  
771 (iv) Making any other improvements that are necessary  
772 to correct the low performance.

773 (C) If the low performance is not corrected by a date  
774 certain as set by the state board:

775 (i) The state board shall appoint a monitor who shall be  
776 paid at county expense to cause improvements to be made at  
777 the school to bring it to full accreditation status within a  
778 reasonable time period as determined by the state board. The  
779 monitor's work location shall be at the school and the  
780 monitor shall work collaboratively with the principal. The  
781 monitor shall, at a minimum, report monthly to the state  
782 board on the measures being taken to improve the school's  
783 performance and the progress being made. The reports may  
784 include requests for additional assistance and  
785 recommendations required in the judgment of the monitor to  
786 improve the school's performance, including, but not limited  
787 to, the need for targeting resources strategically to eliminate  
788 deficiencies;

789 (ii) The state board may make a determination, in its sole  
790 judgment, that the improvements necessary to provide a

791 thorough and efficient education to the students at the school  
792 cannot be made without additional targeted resources, in  
793 which case it shall establish a plan in consultation with the  
794 county board that includes targeted resources from sources  
795 under the control of the state board and the county board to  
796 accomplish the needed improvements. Nothing in this  
797 subsection shall be construed to allow a change in personnel  
798 at the school to improve school performance and progress;  
799 except as provided by law;

800 (iii) If the low performance is not corrected within one  
801 year after the appointment of a monitor, the state board may  
802 make a determination, in its sole judgment, that continuing a  
803 monitor arrangement is not sufficient to correct the low  
804 performance and may intervene in the operation of the school  
805 to cause improvements to be made that will provide  
806 assurances that a thorough and efficient system of schools  
807 will be provided. This intervention may include, but is not  
808 limited to, establishing instructional programs, taking such  
809 direct action as may be necessary to correct the low  
810 performance, declaring the position of principal is vacant and  
811 assigning a principal for the school who shall serve at the will



812 and pleasure of and, under the sole supervision of, the state  
813 board: *Provided*, That prior to declaring that the position of  
814 the principal is vacant, the state board must make a  
815 determination that all other resources needed to correct the  
816 low performance are present at the school.

817 (1) The state board shall establish levels of accreditation  
818 to be assigned to schools. The establishment of levels of  
819 accreditation and the levels shall be subject to the following:

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

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

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

832       (2) The state board annually shall review the information  
833 from the system of education performance audits submitted  
834 for each school and shall issue to every school a level of  
835 accreditation as designated and determined by the state  
836 board.

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

840       (A) To require a school to revise its electronic strategic  
841 plan;

842       (B) To define extraordinary circumstances under which  
843 the state board may intervene directly or indirectly in the  
844 operation of a school;

845       (C) To appoint monitors to work with the principal and  
846 staff of a school where extraordinary circumstances are found  
847 to exist, and to appoint monitors to assist the school principal  
848 after intervention in the operation of a school is completed;

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

852        (E) To intervene directly in the operation of a school and  
853 declare the position of principal vacant and assign a principal  
854 for the school who will serve at the will and pleasure of the  
855 state board. If the principal who was removed elects not to  
856 remain an employee of the county board, then the principal  
857 assigned by the state board shall be paid by the county board.  
858 If the principal who was removed elects to remain an  
859 employee of the county board, then the following procedure  
860 applies:

861        (†) (i) The principal assigned by the state board shall be  
862 paid by the state board until the next school term, at which  
863 time the principal assigned by the state board shall be paid by  
864 the county board;

865        (†) (ii) The principal who was removed is eligible for all  
866 positions in the county, including teaching positions, for  
867 which the principal is certified, by either being placed on the  
868 transfer list in accordance with section seven, article two,  
869 chapter eighteen-a of this code, or by being placed on the  
870 preferred recall list in accordance with section seven-a,  
871 article four, chapter eighteen-a of this code; and

872       ~~(HH)~~ (iii) The principal who was removed shall be paid by  
873 the county board and may be assigned to administrative  
874 duties, without the county board being required to post that  
875 position until the end of the school term; and

876       (F) Such other powers and actions the state board  
877 determines necessary to fulfill its duties of general  
878 supervision of the schools and school systems of West  
879 Virginia.

880       ~~(6)~~ (4) The county board ~~shall~~ may take no action nor  
881 refuse any action if the effect would be to impair further the  
882 school in which the state board has intervened.

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

886       ~~(o) Transfers from low-performing schools. -- Whenever~~  
887 ~~a school is determined to be low performing and fails to~~  
888 ~~improve its status within one year, following state~~  
889 ~~intervention in the operation of the school to correct the low~~  
890 ~~performance, any student attending the school may transfer~~  
891 ~~once to the nearest fully accredited school in the county;~~  
892 ~~subject to approval of the fully accredited school and at the~~  
893 ~~expense of the school from which the student transferred.~~

894       ~~(p)~~ (m) *School system approval.* – The state board  
895 annually shall review the information submitted for each  
896 school system from the system of education performance  
897 audits and issue one of the following approval levels to each  
898 county board: Full approval, temporary approval,  
899 conditional approval or nonapproval.

900       (1) Full approval shall be given to a county board whose  
901 schools have all been given full, temporary or conditional  
902 accreditation status and which does not have any deficiencies  
903 which would endanger student health or safety or other  
904 extraordinary circumstances as defined by the state board. A  
905 fully approved school system in which other deficiencies are  
906 discovered shall remain on full accreditation status for the  
907 remainder of the approval period and shall have an  
908 opportunity to correct those deficiencies, notwithstanding  
909 other provisions of this subsection.

910       (2) Temporary approval shall be given to a county board  
911 whose education system is below the level required for full  
912 approval. Whenever a county board is given temporary  
913 approval status, the county board shall revise its electronic  
914 county strategic improvement plan in accordance with

915 subsection (b) of this section to increase the performance and  
916 progress of the school system to a full approval status level.  
917 The revised plan shall be submitted to the state board for  
918 approval.

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

923 (i) (A) The plan has been revised in accordance with  
924 subsection (b) of this section;

925 (ii) (B) The plan has been approved by the state board;  
926 and

927 (iii) (C) The county board is meeting the objectives and  
928 time line specified in the revised plan.

929 (4) Nonapproval status shall be given to a county board  
930 which fails to submit and gain approval for its electronic  
931 county strategic improvement plan or revised electronic  
932 county strategic improvement plan within a reasonable time  
933 period as defined by the state board or which fails to meet the  
934 objectives and time line of its revised electronic county  
935 strategic improvement plan or fails to achieve full approval  
936 by the date specified in the revised plan.

937 (A) The state board shall establish and adopt additional  
938 standards to identify school systems in which the program  
939 may be nonapproved and the state board may issue  
940 nonapproval status whenever extraordinary circumstances  
941 exist as defined by the state board.

942 (B) Whenever a county board has more than a casual  
943 deficit, as defined in section one, article one of this chapter,  
944 the county board shall submit a plan to the state board  
945 specifying the county board's strategy for eliminating the  
946 casual deficit. The state board either shall approve or reject  
947 the plan. If the plan is rejected, the state board shall  
948 communicate to the county board the reason or reasons for  
949 the rejection of the plan. The county board may resubmit the  
950 plan any number of times. However, any county board that  
951 fails to submit a plan and gain approval for the plan from the  
952 state board before the end of the fiscal year after a deficit  
953 greater than a casual deficit occurred or any county board  
954 which, in the opinion of the state board, fails to comply with  
955 an approved plan may be designated as having nonapproval  
956 status.

957 (C) Whenever nonapproval status is given to a school  
958 system, the state board shall declare a state of emergency in  
959 the school system and shall appoint a team of improvement  
960 consultants to make recommendations within sixty days of  
961 appointment for correcting the emergency. When the state  
962 board approves the recommendations, they shall be  
963 communicated to the county board. If progress in correcting  
964 the emergency, as determined by the state board, is not made  
965 within six months from the time the county board receives  
966 the recommendations, the state board shall intervene in the  
967 operation of the school system to cause improvements to be  
968 made that will provide assurances that a thorough and  
969 efficient system of schools will be provided. This  
970 intervention may include, but is not limited to, the following:  
971 (i) Limiting the authority of the county superintendent  
972 and county board as to the expenditure of funds, the  
973 employment and dismissal of personnel, the establishment  
974 and operation of the school calendar, the establishment of  
975 instructional programs and rules and any other areas  
976 designated by the state board by rule, which may include  
977 delegating decision-making authority regarding these matters  
978 to the state superintendent;



979 (ii) Declaring that the office of the county superintendent  
980 is vacant;

981 (iii) Delegating to the state superintendent both the  
982 authority to conduct hearings on personnel matters and  
983 school closure or consolidation matters and, subsequently, to  
984 render the resulting decisions and the authority to appoint a  
985 designee for the limited purpose of conducting hearings  
986 while reserving to the state superintendent the authority to  
987 render the resulting decisions;

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

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

993 (I) Delegating to the state superintendent the authority to  
994 replace administrators and principals in low performing  
995 schools and to transfer them into alternate professional  
996 positions within the county at his or her discretion; and

997 (II) Delegating to the state superintendent the authority to  
998 fill positions of administrators and principals with individuals  
999 determined by the state superintendent to be the most

1000 qualified for the positions. Any authority related to  
1001 intervention in the operation of a county board granted under  
1002 this paragraph is not subject to the provisions of article four,  
1003 chapter eighteen-a of this code;

1004 ~~(q)~~ (n) Notwithstanding any other provision of this  
1005 section, the state board may intervene immediately in the  
1006 operation of the county school system with all the powers,  
1007 duties and responsibilities contained in subsection ~~(p)~~ (m) of  
1008 this section, if the state board finds the following:

1009 (1) That the conditions precedent to intervention exist as  
1010 provided in this section; and that delaying intervention for  
1011 any period of time would not be in the best interests of the  
1012 students of the county school system; or

1013 (2) That the conditions precedent to intervention exist as  
1014 provided in this section and that the state board had  
1015 previously intervened in the operation of the same school  
1016 system and had concluded that intervention within the  
1017 preceding five years.

1018 ~~(r)~~ (o) *Capacity.* – The process for improving education  
1019 includes a process for targeting resources strategically to  
1020 improve the teaching and learning process. Development of

1021 electronic school and school system strategic improvement  
1022 plans, pursuant to subsection (b) of this section, is intended,  
1023 in part, to provide mechanisms to target resources  
1024 strategically to the teaching and learning process to improve  
1025 student, school and school system performance. When  
1026 deficiencies are detected through the assessment and  
1027 accountability processes, the revision and approval of school  
1028 and school system electronic strategic improvement plans  
1029 shall ensure that schools and school systems are efficiently  
1030 using existing resources to correct the deficiencies. When  
1031 the state board determines that schools and school systems do  
1032 not have the capacity to correct deficiencies, the state board  
1033 shall work with the county board to develop or secure the  
1034 resources necessary to increase the capacity of schools and  
1035 school systems to meet the standards and, when necessary,  
1036 seek additional resources in consultation with the Legislature  
1037 and the Governor.

1038       The state board shall recommend to the appropriate body  
1039 including, but not limited to, ~~the Process for Improving~~  
1040 ~~Education Council~~, the Legislature, county boards, schools  
1041 and communities methods for targeting resources

1042 strategically to eliminate deficiencies identified in the  
1043 assessment and accountability processes. When making  
1044 determinations on recommendations, the state board shall  
1045 include, but is not limited to, the following methods:

1046 (1) Examining reports and electronic strategic  
1047 improvement plans regarding the performance and progress  
1048 of students, schools and school systems relative to the  
1049 standards and identifying the areas in which improvement is  
1050 needed;

1051 (2) Determining the areas of weakness and of  
1052 ineffectiveness that appear to have contributed to the  
1053 substandard performance and progress of students or the  
1054 deficiencies of the school or school system and requiring the  
1055 school or school system to work collaboratively with the  
1056 West Virginia Department of Education State System of  
1057 Support to correct the deficiencies;

1058 (3) Determining the areas of strength that appear to have  
1059 contributed to exceptional student, school and school system  
1060 performance and progress and promoting their emulation  
1061 throughout the system;

1062 (4) Requesting technical assistance from the School  
1063 Building Authority in assessing or designing comprehensive  
1064 educational facilities plans;

1065 (5) Recommending priority funding from the School  
1066 Building Authority based on identified needs;

1067 (6) Requesting special staff development programs from  
1068 the Center for Professional Development, the Principals  
1069 Academy, higher education, regional educational service  
1070 agencies and county boards based on identified needs;

1071 (7) Submitting requests to the Legislature for  
1072 appropriations to meet the identified needs for improving  
1073 education;

1074 (8) Directing county boards to target their funds  
1075 strategically toward alleviating deficiencies;

1076 (9) Ensuring that the need for facilities in counties with  
1077 increased enrollment are appropriately reflected and  
1078 recommended for funding;

1079 (10) Ensuring that the appropriate person or entity is held  
1080 accountable for eliminating deficiencies; and

1081 (11) Ensuring that the needed capacity is available from  
1082 the state and local level to assist the school or school system  
1083 in achieving the standards and alleviating the deficiencies.

**ARTICLE 2I. PROFESSIONAL DEVELOPMENT.**

**§18-2I-1. Legislative purpose.**

1 The purpose of this article is to establish clear state-level  
2 leadership for professional development for all West Virginia  
3 public school educators and administrators. As the state  
4 institution charged with the general supervision of the state  
5 school system, the state board shall institute a system for the  
6 coordination and delivery of high-quality professional  
7 development. The system shall clearly define the goals for  
8 professional development and delineate roles and  
9 responsibilities among the various state and regional  
10 professional development providers.

**§18-2I-2. Legislative findings.**

1 The Legislature finds:  
2 (1) That high-quality professional development is critical  
3 in supporting improved practice, assuring teacher quality and  
4 raising student achievement;  
5 (2) That professional development is vital in the state's  
6 overall school improvement efforts;  
7 (3) That the state board should assure the efficient  
8 delivery of high-quality professional development programs

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

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

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

1 (a) The state board annually shall establish a master plan  
2 for professional development in the public schools of the  
3 state. As a first priority, the state board shall require  
4 adequate and appropriate professional development to ensure  
5 high-quality teaching that will support improved student  
6 achievement, enable students to meet the content standards  
7 established for the required curriculum in the public schools  
8 and to be prepared for college and careers.

9           (b) The state board annually shall submit the master plan  
10       to the State Department of Education, the Center for  
11       Professional Development, the regional educational service  
12       agencies, the Higher Education Policy Commission and the  
13       Legislative Oversight Commission on Education  
14       Accountability.

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

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



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

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

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

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

9 (1) Standards for quality professional development that  
10 all professional development providers shall use in designing,

11 implementing and evaluating professional development that  
12 shall become part of the statewide professional development  
13 plan;

14 (2) Processes for assuring professional development  
15 resources are appropriately allocated to identified areas of  
16 need;

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

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

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

25 (6) Processes for collaboration among West Virginia  
26 Department of Education, Center for Professional  
27 Development, RESAs, county boards and classroom teachers;  
28 and

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

33 (b) The state board approval of the proposed professional  
34 development plans/offerings shall establish a Master Plan for  
35 Professional Development which shall be submitted by the  
36 state board to the affected agencies and to the Legislative  
37 Oversight Commission on Education Accountability. The  
38 Master Plan shall include the state board-approved plans for  
39 professional development by the State Department of  
40 Education, the Center for Professional Development, the state  
41 institutions of higher education and the regional educational  
42 service agencies to meet the professional development goals  
43 of the state board.

44 (c) The state board shall submit a report on or before  
45 December 1 of each year on the effectiveness, efficiency and  
46 impact of the statewide professional development plan to the  
47 Legislative Oversight Commission on Education  
48 Accountability.

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

1 (a) There is created an account within the state board  
2 titled the Strategic Staff Development Fund. The allocation  
3 of balances which accrue in the General School Fund shall be  
4 transferred to the Strategic Staff Development Fund each

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

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

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

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

1 There shall be appointed by the state board a State  
2 Superintendent of Schools who ~~shall serve~~ serves at the will  
3 and pleasure of the state board. He or she shall be a person  
4 of good moral character, shall be able to perform the duties

5 listed in this article and possess such other educational,  
6 administrative, experiential and other qualifications as  
7 determined by the State Board of Education. ~~of recognized~~  
8 ~~ability as a school administrator, holding~~ He or she shall hold  
9 at least a master's degree from a regionally accredited  
10 institution of higher education or equivalent degree as  
11 determined by the state board. ~~in educational administration,~~  
12 ~~and shall have had not less than five years of experience in~~  
13 ~~public school work.~~ He or she shall receive an annual salary  
14 set by the state board, to be paid monthly: ~~Provided, That the~~  
15 ~~annual salary may not exceed \$146,100. Provided, however,~~  
16 ~~That after June 30, 2006, the annual salary may not exceed~~  
17 ~~\$175,000.~~ The state superintendent also shall receive  
18 necessary traveling expenses incident to the performance of  
19 his or her duties to be paid out of the General School Fund  
20 upon warrants of the State Auditor. The state superintendent  
21 shall have his or her office at the state Capitol. The state  
22 board shall report to the Legislative Oversight Commission  
23 on Education Accountability upon request concerning its  
24 progress during any hiring process for a state superintendent.

25 The state board annually shall evaluate the performance  
26 of the state superintendent and publicly announce the results  
27 of the evaluation.

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

1 The state superintendent shall reduce the budgeted  
2 amount for personal services, related employee benefits and  
3 contractual expenditures related to employment by five  
4 percent in fiscal years 2014 and 2015. The reductions shall  
5 be taken department wide, excluding the school aid formula  
6 and institutionalized services to juveniles and adults, and  
7 other direct-service education expenditures.

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

1 (a) The state superintendent shall establish a Special  
2 Community Development School Pilot Program to be  
3 implemented in ~~one~~ a neighborhood of at least five public  
4 ~~school~~ schools, which shall include at least one elementary  
5 and middle school, for the duration of five years. The ~~public~~  
6 ~~school~~ neighborhood of public schools designated by the  
7 state superintendent for the pilot shall have significant  
8 enrollments of disadvantaged, minority and underachieving

9 students. The designated ~~public school~~ neighborhood of  
10 public schools under the direction of the county board and  
11 county superintendent shall work in collaboration with higher  
12 education, community organizations, Center for Professional  
13 Development, local community leaders, affected classroom  
14 teachers, affected parents and the state board to develop and  
15 implement strategies that could be replicated in other public  
16 schools with significant enrollments of disadvantaged,  
17 minority and underachieving students to improve academic  
18 achievement. For purposes of this section “neighborhood”  
19 means an area of no more than seven square miles.

20 (b) Beginning in January, ~~2011~~ 2014, on or before the  
21 first day of the regular session of the Legislature, and each  
22 year thereafter, the state superintendent, county  
23 superintendent for the county in which the schools are  
24 located and lead community-based organizations shall make  
25 a status report to the Legislative Oversight Commission on  
26 Education Accountability and to the state board. The report  
27 may include any recommendations based on the progress of  
28 the demonstration project that he or she considers either  
29 necessary for improving the operations of the demonstration

30 project or prudent for improving student achievement in  
31 other public schools through replication of successful  
32 demonstration school programs.

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

**§18-5-18. Kindergarten programs.**

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

9 (b) Persons employed as kindergarten teachers, as  
10 distinguished from paraprofessional personnel, shall be  
11 required to hold a certificate valid for teaching at the  
12 assigned level as prescribed by ~~regulations~~ rules established  
13 by the state board. The state board shall establish ~~and~~  
14 ~~prescribe guidelines and criteria setting forth~~ the minimum  
15 requirements for all paraprofessional personnel employed in  
16 kindergarten programs established pursuant to the provisions



17 of this section and no such paraprofessional personnel ~~staff~~  
18 may be employed in any kindergarten program unless he or  
19 she meets ~~such~~ the minimum requirements. Beginning July  
20 1, 2014, any person previously employed as an aide in a  
21 kindergarten program and who is employed in the same  
22 capacity on and after that date and any new person employed  
23 in that capacity in a kindergarten program on and after that  
24 date shall hold the position of either Early Childhood  
25 Classroom Assistant Teacher - Temporary Authorization,  
26 Early Childhood Classroom Assistant Teacher - Permanent  
27 Authorization or Early Childhood Classroom Assistant  
28 Teacher - Paraprofessional Certificate. Any person  
29 employed as an aide in a kindergarten program that is eligible  
30 for full retirement benefits before July 1, 2020, may remain  
31 employed as an aide in that position and may not be required  
32 to acquire licensure pursuant to this section.

33 (c) The state board with the advice of the state  
34 superintendent shall establish and prescribe guidelines and  
35 criteria relating to the establishment, operation and successful  
36 completion of kindergarten programs in accordance with the  
37 other provisions of this section. Guidelines and criteria so

38 established and prescribed also are intended to serve for the  
39 establishment and operation of nonpublic kindergarten  
40 programs and shall be used for the evaluation and approval  
41 of ~~such~~ those programs by the state superintendent, provided  
42 application for ~~such~~ the evaluation and approval is made in  
43 writing by proper authorities in control of ~~such~~ the programs.  
44 The state superintendent, annually, shall publish a list of  
45 nonpublic kindergarten programs, including Montessori  
46 kindergartens that have been approved in accordance with the  
47 provisions of this section. Montessori kindergartens  
48 established and operated in accordance with usual and  
49 customary practices for the use of the Montessori method  
50 which have teachers who have training or experience,  
51 regardless of additional certification, in the use of the  
52 Montessori method of instruction for kindergartens shall be  
53 considered to be approved.

54 (d) Pursuant to ~~such~~ the guidelines and criteria, and only  
55 pursuant to ~~such~~ the guidelines and criteria, the county  
56 boards may establish programs taking kindergarten to the  
57 homes of the children involved, using educational television,  
58 paraprofessional personnel in addition to and to supplement

59 regularly certified teachers, mobile or permanent classrooms  
60 and other means developed to best carry kindergarten to the  
61 child in its home and enlist the aid and involvement of its  
62 parent or parents in presenting the program to the child; or  
63 may develop programs of a more formal kindergarten type,  
64 in existing school buildings, or both, as ~~such~~ the county  
65 board may determine, taking into consideration the cost, the  
66 terrain, the existing available facilities, the distances each  
67 child may be required to travel, the time each child may be  
68 required to be away from home, the child's health, the  
69 involvement of parents and ~~such~~ other factors as each county  
70 board may find pertinent. ~~Such~~ The determinations by any  
71 county board ~~shall be~~ are final and conclusive.

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

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

5 (b) *Findings.* –

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

- 8 (A) Improve overall readiness when children enter  
9 school;
- 10 (B) Decrease behavioral problems;
- 11 (C) Improve student attendance;
- 12 (D) Increase scores on achievement tests;
- 13 (E) Decrease the percentage of students repeating a  
14 grade; and
- 15 (F) Decrease the number of students placed in special  
16 education programs;
- 17 (2) Quality early childhood education programs improve  
18 school performance and low-quality early childhood  
19 education programs may have negative effects, especially for  
20 at-risk children;
- 21 (3) West Virginia has the lowest percentage of its adult  
22 population twenty-five years of age or older with a  
23 bachelor's degree and the education level of parents is a  
24 strong indicator of how their children will perform in school;
- 25 (4) During the 2006-2007 school year, West Virginia  
26 ranked thirty-ninth among the fifty states in the percentage of  
27 school children eligible for free and reduced lunches and this  
28 percentage is a strong indicator of how the children will  
29 perform in school;

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

34 (6) Excluding projected increases due to increases in  
35 enrollment in the early childhood education program,  
36 projections indicate that total student enrollment in West  
37 Virginia will decline by one percent, or by approximately  
38 2704 students, by the school year 2012-2013;

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

42 (8) West Virginia has a comprehensive kindergarten  
43 program for five-year olds, but the program was established  
44 in a manner that resulted in unequal implementation among  
45 the counties which helped create deficit financial situations  
46 for several county boards;

47 (9) Expansion of current efforts to implement a  
48 comprehensive early childhood education program should  
49 avoid the problems encountered in kindergarten  
50 implementation;

51 (10) Because of the dynamics of the state aid formula,  
52 counties experiencing growth are at a disadvantage in  
53 implementing comprehensive early childhood education  
54 programs; and

55 (11) West Virginia citizens will benefit from the  
56 establishment of quality comprehensive early childhood  
57 education programs.

58 (c) Beginning no later than the school year 2012-2013,  
59 and continuing thereafter, county boards shall provide early  
60 childhood education programs for all children who have  
61 attained the age of four prior to September 1 of the school  
62 year in which the pupil enters the early childhood education  
63 program. Beginning no later than the school year 2016-2017,  
64 and continuing thereafter, early childhood education  
65 programs that are full day and five days per week shall be  
66 available to all children meeting the age requirement set forth  
67 in the subsection.

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

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

73       (2) ~~It may be for fewer than five days per week and may~~  
74 ~~be less than full day~~ All children meeting the age requirement  
75 set forth in this section shall have the opportunity to enroll in  
76 a program that is full day and five days per week. The  
77 program may be for fewer than five days per week and may  
78 be less than full day based on family need if a sufficient  
79 number of families request such programs and the county  
80 board finds that such programs are in the best interest of the  
81 requesting families and students: *Provided*, That the ability  
82 of families to request programs that are fewer than five days  
83 a week or less than a full day does not relieve the county of  
84 the obligation to provide all resident children with the  
85 opportunity to enroll in a full-day program; and

86       (3) A parent of a child enrolled in an early education  
87 program may withdraw a child from that program for good  
88 cause by notifying the district. Good cause includes, but is  
89 not limited to, enrollment of the child in another program or  
90 the immaturity of the child. A child withdrawn under this  
91 section is not subject to the attendance provisions of this  
92 chapter until that child again enrolls in a public school in this  
93 state.

94 (e) Enrollment of students in Head Start, in any other  
95 program approved by the state superintendent as provided in  
96 subsection (k) of this section ~~staff~~ may be counted toward  
97 satisfying the requirement of subsection (c) of this section.

98 (f) For the purposes of implementation financing, all  
99 counties are encouraged to make use of funds from existing  
100 sources, including:

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

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

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

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

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

114 (6) Any other public or private funds.



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

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

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

121 (3) Financial requirements for implementation and  
122 potential sources of funding to assist implementation;

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

127 (5) Specific time lines for implementation; and

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

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

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

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

140 (3) If the Secretary of the Department of Health and  
141 Human Resources finds that the county board has not met  
142 one or more of the requirements of this subsection, but that  
143 the county board has acted in good faith and the failure to  
144 comply was not the primary fault of the county board, then  
145 the secretary shall approve the plan. Any denial by the  
146 secretary may be appealed to the circuit court of the county  
147 in which the county board is located.

148 (i) The county board shall submit its plan for approval to  
149 the state board. The state board shall approve the plan if the  
150 county board has complied substantially with the  
151 requirements of subsection (g) of this section and has  
152 obtained the approval required in subsection (h) of this  
153 section.

154 (j) Every county board shall submit its plan for  
155 reapproval by the Secretary of the Department of Health and  
156 Human Resources and by the state board at least every two

157 years after the initial approval of the plan and until full  
158 implementation of the early childhood education program in the  
159 county. As part of the submission, the county board shall  
160 provide a detailed statement of the progress made in  
161 implementing its plan. The standards and procedures provided  
162 for the original approval of the plan apply to any reapproval.

163 (k) A county board may not increase the total number of  
164 students enrolled in the county in an early childhood program  
165 until its program is approved by the Secretary of the  
166 Department of Health and Human Resources and the state  
167 board.

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

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

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

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

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

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

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

186 (m) The provisions of subsections (b), (c) and (d), section  
187 eighteen of this article relating to kindergarten apply to early  
188 childhood education programs in the same manner in which  
189 they apply to kindergarten programs.

190 (n) Annually, the state board shall report to the  
191 Legislative Oversight Commission on Education  
192 Accountability on the progress of implementation of this  
193 section.

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

197 (p) Neither the state board nor the state department may  
198 provide any funds to any county board for the purpose of

199 implementing this section unless the county board has a plan  
200 approved pursuant to subsections (h), (i) and (j) of this  
201 section.

202 (q) The state board shall promulgate a rule in accordance  
203 with the provisions of article three-b, chapter twenty-nine-a  
204 of this code for the purposes of implementing the provisions  
205 of this section. The state board shall consult with the  
206 Secretary of the Department of Health and Human Resources  
207 in the preparation of the rule. The rule shall contain the  
208 following:

- 209 (1) Standards for curriculum;
- 210 (2) Standards for preparing students;
- 211 (3) Attendance requirements;
- 212 (4) Standards for personnel; and
- 213 (5) Any other terms necessary to implement the  
214 provisions of this section.

215 (r) The rule shall include the following elements relating  
216 to curriculum standards:

- 217 (1) A requirement that the curriculum be designed to  
218 address the developmental needs of four-year old children,  
219 consistent with prevailing research on how children learn;

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

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

225 (4) A requirement that the curriculum incorporate a wide  
226 variety of learning experiences, materials and equipment, and  
227 instructional strategies to respond to differences in prior  
228 experience, maturation rates and learning styles that young  
229 children bring to the classroom;

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

234 (6) A requirement that the curriculum meet the  
235 recognized standards of the relevant subject matter  
236 disciplines;

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

240 (8) A requirement that the curriculum emphasize the  
241 development of thinking, reasoning, decisionmaking and  
242 problem-solving skills;

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

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

249 (s) The secretary and the state superintendent shall submit  
250 a report to the Legislative Oversight Commission on  
251 Education Accountability and the Joint Committee on  
252 Government and Finance which addresses, at a minimum, the  
253 following issues:

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

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

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

261 (4) An analysis of the effect of the programs on the  
262 maximization of the use of federal funds for early childhood  
263 programs.

264 The intent of this subsection is to enable the Legislature  
265 to proceed in a fiscally responsible manner, make any  
266 necessary program improvements based on reported  
267 information prior to implementation of the early childhood  
268 education programs.

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

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

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



**§18-5-45. School calendar.**

1 (a) As used in this section:

2 (1) “Instructional day” means a day within the  
3 instructional term which meets the following criteria:

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

6 (B) Instructional time is used for instruction and  
7 cocurricular activities; and

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

10 (2) “Cocurricular activities” are activities that are closely  
11 related to identifiable academic programs or areas of study  
12 that serve to complement academic curricula as further  
13 defined by the state board.

14 (b) *Findings.* –

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

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

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

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

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

28 (2) Within the employment term, an instructional term for  
29 students of no less than one hundred eighty separate  
30 instructional days, which includes an inclement weather and  
31 emergencies plan designed to guarantee an instructional term  
32 for students of no less than one hundred eighty separate  
33 instructional days;

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

36 (A) Seven paid holidays;

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

39 (C) Six days to be designated by the county board to be  
40 used by the employees outside the school environment, with

41 at least four outside the school environment days scheduled  
42 to occur after the one hundred and thirtieth instructional day  
43 of the school calendar; and

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

46 (i) Curriculum development;

47 (ii) Preparation for opening and closing school;

48 (iii) Professional development;

49 (iv) Teacher-pupil-parent conferences;

50 (v) Professional meetings;

51 (vi) Making up days when instruction was scheduled but  
52 not conducted; and

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

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

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

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

70 (A) Holidays;

71 (B) Election day;

72 (C) Saturdays and Sundays.

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

75 (g) The state board may not schedule the primary  
76 statewide assessment program more than thirty days prior to  
77 the end of the instructional year unless the state board  
78 determines that the nature of the test mandates an earlier  
79 testing date.

80 (h) The following applies to cocurricular activities:

81 (1) The state board shall determine what activities may be  
82 considered cocurricular;

83       (2) The state board shall determine the amount of  
84 instructional time that may be consumed by cocurricular  
85 activities; and

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

89       (i) Extracurricular activities may not be used for  
90 instructional time.

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

93       (k) Prior to implementing the school calendar, the county  
94 board shall secure approval of its proposed calendar from the  
95 state board or, if so designated by the state board, from the  
96 state superintendent.

97       (l) In formulation of a school's calendar, a county school  
98 board shall hold at least two public meetings that allow  
99 parents, teachers, teacher organizations, businesses and other  
100 interested parties within the county to discuss the school  
101 calendar. The public notice of the date, time and place of the  
102 public hearing must be published in a local newspaper of  
103 general circulation in the area as a Class II legal

104 advertisement, in accordance with the provisions of article  
105 three, chapter fifty-nine of this code.

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

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

113 (o) Notwithstanding any provision of this code to the  
114 contrary, the state board may grant a waiver to a county  
115 board for its noncompliance with provisions of chapter  
116 eighteen, eighteen-a, eighteen-b and eighteen-c of this code  
117 to maintain compliance in reaching the mandatory one  
118 hundred eighty separate instructional days established in this  
119 section.

120 (p) The state board shall promulgate a rule in accordance  
121 with the provisions of article three-b, chapter twenty-nine-a  
122 of this code for the purpose of implementing the provisions  
123 of this section.

124 (q) The amendments to this section during the 2013  
125 regular session of the Legislature shall be effective for school  
126 years beginning on or after July 1, 2013, and the provisions  
127 of this section immediately prior to those amendments remain  
128 in effect until July 1, 2013.

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

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

1 (a) There is established at every public school in this state  
2 a faculty senate which is comprised of all permanent,  
3 full-time professional educators employed at the school who  
4 shall all be voting members. Professional educators, as used  
5 in this section, means “professional educators” as defined in  
6 chapter eighteen-a of this code. A quorum of more than one  
7 half of the voting members of the faculty shall be present at  
8 any meeting of the faculty senate at which official business  
9 is conducted. Prior to the beginning of the instructional term  
10 each year, but within the employment term, the principal  
11 shall convene a meeting of the faculty senate to elect a chair,  
12 vice chair and secretary and discuss matters relevant to the  
13 beginning of the school year. The vice chair shall preside at

14 meetings when the chair is absent. Meetings of the faculty  
15 senate shall be held during the times provided in accordance  
16 with subdivision (12), subsection (b) of this section as  
17 determined by the faculty senate. Emergency meetings may  
18 be held during noninstructional time at the call of the chair or  
19 a majority of the voting members by petition submitted to the  
20 chair and vice chair. An agenda of matters to be considered  
21 at a scheduled meeting of the faculty senate shall be available  
22 to the members at least two employment days prior to the  
23 meeting. For emergency meetings the agenda shall be  
24 available as soon as possible prior to the meeting. The chair  
25 of the faculty senate may appoint such committees as may be  
26 desirable to study and submit recommendations to the full  
27 faculty senate, but the acts of the faculty senate shall be voted  
28 upon by the full body.

29 (b) In addition to any other powers and duties conferred  
30 by law, or authorized by policies adopted by the state or  
31 county board of education or bylaws which may be adopted  
32 by the faculty senate not inconsistent with law, the powers  
33 and duties listed in this subsection are specifically reserved  
34 for the faculty senate. The intent of these provisions is



35 neither to restrict nor to require the activities of every faculty  
36 senate to the enumerated items except as otherwise stated.  
37 Each faculty senate shall organize its activities as it ~~deems~~  
38 considers most effective and efficient based on school size,  
39 departmental structure and other relevant factors.

40 (1) Each faculty senate shall control funds allocated to  
41 the school from legislative appropriations pursuant to section  
42 nine, article nine-a of this chapter. From ~~such~~ those funds,  
43 each classroom teacher and librarian shall be allotted \$100  
44 for expenditure during the instructional year for academic  
45 materials, supplies or equipment which, in the judgment of  
46 the teacher or librarian, will assist him or her in providing  
47 instruction in his or her assigned academic subjects or shall  
48 be returned to the faculty senate: *Provided*, That nothing  
49 contained herein prohibits the funds from being used for  
50 programs and materials that, in the opinion of the teacher,  
51 enhance student behavior, increase academic achievement,  
52 improve self esteem and address the problems of students at  
53 risk. The remainder of funds shall be expended for academic  
54 materials, supplies or equipment in accordance with a budget  
55 approved by the faculty senate. Notwithstanding any other

56 provisions of the law to the contrary, funds not expended in  
57 one school year are available for expenditure in the next  
58 school year: *Provided, however,* That the amount of county  
59 funds budgeted in a fiscal year may not be reduced  
60 throughout the year as a result of the faculty appropriations  
61 in the same fiscal year for such materials, supplies and  
62 equipment. Accounts shall be maintained of the allocations  
63 and expenditures of such funds for the purpose of financial  
64 audit. Academic materials, supplies or equipment shall be  
65 interpreted broadly, but does not include materials, supplies  
66 or equipment which will be used in or connected with  
67 interscholastic athletic events.

68 (2) A faculty senate may establish a process for members  
69 to interview ~~new prospective professional educators and~~  
70 ~~paraprofessional employees at the school and~~ or otherwise  
71 obtain information regarding applicants for classroom  
72 teaching vacancies that will enable the faculty senate to  
73 submit recommendations regarding employment to the  
74 principal. ~~who may also make independent recommendations;~~  
75 ~~for submission to the county superintendent.~~ *Provided,* That  
76 ~~such process shall be chaired by the school principal and~~

77 ~~must permit the timely employment of persons to perform~~  
78 ~~necessary duties. To facilitate the establishment of a process~~  
79 ~~that is timely, effective, consistent among schools and~~  
80 ~~counties and designed to avoid litigation or grievance, the~~  
81 ~~state board shall promulgate a rule pursuant to article three-b,~~  
82 ~~chapter twenty-nine-a of this code to implement the~~  
83 ~~provisions of this subdivision. The rule may include the~~  
84 ~~following:~~

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

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

94 (C) Time lines that will assure the timely completion of  
95 the recommendation or the forfeiture of the right to make a  
96 recommendation upon the failure to complete a  
97 recommendation within a reasonable time;

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

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

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

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

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

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

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

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

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

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

137 (11) Any faculty senate may review the evaluation  
138 procedure as conducted in their school to ascertain whether  
139 the evaluations were conducted in accordance with the  
140 written system required pursuant to section twelve, article

141 two, chapter eighteen-a of this code or pursuant to section  
142 two, article three-c, chapter eighteen-a of this code, as  
143 applicable, and the general intent of this Legislature  
144 regarding meaningful performance evaluations of school  
145 personnel. If a majority of members of the faculty senate  
146 determine that such evaluations were not so conducted, they  
147 shall submit a report in writing to the State Board of  
148 Education: *Provided*, That nothing herein creates any new  
149 right of access to or review of any individual's evaluations.

150 (12) A local board shall provide to each faculty senate a  
151 two-hour block of time for a faculty senate meeting on a day  
152 scheduled for the opening of school prior to the beginning of  
153 the instructional term and ~~a two-hour block of time on each~~  
154 ~~instructional support and enhancement day scheduled by the~~  
155 ~~board for instructional activities for students and professional~~  
156 ~~activities for teachers pursuant to section forty-five, article~~  
157 ~~five of this chapter~~ at least four additional two-hour blocks of  
158 time during noninstructional days, with each two-hour block  
159 of time scheduled once at least every forty-five instructional  
160 days. A faculty senate may meet for an unlimited block of  
161 time ~~per month~~ during noninstructional days to discuss and

162 plan strategies to improve student instruction and to conduct  
163 other faculty senate business. A faculty senate meeting  
164 scheduled on a noninstructional day shall be considered as  
165 part of the purpose for which the noninstructional day is  
166 scheduled. This time may be ~~utilized~~ used and determined at  
167 the local school level and includes, but is not limited to,  
168 faculty senate meetings.

169 (13) Each faculty senate shall develop a strategic plan to  
170 manage the integration of special needs students into the  
171 regular classroom at their respective schools and submit the  
172 strategic plan to the superintendent of the county board of  
173 ~~education~~ periodically pursuant to guidelines developed by  
174 the State Department of Education. Each faculty senate shall  
175 encourage the participation of local school improvement  
176 councils, parents and the community at large in developing  
177 the strategic plan for each school.

178 Each strategic plan developed by the faculty senate shall  
179 include at least: (A) A mission statement; (B) goals; (C)  
180 needs; (D) objectives and activities to implement plans  
181 relating to each goal; (E) work in progress to implement the  
182 strategic plan; (F) guidelines for placing additional staff into

183 integrated classrooms to meet the needs of exceptional needs  
184 students without diminishing the services rendered to the  
185 other students in integrated classrooms; (G) guidelines for  
186 implementation of collaborative planning and instruction;  
187 and (H) training for all regular classroom teachers who serve  
188 students with exceptional needs in integrated classrooms.

## CHAPTER 18A. SCHOOL PERSONNEL.

### ARTICLE 2. SCHOOL PERSONNEL.

#### §18A-2-1. Employment in general.

1       (a) The employment of professional personnel shall be  
2 made by the board only upon nomination and  
3 recommendation of the superintendent, subject to the  
4 following: *Provided, That*

5       (1) The superintendent shall provide the principal at the  
6 school at which the professional educator or paraprofessional  
7 employee is to be employed an opportunity to interview all  
8 qualified applicants and make recommendations to the  
9 county superintendent regarding their employment;

10 *Provided, however, That*

11       (2) The principal may not recommend for employment an  
12 individual who is related to him or her as father, mother, son,



13 daughter, brother, sister, uncle, aunt, first cousin, nephew,  
14 niece, husband, wife, father-in-law, mother-in-law, son-in-  
15 law, daughter-in-law, brother-in-law, sister-in-law,  
16 stepfather, stepmother, stepson, stepdaughter, stepbrother,  
17 stepsister, half brother or half sister;

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

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

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

32 (b) Professional personnel employed as deputy, associate  
33 or assistant superintendents by the board in offices,

34 departments or divisions at locations other than a school and  
35 who are directly answerable to the superintendent shall serve  
36 at the will and pleasure of the superintendent and may be  
37 removed by the superintendent upon approval of the board.  
38 Such professional personnel shall retain seniority rights only  
39 in the area or areas in which they hold valid certification or  
40 licensure.

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

1 (a) The superintendent, subject only to approval of the  
2 board, may assign, transfer, promote, demote or suspend  
3 school personnel and recommend their dismissal pursuant to  
4 provisions of this chapter. However, an employee shall be  
5 notified in writing by the superintendent on or before March  
6 1 if he or she is being considered for transfer or to be  
7 transferred. Only those employees whose consideration for  
8 transfer or intended transfer is based upon known or expected  
9 circumstances which will require the transfer of employees

10 shall be considered for transfer or intended for transfer and  
11 the notification shall be limited to only those employees.  
12 Any teacher or employee who desires to protest the proposed  
13 transfer may request in writing a statement of the reasons for  
14 the proposed transfer. The statement of reasons shall be  
15 delivered to the teacher or employee within ten days of the  
16 receipt of the request. Within ten days of the receipt of the  
17 statement of the reasons, the teacher or employee may make  
18 written demand upon the superintendent for a hearing on the  
19 proposed transfer before the county board of education. The  
20 hearing on the proposed transfer shall be held on or before  
21 April 15. At the hearing, the reasons for the proposed  
22 transfer must be shown.

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

31 to the positions or jobs held at the time of this meeting. The  
32 list of those recommended for transfer shall be included in  
33 the minute record of the meeting and all those so listed shall  
34 be notified in writing, which notice shall be delivered in  
35 writing, by certified mail, return receipt requested, to the  
36 persons' last known addresses within ten days following the  
37 board meeting, of their having been so recommended for  
38 transfer and subsequent assignment and the reasons therefor.

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

44 (d) The provisions of this section respecting hearing upon  
45 notice of transfer is not applicable in emergency situations  
46 where the school building becomes damaged or destroyed  
47 through an unforeseeable act and which act necessitates a  
48 transfer of the school personnel because of the  
49 aforementioned condition of the building.

50 (e) Notwithstanding this section or any provision of this  
51 code, when actual student enrollment in a grade level or

52 program, unforeseen before March 1 of the preceding school  
53 year, permits the assignment of fewer teachers or service  
54 personnel to or within a school under any pupil-teacher ratio,  
55 class size or caseload standard established in section  
56 eighteen-a, article five, chapter eighteen of this code or any  
57 policy of the state board, the superintendent, with board  
58 approval, may reassign the surplus personnel to another  
59 school or to another grade level or program within the school  
60 if needed there to comply with any such pupil-teacher ratio,  
61 class size or caseload standard.

62 (1) Before any reassignment may occur pursuant to this  
63 subsection, notice shall be provided to the employee and the  
64 employee shall be provided an opportunity to appear before  
65 the county board to state the reasons for his or her objections,  
66 if any, prior to the board voting on the reassignment.

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

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

78       (4) A service employee reassigned under this subsection  
79 shall be the least senior of the surplus personnel who holds  
80 the same classification or multiclassification needed to  
81 perform the duties at the other school or at the grade level or  
82 program within the same school.

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

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

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

1       The state board shall conduct a study on alternative  
2 certification programs, including the effectiveness of the  
3 current methods of alternative certification, any  
4 improvements needed on current methods of alternative  
5 certification and potential additional methods of certification

6 that would enhance the ability of the State of West Virginia  
7 to place effective teachers in areas of high need. “Areas of  
8 high need” means those subject areas, public schools or  
9 geographic areas of the state in which the state board  
10 determines that critical teacher shortages exist. The board  
11 shall report its findings and recommendations to the  
12 Legislative Oversight Commission on Education  
13 Accountability no later than December 31, 2013.

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

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

1 (a) Teaching is a profession that directly correlates to the  
2 social and economic well being of a society and its citizens.  
3 Superior teaching is essential to a well-educated and  
4 productive populace. Strong academic leadership provided  
5 by principals and administrators skilled in modern  
6 management principles is also essential. The intent of this  
7 article is to recognize the value of professional involvement  
8 by experienced educators, principals and administrators in

9 building and maintaining a superior force of professional  
10 educators and to establish avenues for applying this  
11 involvement.

12 (b) The general mission of the center is to advance the  
13 quality of teaching and management in the schools of West  
14 Virginia through: (1) The implementation primarily of  
15 statewide training, professional staff development, including  
16 professional staff development for at least teachers, principals  
17 and paraprofessionals and technical assistance programs and  
18 practices as recommended by the state board to assure the  
19 highest quality of teaching and management; and (2) the  
20 provision of technical and other assistance and support to  
21 regional and local education agencies in identifying and  
22 providing high-quality professional staff development,  
23 including professional staff development for at least teachers,  
24 principals and paraprofessionals, and training programs and  
25 implementing best practices to meet their locally identified  
26 needs. The center also may implement local programs if the  
27 state board, in its Master Plan for Professional Staff  
28 Development established pursuant to ~~section twenty-three-a,~~  
29 ~~article two, chapter eighteen~~ article two-i, chapter eighteen-a



30 of this code, determines that there is a specific local need for  
31 the programs. Additionally, the center shall perform other  
32 duties assigned to it by law.

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

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

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

41 (A) Entitled to vote; and

42 (B) A cochair of the board.

43 (2) Two members of the state board, elected by the state  
44 board;

45 (3) One person employed by West Virginia University  
46 and one person employed by Marshall University, both of  
47 whom are:

48 (A) Appointed by the president of the employing  
49 institution;

50 (B) Faculty in the teacher education section of the  
51 employing institution; and

52 (C) Knowledgeable in matters relevant to the issues  
53 addressed by the center;

54 (4) One regional education service agency executive  
55 director, elected by all of the regional education service  
56 agency executive directors;

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

60 (A) Appointed by the Governor by and with the advice  
61 and consent of the Senate;

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

65 (C) Knowledgeable in matters relevant to the issues  
66 addressed by the center; and

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

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

71 (B) Appointed by the Governor by and with the advice  
72 and consent of the Senate.

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

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

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

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

85 (3) Of the initial members appointed by the Governor,  
86 three are appointed for one-year terms and three are  
87 appointed for two-year terms. Each successive appointment  
88 by the Governor is for a two-year term. The Governor shall  
89 appoint a new member to fill the unexpired term of any  
90 vacancy in the appointed membership.

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

95 (e) The Center for Professional Development Board shall  
96 meet at least quarterly and the appointed members shall be  
97 reimbursed for reasonable and necessary expenses actually  
98 incurred in the performance of their official duties from funds  
99 appropriated or otherwise made available for those purposes  
100 upon submission of an itemized statement therefor.

101 (f) The position of executive director is abolished. The  
102 Governor shall appoint, by and with the advice and consent  
103 of the Senate, a chief executive officer with knowledge and  
104 experience in professional development and management  
105 principles. Any reference in this code to the Executive  
106 Director of the Center for Professional Development means  
107 the Chief Executive Officer. From appropriations to the  
108 Center for Professional Development, the center board sets  
109 the salary of the chief executive officer. The center board,  
110 upon the recommendation of the chief executive officer, may  
111 employ other staff necessary to carry out the mission and

112 duties of the center. The chief executive officer serves at the  
113 will and pleasure of the Governor. Annually, the center  
114 board shall evaluate the chief executive officer, and shall  
115 report the results to the Governor. The duties of the chief  
116 executive officer include:

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

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

119 (3) Ensuring collaboration of the center with other  
120 professional development providers;

121 (4) Requesting from the Governor and the Legislature  
122 any resources or statutory changes that would help in  
123 enhancing the collaboration of all professional development  
124 providers in the state, in advancing the quality of professional  
125 development through any other means or both;

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

130 (6) Other duties as assigned by the Governor or the center  
131 board.

132 (g) When practicable, personnel employed by state higher  
133 education agencies and state, regional and county public  
134 education agencies shall be made available to the center to  
135 assist in the operation of projects of limited duration, subject  
136 to the provisions of section twenty-four, article two, chapter  
137 eighteen of this code.

138 (h) The center shall assist in the delivery of programs and  
139 activities pursuant to this article to meet statewide, and if  
140 needed as determined by the goals and Master Plan for  
141 Professional Staff Development established by the state  
142 board pursuant to ~~section twenty-three-a, article two, chapter~~  
143 ~~eighteen~~ article two-i, chapter eighteen-a of this code, the  
144 local professional development needs of paraprofessionals,  
145 teachers, principals and administrators and may contract with  
146 existing agencies or agencies created after the effective date  
147 of this section or others to provide training programs in the  
148 most efficient manner. Existing programs currently based in  
149 agencies of the state shall be continued in the agency of their  
150 origin unless the center establishes a compelling need to  
151 transfer or cancel the existing program. The center shall  
152 recommend to the Governor the transfer of funds to the

153 providing agency, if needed, to provide programs approved  
154 by the center.

155 (i) The Center for Professional Development shall  
156 implement training and professional development programs  
157 for the Principals Academy based upon the minimum  
158 qualities, proficiencies and skills necessary for principals in  
159 accordance with the standards established by the state board  
160 pursuant to the terms of section two-c, article three of this  
161 chapter.

162 (j) In accordance with section two-c, article three of this  
163 chapter, the center ~~shall be~~ is responsible for paying  
164 reasonable and necessary expenses for persons attending the  
165 Principals Academy: *Provided*, That nothing in this section  
166 ~~shall be construed to require~~ requires any specific level of  
167 funding by the Legislature.

168 (k) Persons attending the professional development  
169 offerings of the center and other courses and services offered  
170 by the Center for Professional Development, except the  
171 Principals Academy shall be assessed fees which shall be less  
172 than the full cost of attendance. There is hereby created in  
173 the State Treasury a special revenue account known as the

174 Center for Professional Development Fund. All moneys  
175 collected by the center shall be deposited in the fund for  
176 expenditure by the center board for the purposes specified in  
177 this section. Moneys remaining in the fund at the end of the  
178 fiscal year are subject to reappropriation by the Legislature.

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

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

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

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

1 Subject to the provisions of ~~section twenty-three-a, article~~  
2 ~~two, chapter eighteen~~ article two-i, chapter eighteen-a of this  
3 code, through this project the Center for Professional  
4 Development shall:

5 (1) Identify, coordinate, arrange and otherwise assist in  
6 the delivery of professional development programs and



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

21 (2) Identify, coordinate, arrange and otherwise assist in  
22 the delivery of professional development programs and  
23 activities that help principals and administrators acquire  
24 knowledge, skills, attitudes and practices in academic  
25 leadership and management principles for principals and  
26 administrators and such other pertinent complements  
27 considered essential for principals and administrators to

28 demonstrate appropriate performance in the public schools of  
29 West Virginia. The basis for the performance shall be the  
30 laws, policies and regulations adopted for the public schools  
31 of West Virginia, and amendments thereto;

32 (3) Serve in a coordinating capacity to assure that the  
33 knowledge, skills, attitude and other pertinent complements  
34 of appropriate professional performance which evolve over  
35 time in the public school environment are appropriately  
36 reflected in the programs approved for the education of  
37 professional personnel, including, but not limited to, advising  
38 the teacher education programs of major statutory and policy  
39 changes in the public schools which affect the job  
40 performance requirements of professional educators,  
41 including principals and administrators;

42 (4) Provide for the routine updating of professional skills  
43 of professional educators, including principals and  
44 administrators, through in-service and other programs. The  
45 routine updating may be provided by the center through  
46 statewide or regional institutes which may require a  
47 registration fee;

48       (5) Provide for the routine education of all professional  
49 educators, including principals and administrators, and those  
50 service personnel having direct contact with students on  
51 warning signs and resources to assist in suicide prevention  
52 under guidelines established by the state board. The  
53 education may be accomplished through self review of  
54 suicide prevention materials and resources approved by the  
55 state board. The provisions of this paragraph may be known  
56 and cited as the Jason Flatt Act of 2012;

57       (6) Provide consultation and assistance to county staff  
58 development councils established under the provisions of  
59 section eight, article three of this chapter in planning,  
60 designing, coordinating, arranging for and delivering  
61 professional development programs to meet the needs of the  
62 professional educators of their district. From legislative  
63 appropriations to the center, exclusive of the amounts  
64 required for the expenses of the principals academy, the  
65 center shall, unless otherwise directed by the Legislature,  
66 provide assistance in the delivery of programs and activities  
67 to meet the expressed needs of the school districts for  
68 professional development to help teachers, principals and

69 administrators demonstrate appropriate performance based on  
70 the laws, policies and regulations adopted for the public  
71 schools of West Virginia; and

72 (7) Cooperate and coordinate with the institutions of  
73 higher education to provide professional staff development  
74 programs that satisfy some or all of the criteria necessary for  
75 currently certified professional educators to meet the  
76 requirements for an additional endorsement in an area of  
77 certification and for certification to teach in the middle  
78 school grades.

79 If the center is not able to reach agreement with the  
80 representatives of the institutions providing teacher education  
81 programs on which courses will be approved for credit  
82 toward additional endorsements, the state board may certify  
83 certain professional staff development courses to meet  
84 criteria required by the state board. This certification shall be  
85 done on a course-by-course basis.

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

1 Subject to the provisions of ~~section twenty-three-a, article~~  
2 ~~two, chapter eighteen~~ article two-i, chapter eighteen-a of this  
3 code, through this project the center shall:

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

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

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

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

1 (a) The Legislature ~~hereby~~ finds and declares that the  
2 rigorous standards and processes for certification by the  
3 National Board for Professional Teaching Standards  
4 (NBPTS) helps to promote the quality of teaching and  
5 learning. Therefore, classroom teachers in the public schools  
6 of West Virginia should be encouraged to achieve national  
7 board certification through a reimbursement of expenses and  
8 an additional salary bonus which reflects their additional  
9 certification, to be paid in accordance with the provisions of  
10 this section.

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

16 (2) \$3,500 shall be paid annually to each classroom  
17 teacher who holds a valid renewal certificate issued by the  
18 National Board of Professional Teaching Standards for the  
19 life of the renewal certificate, but in no event more than ten  
20 years for any one renewal certificate.

21 (c) The payments:

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

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

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

27 (d) For initial certification, one half the certification fee  
28 shall be paid for reimbursement once to each teacher who  
29 enrolls in the program for the National Board for Professional  
30 Teaching Standards certification and one half the certification  
31 fee shall be paid for reimbursement once to each teacher who

32 completes the National Board for Professional Teaching  
33 Standards certification. Completion shall be defined as the  
34 completion of ten scorable entries, as verified by the National  
35 Board for Professional Teaching Standards. Teachers who  
36 achieve National Board for Professional Teaching Standards  
37 certification may be reimbursed a maximum of \$600 for  
38 expenses actually incurred while obtaining the National  
39 Board for Professional Teaching Standards certification.

40 (e) For renewal certification, each teacher who completes  
41 the National Board for Professional Teaching Standards  
42 certification renewal process shall be reimbursed for the  
43 renewal certification fee. Completion of the certification  
44 renewal process means the successful renewal of the ten-year  
45 certification as verified by the National Board for  
46 Professional Teaching Standards.

47 ~~(e) The state board shall limit the number of teachers who~~  
48 ~~receive the initial reimbursements of the certification fees set~~  
49 ~~forth in subsection (d) to two hundred teachers annually. (f)~~  
50 The state board shall establish selection criteria for the  
51 teachers by the legislative rule required pursuant to  
52 subsection ~~(g)~~ (h) of this section.

53       ~~(f)~~ Subject to the provisions of subsection ~~(e)~~ of this  
54 section; (g) Funding for reimbursement of the initial  
55 certification fee and expenses actually incurred while  
56 obtaining the National Board for Professional Teaching  
57 Standards certifications and funding for reimbursement of the  
58 renewal certification fee shall be administered by the State  
59 Department of Education from an appropriation established  
60 for that purpose by the Legislature. If funds appropriated by  
61 the Legislature to accomplish the purposes of this subsection  
62 are insufficient, the state department shall prorate the  
63 reimbursements for expenses and shall request of the  
64 Legislature, at its next regular session, funds sufficient to  
65 accomplish the purposes of this subsection, including needed  
66 retroactive payments.

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

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

1       ~~(a)~~ A county board of education shall make decisions  
2 affecting the hiring of professional personnel other than



3 ~~classroom teachers on the basis of the applicant with the~~  
4 ~~highest qualifications.~~

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

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

- 16       (1) Appropriate certification, licensure or both;
- 17       (2) Amount of experience relevant to the position or, in  
18 the case of a classroom teaching position, the amount of  
19 teaching experience in the ~~subject~~ required certification area;
- 20       (3) The amount of course work, degree level or both in  
21 the 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 ~~(5) Relevant~~ (6) Specialized training relevant to the  
27 performance of the duties of the job;

28 ~~(6) (7)~~ Past performance evaluations conducted pursuant  
29 to section twelve, article two of this chapter and section two,  
30 article three-c of this chapter or, in the case of a classroom  
31 teacher, past evaluations of the applicant's performance in  
32 the teaching profession;

33 (8) Seniority; and

34 ~~(7) (9)~~ Other measures or indicators upon which the  
35 relative qualifications of the applicant may fairly be judged;

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

40 (11) In the case of a classroom teaching position, the  
41 recommendation, if any, resulting from the process  
42 established pursuant to the provisions of section five, article  
43 five-a, chapter eighteen of this code by the faculty senate of

44 the school at which the employee will be performing a  
45 majority of his or her duties.

46 (d) If (c) In considering the filling of a vacancy pursuant  
47 to this section, a county board is entitled to determine the  
48 appropriate weight to apply to each of the criterion when  
49 assessing an applicant's qualifications: *Provided, That if one*  
50 or more permanently employed instructional personnel apply  
51 for a classroom teaching position and meet the standards set  
52 forth in the job posting, each criterion under subsection (b) of  
53 this section shall be given equal weight except that the  
54 criterion in subdivisions (10) and (11) shall each be double  
55 weighted. the county board of education shall make a  
56 decision affecting the filling of the position on the basis of  
57 the following criteria:

- 58 (1) ~~Appropriate certification, licensure or both;~~  
59 (2) ~~Total amount of teaching experience;~~  
60 (3) ~~The existence of teaching experience in the required~~  
61 ~~certification area;~~  
62 (4) ~~Degree level in the required certification area;~~  
63 (5) ~~Specialized training directly related to the~~  
64 ~~performance of the job as stated in the job description;~~

65 ~~(6) Receiving an overall rating of satisfactory in the~~  
66 ~~previous two evaluations conducted pursuant to section~~  
67 ~~twelve, article two of this chapter, and~~

68 ~~(7) Seniority.~~

69 ~~(e) In filling positions pursuant to subsection (d) of this~~  
70 ~~section, consideration shall be given to each criterion with~~  
71 ~~each criterion being given equal weight. If the applicant with~~  
72 ~~the most seniority is not selected for the position, upon the~~  
73 ~~request of the applicant a written statement of reasons shall~~  
74 ~~be given to the applicant with suggestions for improving the~~  
75 ~~applicant's qualifications.~~

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

84 (e) The state board shall promulgate a rule, including an  
85 emergency rule if necessary, in accordance with the

86 provisions of article three-b, chapter twenty-nine-a of this  
87 code to implement and interpret the provisions of this section,  
88 including provisions that may provide for the compensation  
89 based on the appropriate daily rate of a classroom teacher  
90 who directly participates in making recommendations  
91 pursuant to this section for periods beyond his or her  
92 individual contract.

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

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

107       ~~(g)~~ (h) Upon completion of one hundred thirty-three days  
108 of employment in any one school year, substitute teachers,  
109 except retired teachers and other retired professional  
110 educators employed as substitutes, shall accrue seniority  
111 exclusively for the purpose of applying for employment as a  
112 permanent, full-time professional employee. One hundred  
113 thirty-three days or more of said employment shall be  
114 prorated and shall vest as a fraction of the school year  
115 worked by the permanent, full-time teacher.

116       ~~(h)~~ (i) Guidance counselors and all other professional  
117 employees, as defined in section one, article one of this  
118 chapter, except classroom teachers, shall gain seniority in  
119 their nonteaching area of professional employment on the  
120 basis of the length of time the employee has been employed  
121 by the county board of education in that area: *Provided*, That  
122 if an employee is certified as a classroom teacher, the  
123 employee accrues classroom teaching seniority for the time  
124 that that employee is employed in another professional area.  
125 For the purposes of accruing seniority under this paragraph,  
126 employment as principal, supervisor or central office  
127 administrator, as defined in section one, article one of this  
128 chapter, shall be considered one area of employment.

129        (†) (j) Employment for a full employment term shall equal  
130 one year of seniority, but no employee may accrue more than  
131 one year of seniority during any given fiscal year.  
132 Employment for less than the full employment term shall be  
133 prorated. A random selection system established by the  
134 employees and approved by the board shall be used to  
135 determine the priority if two or more employees accumulate  
136 identical seniority: *Provided*, That when two or more  
137 principals have accumulated identical seniority, decisions on  
138 reductions in force shall be based on qualifications.

139        (†) (k) Whenever a county board is required to reduce the  
140 number of professional personnel in its employment, the  
141 employee with the least amount of seniority shall be properly  
142 notified and released from employment pursuant to the  
143 provisions of section two, article two of this chapter. The  
144 provisions of this subsection are subject to the following:

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

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

158        ~~(2)~~ (3) An employee subject to release shall be employed  
159 in any other professional position where the employee is  
160 certified and was previously employed or to any lateral area  
161 for which the employee is certified, licensed or both, if the  
162 employee's seniority is greater than the seniority of any other  
163 employee in that area of certification, licensure or both;

164        ~~(3)~~ (4) If an employee subject to release holds  
165 certification, licensure or both in more than one lateral area  
166 and if the employee's seniority is greater than the seniority of  
167 any other employee in one or more of those areas of  
168 certification, licensure or both, the employee subject to  
169 release shall be employed in the professional position held by



170 the employee with the least seniority in any of those areas of  
171 certification, licensure or both; and

172       ~~(4)~~ (5) If, prior to August 1 of the year a reduction in  
173 force is approved, the reason for any particular reduction in  
174 force no longer exists as determined by the county board in  
175 its sole and exclusive judgment, the board shall rescind the  
176 reduction in force or transfer and shall notify the released  
177 employee in writing of his or her right to be restored to his or  
178 her position of employment. Within five days of being so  
179 notified, the released employee shall notify the board, in  
180 writing, of his or her intent to resume his or her position of  
181 employment or the right to be restored shall terminate.  
182 Notwithstanding any other provision of this subdivision, if  
183 there is another employee on the preferred recall list with  
184 proper certification and higher seniority, that person shall be  
185 placed in the position restored as a result of the reduction in  
186 force being rescinded.

187       ~~(k)~~ (l) For the purpose of this article, all positions which  
188 meet the definition of “classroom teacher” as defined in  
189 section one, article one of this chapter shall be lateral  
190 positions. For all other professional positions, the county

191 board of education shall adopt a policy by October 31, 1993,  
192 and may modify the policy thereafter as necessary, which  
193 defines which positions shall be lateral positions. The board  
194 shall submit a copy of its policy to the state board within  
195 thirty days of adoption or any modification, and the state  
196 board shall compile a report and submit the report to the  
197 Legislative Oversight Commission on Education  
198 Accountability by December 31, 1993, and by that date in  
199 any succeeding year in which any county board submits a  
200 modification of its policy relating to lateral positions. In  
201 adopting the policy, the board shall give consideration to the  
202 rank of each position in terms of title; nature of  
203 responsibilities; salary level; certification, licensure or both;  
204 and days in the period of employment.

205       (†) (m) After the twentieth day prior to the beginning of  
206 the instructional term, no person employed and assigned to a  
207 professional position may transfer to another professional  
208 position in the county during that instructional term unless  
209 the person holding that position does not have valid  
210 certification. The provisions of this subsection are subject to  
211 the following:

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

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

218 (3) The county board, upon recommendation of the  
219 superintendent may fill a position before the next  
220 instructional term when it is determined to be in the best  
221 interest of the students. The county superintendent shall  
222 notify the state board of each transfer of a person employed  
223 in a professional position to another professional position  
224 after the twentieth day prior to the beginning of the  
225 instructional term;

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

231 (5) The Legislature finds that it is not in the best interest  
232 of the students particularly in the elementary grades to have

233 multiple teachers for any one grade level or course during the  
234 instructional term. It is the intent of the Legislature that the  
235 filling of positions through transfers of personnel from one  
236 professional position to another after the twentieth day prior  
237 to the beginning of the instructional term should be kept to a  
238 minimum.

239       ~~(m)~~ (n) All professional personnel whose seniority with  
240 the county board is insufficient to allow their retention by the  
241 county board during a reduction in work force shall be placed  
242 upon a preferred recall list. As to any professional position  
243 opening within the area where they had previously been  
244 employed or to any lateral area for which they have  
245 certification, licensure or both, the employee shall be recalled  
246 on the basis of seniority if no regular, full-time professional  
247 personnel, or those returning from leaves of absence with  
248 greater seniority, are qualified, apply for and accept the  
249 position.

250       ~~(n)~~ (o) Before position openings that are known or  
251 expected to extend for twenty consecutive employment days  
252 or longer for professional personnel may be filled by the  
253 board, the board shall be required to notify all qualified

254 professional personnel on the preferred list and give them an  
255 opportunity to apply, but failure to apply shall not cause the  
256 employee to forfeit any right to recall. The notice shall be  
257 sent by certified mail to the last known address of the  
258 employee, and it shall be the duty of each professional  
259 personnel to notify the board of continued availability  
260 annually, of any change in address or of any change in  
261 certification, licensure or both.

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

264 (1) Boards shall be required to post and date notices  
265 ~~which shall be~~ of each opening at least once. At their  
266 discretion, boards may post an opening for a position other  
267 than classroom teacher more than once in order to attract  
268 more qualified applicants. At their discretion, boards may  
269 post an opening for a classroom teacher one additional time  
270 after the first posting in order to attract more qualified  
271 applicants only if fewer than three individuals apply during  
272 the first posting subject to the following:

273 (A) ~~The notices~~ Each notice shall be posted in  
274 conspicuous working places for all professional personnel to  
275 observe for at least five working days;

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

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

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

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

288 (2) No vacancy shall be filled until after the five-day  
289 minimum posting period of the most recent posted notice of  
290 the vacancy;

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

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

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

304 ~~(p)~~ (q) Notwithstanding any other provision of the code  
305 to the contrary, where the total number of classroom teaching  
306 positions in an elementary school does not increase from one  
307 school year to the next, but there exists in that school a need  
308 to realign the number of teachers in one or more grade levels,  
309 kindergarten through six, teachers at the school may be  
310 reassigned to grade levels for which they are certified without  
311 that position being posted: *Provided*, That the employee and  
312 the county board of ~~education~~ mutually agree to the  
313 reassignment.

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

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

321 (2) When a specified grade level needs to be reduced and  
322 the least senior employee in the school is not in that grade  
323 level, the least senior classroom teacher in the grade level  
324 that needs to be reduced shall be reassigned to the position  
325 made vacant by the transfer of the least senior classroom  
326 teacher in the school without that position being posted:  
327 *Provided*, That the employee is certified, licensed or both and  
328 agrees to the reassignment.

329 ~~(r)~~ (s) Any board failing to comply with the provisions of  
330 this article may be compelled to do so by mandamus and  
331 shall be liable to any party prevailing against the board for  
332 court costs and reasonable attorney fees as determined and  
333 established by the court. Further, employees denied  
334 promotion or employment in violation of this section shall be  
335 awarded the job, pay and any applicable benefits retroactive  
336 to the date of the violation and payable entirely from local  
337 funds. Further, the board shall be liable to any party



338 prevailing against the board for any court reporter costs  
339 including copies of transcripts.

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

344 (u) Notwithstanding any other provision of this code to  
345 the contrary, upon recommendation of the principal and  
346 approval by the classroom teacher and county board, a  
347 classroom teacher assigned to the school may at any time be  
348 assigned to a new or existing classroom teacher position at  
349 the school without the position being posted.

350 (v) The amendments to this section during the 2013  
351 regular session of the Legislature shall be effective for school  
352 years beginning on or after July 1, 2013, and the provisions  
353 of this section immediately prior to those amendments remain  
354 in effect until July 1, 2013.

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

1 (a) The purpose of this section is to establish an  
2 employment term and class titles for service personnel. The  
3 employment term for service personnel may not be less than

4 ten months. A month is defined as twenty employment days.  
5 The county board may contract with all or part of these  
6 service personnel for a longer term. ~~The beginning and~~  
7 ~~closing dates of the ten-month employment term may not~~  
8 ~~exceed forty-three weeks.~~

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

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

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

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

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

36 (1) A “maintenance person” means a person who holds a  
37 classification title other than in a custodial, aide, school  
38 lunch, office or transportation category as provided in section  
39 one, article one of this chapter.

40 (2) A service person’s schedule is considered to be  
41 interrupted if he or she does not work a continuous period in  
42 one day. Aides are not regarded as working an interrupted  
43 schedule when engaged exclusively in the duties of  
44 transporting students;

45 (3) The additional compensation provided for in this  
46 subsection:

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

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

51 (g) When there is a change in classification or when a  
52 service person meets the requirements of an advanced  
53 classification, his or her salary shall be made to comply with  
54 the requirements of this article and any county salary  
55 schedule in excess of the minimum requirements of this  
56 article, based upon the service person's advanced  
57 classification and allowable years of employment.

58 (h) A service person's contract, as provided in section  
59 five, article two of this chapter, shall state the appropriate  
60 monthly salary the employee is to be paid, based on the class  
61 title as provided in this article and on any county salary  
62 schedule in excess of the minimum requirements of this  
63 article.

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

67 (1) “Pay grade” means the monthly salary applicable to  
68 class titles of service personnel;

69 (2) “Years of employment” means the number of years  
70 which an employee classified as a service person has been  
71 employed by a county board in any position prior to or  
72 subsequent to the effective date of this section and includes  
73 service in the Armed Forces of the United States, if the  
74 employee was employed at the time of his or her induction.  
75 For the purpose of section eight-a of this article, years of  
76 employment is limited to the number of years shown and  
77 allowed under the state minimum pay scale as set forth in  
78 section eight-a of this article;

79 (3) “Class title” means the name of the position or job  
80 held by a service person;

81 (4) “Accountant I” means a person employed to maintain  
82 payroll records and reports and perform one or more  
83 operations relating to a phase of the total payroll;

84 (5) “Accountant II” means a person employed to maintain  
85 accounting records and to be responsible for the accounting  
86 process associated with billing, budgets, purchasing and  
87 related operations;

88       (6) “Accountant III” means a person employed in the  
89 county board office to manage and supervise accounts  
90 payable, payroll procedures, or both;

91       (7) “Accounts payable supervisor” means a person  
92 employed in the county board office who has primary  
93 responsibility for the accounts payable function and who  
94 either has completed twelve college hours of accounting  
95 courses from an accredited institution of higher education or  
96 has at least eight years of experience performing  
97 progressively difficult accounting tasks. Responsibilities of  
98 this class title may include supervision of other personnel;

99       (8) “Aide I” means a person selected and trained for a  
100 teacher-aide classification such as monitor aide, clerical aide,  
101 classroom aide or general aide;

102       (9) “Aide II” means a service person referred to in the  
103 “Aide I” classification who has completed a training program  
104 approved by the state board, or who holds a high school  
105 diploma or has received a general educational development  
106 certificate. Only a person classified in an Aide II class title  
107 may be employed as an aide in any special education  
108 program;

109 (10) “Aide III” means a service person referred to in the  
110 “Aide I” classification who holds a high school diploma or a  
111 general educational development certificate; and

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

114 (B) Is employed as an aide in a special education program  
115 and has one year’s experience as an aide in special education;

116 (11) “Aide IV” means a service person referred to in the  
117 “Aide I” classification who holds a high school diploma or a  
118 general educational development certificate; and

119 (A) Has completed eighteen hours of state  
120 board-approved college credit at a regionally accredited  
121 institution of higher education, or

122 (B) Has completed fifteen hours of state board-approved  
123 college credit at a regionally accredited institution of higher  
124 education; and has successfully completed an in-service  
125 training program determined by the state board to be the  
126 equivalent of three hours of college credit;

127 (12) “Audiovisual technician” means a person employed  
128 to perform minor maintenance on audiovisual equipment,  
129 films and supplies and who fills requests for equipment;

130 (13) “Auditor” means a person employed to examine and  
131 verify accounts of individual schools and to assist schools  
132 and school personnel in maintaining complete and accurate  
133 records of their accounts;

134 (14) “Autism mentor” means a person who works with  
135 autistic students and who meets standards and experience to  
136 be determined by the state board. A person who has held or  
137 holds an aide title and becomes employed as an autism  
138 mentor shall hold a multiclassification status that includes  
139 both aide and autism mentor titles, in accordance with section  
140 eight-b of this article;

141 (15) “Braille or sign language specialist” means a person  
142 employed to provide braille and/or sign language assistance  
143 to students. A service person who has held or holds an aide  
144 title and becomes employed as a braille or sign language  
145 specialist shall hold a multiclassification status that includes  
146 both aide and braille or sign language specialist title, in  
147 accordance with section eight-b of this article;

148 (16) “Bus operator” means a person employed to operate  
149 school buses and other school transportation vehicles as  
150 provided by the state board;



151       (17) “Buyer” means a person employed to review and  
152 write specifications, negotiate purchase bids and recommend  
153 purchase agreements for materials and services that meet  
154 predetermined specifications at the lowest available costs;

155       (18) “Cabinetmaker” means a person employed to  
156 construct cabinets, tables, bookcases and other furniture;

157       (19) “Cafeteria manager” means a person employed to  
158 direct the operation of a food services program in a school,  
159 including assigning duties to employees, approving  
160 requisitions for supplies and repairs, keeping inventories,  
161 inspecting areas to maintain high standards of sanitation,  
162 preparing financial reports and keeping records pertinent to  
163 food services of a school;

164       (20) “Carpenter I” means a person classified as a  
165 carpenter’s helper;

166       (21) “Carpenter II” means a person classified as a  
167 journeyman carpenter;

168       (22) “Chief mechanic” means a person employed to be  
169 responsible for directing activities which ensure that student  
170 transportation or other county board-owned vehicles are  
171 properly and safely maintained;

172 (23) "Clerk I" means a person employed to perform  
173 clerical tasks;

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

177 (25) "Computer operator" means a qualified person  
178 employed to operate computers;

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

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

186 (28) "Cook III" means a person employed to prepare and  
187 serve meals, make reports, prepare requisitions for supplies,  
188 order equipment and repairs for a food service program of a  
189 school system;

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

193 (30) “Custodian I” means a person employed to keep  
194 buildings clean and free of refuse;

195 (31) “Custodian II” means a person employed as a  
196 watchman or groundsman;

197 (32) “Custodian III” means a person employed to keep  
198 buildings clean and free of refuse, to operate the heating or  
199 cooling systems and to make minor repairs;

200 (33) “Custodian IV” means a person employed as head  
201 custodians. In addition to providing services as defined in  
202 “custodian III,” duties may include supervising other  
203 custodian personnel;

204 (34) “Director or coordinator of services” means an  
205 employee of a county board who is assigned to direct a  
206 department or division.

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

209 (B) Professional personnel holding this class title may not  
210 be defined or classified as service personnel unless the  
211 professional person held a service personnel title under this  
212 section prior to holding the class title of “director or  
213 coordinator of services.”

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

217 (D) Funding for the position of director or coordinator of  
218 services is based upon the employment status of the director  
219 or coordinator either as a professional person or a service  
220 person; and

221 (E) A person employed under the class title “director or  
222 coordinator of services” may not be exclusively assigned to  
223 perform the duties ascribed to any other class title as defined  
224 in this subsection: *Provided*, That nothing in this paragraph  
225 prohibits a person in this position from being multiclassified;

226 (35) “Draftsman” means a person employed to plan,  
227 design and produce detailed architectural/engineering  
228 drawings;

229 (36) “Electrician I” means a person employed as an  
230 apprentice electrician helper or one who holds an electrician  
231 helper license issued by the State Fire Marshal;

232 (37) “Electrician II” means a person employed as an  
233 electrician journeyman or one who holds a journeyman  
234 electrician license issued by the State Fire Marshal;

235 (38) “Electronic technician I” means a person employed  
236 at the apprentice level to repair and maintain electronic  
237 equipment;

238 (39) “Electronic technician II” means a person employed  
239 at the journeyman level to repair and maintain electronic  
240 equipment;

241 (40) “Executive secretary” means a person employed as  
242 secretary to the county school superintendent or as a  
243 secretary who is assigned to a position characterized by  
244 significant administrative duties;

245 (41) “Food services supervisor” means a qualified person  
246 who is not a professional person or professional educator as  
247 defined in section one, article one of this chapter. The food  
248 services supervisor is employed to manage and supervise a  
249 county school system’s food service program. The duties  
250 include preparing in-service training programs for cooks and  
251 food service employees, instructing personnel in the areas of  
252 quantity cooking with economy and efficiency and keeping  
253 aggregate records and reports;

254 (42) “Foreman” means a skilled person employed to  
255 supervise personnel who work in the areas of repair and  
256 maintenance of school property and equipment;

257 (43) “General maintenance” means a person employed as  
258 a helper to skilled maintenance employees and to perform  
259 minor repairs to equipment and buildings of a county school  
260 system;

261 (44) “Glazier” means a person employed to replace glass  
262 or other materials in windows and doors and to do minor  
263 carpentry tasks;

264 (45) “Graphic artist” means a person employed to prepare  
265 graphic illustrations;

266 (46) “Groundsman” means a person employed to perform  
267 duties that relate to the appearance, repair and general care of  
268 school grounds in a county school system. Additional  
269 assignments may include the operation of a small heating  
270 plant and routine cleaning duties in buildings;

271 (47) “Handyman” means a person employed to perform  
272 routine manual tasks in any operation of the county school  
273 system;

274 (48) “Heating and air conditioning mechanic I” means a  
275 person employed at the apprentice level to install, repair and  
276 maintain heating and air conditioning plants and related  
277 electrical equipment;

278 (49) "Heating and air conditioning mechanic II" means  
279 a person employed at the journeyman level to install, repair  
280 and maintain heating and air conditioning plants and related  
281 electrical equipment;

282 (50) "Heavy equipment operator" means a person  
283 employed to operate heavy equipment;

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

287 (52) "Key punch operator" means a qualified person  
288 employed to operate key punch machines or verifying  
289 machines;

290 (53) "Licensed practical nurse" means a nurse, licensed  
291 by the West Virginia Board of Examiners for Licensed  
292 Practical Nurses, employed to work in a public school under  
293 the supervision of a school nurse;

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

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

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

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

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

311 (59) "Mason" means a person employed to perform tasks  
312 connected with brick and block laying and carpentry tasks  
313 related to these activities;

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

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



320       (62) “Multiclassification” means a person employed to  
321 perform tasks that involve the combination of two or more  
322 class titles in this section. In these instances the minimum  
323 salary scale shall be the higher pay grade of the class titles  
324 involved;

325       (63) “Office equipment repairman I” means a person  
326 employed as an office equipment repairman apprentice or  
327 helper;

328       (64) “Office equipment repairman II” means a person  
329 responsible for servicing and repairing all office machines  
330 and equipment. A person holding this class title is  
331 responsible for the purchase of parts necessary for the proper  
332 operation of a program of continuous maintenance and  
333 repair;

334       (65) “Painter” means a person employed to perform  
335 duties painting, finishing and decorating wood, metal and  
336 concrete surfaces of buildings, other structures, equipment,  
337 machinery and furnishings of a county school system;

338       (66) “Paraprofessional” means a person certified pursuant  
339 to section two-a, article three of this chapter to perform duties  
340 in a support capacity including, but not limited to, facilitating

341 in the instruction and direct or indirect supervision of  
342 students under the direction of a principal, a teacher or  
343 another designated professional educator.

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

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

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

358 (67) "Payroll supervisor" means a person employed in the  
359 county board office who has primary responsibility for the  
360 payroll function and who either has completed twelve college  
361 hours of accounting from an accredited institution of higher

362 education or has at least eight years of experience performing  
363 progressively difficult accounting tasks. Responsibilities of  
364 this class title may include supervision of other personnel;

365 (68) “Plumber I” means a person employed as an  
366 apprentice plumber and helper;

367 (69) “Plumber II” means a person employed as a  
368 journeyman plumber;

369 (70) “Printing operator” means a person employed to  
370 operate duplication equipment, and to cut, collate, staple,  
371 bind and shelve materials as required;

372 (71) “Printing supervisor” means a person employed to  
373 supervise the operation of a print shop;

374 (72) “Programmer” means a person employed to design  
375 and prepare programs for computer operation;

376 (73) “Roofing/sheet metal mechanic” means a person  
377 employed to install, repair, fabricate and maintain roofs,  
378 gutters, flashing and duct work for heating and ventilation;

379 (74) “Sanitation plant operator” means a person  
380 employed to operate and maintain a water or sewage  
381 treatment plant to ensure the safety of the plant’s effluent for  
382 human consumption or environmental protection;

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

384 (A) Employed to assist in selecting school bus operators  
385 and routing and scheduling school buses, operate a bus when  
386 needed, relay instructions to bus operators, plan emergency  
387 routing of buses and promote good relationships with parents,  
388 students, bus operators and other employees; and

389 (B) Certified to operate a bus or previously certified to  
390 operate a bus;

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

394 (77) "Secretary II" means a person employed in any  
395 elementary, secondary, kindergarten, nursery, special education,  
396 vocational or any other school as a secretary. The duties may  
397 include performing general clerical tasks; transcribing from  
398 notes, stenotype, mechanical equipment or a sound-producing  
399 machine; preparing reports; receiving callers and referring them  
400 to proper persons; operating office machines; keeping records  
401 and handling routine correspondence. Nothing in this  
402 subdivision prevents a service person from holding or being  
403 elevated to a higher classification;

404 (78) “Secretary III” means a person assigned to the  
405 county board office administrators in charge of various  
406 instructional, maintenance, transportation, food services,  
407 operations and health departments, federal programs or  
408 departments with particular responsibilities in purchasing and  
409 financial control or any person who has served for eight years  
410 in a position which meets the definition of “secretary II” or  
411 “secretary III”;

412 (79) “Supervisor of maintenance” means a skilled person  
413 who is not a professional person or professional educator as  
414 defined in section one, article one of this chapter. The  
415 responsibilities include directing the upkeep of buildings and  
416 shops, and issuing instructions to subordinates relating to  
417 cleaning, repairs and maintenance of all structures and  
418 mechanical and electrical equipment of a county board;

419 (80) “Supervisor of transportation” means a qualified  
420 person employed to direct school transportation activities  
421 properly and safely, and to supervise the maintenance and  
422 repair of vehicles, buses and other mechanical and mobile  
423 equipment used by the county school system. After July 1,  
424 2010, all persons employed for the first time in a position

425 with this classification title or in a multi-classification  
426 position that includes this title shall have five years of  
427 experience working in the transportation department of a  
428 county board. Experience working in the transportation  
429 department shall consist of serving as a bus operator, bus  
430 aide, assistant mechanic, mechanic, chief mechanic or in a  
431 clerical position within the transportation department;

432 (81) “Switchboard operator-receptionist” means a person  
433 employed to refer incoming calls, to assume contact with the  
434 public, to direct and to give instructions as necessary, to  
435 operate switchboard equipment and to provide clerical  
436 assistance;

437 (82) “Truck driver” means a person employed to operate  
438 light or heavy duty gasoline and diesel-powered vehicles;

439 (83) “Warehouse clerk” means a person employed to be  
440 responsible for receiving, storing, packing and shipping  
441 goods;

442 (84) “Watchman” means a person employed to protect  
443 school property against damage or theft. Additional  
444 assignments may include operation of a small heating plant  
445 and routine cleaning duties;

446 (85) “Welder” means a person employed to provide  
447 acetylene or electric welding services for a school system;  
448 and

449 (86) “WVEIS data entry and administrative clerk” means  
450 a person employed to work under the direction of a school  
451 principal to assist the school counselor or counselors in the  
452 performance of administrative duties, to perform data entry  
453 tasks on the West Virginia Education Information System,  
454 and to perform other administrative duties assigned by the  
455 principal;

456 (87) “Early Childhood Classroom Assistant Teacher -  
457 Temporary Authorization” means a person who does not  
458 possess minimum requirements for the permanent  
459 authorization requirements, but is enrolled in and pursuing  
460 requirements;

461 (88) “Early Childhood Classroom Assistant Teacher -  
462 Permanent Authorization” means a person who has  
463 completed the minimum requirements for a state-awarded  
464 certificate for early childhood classroom assistant teachers  
465 that meet or exceed the requirements for a child development  
466 associate. Equivalency for the West Virginia Department of

467 Education will be determined as the child development  
468 associate or the West Virginia Apprenticeship for Child  
469 Development Specialists; and

470 (89) "Early Childhood Classroom Assistant Teacher -  
471 Paraprofessional Certificate" means a person who has  
472 completed permanent authorization requirements, as well as  
473 additional requirements comparable to current  
474 paraprofessional certificate.

475 (j) Notwithstanding any provision in this code to the  
476 contrary, and in addition to the compensation provided for  
477 service personnel in section eight-a of this article, each  
478 service person is entitled to all service personnel employee  
479 rights, privileges and benefits provided under this or any  
480 other chapter of this code without regard to the employee's  
481 hours of employment or the methods or sources of  
482 compensation.

483 (k) A service person whose years of employment exceeds  
484 the number of years shown and provided for under the state  
485 minimum pay scale set forth in section eight-a of this article  
486 may not be paid less than the amount shown for the  
487 maximum years of employment shown and provided for in  
488 the classification in which he or she is employed.



489 (l) Each county board shall review each service person's  
490 job classification annually and shall reclassify all service  
491 persons as required by the job classifications. The state  
492 superintendent may withhold state funds appropriated  
493 pursuant to this article for salaries for service personnel who  
494 are improperly classified by the county boards. Further, the  
495 state superintendent shall order a county board to correct  
496 immediately any improper classification matter and, with the  
497 assistance of the Attorney General, shall take any legal action  
498 necessary against any county board to enforce the order.

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

501 (1) Reclassified by class title; or

502 (2) Relegated to any condition of employment which  
503 would result in a reduction of his or her salary, rate of pay,  
504 compensation or benefits earned during the current fiscal  
505 year; or for which he or she would qualify by continuing in  
506 the same job position and classification held during that fiscal  
507 year and subsequent years.

508 (n) Any county board failing to comply with the  
509 provisions of this article may be compelled to do so by

510 mandamus and is liable to any party prevailing against the  
511 board for court costs and the prevailing party's reasonable  
512 attorney fee, as determined and established by the court.

513 (o) Notwithstanding any provision of this code to the  
514 contrary, a service person who holds a continuing contract in  
515 a specific job classification and who is physically unable to  
516 perform the job's duties as confirmed by a physician chosen  
517 by the employee shall be given priority status over any  
518 employee not holding a continuing contract in filling other  
519 service personnel job vacancies if the service person is  
520 qualified as provided in section eight-e of this article.

521 (p) Any person employed in an aide position on the  
522 effective date of this section may not be transferred or subject  
523 to a reduction in force for the purpose of creating a vacancy  
524 for the employment of a licensed practical nurse.

525 (q) Without the written consent of the service person, a  
526 county board may not establish the beginning work station  
527 for a bus operator or transportation aide at any site other than  
528 a county board-owned facility with available parking. The  
529 workday of the bus operator or transportation aide  
530 commences at the bus at the designated beginning work

531 station and ends when the employee is able to leave the bus  
532 at the designated beginning work station, unless he or she  
533 agrees otherwise in writing. The application or acceptance  
534 of a posted position may not be construed as the written  
535 consent referred to in this subsection.

536 (r) "Itinerant status" means a service person who does not  
537 have a fixed work site and may be involuntarily reassigned  
538 to another work site. A service person is considered to hold  
539 itinerant status if he or she has bid upon a position posted as  
540 itinerant or has agreed to accept this status. A county board  
541 may establish positions with itinerant status only within the  
542 aide and autism mentor classification categories and only  
543 when the job duties involve exceptional students. A service  
544 person with itinerant status may be assigned to a different  
545 work site upon written notice ten days prior to the  
546 reassignment without the consent of the employee and  
547 without posting the vacancy. A service person with itinerant  
548 status may be involuntarily reassigned no more than twice  
549 during the school year. At the conclusion of each school  
550 year, the county board shall post and fill, pursuant to section  
551 eight-b of this article, all positions that have been filled

552 without posting by a service person with itinerant status. A  
553 service person who is assigned to a beginning and ending  
554 work site and travels at the expense of the county board to  
555 other work sites during the daily schedule, shall not be  
556 considered to hold itinerant status.

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

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

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

12	STATE MINIMUM PAY SCALE PAY GRADE									
	13	Years								
		14	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>
15	0	1,627	1,648	1,689	1,741	1,793	1,855	1,886	1,958	
16	1	1,659	1,680	1,721	1,773	1,825	1,887	1,918	1,990	
17	2	1,691	1,712	1,753	1,805	1,857	1,919	1,950	2,022	
18	3	1,723	1,744	1,785	1,837	1,889	1,951	1,982	2,054	
19	4	1,755	1,776	1,817	1,869	1,921	1,983	2,014	2,087	
20	5	1,787	1,808	1,849	1,901	1,953	2,015	2,046	2,119	
21	6	1,819	1,840	1,882	1,933	1,985	2,047	2,078	2,151	
22	7	1,852	1,872	1,914	1,965	2,017	2,079	2,110	2,183	
23	8	1,884	1,904	1,946	1,997	2,049	2,111	2,142	2,215	
24	9	1,916	1,936	1,978	2,030	2,081	2,143	2,174	2,247	
25	10	1,948	1,969	2,010	2,062	2,113	2,176	2,207	2,279	
26	11	1,980	2,001	2,042	2,094	2,145	2,208	2,239	2,311	
27	12	2,012	2,033	2,074	2,126	2,178	2,240	2,271	2,343	
28	13	2,044	2,065	2,106	2,158	2,210	2,272	2,303	2,375	
29	14	2,076	2,097	2,138	2,190	2,242	2,304	2,335	2,407	
30	15	2,108	2,129	2,170	2,222	2,274	2,336	2,367	2,439	
31	16	2,140	2,161	2,202	2,254	2,306	2,368	2,399	2,472	
32	17	2,172	2,193	2,235	2,286	2,338	2,400	2,431	2,504	
33	18	2,204	2,225	2,267	2,318	2,370	2,432	2,463	2,536	
34	19	2,237	2,257	2,299	2,350	2,402	2,464	2,495	2,568	
35	20	2,269	2,289	2,331	2,383	2,434	2,496	2,527	2,601	
36	21	2,301	2,321	2,363	2,415	2,466	2,528	2,559	2,634	

37	22	2,333	2,354	2,395	2,447	2,498	2,561	2,593	2,666
38	23	2,365	2,386	2,427	2,479	2,531	2,594	2,625	2,699
39	24	2,397	2,418	2,459	2,511	2,563	2,627	2,658	2,732
40	25	2,429	2,450	2,491	2,543	2,596	2,659	2,691	2,764
41	26	2,461	2,482	2,523	2,576	2,629	2,692	2,723	2,797
42	27	2,493	2,514	2,555	2,608	2,661	2,724	2,756	2,829
43	28	2,525	2,546	2,588	2,641	2,694	2,757	2,789	2,863
44	29	2,557	2,579	2,621	2,673	2,726	2,790	2,821	2,896
45	30	2,591	2,611	2,654	2,706	2,759	2,822	2,854	2,928
46	31	2,623	2,644	2,687	2,739	2,792	2,855	2,887	2,961
47	32	2,656	2,676	2,719	2,772	2,824	2,888	2,919	2,994
48	33	2,689	2,709	2,752	2,805	2,857	2,920	2,953	3,026
49	34	2,721	2,743	2,785	2,838	2,890	2,954	2,986	3,059
50	35	2,754	2,775	2,817	2,870	2,923	2,987	3,018	3,092
51	36	2,787	2,808	2,850	2,903	2,956	3,019	3,051	3,124
52	37	2,819	2,841	2,883	2,936	2,989	3,052	3,083	3,157
53	38	2,852	2,873	2,915	2,968	3,021	3,084	3,116	3,190
54	39	2,885	2,906	2,948	3,001	3,054	3,117	3,149	3,222
55	40	2,917	2,939	2,980	3,033	3,087	3,150	3,181	3,256

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

60 CLASS TITLE	PAY GRADE
61 Accountant I . . . . .	D
62 Accountant II . . . . .	E
63 Accountant III . . . . .	F
64 Accounts Payable Supervisor . . . . .	G
65 Aide I . . . . .	A
66 Aide II . . . . .	B
67 Aide III . . . . .	C
68 Aide IV . . . . .	D
69 Audiovisual Technician . . . . .	C
70 Auditor . . . . .	G
71 Autism Mentor . . . . .	F
72 Braille or Sign Language Specialist . . . . .	E
73 Bus Operator . . . . .	D
74 Buyer . . . . .	F
75 Cabinetmaker . . . . .	G
76 Cafeteria Manager . . . . .	D
77 Carpenter I . . . . .	E
78 Carpenter II . . . . .	F
79 Chief Mechanic . . . . .	G

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80	Clerk I	B
81	Clerk II	C
82	Computer Operator	E
83	Cook I	A
84	Cook II	B
85	Cook III	C
86	Crew Leader	F
87	Custodian I	A
88	Custodian II	B
89	Custodian III	C
90	Custodian IV	D
91	Director or Coordinator of Services	H
92	Draftsman	D
93	<u>Early Childhood Classroom Assistant Teacher - Temporary Authorization</u>	<u>E</u>
94	<u>Early Childhood Classroom Assistant Teacher - Permanent Authorization</u>	<u>E</u>
95	<u>Early Childhood Classroom Assistant Teacher - Paraprofessional Certificate</u>	<u>E</u>
96	Electrician I	F
97	Electrician II	G
98	Electronic Technician I	F
99	Electronic Technician II	G



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100	Executive Secretary . . . . .	G
101	Food Services Supervisor . . . . .	G
102	Foreman . . . . .	G
103	General Maintenance . . . . .	C
104	Glazier . . . . .	D
105	Graphic Artist . . . . .	D
106	Groundsman . . . . .	B
107	Handyman . . . . .	B
108	Heating and Air Conditioning Mechanic I . . . . .	E
109	Heating and Air Conditioning Mechanic II . . . . .	G
110	Heavy Equipment Operator . . . . .	E
111	Inventory Supervisor . . . . .	D
112	Key Punch Operator . . . . .	B
113	Licensed Practical Nurse . . . . .	F
114	Locksmith . . . . .	G
115	Lubrication Man . . . . .	C
116	Machinist . . . . .	F
117	Mail Clerk . . . . .	D
118	Maintenance Clerk . . . . .	C
119	Mason . . . . .	G

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120	Mechanic . . . . .	F
121	Mechanic Assistant . . . . .	E
122	Office Equipment Repairman I . . . . .	F
123	Office Equipment Repairman II . . . . .	G
124	Painter . . . . .	E
125	Paraprofessional . . . . .	F
126	Payroll Supervisor . . . . .	G
127	Plumber I . . . . .	E
128	Plumber II . . . . .	G
129	Printing Operator . . . . .	B
130	Printing Supervisor . . . . .	D
131	Programmer . . . . .	H
132	Roofing/Sheet Metal Mechanic . . . . .	F
133	Sanitation Plant Operator . . . . .	G
134	School Bus Supervisor . . . . .	E
135	Secretary I . . . . .	D
136	Secretary II . . . . .	E
137	Secretary III . . . . .	F
138	Supervisor of Maintenance . . . . .	H
139	Supervisor of Transportation . . . . .	H

140	Switchboard Operator-Receptionist . . . . .	D
141	Truck Driver . . . . .	D
142	Warehouse Clerk . . . . .	C
143	Watchman . . . . .	B
144	Welder . . . . .	F
145	WVEIS Data Entry and Administrative Clerk . . . . .	B

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

149 (c) An additional \$11 per month also shall be added to the  
150 minimum monthly pay of each service employee for each of  
151 the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

202 (f) To meet the objective of salary equity among the  
203 counties, each service employee shall be paid an equity  
204 supplement, as set forth in section five of this article, of \$152  
205 per month, subject to the provisions of that section. These  
206 payments: (i) Shall be in addition to any amounts prescribed  
207 in the applicable State Minimum Pay Scale Pay Grade, any  
208 specific additional amounts prescribed in this section and  
209 article and any county supplement in effect in a county  
210 pursuant to section five-b of this article; (ii) shall be paid in  
211 equal monthly installments; and (iii) shall be considered a  
212 part of the state minimum salaries for service personnel.

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

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

221 (i) Any full-time service personnel required to work in  
222 excess of their normal working day during any week which

223 contains a school holiday for which they are paid shall be  
224 paid for the additional hours or fraction of the additional  
225 hours at a rate of one and one-half times their usual hourly  
226 rate and paid entirely from county board funds.

227 (j) No service employee may have his or her daily work  
228 schedule changed during the school year without the  
229 employee's written consent and the employee's required  
230 daily work hours may not be changed to prevent the payment  
231 of time and one-half wages or the employment of another  
232 employee.

233 (k) The minimum hourly rate of pay for extra duty  
234 assignments as defined in section eight-b of this article shall  
235 be no less than one seventh of the employee's daily total  
236 salary for each hour the employee is involved in performing  
237 the assignment and paid entirely from local funds: *Provided,*  
238 That an alternative minimum hourly rate of pay for  
239 performing extra duty assignments within a particular  
240 category of employment may be used if the alternate hourly  
241 rate of pay is approved both by the county board and by the  
242 affirmative vote of a two-thirds majority of the regular full-  
243 time employees within that classification category of

244 employment within that county: *Provided, however,* That the  
245 vote shall be by secret ballot if requested by a service person  
246 within that classification category within that county. The  
247 salary for any fraction of an hour the employee is involved in  
248 performing the assignment shall be prorated accordingly.  
249 When performing extra duty assignments, employees who are  
250 regularly employed on a one-half day salary basis shall  
251 receive the same hourly extra duty assignment pay computed  
252 as though the employee were employed on a full-day salary  
253 basis.

254 (l) The minimum pay for any service personnel  
255 employees engaged in the removal of asbestos material or  
256 related duties required for asbestos removal shall be their  
257 regular total daily rate of pay and no less than an additional  
258 \$3 per hour or no less than \$5 per hour for service personnel  
259 supervising asbestos removal responsibilities for each hour  
260 these employees are involved in asbestos-related duties.  
261 Related duties required for asbestos removal include, but are  
262 not limited to, travel, preparation of the work site, removal of  
263 asbestos decontamination of the work site, placing and  
264 removal of equipment and removal of structures from the site.



265 If any member of an asbestos crew is engaged in asbestos  
266 related duties outside of the employee's regular employment  
267 county, the daily rate of pay shall be no less than the  
268 minimum amount as established in the employee's regular  
269 employment county for asbestos removal and an additional  
270 \$30 per each day the employee is engaged in asbestos  
271 removal and related duties. The additional pay for asbestos  
272 removal and related duties shall be payable entirely from  
273 county funds. Before service personnel employees may be  
274 used in the removal of asbestos material or related duties,  
275 they shall have completed a federal Environmental Protection  
276 Act approved training program and be licensed. The  
277 employer shall provide all necessary protective equipment  
278 and maintain all records required by the Environmental  
279 Protection Act.

280 (m) For the purpose of qualifying for additional pay as  
281 provided in section eight, article five of this chapter, an aide  
282 shall be considered to be exercising the authority of a  
283 supervisory aide and control over pupils if the aide is  
284 required to supervise, control, direct, monitor, escort or  
285 render service to a child or children when not under the direct

286 supervision of a certified professional person within the  
287 classroom, library, hallway, lunchroom, gymnasium, school  
288 building, school grounds or wherever supervision is required.  
289 For purposes of this section, “under the direct supervision of  
290 a certified professional person” means that certified  
291 professional person is present, with and accompanying the  
292 aide.

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

1       (†) (a) Notwithstanding the provisions of section seven,  
2 article two of this chapter, every teacher who is employed for  
3 a period of time more than one half the class periods of the  
4 regular school day and every service ~~personnel~~ person whose  
5 employment is for a period of more than three and one-half  
6 hours per day and whose pay is at least the amount indicated  
7 in the state minimum pay scale as set forth in section eight-a  
8 of this article shall be provided a daily lunch recess of not  
9 less than thirty consecutive minutes, and ~~such~~ the employee  
10 shall not be assigned any responsibilities during this recess.  
11 ~~Such~~ The recess shall be included in the number of hours  
12 worked, and no county shall increase the number of hours to

13 be worked by an employee as a result of ~~such~~ the employee  
14 being granted a recess under the provisions of this section.

15 ~~(2)~~ (b) Every teacher who is regularly employed for a  
16 period of time more than one half the class periods of the  
17 regular school day shall be provided at least one planning  
18 period within each school instructional day to be used to  
19 complete necessary preparations for the instruction of pupils.  
20 ~~Such planning period shall be the length of the usual class~~  
21 ~~period in the school to which such teacher is assigned, and~~  
22 ~~shall be not less than thirty minutes.~~ No teacher shall may be  
23 assigned any responsibilities during this period, and no  
24 county shall increase the number of hours to be worked by a  
25 teacher as a result of such teacher being granted a planning  
26 period subsequent to the adoption of this section (March 13,  
27 1982).

28 The duration of the planning period shall be in  
29 accordance with the following:

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

33        (2) For grades where students take separate courses  
34 during at least four separate periods of instruction, most  
35 usually delivered by different teachers for each subject, the  
36 planning period shall be the length of the usual class period  
37 taught by the teacher, but no less than forty minutes.

38        Principals, and assistant principals, where applicable,  
39 shall cooperate in carrying out the provisions of this  
40 subsection, including, but not limited to, assuming control of  
41 the class period or supervision of students during the time the  
42 teacher is engaged in the planning period. Substitute teachers  
43 may also be utilized to assist with classroom responsibilities  
44 under this subsection: *Provided*, That any substitute teacher  
45 who is employed to teach a minimum of two consecutive  
46 days in the same position shall be granted a planning period  
47 pursuant to this section.

48        ~~(3)~~ (c) Nothing in this section ~~shall be construed to~~  
49 ~~prevent~~ prevents any teacher from exchanging his or her  
50 lunch recess or a planning period or any service ~~personnel~~  
51 person from exchanging his or her lunch recess for any  
52 compensation or benefit mutually agreed upon by the  
53 employee and the county superintendent ~~of schools~~ or his or

54 her agent: *Provided*, That a teacher and the superintendent  
55 or his or her agent may not agree to terms which are different  
56 from those available to any other teacher granted rights under  
57 this section within the individual school or to terms which in  
58 any way discriminate among ~~such~~ those teachers within the  
59 individual school, and ~~that service personnel~~ a service person  
60 granted rights under this section and the superintendent or his  
61 or her agent may not agree to terms which are different from  
62 those available to any other service personnel within the  
63 same classification category granted rights under this section  
64 within the individual school or to terms which in any way  
65 discriminate among ~~such~~ those service personnel within the  
66 same classification category within the individual school.

67 (d) The state board shall conduct a study on planning  
68 periods. The study shall include, but not be limited to, the  
69 appropriate length for planning periods at the various grade  
70 levels and for the different types of class schedules. The  
71 board shall report its findings and recommendations to the  
72 Legislative Oversight Commission on Education  
73 Accountability no later than December 31, 2013.

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

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

1       (a) Schools shall ~~not be kept open~~ closed on any ~~Saturday~~  
2 Saturdays ~~nor and~~ on the following days which are  
3 designated as legal school holidays: ~~namely:~~ Independence  
4 Day, Labor Day, Veterans Day, Thanksgiving Day,  
5 Christmas Day, New Year's Day, Martin Luther King's  
6 birthday, Memorial Day and West Virginia Day. ~~and~~ Schools  
7 also shall be closed on any day on which a primary election,  
8 general election or special election is held throughout the  
9 state or school district and on any day appointed and set apart  
10 by the president or the Governor as a holiday of special  
11 observance by the people of the state.

12       ~~When any such holiday falls within the employment term,~~  
13 ~~it shall be considered as a day of the employment term and~~  
14 ~~the full-time school personnel shall receive his or her pay for~~  
15 ~~same.~~

16       (b) When any of the above designated holidays, except a  
17 special election, falls on Saturday, the schools shall be closed  
18 on the preceding Friday. When any ~~such~~ designated holiday

19 falls on Sunday, the schools shall be closed on the following  
20 Monday.

21 (c) Special classes may be conducted on Saturdays  
22 ~~provided they are conducted on a voluntary basis,~~ for pupils  
23 and by teachers and service personnel. Saturday classes shall  
24 be conducted on a voluntary basis and ~~that such~~ teachers and  
25 service personnel shall be remunerated in ratio to the  
26 regularly contracted pay.

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

31 (1) Under any or all of the above provisions, the time lost  
32 by the ~~closing of schools is~~ school closings may not be  
33 counted as days of employment and may not be counted as  
34 meeting a part of the requirements of the minimum term of  
35 one hundred eighty days of instruction. A school employee's  
36 pay per pay period may not change as a result of a school  
37 closing not being counted as a day of employment, and the  
38 employee shall be paid the same amount during any pay  
39 period in which a school closing occurs that the employee

40 would have been paid during the pay period if a school  
41 closing had not occurred.

42 (2) On ~~such~~ the day or days when a school or schools are  
43 closed, county boards ~~of education~~ may provide appropriate  
44 alternate work schedules for professional and service  
45 personnel affected by the closing of any school or schools  
46 under any or all of the ~~above~~ provisions of this subsection.  
47 Professional and service personnel shall receive pay the same  
48 as if school were in session.

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

53 (e) In addition to any other provisions of this chapter, the  
54 board ~~is~~ further is authorized to provide in its annual budget  
55 for meetings, workshops, vacation time or other holidays  
56 through extended employment of personnel at the same rate  
57 of pay.

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

**ARTICLE 1. FINANCIAL ASSISTANCE GENERALLY.**



**§18C-1-2. Definitions.**

1 Definitions for terms used in this chapter have the  
2 meanings ascribed to them in section two, article one, chapter  
3 eighteen-b of this code unless the context clearly indicates a  
4 different meaning:

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

14 (b) “Senior administrator” means the vice chancellor for  
15 administration employed pursuant to section two, article four,  
16 chapter eighteen-b of this code.

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

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

1 (a) It is the purpose of this article and article four-a of this  
2 chapter to improve the quality of education in the public  
3 schools of West Virginia by encouraging and enabling  
4 individuals who have demonstrated outstanding academic  
5 abilities to pursue teaching careers at the preschool,  
6 elementary, middle or secondary levels in the public schools  
7 of this state. In addition, of those individuals who have  
8 demonstrated outstanding academic abilities to pursue  
9 teaching careers, for scholarships initially awarded for the  
10 fall semester, ~~one thousand nine hundred ninety-eight~~ 2014,  
11 and thereafter, particular efforts ~~will~~ shall be made in the  
12 scholarship selection criteria and procedures to reflect the  
13 state's present and projected ~~teacher needs, including needs~~  
14 ~~statewide and in different geographic areas and for teachers~~  
15 ~~with education and training in specific disciplines~~ subject and  
16 geographic areas of critical need.

17 (b) In consultation with the State Board of Education and  
18 the State Superintendent of Schools ~~the higher education~~  
19 ~~governing boards~~ commission shall in consultation with the  
20 ~~State Superintendent of Schools~~ promulgate reasonable  
21 propose legislative rules in accordance with the provisions of

22 article three-a, chapter twenty-nine-a of this code. The rules  
23 shall provide for the administration of the Underwood-Smith  
24 Teacher Scholarship and Loan Assistance program programs  
25 by the ~~senior administrator~~ vice chancellor for administration  
26 in furtherance of the purposes of this article and article four-a  
27 of this chapter, including, but not limited to, scholarship  
28 ~~selection criteria and procedures, renewal, compliance,~~  
29 ~~noncompliance and repayment, deferral and excusal.~~ In  
30 accordance with such rules, the senior administrator shall  
31 ~~establish appropriate guidelines for program operation~~ the  
32 following:

33 (1) Establishing scholarship selection criteria and  
34 procedures;

35 (2) Establishing criteria and procedures for identifying  
36 subject areas, public schools or geographic areas in critical  
37 need of teachers;

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

41 (4) Determining eligibility for loan assistance renewal;

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

44        (6) Establishing criteria for determining participant  
45 compliance or noncompliance with terms of the agreement  
46 and establishing procedures to address noncompliance  
47 including, but not limited to, repayment, deferral and excusal;  
48 and

49        (7) Developing model agreements.

50        (c) There is ~~hereby~~ created in the State Treasury a special  
51 revolving fund to be known as the Underwood-Smith  
52 Teacher Scholarship and Loan Assistance Fund to be  
53 administered by the ~~senior administrator~~ vice chancellor for  
54 administration solely for granting scholarships and loan  
55 assistance to teachers and prospective teachers in accordance  
56 with this article and article four-a of this chapter. Any  
57 moneys which may be appropriated by the Legislature, or  
58 received by the ~~senior administrator~~ vice chancellor for  
59 administration from other sources, for the purposes of this  
60 article and article four-a of this chapter, shall be deposited in  
61 the fund. Any moneys remaining in the fund at the close of  
62 a fiscal year shall be carried forward for use in the next fiscal

63 year. Any moneys repaid to the ~~senior administrator~~ vice  
64 chancellor for administration by reason of default of a  
65 scholarship or loan assistance agreement under this article or  
66 article four-a of this chapter also shall ~~also~~ be deposited in  
67 the fund. Fund balances shall be invested with the state's  
68 consolidated investment fund, and any and all interest  
69 earnings on these investments shall be used solely for the  
70 purposes for which moneys invested were appropriated or  
71 otherwise received.

72 (d) The ~~senior administrator~~ vice chancellor for  
73 administration may accept and expend any gift, grant,  
74 contribution, bequest, endowment or other money for the  
75 purposes of this article and article four-a of this chapter and  
76 shall make a reasonable effort to encourage external support  
77 for the scholarship and loan assistance programs.

78 (e) For the purpose of encouraging support for the  
79 scholarship and loan assistance ~~program~~ programs from  
80 private sources, the ~~senior administrator~~ vice chancellor for  
81 administration may set aside no more than half of the funds  
82 appropriated by the Legislature for Underwood-Smith  
83 Teacher Scholarships and Loan Assistance Awards to be used

84 to match two state dollars to each private dollar from a  
85 nonstate source contributed on behalf of a specific institution  
86 of higher education in this state.

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

1 (a) The Governor shall designate ~~an existing scholarship~~  
2 ~~selection agency or panel~~ the Higher Education Student  
3 Financial Aid Advisory Board created by section five, article  
4 one of this chapter to select the recipients of  
5 Underwood-Smith teacher scholarships who meet the  
6 eligibility criteria set forth in subsection (b) of this section.  
7 ~~If no such agency or panel exists, the Governor shall appoint~~  
8 ~~a scholarship selection panel for this purpose which shall~~  
9 ~~consist of seven persons representative of public school~~  
10 ~~administrators, teachers, including preschool teachers, and~~  
11 ~~parents.~~

12 (b) Eligibility for an Underwood-Smith Teacher  
13 Scholarship award shall be limited to ~~West Virginia resident~~  
14 students who meet the following criteria:

15 (1) Have graduated or are graduating from a West  
16 Virginia high school and rank in the top ten percent of their

17 graduating class or the top ten percent statewide of those  
18 West Virginia students taking the ~~American college~~ ACT  
19 test;

20 (2) Have a cumulative grade point average of at least 3.25  
21 on a possible scale of four after successfully completing two  
22 years of course work at an approved institution of higher  
23 education in West Virginia;

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

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

33 (c) In accordance with the rules of the commission, the  
34 vice chancellor for administration shall develop criteria and  
35 procedures for the selection of scholarship recipients. ~~that~~  
36 The selection criteria shall reflect the purposes of this article  
37 and shall specify the areas in which particular efforts will be

38 made in the selection of scholars as set forth in section one of  
39 this article. ~~and which~~ Selection procedures and criteria also  
40 may include, but are not ~~be~~ limited to, the grade point  
41 average of the applicant, involvement in extracurricular  
42 activities, financial need, current academic standing and an  
43 expression of interest in teaching as ~~expressed in~~  
44 demonstrated by an essay written by the applicant.

45 ~~Such~~ These criteria and procedures further may require  
46 the applicant to furnish letters of recommendation from  
47 teachers and others.

48 It is the intent of the Legislature that academic abilities be  
49 the primary criteria for selecting scholarship recipients.  
50 ~~Provided, That~~ However, the qualified applicants with the  
51 highest academic abilities who intend to pursue teaching  
52 careers in areas of critical need and shortage ~~as determined~~  
53 ~~by the State Board of Education~~ pursuant to section one of  
54 this article shall be given priority.

55 (d) In developing the selection criteria and procedures to  
56 be used by the ~~panel~~ Higher Education Student Financial Aid  
57 Advisory Board, the vice chancellor for administration shall  
58 solicit the views of public and private education agencies and



59 institutions and other interested parties. ~~These views: (1)~~  
60 Input from interested parties shall be solicited by means of  
61 written and published selection criteria and procedures in  
62 final form for implementation and ~~(2)~~ may be solicited by  
63 means of public hearings on the present and projected teacher  
64 needs of the state or any other methods the vice chancellor  
65 for administration may determine to be appropriate to gather  
66 the information.

67 (e) The vice chancellor for administration shall make  
68 application forms for Underwood-Smith Teacher  
69 Scholarships available to public and private high schools in  
70 the state and in other locations convenient to applicants,  
71 parents and others, and shall make an effort to attract students  
72 from low-income backgrounds, ethnic or racial minority  
73 students, students with disabilities, and women or minority  
74 students who show interest in pursuing teaching careers in  
75 mathematics and science and who are underrepresented in  
76 those fields.

**§18C-4-3. Scholarship agreement.**

1 (a) Each recipient of an Underwood-Smith teacher  
2 scholarship shall enter into an agreement with the senior

3 ~~administrator~~ vice chancellor for administration under which  
4 the recipient shall meet the following conditions:

5 (1) Provide the ~~board~~ commission with evidence of  
6 compliance with subsection (a), section four of this article;

7 (2) Within a ten-year period after completing the teacher  
8 education for which the scholarship was awarded:

9 (A) Teach full time under contract with a county board of  
10 education in a public education program in the state for a  
11 period of not ~~less~~ fewer than two years for each year for  
12 which a scholarship was received; or

13 ~~(B)~~ (C) Teach full time under contract for not less than one  
14 year for each year for which a scholarship was received with  
15 a county board of education in this state in a teacher shortage  
16 ~~area as determined by the state Board of Education pursuant~~  
17 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  
20 disadvantaged area of this state ~~for not less than one year for~~  
21 ~~each year for which a scholarship was received~~; or

22 ~~(B)~~ (C) Within ~~such~~ the ten-year period, while seeking  
23 and unable to secure a full-time teaching position under

24 contract with a county board of education which satisfies the  
25 conditions of paragraph (A) of this subdivision:

26 (i) Teach full-time in a private school, parochial or other  
27 school approved ~~under exemption (A) or (K)~~ for the  
28 instruction of students of compulsory school age pursuant to  
29 section one, article eight, chapter eighteen of this code; or

30 (ii) Teach in a an institution of higher educational  
31 institution education in this state as defined in section two,  
32 article one, chapter eighteen-b of this code or in a post-  
33 secondary vocational education program in this state as  
34 defined in section two, article one, chapter eighteen-b of this  
35 code for a period of not ~~less~~ fewer than two years for each  
36 year for which a scholarship was received; or

37 ~~(ii)~~ (iii) Perform alternative service or employment in this  
38 state pursuant to ~~guidelines adopted in accordance with the~~  
39 ~~rules of the governing boards promulgated by the~~  
40 commission, in federal, state, county or local supported  
41 programs with an educational component, including mental  
42 or physical health care, or with bona fide tax exempt  
43 charitable organizations dedicated to the above, for a period  
44 of not ~~less~~ fewer than two years for each year for which a  
45 scholarship was received.

46 Any teaching time accrued as a substitute teacher for a  
47 county board of education under paragraph (A) or (B) of this  
48 subdivision shall be credited pro rata in accordance with ~~rules~~  
49 ~~of the governing boards~~ rules promulgated by the  
50 commission; or

51 (3) Repay all or part of an Underwood-Smith teacher  
52 scholarship received under this article plus interest and, if  
53 applicable, reasonable collection fees in accordance with  
54 subsection ~~(b)~~ (c), section four of this article, except as  
55 provided in ~~subsections (c) and~~ subsection (d) of ~~said~~ section  
56 four of this article.

57 (b) Scholarship agreements shall ~~fully~~ disclose fully the  
58 terms and conditions under which assistance under this article  
59 is provided and under which repayment may be required.  
60 ~~including~~ The agreements shall include the following:

61 (1) A description of the conditions and procedures to be  
62 established under section four of this article; and

63 (2) A description of the appeals procedure required to be  
64 established under section four of this article.

65 (c) Individuals who were awarded an Underwood-Smith  
66 teacher scholarship prior to the effective date of this section

67 may apply the provisions of paragraph (A), ~~or~~ (B) or (C),  
68 subdivision (2), subsection (a) of this section to teaching or  
69 other service performed by them after July 1, 1997.

**§18C-4-4. Renewal conditions; noncompliance; deferral;  
excusal.**

1 (a) The recipient of an Underwood-Smith Teacher  
2 Scholarship is eligible for scholarship renewal only during  
3 ~~such~~ those periods ~~that~~ when the recipient ~~is~~ meets the  
4 following conditions:

5 (1) Is enrolled as a full-time student in an accredited  
6 institution of higher education in this state;

7 (2) Is pursuing a course of study leading to teacher  
8 certification at the preschool, elementary, middle or  
9 secondary level in this state;

10 (3) Is maintaining satisfactory progress as determined by  
11 the institution of higher education the recipient is attending;  
12 and

13 (4) Is complying with such other standards as the ~~boards~~  
14 commission may establish by rule.

15 (b) Recipients found to be in noncompliance with the  
16 agreement entered into under section three of this article shall

17 be required to repay the amount of the scholarship awards  
18 received, plus interest, and, where applicable, reasonable  
19 collection fees, on a schedule and at a rate of interest  
20 prescribed in the program guidelines. ~~Such~~ Guidelines also  
21 shall ~~also~~ provide for proration of the amount to be repaid by  
22 a recipient who teaches for part of the period required under  
23 subsection (a), section three of this article and for appeal  
24 procedures under which a recipient may appeal any  
25 determination of noncompliance.

26 (c) A recipient ~~shall~~ is not ~~be considered~~ in violation of  
27 the agreement entered into under section three of this article  
28 during any period in which the recipient is meeting any of the  
29 following conditions:

30 (1) Pursuing a full-time course of study at an accredited  
31 institution of higher education;

32 (2) Serving, not in excess of four years, as a member of  
33 the armed services of the United States;

34 (3) Seeking and unable to find full-time employment in  
35 accordance with paragraph (A), subdivision (2), subsection  
36 (a), section three of this article and is fulfilling any of the  
37 alternatives specified in paragraph (B) or (C) of ~~said~~ that  
38 subdivision; ~~or~~

39 (4) Satisfying the provisions of additional repayment  
40 exemptions that may be prescribed by the ~~boards~~ commission  
41 by rule; or

42 (5) Failing to comply with the terms of the agreement due  
43 to death or permanent or temporary disability as established  
44 by sworn affidavit of a qualified physician.

45 ~~(d) A recipient shall be excused from repayment of a~~  
46 ~~teacher scholarship received under this article if the recipient~~  
47 ~~dies or becomes permanently and totally disabled as~~  
48 ~~established by sworn affidavit of a qualified physician.~~

49 ~~(e)~~ (d) The rules adopted by the ~~governing boards~~  
50 commission may provide guidelines under which the ~~senior~~  
51 ~~administrator~~ vice chancellor for administration may if  
52 ~~extenuating circumstances exist~~, extend the period for  
53 fulfilling the obligation to fifteen years, if extenuating  
54 circumstances exist.

**ARTICLE 4A. UNDERWOOD-SMITH TEACHER LOAN  
ASSISTANCE PROGRAM.**

**§18C-4A-1. Selection criteria and procedures for loan  
assistance.**

1 (a) The Governor shall designate the Higher Education  
2 Student Financial Aid Advisory Board created by section

3 five, article one of this chapter to select recipients to receive  
4 Underwood-Smith Teacher Loan Assistance Awards.

5 (b) The advisory board shall make decisions regarding  
6 loan assistance pursuant to section one, article four of this  
7 chapter and the following criteria:

8 (A) Eligibility for an award is limited to a teacher who  
9 has earned a teaching degree and is certified to teach a  
10 subject area of critical need in the public schools of West  
11 Virginia. A certified teacher in a subject area of critical need  
12 who is enrolled in an advanced in-field degree course or who  
13 has earned an advanced in-field degree may apply for an  
14 award to be paid toward current education loans;

15 (B) To be eligible for a loan award, a teacher shall agree  
16 to teach, or shall currently be teaching, a subject area of  
17 critical need in a state school or geographic area of the state  
18 identified as an area of critical need pursuant to section one,  
19 article four of this chapter.

20 (c) In accordance with the rule promulgated pursuant to  
21 section one, article four of this chapter, the vice chancellor  
22 for administration shall develop criteria and procedures for  
23 the administration of the loan program.



24 (d) The vice chancellor for administration shall make  
25 available program application forms to public and private  
26 schools in the state via the commission and the State  
27 Department of Education's websites and in other locations  
28 convenient to potential applicants.

**§18C-4A-2. Loan assistance agreement.**

1 (a) Before receiving an award, each eligible teacher shall  
2 enter into an agreement with the vice chancellor for  
3 administration and shall meet the following criteria:

4 (1) Provide the commission with evidence of compliance  
5 with subsection (b), section four, article four of this chapter;

6 (2) Teach in a subject area or geographic area of critical  
7 need full time under contract with a county board for a period  
8 of two school years for each year for which loan assistance is  
9 received pursuant to this article. The vice chancellor for  
10 administration may grant a partial award to an eligible  
11 recipient whose contract term is for less than a full school  
12 year pursuant to criteria established by commission rule.

13 (3) Acknowledge that an award is to be paid to the  
14 recipient's educational loan institution, not directly to the  
15 recipient, only after the commission determines that the  
16 recipient has complied with all terms of the agreement; and

17 (4) Repay all or part of an award received pursuant to this  
18 article if the award is not paid to the educational loan  
19 institution or if the recipient does not comply with the other  
20 terms of the agreement.

21 (b) Each loan agreement shall disclose fully the terms and  
22 conditions under which an award may be granted pursuant to  
23 this article and under which repayment may be required. The  
24 agreement also is subject to and shall include the terms and  
25 conditions established by section five, article four of this  
26 chapter.

**§18C-4A-3. Amount and duration of loan assistance; limits.**

1 (a) Each award recipient is eligible to receive loan  
2 assistance of up to \$2,000 annually subject to limits set forth  
3 in subsection (b) of this section:

4 (1) If the recipient has taught math or science for a full  
5 school year under contract with a county board in a school or  
6 geographic area of critical need; and

7 (2) If the recipient otherwise has complied with the terms  
8 of the agreement and with applicable provisions of this article  
9 and article four of this chapter, and any rules promulgated  
10 pursuant thereto.

11 (b) The recipient is eligible for renewal of loan assistance  
12 only during the periods when the recipient is under contract  
13 with a county board to teach in a subject area of critical need  
14 in a school or geographic area of critical need, and complies  
15 with other criteria and conditions established by rule, except  
16 that a teacher who is teaching under a contract in a position  
17 that no longer meets the definition of critical need under rules  
18 established in accordance with section one, article four of this  
19 chapter is eligible for renewal of loan assistance until the  
20 teacher leaves his or her current position.

21 (c) No recipient may receive loan assistance pursuant to  
22 this article which accumulates in excess of \$15,000.