

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 359

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

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

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 two new sections, designated §18A-3-1d and §18A-3-1e; to amend and reenact §18A-3-2a of said code; 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designated §18C-4A-1, §18C-4A-2 and §18C-4A-3, all relating to transforming and improving public education; removing outdated language; requiring the State Board of Education, the Higher Education Policy Commission and the Council for Community and Technical College Education to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 eligible for 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 after date certain; 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; requiring one hundred eighty separate days of actual instruction are to be provided for students; 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; requiring that one hundred eighty days be within a 365-day period set by the county board; 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; 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 determine whether a group qualifies as a national teaching corps; allowing participants in a national teaching corps to become classroom teachers; creating a critical need alternative teacher certificate;

providing that the certificate is only valid for teaching in subject areas, public schools or geographic areas in which the state board determines that critical teacher shortages exist; providing that the certificate is a two-year certificate that can be renewed for one year; setting forth minimum requirements to receive a critical need alternative teacher certificate; creating a professional support team for these new teachers; recommendation for certification of teachers on the critical need alternative teaching certificate by support team; requiring state board rules that must at least include additional requirements for a person with a critical need alternative teaching certificate to obtain a professional certificate; amending requirements for professional teaching certificates through alternative certifications; further defining “critical need alternative teaching certificates”; 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; adding seniority to the list of factors to be considered when filling vacancies in professional positions of employment; eliminating restrictive

hiring language for classroom teaching positions; allowing county boards to give consideration to recommendations made by the principal and the faculty senate; allowing released employees to be hired for certain vacancies prior to the job being posted; limiting bumping to within a school with county seniority; allowing for multiple postings within a thirty-day period under certain conditions; removing language that limits internal school bumping to elementary school; allowing reassignment of a teacher within his or her school upon consent of teacher and county board; eliminating the 43-week limit on the employment term for service personnel; creating three new types of early childhood classroom assistant teacher positions; assigning a pay grade to the new positions; 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 two new sections, designated §18A-3-1d and §18A-3-1e; that §18A-3-2a of said code be amended and reenacted; 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)
106 Holds local school districts accountable for the student
107 outcomes the state values; and (ii) provides the public with
108 understandable accountability data for judging the quality of
109 local schools. The outcomes on which the system is based
110 should be rigorous and should align with national and
111 international standards such as the National Assessment of
112 Educational Progress (NAEP), the ACT, the SAT and the
113 Programme for International Assessment (PISA). The broad

114 standards established for these outcomes should include a
115 focus on: (A) Mastery of basic skills by all students; (B)
116 closing the achievement gap among student subgroups; and
117 (C) high levels of proficiency in a wide range of desired 21st
118 Century measures and processes. The system for
119 determining school and district accreditation should include
120 school and district self analysis and generate appropriate
121 research-based strategies for improvement. It also should
122 allow opportunities to create innovative approaches to
123 instructional delivery and design. Thus, the system will
124 incorporate processes for encouraging innovation, including
125 streamlined applications for waivers to state board policy,
126 financial support for successful initiatives and recognition of
127 those practices that can be brought to a district or statewide
128 scale. The primary goal of the accreditation system is to
129 drive school improvement. This 21st Century accountability
130 and accreditation system also should include the methods of
131 addressing capacity set forth in section five, article two-e of
132 this chapter;

133 (3) *A statewide balanced assessment process.* – State,
134 district, school and classroom decisionmaking should be
135 grounded in 21st Century balanced assessment processes that

136 reflect national and international rigorous performance
137 standards and examine student proficiency in 21st Century
138 content, skills and technology tools. A balanced assessment
139 system includes statewide summative assessments, local
140 benchmark assessments and classroom assessments for
141 learning;

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

158 implement curricular and instructional improvements on
159 behalf of the students they serve;

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

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

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

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

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

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

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

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

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

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

243 (5) By 2012, the gap between the county with the lowest
244 college-going rate and the state average for school year 2012
245 will decrease by fifty percent and the college-going rate of
246 the state will exceed the college-going rate of the member
247 states of the Southern Regional Education Board by five
248 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
99 IV.

100 (i) The state board shall ensure that each of the regional
101 education service agencies is collaborating with the teacher
102 preparation institution or institutions in its service area for the
103 purposes set forth in subsection (e) of this section. Since

104 Regional Education Service Agency IV does not have a
105 teacher preparation institution in its service area, the state
106 board shall ensure that it is collaborating with Marshall
107 University for the purposes set forth in subsection (e) of this
108 section.

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

119 (k) The collaboration and coordination requirements of
120 this section include collaborating and coordinating to provide
121 professional development for at least teachers, principals and
122 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 assessment
102 for all grade levels in which the test is given with the college-
103 and career-readiness standards adopted pursuant to subsection
104 (b) of this section or develop other aligned tests at each grade
105 level so that progress toward college and career readiness in
106 English/language arts and math can be measured; and

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

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

116 (i) On or before December 31, 2013, the state board shall
117 promulgate a legislative rule in accordance with article three-
118 b, chapter twenty-nine-a of this code to implement the
119 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 (1) 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*
133 *program.* – The state board shall ~~promulgate a rule in~~
134 ~~accordance with the provisions of article three-b, chapter~~
135 ~~twenty-nine-a of this code establishing~~ establish a
136 comprehensive statewide student assessment program to
137 assess student performance and progress in grades three
138 through twelve. The assessment program is subject to the
139 following:

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

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

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

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

(5) The state board may provide through the statewide assessment program other optional testing or assessment

166 instruments applicable to grade levels kindergarten through
167 grade twelve which may be used by each school to promote
168 student achievement. ~~upon approval by the school curriculum~~
169 ~~team or the process for teacher collaboration to improve~~
170 ~~instruction and learning established by the faculty senate as~~
171 ~~provided in section six, article five-a of this chapter~~ The
172 state board annually shall ~~annually~~ publish and make
173 available, electronically or otherwise, to school curriculum
174 teams and teacher collaborative processes the optional testing
175 and assessment instruments. ~~The failure of a school to use~~
176 ~~any optional testing and assessment may not be cited as a~~
177 ~~deficiency in any accreditation review of the school; nor may~~
178 ~~the exercise of its discretion, as provided in section six,~~
179 ~~article five-a of this chapter, in using the assessments and~~
180 ~~implementing the instructional strategies and programs that~~
181 ~~it determines best to promote student achievement at the~~
182 ~~school be cited as a deficiency in any accreditation review of~~
183 ~~the school or in the personnel evaluation of the principal.~~
184 The use of assessment results are subject to the following:
185 (1) The assessment results for grade levels three through
186 eight and eleven are the only assessment results which may
187 be used for determining whether any school or school system
188 has made adequate yearly progress (AYP);

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

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

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

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

207 ~~(e) Annual performance measures for Public Law~~
 208 ~~107-110, the Elementary and Secondary Education Act of~~
 209 ~~1965, as amended (No Child Left Behind Act of 2001). -- The~~
 210 ~~standards shall include annual measures of student, school~~

211 ~~and school system performance and progress for the grade~~
212 ~~levels and the content areas defined by the act. The~~
213 ~~following annual measures of student, school and school~~
214 ~~system performance and progress shall be the only measures~~
215 ~~for determining whether adequately yearly progress under the~~
216 ~~No Child Left Behind Act has been achieved:~~

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

222 (2) ~~The student participation rate in the uniform statewide~~
223 ~~assessment must be at least ninety-five percent or the average~~
224 ~~of the participation rate for the current and the preceding two~~
225 ~~years is ninety-five percent for the school, county and state;~~

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

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

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

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

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

245 ~~(f) (e) State annual performance measures for school and~~
 246 ~~school system accreditation. – The state board shall establish~~
 247 ~~a system to assess and weigh annual performance measures~~
 248 ~~for state accreditation of schools and school systems in a~~
 249 ~~manner that gives credit or points such as an index to prevent~~
 250 ~~any one measure alone from causing a school to achieve less~~
 251 ~~than full accreditation status or a school system from~~
 252 ~~achieving less than full approval status: *Provided, That a*~~
 253 ~~school or school system that achieves adequate yearly~~
 254 ~~progress is eligible for no less than full accreditation or~~

255 ~~approval status, as applicable, and the system established~~
256 ~~pursuant to this subsection applies only to schools and school~~
257 ~~systems that do not achieve adequate yearly progress:~~

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

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

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

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

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

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

275 ~~(6) Graduation rates;~~

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

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

279 ~~(9) Percent of students not requiring college remediation~~
 280 ~~classes; and~~

281 ~~(10) Bonus points or credits for subgroup improvement;~~
 282 ~~advanced placement percentages, dual credit completers and~~
 283 ~~international baccalaureate completers.~~

284 The state board shall promulgate a rule in accordance
 285 with the provisions of article three-b, chapter twenty-nine-a
 286 of this code that establishes a system to assess and weigh
 287 annual performance measures for state accreditation of
 288 schools and school systems. The state board also may
 289 establish performance incentives for schools and school
 290 systems as part of the state accreditation system. On or before
 291 December 1, 2013, the state board shall report to the
 292 Governor and to the Legislative Oversight Commission on
 293 Education Accountability the proposed rule for establishing
 294 the measures and incentives of accreditation and the
 295 estimated cost therefore, if any. Thereafter, the state board
 296 shall provide an annual report to the Governor and to the
 297 Legislative Oversight Commission on Education
 298 Accountability on the impact and effectiveness of the

299 accreditation system. The rule for school and school system
300 accreditation proposed by the board may include, but is not
301 limited to, the following measures:

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

304 (2) Graduation and attendance rate;

305 (3) Students taking and passing AP tests;

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

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

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

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

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

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

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

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

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

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

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

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

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

339 (2) Transportation;

340 (3) Facilities;

341 (4) Administrative practices;

342 (5) Personnel;

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

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

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

363 (1) The assessment of student, school and school system
364 performance and progress based on the annual measures ~~set~~

365 ~~forth in subsection (d)~~ established pursuant to subsection (e)
366 of this section;

367 (2) The evaluation of records, reports and other
368 information collected by the ~~department~~ Office of Education
369 Performance Audits upon which the quality of education and
370 compliance with statutes, policies and standards may be
371 determined;

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

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

378 (j) (h) *Uses of school and school system assessment*
379 *information.* – The state board ~~and the Process for Improving~~
380 ~~Education Council established pursuant to section five-c of~~
381 ~~this article~~ shall use information from the system of education
382 performance audits to assist ~~them~~ it in ensuring that a
383 thorough and efficient system of schools is being provided
384 and to improve student, school and school system
385 performance and progress. Information from the system of
386 education performance audits further shall be used by the

387 state board for these purposes, including, but not limited to,
388 the following:

389 (1) Determining school accreditation and school system
390 approval status;

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

394 (3) Targeting additional resources when necessary to
395 improve performance and progress.

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

401 ~~(k)~~ (i) *Early detection and intervention programs.* –

402 Based on the assessment of student, school and school system
403 performance and progress, the state board shall establish
404 early detection and intervention programs using the available
405 resources of the Department of Education, the regional
406 educational service agencies, the Center for Professional
407 Development and the Principals Academy, as appropriate, to

408 assist underachieving schools and school systems to improve
409 performance before conditions become so grave as to warrant
410 more substantive state intervention. Assistance shall include,
411 but is not limited to, providing additional technical assistance
412 and programmatic, professional staff development, providing
413 monetary, staffing and other resources where appropriate.
414 ~~and, if necessary, making appropriate recommendations to~~
415 ~~the Process for Improving Education Council~~

416 ~~(†)~~ (j) *Office of Education Performance Audits.* –

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

428 ~~section five-c of this article~~ in carrying out its duties under
429 the provisions of this section.

430 (2) The office shall be headed by a director who shall be
431 appointed by the state board and who ~~shall serve~~ serves at the
432 will and pleasure of the state board. The annual salary of the
433 director shall be set by the state board and may not exceed
434 eighty percent of the salary cap of the State Superintendent
435 of Schools.

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

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

450 Principals Academy and the School Building Authority to
451 carry out the duties assigned to the office.

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

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

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

460 (i) Processes for the accreditation of schools and the
461 approval of school systems; and

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

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

471 (D) Determine, in conjunction with the assessment and
472 accountability processes, whether statewide system
473 deficiencies exist in the capacity of schools and school
474 systems to meet the standards established by the state board,
475 including the identification of trends and the need for
476 continuing improvements in education, and report those
477 deficiencies and trends to the state board; ~~and the Process for~~
478 ~~Improving Education Council~~

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

487 (F) Identify, in conjunction with the assessment and
488 accountability processes, ~~exemplary schools and school~~
489 ~~systems and best practices that improve student, school and~~
490 ~~school system performance and make recommendations~~
491 communicate those to the state board ~~and the Process for~~
492 ~~Improving Education Council for recognizing and rewarding~~

493 ~~exemplary schools and school systems and~~ promoting the use
494 of best practices. The state board shall provide information
495 on best practices to county school systems; ~~and shall use~~
496 ~~information identified through the assessment and~~
497 ~~accountability processes to select schools of excellence and~~

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

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

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

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

513 (iv) The ~~school provides~~ appropriate provision of
514 multicultural activities.

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

520 ~~(m)~~ (k) *On-site reviews.* –

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

537 school system, as appropriate, and to the state board on such
538 measures as it considers necessary. ~~to improve performance~~
539 ~~and progress to meet the standard~~ The investigation may
540 include, but is not limited to, the following:

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

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

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

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

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

556 (F) Determining and reporting whether required reviews
557 and inspections have been conducted by the appropriate
558 agencies, including, but not limited to, the State Fire Marshal,

559 the Health Department, the School Building Authority and
560 the responsible divisions within the Department of
561 Education, and whether noted deficiencies have been or are
562 in the process of being corrected. ~~The Office of Education~~
563 ~~Performance Audits may not conduct a duplicate review or~~
564 ~~inspection of any compliance reviews or inspections~~
565 ~~conducted by the department or its agents or other duly~~
566 ~~authorized agencies of the state, nor may it mandate more~~
567 ~~stringent compliance measures.~~

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

579 (3) The Office of Education Performance Audits shall
580 conduct on-site reviews which are limited in scope to specific

581 areas in which performance and progress are persistently
582 below standard as determined by the state board unless
583 specifically directed by the state board to conduct a review
584 which covers additional areas.

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

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

603 ~~so that the on-site review process will evaluate compliance~~
604 ~~with the standards in a uniform, consistent and expert~~
605 ~~manner.~~

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

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

623 (7) (6) The Office of Education Performance Audits shall
624 report the findings of an on-site review to the county

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

644 (8) ~~(7)~~ The Legislature finds that the accountability and
645 oversight of the following some activities and programmatic
646 areas in the public schools ~~is~~ are controlled through other

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

- 656 ~~(A) Work-based learning;~~
- 657 ~~(B) Use of advisory councils;~~
- 658 ~~(C) Program accreditation and student credentials;~~
- 659 ~~(D) Student transition plans;~~
- 660 ~~(E) Graduate assessment form;~~
- 661 ~~(F) Casual deficit;~~
- 662 ~~(G) Accounting practices;~~
- 663 ~~(H) Transportation services;~~
- 664 ~~(I) Special education services;~~
- 665 ~~(J) Safe, healthy and accessible facilities;~~
- 666 ~~(K) Health services;~~
- 667 ~~(L) Attendance director;~~
- 668 ~~(M) Business/community partnerships;~~

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

680 ~~(n) (l) School accreditation. – The state board annually~~
 681 ~~shall review the information from the system of education~~
 682 ~~performance audits submitted for each school and shall issue~~
 683 ~~to every school one of the following approval levels:~~
 684 ~~Exemplary accreditation status, distinction accreditation~~
 685 ~~status, full accreditation status, temporary accreditation~~
 686 ~~status, conditional accreditation status or low performing~~
 687 ~~accreditation status.~~

688 ~~(1) Full accreditation status shall be given to a school~~
 689 ~~when the school's performance and progress meet or exceed~~
 690 ~~the standards adopted by the state board pursuant to~~

691 ~~subsection (e) or (f), as applicable, of this section and it does~~
692 ~~not have any deficiencies which would endanger student~~
693 ~~health or safety or other extraordinary circumstances as~~
694 ~~defined by the state board. A school that meets or exceeds~~
695 ~~the performance and progress standards but has the other~~
696 ~~deficiencies shall remain on full accreditation status for the~~
697 ~~remainder of the accreditation period and shall have an~~
698 ~~opportunity to correct those deficiencies, notwithstanding~~
699 ~~other provisions of this subsection.~~

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

710 ~~(3) Conditional accreditation status shall be given to a~~
711 ~~school when the school's performance and progress are~~
712 ~~below the level required for full accreditation, but the~~

713 ~~school's electronic strategic improvement plan meets the~~
714 ~~following criteria:~~

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

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

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

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

729 ~~(5) Distinction accreditation status shall be given to a~~
730 ~~school when the school's performance and progress exceed~~
731 ~~the standards adopted by the state board. The state board~~
732 ~~shall promulgate legislative rules in accordance with the~~
733 ~~provisions of article three-b, chapter twenty-nine-a of this~~
734 ~~code establishing standards of performance and progress to~~
735 ~~identify schools of distinction.~~

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

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

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

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

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

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

754 ~~(B) Whenever the state board determines that the quality~~
755 ~~of education in a school is low performing, the state board~~
756 ~~shall appoint a team of improvement consultants from the~~
757 ~~West Virginia Department of Education State System of~~

758 ~~Support to make recommendations for correction of the low~~
759 ~~performance. These recommendations shall be communicated to~~
760 ~~the county board and a process shall be established in~~
761 ~~conjunction with the State System of Support to correct the~~
762 ~~identified deficiencies. If progress in correcting the low~~
763 ~~performance as determined by the state board is not made within~~
764 ~~one year following the implementation of the measures adopted~~
765 ~~to correct the identified deficiencies or by a date certain~~
766 ~~established by the state board after at least one year of~~
767 ~~implementation, the state board shall place the county board on~~
768 ~~temporary approval status and provide consultation and~~
769 ~~assistance to the county board to assist it in the following areas:~~

770 (i) ~~Improving personnel management;~~
771 (ii) ~~Establishing more efficient financial management~~
772 ~~practices;~~
773 (iii) ~~Improving instructional programs and rules; or~~
774 (iv) ~~Making any other improvements that are necessary~~
775 ~~to correct the low performance.~~

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

778 (i) ~~The state board shall appoint a monitor who shall be~~
779 ~~paid at county expense to cause improvements to be made at~~

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

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

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

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

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

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

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

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

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

842 (A) To require a school to revise its electronic strategic
843 plan;

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

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

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

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

863 ~~(H)~~ (i) The principal assigned by the state board shall be
864 paid by the state board until the next school term, at which
865 time the principal assigned by the state board shall be paid by
866 the county board;

867 ~~(H)~~ (ii) The principal who was removed is eligible for all
868 positions in the county, including teaching positions, for

869 which the principal is certified, by either being placed on the
870 transfer list in accordance with section seven, article two,
871 chapter eighteen-a of this code, or by being placed on the
872 preferred recall list in accordance with section seven-a,
873 article four, chapter eighteen-a of this code; and

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

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

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

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

888 ~~(o) Transfers from low-performing schools. -- Whenever~~
889 ~~a school is determined to be low performing and fails to~~
890 ~~improve its status within one year, following state~~

891 ~~intervention in the operation of the school to correct the low~~
892 ~~performance, any student attending the school may transfer~~
893 ~~once to the nearest fully accredited school in the county,~~
894 ~~subject to approval of the fully accredited school and at the~~
895 ~~expense of the school from which the student transferred.~~

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

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

912 (2) Temporary approval shall be given to a county board
913 whose education system is below the level required for full
914 approval. Whenever a county board is given temporary
915 approval status, the county board shall revise its electronic
916 county strategic improvement plan in accordance with
917 subsection (b) of this section to increase the performance and
918 progress of the school system to a full approval status level.
919 The revised plan shall be submitted to the state board for
920 approval.

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

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

927 (ii) (B) The plan has been approved by the state board;
928 and

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

931 (4) Nonapproval status shall be given to a county board
932 which fails to submit and gain approval for its electronic
933 county strategic improvement plan or revised electronic

934 county strategic improvement plan within a reasonable time
935 period as defined by the state board or which fails to meet the
936 objectives and time line of its revised electronic county
937 strategic improvement plan or fails to achieve full approval
938 by the date specified in the revised plan.

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

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

956 which, in the opinion of the state board, fails to comply with
957 an approved plan may be designated as having nonapproval
958 status.

959 (C) Whenever nonapproval status is given to a school
960 system, the state board shall declare a state of emergency in
961 the school system and shall appoint a team of improvement
962 consultants to make recommendations within sixty days of
963 appointment for correcting the emergency. When the state
964 board approves the recommendations, they shall be
965 communicated to the county board. If progress in correcting
966 the emergency, as determined by the state board, is not made
967 within six months from the time the county board receives
968 the recommendations, the state board shall intervene in the
969 operation of the school system to cause improvements to be
970 made that will provide assurances that a thorough and
971 efficient system of schools will be provided. This
972 intervention may include, but is not limited to, the following:

973 (i) Limiting the authority of the county superintendent
974 and county board as to the expenditure of funds, the
975 employment and dismissal of personnel, the establishment
976 and operation of the school calendar, the establishment of
977 instructional programs and rules and any other areas

978 designated by the state board by rule, which may include
979 delegating decision-making authority regarding these matters
980 to the state superintendent;

981 (ii) Declaring that the office of the county superintendent
982 is vacant;

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

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

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

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

999 (II) Delegating to the state superintendent the authority to
1000 fill positions of administrators and principals with individuals
1001 determined by the state superintendent to be the most
1002 qualified for the positions. Any authority related to
1003 intervention in the operation of a county board granted under
1004 this paragraph is not subject to the provisions of article four,
1005 chapter eighteen-a of this code;

1006 ~~(p)~~ (n) Notwithstanding any other provision of this
1007 section, the state board may intervene immediately in the
1008 operation of the county school system with all the powers,
1009 duties and responsibilities contained in subsection ~~(p)~~ (m) of
1010 this section, if the state board finds the following:

1011 (1) That the conditions precedent to intervention exist as
1012 provided in this section; and that delaying intervention for
1013 any period of time would not be in the best interests of the
1014 students of the county school system; or

1015 (2) That the conditions precedent to intervention exist as
1016 provided in this section and that the state board had
1017 previously intervened in the operation of the same school
1018 system and had concluded that intervention within the
1019 preceding five years.

1020 (†) (o) *Capacity*. – The process for improving education
1021 includes a process for targeting resources strategically to
1022 improve the teaching and learning process. Development of
1023 electronic school and school system strategic improvement
1024 plans, pursuant to subsection (b) of this section, is intended,
1025 in part, to provide mechanisms to target resources
1026 strategically to the teaching and learning process to improve
1027 student, school and school system performance. When
1028 deficiencies are detected through the assessment and
1029 accountability processes, the revision and approval of school
1030 and school system electronic strategic improvement plans
1031 shall ensure that schools and school systems are efficiently
1032 using existing resources to correct the deficiencies. When
1033 the state board determines that schools and school systems do
1034 not have the capacity to correct deficiencies, the state board
1035 shall work with the county board to develop or secure the
1036 resources necessary to increase the capacity of schools and
1037 school systems to meet the standards and, when necessary,
1038 seek additional resources in consultation with the Legislature
1039 and the Governor.

1040 The state board shall recommend to the appropriate body
1041 including, but not limited to, ~~the Process for Improving~~

1042 ~~Education Council~~, the Legislature, county boards, schools
1043 and communities methods for targeting resources
1044 strategically to eliminate deficiencies identified in the
1045 assessment and accountability processes. When making
1046 determinations on recommendations, the state board shall
1047 include, but is not limited to, the following methods:

1048 (1) Examining reports and electronic strategic
1049 improvement plans regarding the performance and progress
1050 of students, schools and school systems relative to the
1051 standards and identifying the areas in which improvement is
1052 needed;

1053 (2) Determining the areas of weakness and of
1054 ineffectiveness that appear to have contributed to the
1055 substandard performance and progress of students or the
1056 deficiencies of the school or school system and requiring the
1057 school or school system to work collaboratively with the
1058 West Virginia Department of Education State System of
1059 Support to correct the deficiencies;

1060 (3) Determining the areas of strength that appear to have
1061 contributed to exceptional student, school and school system
1062 performance and progress and promoting their emulation
1063 throughout the system;

1064 (4) Requesting technical assistance from the School
 1065 Building Authority in assessing or designing comprehensive
 1066 educational facilities plans;

1067 (5) Recommending priority funding from the School
 1068 Building Authority based on identified needs;

1069 (6) Requesting special staff development programs from
 1070 the Center for Professional Development, the Principals
 1071 Academy, higher education, regional educational service
 1072 agencies and county boards based on identified needs;

1073 (7) Submitting requests to the Legislature for
 1074 appropriations to meet the identified needs for improving
 1075 education;

1076 (8) Directing county boards to target their funds
 1077 strategically toward alleviating deficiencies;

1078 (9) Ensuring that the need for facilities in counties with
 1079 increased enrollment are appropriately reflected and
 1080 recommended for funding;

1081 (10) Ensuring that the appropriate person or entity is held
 1082 accountable for eliminating deficiencies; and

1083 (11) Ensuring that the needed capacity is available from
 1084 the state and local level to assist the school or school system
 1085 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 or she shall be a
4 person of good moral character, shall be able to perform the
5 duties 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 required
11 to hold a certificate valid for teaching at the assigned level as
12 prescribed by ~~regulations~~ rules established by the state board.
13 The state board shall establish ~~and prescribe guidelines and~~
14 ~~criteria setting forth~~ the minimum requirements for all
15 paraprofessional personnel employed in kindergarten programs
16 established pursuant to the provisions of this section and no
17 such paraprofessional personnel ~~shall~~ may be employed in any
18 kindergarten program unless he or she meets ~~such~~ the minimum
19 requirements. Beginning July 1, 2014, any person previously
20 employed as an aide in a kindergarten program and who is
21 employed in the same capacity on and after that date and any
22 new person employed in that capacity in a kindergarten program
23 on and after that date shall hold the position of either Early
24 Childhood Classroom Assistant Teacher - Temporary
25 Authorization, Early Childhood Classroom Assistant Teacher -
26 Permanent Authorization or Early Childhood Classroom
27 Assistant Teacher - Paraprofessional Certificate. Any person
28 employed as an aide in a kindergarten program that is eligible
29 for full retirement benefits before July 1, 2020, may remain
30 employed as an aide in that position and may not be required to
31 acquire licensure pursuant to this section.

32 (c) The state board with the advice of the state
33 superintendent shall establish and prescribe guidelines and
34 criteria relating to the establishment, operation and successful
35 completion of kindergarten programs in accordance with the
36 other provisions of this section. Guidelines and criteria so
37 established and prescribed also are intended to serve for the
38 establishment and operation of nonpublic kindergarten
39 programs and shall be used for the evaluation and approval
40 of ~~such~~ those programs by the state superintendent, provided
41 application for ~~such~~ the evaluation and approval is made in
42 writing by proper authorities in control of ~~such~~ the programs.
43 The state superintendent, annually, shall publish a list of
44 nonpublic kindergarten programs, including Montessori
45 kindergartens that have been approved in accordance with the
46 provisions of this section. Montessori kindergartens
47 established and operated in accordance with usual and
48 customary practices for the use of the Montessori method
49 which have teachers who have training or experience,
50 regardless of additional certification, in the use of the
51 Montessori method of instruction for kindergartens shall be
52 considered to be approved.

53 (d) Pursuant to ~~such~~ the guidelines and criteria, and only
54 pursuant to ~~such~~ the guidelines and criteria, the county
55 boards may establish programs taking kindergarten to the
56 homes of the children involved, using educational television,
57 paraprofessional personnel in addition to and to supplement
58 regularly certified teachers, mobile or permanent classrooms
59 and other means developed to best carry kindergarten to the
60 child in its home and enlist the aid and involvement of its
61 parent or parents in presenting the program to the child; or
62 may develop programs of a more formal kindergarten type,
63 in existing school buildings, or both, as ~~such~~ the county
64 board may determine, taking into consideration the cost, the
65 terrain, the existing available facilities, the distances each
66 child may be required to travel, the time each child may be
67 required to be away from home, the child's health, the
68 involvement of parents and ~~such~~ other factors as each county
69 board may find pertinent. ~~Such~~ The determinations by any
70 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 not
89 limited to, enrollment of the child in another program or the
90 immaturity of the child. A child withdrawn under this section
91 is not subject to the attendance provisions of this chapter until
92 that child again enrolls in a public school in this state.

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

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

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

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

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

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

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

113 (6) Any other public or private funds.

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

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

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

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

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

126 (5) Specific time lines for implementation; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

278 (2) For those county boards that are including eligible
 279 children attending approved, contracted community-based
 280 programs in their net enrollment for the purposes of
 281 calculating state aid pursuant to article nine-a of this chapter,
 282 documentation that the county board is equitably distributing
 283 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;

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

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

35 (A) Seven paid holidays;

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

38 (C) The remaining days to be designated by the county
39 board for purposes to include, but not be limited to:

40 (i) Curriculum development;

41 (ii) Preparation for opening and closing school;

42 (iii) Professional development;

43 (iv) Teacher-pupil-parent conferences;

44 (v) Professional meetings;

45 (vi) Making up days when instruction was scheduled but
46 not conducted; and

47 (vii) At least four two-hour blocks of time for faculty
48 senate meetings with each two-hour block of time scheduled
49 once at least every forty-five instructional days.

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

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

57 (e) If it is not possible to complete one hundred eighty
58 separate instructional days with the current school calendar,
59 the county board shall schedule instruction on any available
60 noninstructional day, regardless of the purpose for which the
61 day originally was scheduled, and the day will be used for
62 instruction of students: *Provided*, That the provisions of this
63 subsection do not apply to:

64 (1) Holidays; and

65 (2) Election day.

66 (f) The instructional term shall commence and terminate
 67 on a date selected by the county board. Calculation of the
 68 required one hundred eighty separate instructional days must
 69 fall within a 365-day period to be established by the county
 70 board.

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

76 (h) The following applies to cocurricular activities:

77 (1) The state board shall determine what activities may be
 78 considered cocurricular;

79 (2) The state board shall determine the amount of
 80 instructional time that may be consumed by cocurricular
 81 activities; and

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

85 (i) Extracurricular activities may not be used for
 86 instructional time.

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

89 (k) Prior to implementing the school calendar, the county
90 board shall secure approval of its proposed calendar from the
91 state board or, if so designated by the state board, from the
92 state superintendent.

93 (l) In formulation of a school's calendar, a county school
94 board shall hold at least two public meetings that allow
95 parents, teachers, teacher organizations, businesses and other
96 interested parties within the county to discuss the school
97 calendar. The public notice of the date, time and place of the
98 public hearing must be published in a local newspaper of
99 general circulation in the area as a Class II legal
100 advertisement, in accordance with the provisions of article
101 three, chapter fifty-nine of this code.

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

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

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

116 (p) The state board shall promulgate a rule in accordance
 117 with the provisions of article three-b, chapter twenty-nine-a
 118 of this code for the purpose of implementing the provisions
 119 of this section.

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 submit
71 recommendations regarding employment to the principal,
72 who also may ~~also~~ make independent recommendations, for
73 submission to the county superintendent: *Provided,* That
74 ~~such~~ the process shall be chaired by the school principal and

75 must permit the timely employment of persons to perform
76 necessary duties.

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

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

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

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

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

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

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

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

110 (11) Any faculty senate may review the evaluation
111 procedure as conducted in their school to ascertain whether
112 the evaluations were conducted in accordance with the
113 written system required pursuant to section twelve, article
114 two, chapter eighteen-a of this code or pursuant to section
115 two, article three-c, chapter eighteen-a of this code, as
116 applicable, and the general intent of this Legislature
117 regarding meaningful performance evaluations of school

118 personnel. If a majority of members of the faculty senate
119 determine that such evaluations were not so conducted, they
120 shall submit a report in writing to the State Board of
121 Education: *Provided*, That nothing herein creates any new
122 right of access to or review of any individual's evaluations.

123 (12) A local board shall provide to each faculty senate a
124 two-hour block of time for a faculty senate meeting on a day
125 scheduled for the opening of school prior to the beginning of
126 the instructional term and ~~a two-hour block of time on each~~
127 ~~instructional support and enhancement day scheduled by the~~
128 ~~board for instructional activities for students and professional~~
129 ~~activities for teachers pursuant to section forty-five, article~~
130 ~~five of this chapter~~ at least four additional two-hour blocks of
131 time during noninstructional days, with each two-hour block
132 of time scheduled once at least every forty-five instructional
133 days. A faculty senate may meet for an unlimited block of
134 time ~~per month~~ during noninstructional days to discuss and
135 plan strategies to improve student instruction and to conduct
136 other faculty senate business. A faculty senate meeting
137 scheduled on a noninstructional day shall be considered as
138 part of the purpose for which the noninstructional day is
139 scheduled. This time may be ~~utilized~~ used and determined at

140 the local school level and includes, but is not limited to,
141 faculty senate meetings.

142 (13) Each faculty senate shall develop a strategic plan to
143 manage the integration of special needs students into the
144 regular classroom at their respective schools and submit the
145 strategic plan to the superintendent of the county board of
146 ~~education~~ periodically pursuant to guidelines developed by
147 the State Department of Education. Each faculty senate shall
148 encourage the participation of local school improvement
149 councils, parents and the community at large in developing
150 the strategic plan for each school.

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

1 (a) *Definitions.* – For the purposes of this section:

2 (1) “Critical need alternative teaching certificate” means
 3 a certificate issued to a candidate who has been admitted to
 4 a program designated as a national teaching corps pursuant
 5 to this section, is assigned to teach in West Virginia, and who
 6 does not meet the standard educational requirements for
 7 teacher certification.

8 (2) “National teacher corps” means a program that:

9 (A) Includes a group of college graduates who commit to
 10 teach for at least two years in underserved communities in the
 11 United States;

12 (B) Is designed to increase the supply of effective
 13 teachers in low-income communities and have the capacity
 14 to provide teachers for high-need fields;

15 (C) Is designed to meet the specific teacher needs of a
16 district or districts and the needs of high-need areas,
17 including rural areas;

18 (D) Recruits college graduates from across the United
19 States to teach in high-need, urban and rural schools;

20 (E) Provides high-quality professional development that
21 is sustained, intensive and classroom focused both prior to
22 and while teaching and intensive supervision that consists of
23 structured guidance and regular ongoing support;

24 (F) Serves multiple states; and

25 (G) That includes a summer training institute, requires
26 ongoing two-year professional development and employs a
27 staff member who can be a member of the professional
28 support team required by this section.

29 (3) “National teacher corps member” means an individual
30 who has been admitted to a national teacher corps to be a
31 teacher, and who is in the process of completing a two-year
32 commitment as part of the corps.

33 (b) *Designation of national teacher corps.* – Upon written
34 request to the state board, the state board shall determine
35 whether a group qualifies as a national teacher corps under
36 the definition set forth in subsection (a) of this section and

37 whether a group is otherwise compatible with the
38 requirements of this section. If the state board determines
39 that the group qualifies under the definition and is otherwise
40 compatible with the requirements of this section, the board
41 shall designate the group as a national teacher corps for the
42 purposes of this section.

43 (c) *Critical need alternative teaching certificate.* –

44 (1) To serve as teacher of record under this section, the
45 candidate must hold a critical need alternative teaching
46 certificate issued by the state superintendent and endorsed for
47 the instructional field in which the candidate seeks
48 certification.

49 (2) The certificate only is valid for the purposes of
50 allowing the certificate holder to teach in subject areas,
51 public schools or geographic areas of the state in which the
52 state board determines that critical teacher shortages exist.
53 The state board shall establish criteria and procedures for
54 identifying critical teacher shortages in subject areas, public
55 schools and geographic areas of the state. In establishing the
56 criteria and procedures, the state board shall coordinate with
57 the Higher Education Policy Commission as it establishes its
58 criteria and procedures for identifying critical teacher

59 shortages for the purposes of the Underwood-Smith Teacher
60 Scholarship and Loan Assistance Fund pursuant to section
61 one, article four, chapter eighteen-c of this code.

62 (3) The certificate is issued for two years and may be
63 renewed for one additional year, and no individual may hold
64 a critical need alternative teacher certificate for a period
65 exceeding three years. The critical need alternative teacher
66 certificate is equivalent to a professional teaching certificate
67 for the purpose of issuing a continuing contract, and for the
68 purposes of being designated a highly qualified teacher under
69 the No Child Left Behind Act.

70 (4) To be eligible for a critical need alternative teacher
71 certificate, an applicant shall meet the following criteria:

72 (A) Have been admitted into a national teacher corps and
73 be part of a national teacher corps serving West Virginia;

74 (B) Possess at least a bachelor's degree with a minimum
75 of a 2.5 grade point average from a regionally accredited
76 institution of higher education in any discipline;

77 (C) Pass the same basic skills and subject matter test or
78 tests required by the state board for traditional program
79 candidates to become certified in the area for which licensure
80 is being sought, and passage of the subject matter test or tests

81 shall be sufficient to earn endorsement in the instructional
82 field, provided that all other requirements set forth in this
83 subsection are met;

84 (D) Have completed the summer training institute offered
85 by the national teacher corps;

86 (E) Hold United States citizenship, be of good moral
87 character and be physically, mentally and emotionally
88 qualified to perform the duties of a teacher;

89 (F) Attain the age of eighteen years on or before October
90 1 of the year in which the critical need alternative teacher
91 certificate is issued; and

92 (G) Qualify for employment following a criminal history
93 check pursuant to section ten of this article.

94 (5) Notwithstanding any law or rule to the contrary, a
95 person who satisfies the requirements set forth in subdivision
96 (4) of this subsection shall be granted a formal document
97 authorizing him or her to work in a public school in West
98 Virginia.

99 (6) Participants certified under this section shall complete
100 the summer training institute and ongoing two-year
101 professional development required by the national teacher
102 corps.

103 (7) In addition to receiving any support provided by staff
104 of a national teacher corps, candidates certified under this
105 section shall successfully complete a Beginning Teacher
106 Internship program under section two-b of this article or
107 participate in a comprehensive system of support pursuant to
108 section three, article three-c of this chapter during the time
109 the candidate is certified pursuant to this section.

110 (8) *Professional support team.* –

111 (A) Training and support of teachers certified under this
112 section are provided by a professional support team
113 including:

114 (i) The school principal, or his or her designee;

115 (ii) An experienced classroom teacher who is serving as
116 a mentor under the Beginning Teacher Internship program
117 pursuant to section two-b of this article, or if the employing
118 county has adopted a plan for implementation of a
119 comprehensive system of support pursuant to section three,
120 article three-c, chapter eighteen-a of this code, a master
121 teacher, mentor, academic coach, other individual employee
122 used to provide support, supervision or other professional
123 development or training to other employees or any other
124 appropriate professional person; and

125 (iii) A staff member of the national teacher corps.

126 (B) The school principal, or his or her designee, serves as
127 chairperson of the team.

128 (C) The professional support team shall submit a written
129 evaluation of the teacher certified under this section to the
130 county superintendent at the conclusion of the teacher's
131 second year of teaching. The written evaluation shall be in a
132 form specified by the county superintendent and submitted
133 on a date specified by the county superintendent. The
134 evaluation shall report the progress of the teacher toward
135 meeting the requirements of the training and support
136 program, and all final decisions on the progress of the teacher
137 and recommendations shall rest with the principal.

138 (D) Notwithstanding any law to the contrary, upon
139 program completion and at least three years of successful
140 teaching experience, the teacher is eligible for a professional
141 certificate, subject to the requirements established in section
142 one-e of this article and any requirements set forth in the state
143 board rule required by this section.

144 (d) On or before June 1, 2013, the state board shall
145 promulgate an emergency rule in accordance with article
146 three-b, chapter twenty-nine-a of this code to implement the

147 provisions of this section and section one-e of this article.
148 On or before November 1, 2013, the state board shall
149 promulgate a legislative rule for the same purpose. The rules
150 shall include, but are not limited to, additional requirements
151 for a person with a critical need alternative teaching
152 certificate to obtain a professional certificate. The additional
153 requirements shall be the same as or similar to the
154 requirements set forth in code and policy for other alternative
155 education program participants to obtain a professional
156 certificate, and shall include the requirement that the person
157 with the critical need alternative teaching certificate meet the
158 requirements of paragraph (A), subdivision (5), subsection
159 (c), section one-a of this article, relating to the requirement
160 for eighteen semester hours of instruction.

**§18A-3-1e. Recommendation for certification of national
teacher corps teachers.**

1 (a) At the conclusion of the program administered
2 pursuant to section one-d of this article, the support team
3 defined in section one-d of this article shall prepare a
4 comprehensive evaluation report on the teacher's
5 performance. This report shall be submitted directly to the
6 state superintendent and shall contain a recommendation as

7 to whether or not a professional certificate should be issued
8 to the teacher. The report shall be made on standard forms
9 developed by the state superintendent.

10 The comprehensive evaluation report shall include one of
11 the following recommendations:

12 (1) Approved: Recommends issuance of a professional
13 certificate;

14 (2) Insufficient: Recommends that a professional
15 certificate not be issued but that the candidate be allowed to
16 seek reentry on one or more occasions in the future into an
17 approved alternative teacher education program or national
18 teacher corps program; or

19 (3) Disapproved: Recommends that a professional
20 certificate not be issued and that the candidate not be allowed
21 to enter into another approved alternative teacher education
22 program or a national corps program in this state, but may not
23 be prohibited from pursuing teacher certification through
24 other approved programs for the education of teachers in this
25 state.

26 (b) The support team shall provide the teacher with a
27 copy of the teacher's written evaluation report and
28 certification recommendation before submitting it to the state

29 superintendent. If the teacher disagrees with the provider's
30 recommendation, the teacher may, within fifteen days of
31 receipt, request an appeal in accordance with the certification
32 appeals process established by the state board.

**§18A-3-2a. Certificates valid in the public schools that may be
issued by the state superintendent.**

1 In accordance with state board rules for the education of
2 professional educators adopted pursuant to section one of this
3 article and subject to the limitations and conditions of that
4 section, the state superintendent may issue the following
5 certificates valid in the public schools of the state:

6 (a) *Professional teaching certificates.* –

7 (1) A professional teaching certificate for teaching in the
8 public schools may be issued to a person who meets the
9 following conditions:

10 (A) Holds at least a bachelor's degree from an accredited
11 institution of higher education in this state; and

12 (i) Has completed a program for the education of teachers
13 which meets the requirements approved by the state board; or

14 (ii) Has met equivalent standards at institutions in other
15 states and has passed appropriate state board-approved basic
16 skills and subject matter tests or has completed three years of

17 successful experience within the last seven years in the area
18 for which licensure is being sought; or

19 (B) Holds at least a bachelor's degree in a discipline
20 taught in the public schools from an accredited institution of
21 higher education; and

22 (i) Has passed appropriate state board-approved basic
23 skills and subject matter tests; or

24 (ii) Has completed three years of successful experience
25 within the last seven years in the area for which licensure is
26 being sought; and

27 (I) Has completed an alternative program for teacher
28 education approved by the state board or a national teacher
29 corps program in accordance with section one-d of this
30 article;

31 (II) Is recommended for a certificate in accordance with
32 the provisions of sections one-a, ~~and~~ one-b and one-e of this
33 article relating to the program; or

34 (III) Is recommended by the state superintendent based
35 on documentation submitted.

36 (2) The certificate shall be endorsed to indicate the grade
37 level or levels or areas of specialization in which the person
38 is certified to teach or to serve in the public schools.

39 (3) The initial professional certificate is issued
40 provisionally for a period of three years from the date of
41 issuance:

42 (A) The certificate may be converted to a professional
43 certificate valid for five years subject to successful
44 completion of a beginning teacher internship or induction
45 program, if applicable; or

46 (B) The certificate may be renewed subject to rules
47 adopted by the state board.

48 (b) *Alternative program teacher certificate.* – An
49 alternative program teacher certificate may be issued to a
50 candidate who is enrolled in an alternative program for the
51 education of teachers in accordance with the provisions of
52 section one-a of this article.

53 (1) The certificate is valid only for the alternative
54 program position in which the candidate is employed and is
55 subject to enrollment in the program.

56 (2) The certificate is valid for one year and may be
57 renewed for each of the following two consecutive years
58 only.

59 (c) Critical need alternative teaching certificate. – A
60 critical need alternative teaching certificate may be issued to

61 a candidate in accordance with provisions of section one-d of
62 this article.

63 (1) The certificate is valid subject to the provisions of
64 section one-d of this article.

65 (2) The certificate is valid for two years and may be
66 renewed for one additional year only.

67 (3) The certificate is valid only at the middle and high
68 school level.

69 ~~(c)~~ (d) Professional administrative certificate. –

70 (1) A professional administrative certificate, endorsed for
71 serving in the public schools, with specific endorsement as a
72 principal, vocational administrator, supervisor of instructions
73 or superintendent, may be issued to a person who has
74 completed requirements all to be approved by the state board
75 as follows:

76 (A) Holds at least a master's degree from an institution of
77 higher education accredited to offer a master's degree; and

78 (i) Has successfully completed an approved program for
79 administrative certification developed by the state board in
80 cooperation with the chancellor for higher education; and

81 (ii) Has successfully completed education and training in
82 evaluation skills through the center for professional

83 development, or equivalent education and training in
84 evaluation skills approved by the state board; and

85 (iii) Possesses three years of management level
86 experience.

87 (2) Any person serving in the position of dean of students
88 on June 4, 1992, is not required to hold a professional
89 administrative certificate.

90 (3) The initial professional administrative certificate is
91 issued provisionally for a period of five years. This
92 certificate may be converted to a professional administrative
93 certificate valid for five years or renewed, subject to the
94 regulations of the state board.

95 ~~(d)~~ (e) Paraprofessional certificate. – A paraprofessional
96 certificate may be issued to a person who meets the following
97 conditions:

98 (1) Has completed thirty-six semester hours of
99 post-secondary education or its equivalent in subjects directly
100 related to performance of the job, all approved by the state
101 board; and

102 (2) Demonstrates the proficiencies to perform duties as
103 required of a paraprofessional as defined in section eight,
104 article four of this chapter.

105 ~~(e)~~ (f) Other certificates; permits. –

106 (1) Other certificates and permits may be issued, subject
107 to the approval of the state board, to persons who do not
108 qualify for the professional or paraprofessional certificate.

109 (2) A certificate or permit may not be given permanent
110 status and a person holding one of these credentials shall
111 meet renewal requirements provided by law and by
112 regulation, unless the state board declares certain of these
113 certificates to be the equivalent of the professional certificate.

114 (3) Within the category of other certificates and permits,
115 the state superintendent may issue certificates for persons to
116 serve in the public schools as athletic coaches or coaches of
117 other extracurricular activities, whose duties may include the
118 supervision of students, subject to the following limitations:

119 (A) The person is employed under a contract with the
120 county board of education.

121 (i) The contract specifies the duties to be performed,
122 specifies a rate of pay that is equivalent to the rate of pay for
123 professional educators in the district who accept similar
124 duties as extra duty assignments, and provides for liability
125 insurance associated with the activity; and

126 (ii) The person holding this certificate is not considered
127 an employee of the board for salary and benefit purposes
128 other than as specified in the contract.

129 (B) A currently employed certified professional educator
130 has not applied for the position; and

131 (C) The person completes an orientation program
132 designed and approved in accordance with state board rules.

133 ~~(f)~~ (g) *Teacher-In-Residence Permit.* –

134 (1) A teacher-in-residence permit may be issued to a
135 candidate who is enrolled in a teacher-in-residence program
136 in accordance with an agreement between an institution of
137 higher education and a county board. The agreement is
138 developed pursuant to subsection (f), section one of this
139 article and requires approval by the state board.

140 (2) The permit is valid only for the teacher-in-residence
141 program position in which the candidate is enrolled and is
142 subject to enrollment in the program. The permit is valid for
143 no more than one school year and may not be renewed.

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

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

15 (1) Appropriate certification, licensure or both;

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

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

21 (4) Academic achievement;

22 (5) Relevant specialized training;

23 (6) Past performance evaluations conducted pursuant to
24 section twelve, article two of this chapter;

25 (7) Seniority; and

26 ~~(7)~~ (8) Other measures or indicators upon which the
27 relative qualifications of the applicant may fairly be judged.

28 ~~(d) If one or more permanently employed instructional~~
29 ~~personnel apply for a classroom teaching position and meet~~
30 ~~the standards set forth in the job posting, the county board of~~
31 ~~education shall make a decision affecting the filling of the~~
32 ~~position on the basis of the following criteria:~~

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

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

35 ~~(3) The existence of teaching experience in the required~~
36 ~~certification area;~~

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

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

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

43 ~~(7) Seniority.~~

44 ~~(e) In filling positions pursuant to subsection (d) of this~~
 45 ~~section, consideration shall be given to each criterion with~~
 46 ~~each criterion being given equal weight. If the applicant with~~
 47 ~~the most seniority is not selected for the position, upon the~~
 48 ~~request of the applicant a written statement of reasons shall~~
 49 ~~be given to the applicant with suggestions for improving the~~
 50 ~~applicant's qualifications. In judging qualifications for filling~~
 51 ~~a classroom teacher vacancy at a school, the county board~~
 52 ~~also shall consider any recommendations made by the~~
 53 ~~principal and by the process, if any, established by the faculty~~
 54 ~~senate pursuant to section five, article five-a, chapter~~
 55 ~~eighteen of this code to interview prospective professional~~
 56 ~~educators.~~

57 ~~(f)~~ (e) With the exception of guidance counselors, the
 58 seniority of classroom teachers, as defined in section one,
 59 article one of this chapter, shall be determined on the basis of

60 the length of time the employee has been employed as a
61 regular full-time certified and/or licensed professional
62 educator by the county board of education and shall be
63 granted in all areas that the employee is certified, licensed or
64 both.

65 ~~(g)~~ (f) Upon completion of one hundred thirty-three days
66 of employment in any one school year, substitute teachers,
67 except retired teachers and other retired professional
68 educators employed as substitutes, shall accrue seniority
69 exclusively for the purpose of applying for employment as a
70 permanent, full-time professional employee. One hundred
71 thirty-three days or more of said employment shall be
72 prorated and shall vest as a fraction of the school year
73 worked by the permanent, full-time teacher.

74 ~~(h)~~ (g) Guidance counselors and all other professional
75 employees, as defined in section one, article one of this
76 chapter, except classroom teachers, shall gain seniority in
77 their nonteaching area of professional employment on the
78 basis of the length of time the employee has been employed
79 by the county board of education in that area: *Provided*, That
80 if an employee is certified as a classroom teacher, the
81 employee accrues classroom teaching seniority for the time

82 that that employee is employed in another professional area.
83 For the purposes of accruing seniority under this paragraph,
84 employment as principal, supervisor or central office
85 administrator, as defined in section one, article one of this
86 chapter, shall be considered one area of employment.

87 (i) (h) Employment for a full employment term shall
88 equal one year of seniority, but no employee may accrue
89 more than one year of seniority during any given fiscal year.
90 Employment for less than the full employment term shall be
91 prorated. A random selection system established by the
92 employees and approved by the board shall be used to
93 determine the priority if two or more employees accumulate
94 identical seniority: *Provided*, That when two or more
95 principals have accumulated identical seniority, decisions on
96 reductions in force shall be based on qualifications.

97 (j) (i) Whenever a county board is required to reduce the
98 number of professional personnel in its employment, or
99 within a school, the employee holding a position to be
100 reduced with the least amount of seniority or the least amount
101 of seniority within the school shall be properly notified and
102 released from employment pursuant to the provisions of
103 section two, article two of this chapter. The provisions of
104 this subsection are subject to the following:

105 (1) Any comparison of seniority within a school in
106 accordance with this subsection shall be performed using
107 seniority within the entire county school district. Nothing in
108 this subsection is intended to create a system of seniority
109 within an individual school.

110 ~~(1)~~ (2) All persons employed in a certification area to be
111 reduced within a school who are employed under a temporary
112 permit shall be properly notified and released before a fully
113 certified employee in such a position within a school is
114 subject to release;

115 (3) Notwithstanding any provision of this code to the
116 contrary, all employees subject to release shall be considered
117 applicants for any vacancy in an established, existing or
118 newly created position that, on or before February 15, is
119 known to exist for the ensuing school year, and for which
120 they are qualified, and, upon recommendation of the
121 superintendent, the board shall appoint the successful
122 applicant from among them before posting such vacancies for
123 application by other persons.

124 ~~(2)~~ (4) An employee subject to release shall be employed
125 in any other professional position where the employee is
126 certified and was previously employed or to any lateral area

127 for which the employee is certified, licensed or both, if the
 128 employee's seniority is greater than the seniority of any other
 129 employee in that area of certification, licensure or both:
 130 Provided, That the position is either at the same school or not
 131 assigned to a school;

132 ~~(3)~~ (5) If an employee subject to release holds
 133 certification, licensure or both in more than one lateral area
 134 and if the employee's seniority is greater than the seniority of
 135 any other employee in one or more of those areas of
 136 certification, licensure or both, the employee subject to
 137 release shall be employed in the professional position held by
 138 the employee with the least seniority in any of those areas of
 139 certification, licensure or both, whose position is either at the
 140 same school or not assigned to a school; and

141 ~~(4)~~ (6) If, prior to August 1 of the year a reduction in
 142 force is approved, the reason for any particular reduction in
 143 force no longer exists as determined by the county board in
 144 its sole and exclusive judgment, the board shall rescind the
 145 reduction in force or transfer and shall notify the released
 146 employee in writing of his or her right to be restored to his or
 147 her position of employment. Within five days of being so
 148 notified, the released employee shall notify the board, in

149 writing, of his or her intent to resume his or her position of
150 employment or the right to be restored shall terminate.
151 Notwithstanding any other provision of this subdivision, if
152 there is another employee on the preferred recall list with
153 proper certification and higher seniority, that person shall be
154 placed in the position restored as a result of the reduction in
155 force being rescinded.

156 ~~(k)~~ (j) For the purpose of this article, all positions which
157 meet the definition of “classroom teacher” as defined in
158 section one, article one of this chapter shall be lateral
159 positions. For all other professional positions, the county
160 board of education shall adopt a policy by October 31, 1993,
161 and may modify the policy thereafter as necessary, which
162 defines which positions shall be lateral positions. The board
163 shall submit a copy of its policy to the state board within
164 thirty days of adoption or any modification, and the state
165 board shall compile a report and submit the report to the
166 Legislative Oversight Commission on Education
167 Accountability by December 31, 1993, and by that date in
168 any succeeding year in which any county board submits a
169 modification of its policy relating to lateral positions. In
170 adopting the policy, the board shall give consideration to the

171 rank of each position in terms of title; nature of
172 responsibilities; salary level; certification, licensure or both;
173 and days in the period of employment.

174 (†) (k) After the twentieth day prior to the beginning of
175 the instructional term, no person employed and assigned to a
176 professional position may transfer to another professional
177 position in the county during that instructional term unless
178 the person holding that position does not have valid
179 certification. The provisions of this subsection are subject to
180 the following:

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

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

187 (3) The county board, upon recommendation of the
188 superintendent may fill a position before the next
189 instructional term when it is determined to be in the best
190 interest of the students. The county superintendent shall
191 notify the state board of each transfer of a person employed
192 in a professional position to another professional position

193 after the twentieth day prior to the beginning of the
194 instructional term;

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

200 (5) The Legislature finds that it is not in the best interest
201 of the students particularly in the elementary grades to have
202 multiple teachers for any one grade level or course during the
203 instructional term. It is the intent of the Legislature that the
204 filling of positions through transfers of personnel from one
205 professional position to another after the twentieth day prior
206 to the beginning of the instructional term should be kept to a
207 minimum.

208 ~~(m)~~ (l) All professional personnel whose seniority with
209 the county board is insufficient to allow their retention by the
210 county board during a reduction in work force shall be placed
211 upon a preferred recall list. As to any professional position
212 opening within the area where they had previously been
213 employed or to any lateral area for which they have
214 certification, licensure or both, the employee shall be recalled

215 on the basis of seniority if no regular, full-time professional
216 personnel, or those returning from leaves of absence with
217 greater seniority, are qualified, apply for and accept the
218 position.

219 (π) (m) Before position openings that are known or
220 expected to extend for twenty consecutive employment days
221 or longer for professional personnel may be filled by the
222 board, the board shall be required to notify all qualified
223 professional personnel on the preferred list and give them an
224 opportunity to apply, but failure to apply shall not cause the
225 employee to forfeit any right to recall. The notice shall be
226 sent by certified mail to the last known address of the
227 employee, and it shall be the duty of each professional
228 personnel to notify the board of continued availability
229 annually, of any change in address or of any change in
230 certification, licensure or both.

231 (σ) (n) Openings in established, existing or newly created
232 positions shall be processed as follows:

233 (1) Boards shall be required to post and date notices
234 ~~which shall be~~ of each opening at least once. At their
235 discretion, boards may post an opening for a position other
236 than classroom teacher more than once in order to attract

237 more qualified applicants. At their discretion, boards may
238 post an opening for a classroom teacher one additional time
239 after the first posting in order to attract more qualified
240 applicants only if fewer than three individuals apply during
241 the first posting subject to the following:

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

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

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

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

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

257 (2) No vacancy shall be filled until after the five-day
258 minimum posting period of the most recent posted notice of
259 the vacancy;

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

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

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

273 ~~(p)~~ (o) Notwithstanding any other provision of the code
 274 to the contrary, where the total number of classroom teaching
 275 positions in an elementary school does not increase from one
 276 school year to the next, but there exists in that school a need
 277 to realign the number of teachers in one or more grade levels,
 278 kindergarten through six, teachers at the school may be
 279 reassigned to grade levels for which they are certified without
 280 that position being posted: *Provided*, That the employee and
 281 the county board ~~of education~~ mutually agree to the
 282 reassignment.

283 ~~(q) Reductions in classroom teaching positions in~~
284 ~~elementary schools shall be processed as follows:~~

285 ~~(1) When the total number of classroom teaching~~
286 ~~positions in an elementary school needs to be reduced, the~~
287 ~~reduction shall be made on the basis of seniority with the~~
288 ~~least senior classroom teacher being recommended for~~
289 ~~transfer, and~~

290 ~~(2) When a specified grade level needs to be reduced and~~
291 ~~the least senior employee in the school is not in that grade~~
292 ~~level, the least senior classroom teacher in the grade level~~
293 ~~that needs to be reduced shall be reassigned to the position~~
294 ~~made vacant by the transfer of the least senior classroom~~
295 ~~teacher in the school without that position being posted:~~
296 ~~*Provided, That the employee is certified, licensed or both and*~~
297 ~~agrees to the reassignment.~~

298 ~~(r)~~ (p) Any board failing to comply with the provisions of
299 this article may be compelled to do so by mandamus and
300 shall be liable to any party prevailing against the board for
301 court costs and reasonable attorney fees as determined and
302 established by the court. Further, employees denied
303 promotion or employment in violation of this section shall be
304 awarded the job, pay and any applicable benefits retroactive

305 to the date of the violation and payable entirely from local
 306 funds. Further, the board shall be liable to any party
 307 prevailing against the board for any court reporter costs
 308 including copies of transcripts.

309 ~~(s)~~ (q) The county board shall compile, update annually
 310 on July 1 and make available by electronic or other means to
 311 all employees a list of all professional personnel employed by
 312 the county, their areas of certification and their seniority.

313 (r) Notwithstanding any other provision of this code to
 314 the contrary, upon recommendation of the principal and
 315 approval by the classroom teacher and county board, a
 316 classroom teacher assigned to the school may at any time be
 317 assigned to a new or existing classroom teacher position at
 318 the school without the position being posted.

**§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
319 a 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

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

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

413 (79) "Supervisor of maintenance" means a skilled person
414 who is not a professional person or professional educator as
415 defined in section one, article one of this chapter. The
416 responsibilities include directing the upkeep of buildings and
417 shops, and issuing instructions to subordinates relating to

418 cleaning, repairs and maintenance of all structures and
419 mechanical and electrical equipment of a county board;

420 (80) “Supervisor of transportation” means a qualified
421 person employed to direct school transportation activities
422 properly and safely, and to supervise the maintenance and
423 repair of vehicles, buses and other mechanical and mobile
424 equipment used by the county school system. After July 1,
425 2010, all persons employed for the first time in a position
426 with this classification title or in a multi-classification
427 position that includes this title shall have five years of
428 experience working in the transportation department of a
429 county board. Experience working in the transportation
430 department shall consist of serving as a bus operator, bus
431 aide, assistant mechanic, mechanic, chief mechanic or in a
432 clerical position within the transportation department;

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

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

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

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

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

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

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

462 (88) “Early Childhood Classroom Assistant Teacher -
 463 Permanent Authorization” means a person who has
 464 completed the minimum requirements for a state-awarded
 465 certificate for early childhood classroom assistant teachers
 466 that meet or exceed the requirements for a child development
 467 associate. Equivalency for the West Virginia Department of
 468 Education will be determined as the child development
 469 associate or the West Virginia Apprenticeship for Child
 470 Development Specialists; and

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

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

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

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

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

502 (1) Reclassified by class title; or

503 (2) Relegated to any condition of employment which
504 would result in a reduction of his or her salary, rate of pay,
505 compensation or benefits earned during the current fiscal

506 year; or for which he or she would qualify by continuing in
507 the same job position and classification held during that fiscal
508 year and subsequent years.

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

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

522 (p) Any person employed in an aide position on the
523 effective date of this section may not be transferred or subject
524 to a reduction in force for the purpose of creating a vacancy
525 for the employment of a licensed practical nurse.

526 (q) Without the written consent of the service person, a
527 county board may not establish the beginning work station

528 for a bus operator or transportation aide at any site other than
529 a county board-owned facility with available parking. The
530 workday of the bus operator or transportation aide
531 commences at the bus at the designated beginning work
532 station and ends when the employee is able to leave the bus
533 at the designated beginning work station, unless he or she
534 agrees otherwise in writing. The application or acceptance
535 of a posted position may not be construed as the written
536 consent referred to in this subsection.

537 (r) "Itinerant status" means a service person who does not
538 have a fixed work site and may be involuntarily reassigned
539 to another work site. A service person is considered to hold
540 itinerant status if he or she has bid upon a position posted as
541 itinerant or has agreed to accept this status. A county board
542 may establish positions with itinerant status only within the
543 aide and autism mentor classification categories and only
544 when the job duties involve exceptional students. A service
545 person with itinerant status may be assigned to a different
546 work site upon written notice ten days prior to the
547 reassignment without the consent of the employee and
548 without posting the vacancy. A service person with itinerant
549 status may be involuntarily reassigned no more than twice

550 during the school year. At the conclusion of each school
 551 year, the county board shall post and fill, pursuant to section
 552 eight-b of this article, all positions that have been filled
 553 without posting by a service person with itinerant status. A
 554 service person who is assigned to a beginning and ending
 555 work site and travels at the expense of the county board to
 556 other work sites during the daily schedule, shall not be
 557 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

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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
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
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
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
150 the minimum monthly pay of each service employee for each
151 of 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 (1) 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) Every teacher who is regularly employed for a period
16 of time more than one-half the class periods of the regular
17 school day shall be provided at least one planning period
18 within each school instructional day to be used to complete
19 necessary preparations for the instruction of pupils. ~~Such~~
20 The 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 Principals, and assistant principals, where applicable,
29 shall cooperate in carrying out the provisions of this
30 subsection, including, but not limited to, assuming control of
31 the class period or supervision of students during the time the
32 teacher is engaged in the planning period. Substitute teachers
33 may also be utilized to assist with classroom responsibilities
34 under this subsection: *Provided*, That any substitute teacher
35 who is employed to teach a minimum of two consecutive
36 days in the same position shall be granted a planning period
37 pursuant to this section.

38 (3) Nothing in this section ~~shall be construed to prevent~~
39 prevents any teacher from exchanging his or her lunch recess
40 or a planning period or any service ~~personnel~~ person from
41 exchanging his or her lunch recess for any compensation or
42 benefit mutually agreed upon by the employee and the county
43 superintendent ~~of schools~~ or his or her agent: *Provided*, That
44 a teacher and the superintendent or his or her agent may not
45 agree to terms which are different from those available to any
46 other teacher granted rights under this section within the
47 individual school or to terms which in any way discriminate

48 among ~~such~~ those teachers within the individual school, and
 49 ~~that service personnel~~ a service person granted rights under
 50 this section and the superintendent or his or her agent may
 51 not agree to terms which are different from those available to
 52 any other service personnel within the same classification
 53 category granted rights under this section within the
 54 individual school or to terms which in any way discriminate
 55 among ~~such~~ those service personnel within the same
 56 classification category within the individual school.

57 (4) The state board shall conduct a study on planning
 58 periods. The study shall include, but not be limited to, the
 59 appropriate length for planning periods at the various grade
 60 levels and for the different types of class schedules. The
 61 board shall report its findings and recommendations to the
 62 Legislative Oversight Commission on Education
 63 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 who
31 have graduated or are graduating in the top ten percent of
32 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) 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.