

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-FIRST LEGISLATURE**  
**REGULAR SESSION, 2013**



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 359**

(By SENATORS KESSLER (MR. PRESIDENT) AND M. HALL  
BY REQUEST OF THE EXECUTIVE)

[PASSED MARCH 22, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

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AN ACT to repeal §18-2-23a and §18-2-32 of the Code of West Virginia, 1931, as amended; to repeal §18-2E-5c of said code; to repeal §18-2I-6 and §18-2I-7 of said code; to repeal §18A-3A-2a and §18A-3A-6 of said code; to amend and reenact §18-1-4 of said code; to amend and reenact §18-2-24 of said code; to amend said code by adding thereto a new section, designated §18-2-39; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-1, §18-2I-2, §18-2I-3, §18-2I-4 and §18-2I-5 of said code; to amend and reenact §18-3-1 and §18-3-12 of said code; to amend said code by adding thereto a new section, designated §18-3-9b; to amend and reenact §18-5-18, §18-5-44 and §18-5-45 of said code; to amend and reenact §18-5A-5 of said code; to amend and reenact §18A-2-1 and §18A-2-7 of said code; to amend said code by adding thereto a new section, designated §18A-3-1d; to amend and reenact §18A-3A-1, §18A-3A-2 and §18A-3A-3 of said code; to amend and reenact §18A-4-2a, §18A-4-7a, §18A-4-8, §18A-4-8a and §18A-4-14 of said code; to amend and reenact §18A-5-2 of said code; to amend and reenact §18C-1-2 of said code; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3 and §18C-4-4 of said code; and to amend said code by adding thereto three new sections, designated §18C-4A-1,

§18C-4A-2 and §18C-4A-3, all relating to transforming and improving public education; removing outdated language; requiring the State Board of Education, the Higher Education Policy Commission and the Council for Community and Technical College Education to collaborate in formally adopting uniform and specific college- and career-readiness standards for English/language arts and math; providing methods for determining whether students have met the college- and career-readiness standards; requiring that an explicit focus be embedded in each course on the development of English/language arts and math skills; requiring a twelfth-grade transitional course for both English/language arts and math for students not on track to be college ready; requiring professional development on teaching the college- and career-readiness standards to be included in the State Board's Master Plan for Professional Staff Development; requiring the state board to require all teacher preparation programs to include appropriate training for teaching adopted standards in at least grades eight through twelve; requiring the use of certain assessments, exams or tests for determining whether a student is to enroll in a remedial course; requiring accountability for increasing the percentage of students who meet the standards and for increasing the percentage of students who are making adequate progress toward meeting the standards; removing requirement applicable to annual county and school strategic improvement plans; modifying requirements for high-quality education standards for student, school and school system performance and processes; modifying requirements pertaining to a comprehensive statewide student assessment program; removing provisions relating to No Child Left Behind annual measures; modifying provisions pertaining to the state annual performance measures for school and school system accreditation; removing provisions pertaining to requiring the standards to include indicators of exemplary student, school and school system performance and progress; eliminating the Process for Improving Education Council; modifying component of system

of education performance audits; expanding state board authority pertaining to the Office of Education Performance Audit's reporting formats; eliminating condition for on-site review; removing prohibition of certain duplicate reviews or inspections; removing provisions pertaining to persons who are to conduct an on-site review; removing list of areas for which the office may not review; modifying provisions pertaining to school accreditation; removing provision allowing a student to transfer from a low-performing school under certain conditions; professional development; establishing clear state-level leadership of professional development; providing findings on the importance of professional development; requiring State Board of Education to develop a master plan for professional development; requiring submission of plan to certain entities; requiring goals to be established and included in the master plan; requiring state board rules; setting forth minimum components of the rule; requiring annual report on the statewide professional development plan; modifying language pertaining to the Strategic Staff Development Fund; modifying State Superintendent of Schools qualifications and removing his or her salary limit; requiring state superintendent to reduce the amount budgeted for personal services, related employee benefits and contractual expenditures related to employment in fiscal years 2014 and 2015; increasing the number of schools to be included in a special community development pilot program; modifying other provisions pertaining to the pilot program; requiring kindergarten and early childhood aides to transition to one of three new assistant teacher positions beginning July 1, 2014; exempting those eligible for retirement before July 1, 2020; requiring early childhood education programs to be made available five days a week for the full day; allowing program to be for fewer than five days per week and less than full day under certain circumstances; allowing parent to withdraw child for good cause; providing for local control of the school calendar; defining terms and establishing findings about the school calendar; requiring a 200-day employment term; limiting beginning and closing dates to

forty-eight weeks; requiring one hundred eighty separate days of actual instruction are to be provided for students; requiring twenty noninstructional days; requiring school term to include out-of-calendar days that are to be used for instructional days in the event school is canceled; requiring county policy for adding minutes or days to school calendar for certain purpose; limiting noninstructional interruptions to instructional day; requiring state board or state superintendent approval of proposed county calendar; requiring public meetings for discussions of a school system's calendar; allowing the state board to grant a waiver to certain code sections that prevent a school system from meeting one hundred eighty instructional days; requiring state board rule to implement the calendar section provisions; modifying provisions pertaining to a process for a faculty senate to submit recommendations regarding employment to the principal; requiring state board to promulgate rule to implement the provisions relating to the process; removing language about faculty senates on instructional support and enhancement days; requiring the local board to provide at least four additional two-hour blocks of time during noninstructional days, with each block scheduled once at least every forty-five instructional days; prohibiting principals from recommending for employment certain individuals that are related to him or her; allowing reassignment of teachers when a vacancy was not foreseen before March 1 based on pupil-teacher ratio; requiring state board to conduct a study on alternative certification programs; providing for salary bonus for classroom teachers with a National Board for Professional Teaching Standards renewal certificate; providing for reimbursement of the renewal certification fee; removing language that limits the number of board-certified teachers who can receive reimbursement per year; modifying process for filling vacancies in professional positions of employment including the criteria to be considered; allowing a county board to determine the appropriate weight to apply to each criterion except when one or more permanently employed instructional personnel apply for a classroom teaching position and meet the

standards set forth in the job posting; providing that for a classroom teaching position if the recommendation of the principal and resulting from the faculty senate process are the same and the superintendent concurs, the county board is required to appoint the applicant; requiring state board rule to implement and interpret certain employment provisions; allowing released employees to be hired for certain vacancies prior to the job being posted; allowing for multiple postings within a thirty-day period under certain conditions; allowing reassignment of a teacher within his or her school upon consent of teacher and county board; creating three new types of early childhood classroom assistant teacher positions; assigning a pay grade to the new positions; modifying provisions pertaining to the length of planning periods; requiring state board study on planning periods; clarifying that not all holidays will be counted as a day of the employment term and that pay per pay period cannot change as a result; providing that snow days are not counted as days of employment or days of instruction; providing definitions; scholarships and loan assistance for teachers in critical need areas; creating loan assistance program; determining subject and geographic areas of critical need; requiring legislative rules for program administration; revising eligibility criteria and specifying effective date; determining eligibility and awarding loan assistance; establishing criteria for inclusion in scholarship and loan assistance agreements; requiring payments to be made directly to a lending entity; requiring model contract agreements; specifying loan amount, limits and duration of loan assistance; requiring repayment under certain conditions; specifying excusal from repayment under certain conditions; and making technical corrections and deleting obsolete language.

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

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

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

## **CHAPTER 18. EDUCATION.**

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

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

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

5 (b) For the purposes of this section:

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

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

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

15 (c) The Legislature finds that:

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

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

29 (3) Published national studies by several organizations  
30 routinely examine various elements of state education  
31 systems and selected underlying socioeconomic variables and  
32 rate and rank West Virginia and the other states, the District  
33 of Columbia and the territories based on the measurement  
34 systems and priorities established by the organizations, and  
35 these measurement systems and priorities change;



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

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

51 (d) As part of Vision 2020: An Education Blueprint for  
52 Two Thousand Twenty, the state board shall establish a plan  
53 in accordance with the provisions of this section for  
54 submission to and consideration by the Legislative Oversight  
55 Commission on Education Accountability. The plan shall  
56 include only the goals, objectives, strategies, indicators and  
57 benchmarks for public education set forth in this section and  
58 that meet the requirements of this section. To add clarity and  
59 avoid confusion, the goals for public education set forth in  
60 the plan pursuant to this section are the exclusive goals for  
61 public education. The plan shall include:

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

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

66 (3) Strategies for achieving the specific objectives;

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

69 (5) Benchmarks for determining when the goals and  
70 objectives have been achieved.

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

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

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

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

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

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

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

91 (1) *Rigorous 21st Century curriculum and engaging*  
92 *instruction for all students.* – All students in West Virginia  
93 public schools should have access to and benefit from a  
94 rigorous 21st Century curriculum that develops proficiency

95 in core subjects, 21st Century content, learning skills and  
96 technology tools. These students also should have that  
97 curriculum delivered through engaging, research-based  
98 instructional strategies that develop deep understanding and  
99 the ability to apply content to real-world situations;

100 (2) *A 21st Century accountability and accreditation*  
101 *system.* – The prekindergarten through twelve education  
102 system should have a public accrediting system that: (i)  
103 Holds local school districts accountable for the student  
104 outcomes the state values; and (ii) provides the public with  
105 understandable accountability data for judging the quality of  
106 local schools. The outcomes on which the system is based  
107 should be rigorous and should align with national and  
108 international standards such as the National Assessment of  
109 Educational Progress (NAEP), the ACT, the SAT and the  
110 Programme for International Assessment (PISA). The broad  
111 standards established for these outcomes should include a  
112 focus on: (A) Mastery of basic skills by all students; (B)  
113 closing the achievement gap among student subgroups; and  
114 (C) high levels of proficiency in a wide range of desired 21st  
115 Century measures and processes. The system for determining  
116 school and district accreditation should include school and  
117 district self analysis and generate appropriate research-based  
118 strategies for improvement. It also should allow  
119 opportunities to create innovative approaches to instructional  
120 delivery and design. Thus, the system will incorporate  
121 processes for encouraging innovation, including streamlined  
122 applications for waivers to state board policy, financial  
123 support for successful initiatives and recognition of those  
124 practices that can be brought to a district or statewide scale.  
125 The primary goal of the accreditation system is to drive  
126 school improvement. This 21st Century accountability and  
127 accreditation system also should include the methods of  
128 addressing capacity set forth in section five, article two-e of  
129 this chapter;

130       (3) *A statewide balanced assessment process.* – State,  
131 district, school and classroom decisionmaking should be  
132 grounded in 21st Century balanced assessment processes that  
133 reflect national and international rigorous performance  
134 standards and examine student proficiency in 21st Century  
135 content, skills and technology tools. A balanced assessment  
136 system includes statewide summative assessments, local  
137 benchmark assessments and classroom assessments for  
138 learning;

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

157       (5) *School environments that promote safe, healthy and*  
158 *responsible behavior and provide an integrated system of*  
159 *student support services.* – Each school should create an  
160 environment focused on student learning and one where  
161 students know they are valued, respected and safe.  
162 Furthermore, the school should incorporate programs and  
163 processes that instill healthy, safe and responsible behaviors  
164 and prepare students for interactions with individuals of

165 diverse racial, ethnic and social backgrounds. School and  
166 district processes should include a focus on developing  
167 ethical and responsible character, personal dispositions that  
168 promote personal wellness through planned daily physical  
169 activity and healthy eating habits consistent with high  
170 nutritional guidelines and multicultural experiences that  
171 develop an appreciation of and respect for diversity;

172       (6) *A leadership recruitment, development and support*  
173 *continuum.* – Quality schools and school systems of the 21st  
174 Century cannot be created without high-quality leaders.  
175 Thus, West Virginia should have an aligned leadership  
176 professional development continuum that attracts, develops  
177 and supports educational leadership at the classroom, school  
178 and district level. This leadership development continuum  
179 should focus on creating: (i) Learning-centered schools and  
180 school systems; (ii) collaborative processes for staff learning  
181 and continuous improvement; and (iii) accountability  
182 measures for student achievement;

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

200 (8) *Aligned public school with post-secondary and*  
201 *workplace readiness programs and standards.* – An  
202 educational system in the 21st Century should be seen as a  
203 continuum from the public school (prekindergarten through  
204 twelve) program through post-secondary education. In order  
205 to be successful in a global competitive marketplace, learning  
206 should be an ongoing, life-long experience. Thus, the public  
207 schools and the institutions of post-secondary education in  
208 West Virginia should create a system of common standards,  
209 expectations and accountability. Creating such an aligned  
210 system will enhance opportunities for success and assure a  
211 seamless educational process for West Virginia students; and

212 (9) *A universal prekindergarten system.* – A high-quality,  
213 universal prekindergarten system should be readily available  
214 to every eligible student. The system should promote oral  
215 language and preliteracy skills and reduce the deficit of these  
216 foundational skills through proactive, early intervention.  
217 Research indicates that universal prekindergarten systems  
218 improve graduation rates, reduce grade level retentions and  
219 reduce the number of special education placements.  
220 Therefore, local school systems should create the supports  
221 and provide the resources to assure a quality prekindergarten  
222 foundation is available to all eligible students.

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

227 (1) All children entering the first grade will be ready for  
228 the first grade;

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

232 (3) Ninety percent of ninth graders will graduate from  
233 high school;

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

240 (5) By 2012, the gap between the county with the lowest  
241 college-going rate and the state average for school year 2012  
242 will decrease by fifty percent and the college-going rate of  
243 the state will exceed the college-going rate of the member  
244 states of the Southern Regional Education Board by five  
245 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 preparation  
33 institutions to collaborate with the Center for Professional  
34 Development, state board and each of the regional education  
35 service agencies will provide points of accountability for the  
36 collaboration efforts of the other institutions; and

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



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

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

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

54 (3) Providing any available research-based expertise that  
55 would be helpful in the implementation of professional  
56 development programs; and

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

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

63 (1) Prevent unnecessary duplication of services;

64 (2) Assist in the implementation of the professional  
65 development programs of the regional education service  
66 agency; and

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

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

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

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

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

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

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

103 board shall ensure that it is collaborating with Marshall  
104 University for the purposes set forth in subsection (e) of this  
105 section.

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

115 (k) The collaboration and coordination requirements of  
116 this section include collaborating and coordinating to provide  
117 professional development for at least teachers, principals and  
118 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 rather  
31 than high school course titles. The standards shall allow for  
32 a determination of whether a student needs to enroll in a post-  
33 secondary remedial course. The state board shall develop a  
34 plan for gradually bringing the standards for a high school  
35 diploma and college and career readiness into uniformity, and  
36 report this plan to the Legislative Oversight Commission on  
37 Education Accountability not later than December 31, 2013.

38 (c) The results on the comprehensive statewide student  
39 assessment program in grade eleven in English/language arts  
40 and mathematics shall be used to determine whether a student  
41 has met the college- and career-readiness standards adopted  
42 pursuant to subsection (b) of this section. Beginning with the  
43 2015-2016 school year, instead of using the comprehensive  
44 statewide student assessment program, the state board may  
45 develop and implement end-of-course exams in  
46 English/language arts and math courses it determines

47 appropriate. These exams are designed for determining  
48 whether a student has met the college- and career-readiness  
49 standards. In order to allow for the enrollment in transitional  
50 courses in the twelfth grade if necessary pursuant to  
51 subsection (e) of this section, the courses, assessments and  
52 exams, as applicable, shall be administered before the twelfth  
53 grade.

54 (d) Under its authority granted in section one, article  
55 three, chapter eighteen-a of this code, the state board shall  
56 require all teacher preparation programs in the state to  
57 include appropriate training for teachers seeking to teach in  
58 at least any of grades eight through twelve with respect to  
59 teaching the adopted college- and career-readiness standards.  
60 This training shall focus on teaching the standards directly,  
61 through embedding the standards in other courses or both, as  
62 appropriate.

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

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

81 than the assessment, exam or test, as applicable, required  
82 pursuant to subsections (c) and (e) of this section to  
83 determine whether a student is to enroll in a remedial course  
84 or is to be placed in a college-level introductory course.  
85 Nothing in this subsection prohibits an institution from  
86 administering a diagnostic test to determine specific areas of  
87 weakness so that the specific weaknesses can be remediated  
88 rather than requiring a student to take an entire remedial  
89 course.

90 (g) The state board shall:

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

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

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

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

115 (i) On or before December 31, 2013, the state board shall  
116 promulgate a legislative rule in accordance with article three-  
117 b, chapter twenty-nine-a of this code to implement the  
118 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 perform as the result  
9 of a thorough and efficient education that prepares them for  
10 the twenty-first century, including measurable criteria to  
11 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 the  
24 efficiency of schools and school systems to improve student  
25 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 are  
63 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 establishing  
69 an electronic county strategic improvement plan for each  
70 county board and an electronic school strategic improvement  
71 plan for each public school in this state. Each respective plan  
72 shall be a five-year plan that includes the mission and goals  
73 of the school or school system to improve student, school or  
74 school system performance and progress, as applicable. The  
75 strategic plan shall be revised annually in each area in which  
76 the school or system is below the standard on the annual  
77 performance measures. The plan shall be revised when  
78 required pursuant to this section to include each annual  
79 performance measure upon which the school or school  
80 system fails to meet the standard for performance and  
81 progress, the action to be taken to meet each measure, a  
82 separate time line and a date certain for meeting each  
83 measure, a cost estimate and, when applicable, the assistance  
84 to be provided by the department and other education  
85 agencies to improve student, school or school system

86 performance and progress to meet the annual performance  
87 measure.

88 The department shall make available to all public schools  
89 through its website or the West Virginia Education  
90 Information System an electronic school strategic  
91 improvement plan boilerplate designed for use by all schools  
92 to develop an electronic school strategic improvement plan  
93 which incorporates all required aspects and satisfies all  
94 improvement plan requirements of the No Child Left Behind  
95 Act.

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

102 (1) Curriculum;

103 (2) Workplace readiness skills;

104 (3) Finance;

105 (4) Transportation;

106 (5) Special education;

107 (6) Facilities;

108 (7) Administrative practices;

109 (8) Training of county board members and  
110 administrators;

111 (9) Personnel qualifications;

112 (10) Professional development and evaluation;

113 (11) Student performance, progress and attendance;

114 (12) Professional personnel, including principals and  
115 central office administrators, and service personnel  
116 attendance;

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

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

119 (15) Indicators of efficiency; and

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

121 (d) *Comprehensive statewide student assessment*  
122 *program.* – The state board shall establish a comprehensive  
123 statewide student assessment program to assess student  
124 performance and progress in grades three through twelve.  
125 The assessment program is subject to the following:

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

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

137 (3) The state board may require that student proficiencies  
138 be measured through the ACT EXPLORE and the ACT

139 PLAN assessments or other comparable assessments, which  
140 are approved by the state board and provided by future  
141 vendors;

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

146 (5) The state board may provide through the statewide  
147 assessment program other optional testing or assessment  
148 instruments applicable to grade levels kindergarten through  
149 grade twelve which may be used by each school to promote  
150 student achievement. The state board annually shall publish  
151 and make available, electronically or otherwise, to school  
152 curriculum teams and teacher collaborative processes the  
153 optional testing and assessment instruments.

154 (e) *State annual performance measures for school and*  
155 *school system accreditation.* – The state board shall  
156 promulgate a rule in accordance with the provisions of article  
157 three-b, chapter twenty-nine-a of this code that establishes a  
158 system to assess and weigh annual performance measures for  
159 state accreditation of schools and school systems. The state  
160 board also may establish performance incentives for schools  
161 and school systems as part of the state accreditation system.  
162 On or before December 1, 2013, the state board shall report  
163 to the Governor and to the Legislative Oversight Commission  
164 on Education Accountability the proposed rule for  
165 establishing the measures and incentives of accreditation and  
166 the estimated cost therefore, if any. Thereafter, the state  
167 board shall provide an annual report to the Governor and to  
168 the Legislative Oversight Commission on Education  
169 Accountability on the impact and effectiveness of the  
170 accreditation system. The rule for school and school system  
171 accreditation proposed by the board may include, but is not  
172 limited to, the following measures:

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

175 (2) Graduation and attendance rate;

176 (3) Students taking and passing AP tests;

177 (4) Students completing a career and technical education  
178 class;

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

181 (6) Students scoring at or above average attainment on  
182 SAT or ACT tests.

183 (f) *Indicators of efficiency.* – In accordance with the  
184 provisions of article three-b, chapter twenty-nine-a of this  
185 code, the state board shall adopt by rule and periodically  
186 review and update indicators of efficiency for use by the  
187 appropriate divisions within the department to ensure  
188 efficient management and use of resources in the public  
189 schools in the following areas:

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

192 (2) Transportation;

193 (3) Facilities;

194 (4) Administrative practices;

195 (5) Personnel;

196 (6) Use of regional educational service agency programs  
197 and services, including programs and services that may be  
198 established by their assigned regional educational service  
199 agency or other regional services that may be initiated  
200 between and among participating county boards; and

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

202 (g) *Assessment and accountability of school and school*  
203 *system performance and processes.* – In accordance with the  
204 provisions of article three-b, chapter twenty-nine-a of this  
205 code, the state board shall establish by rule a system of  
206 education performance audits which measures the quality of  
207 education and the preparation of students based on the annual  
208 measures of student, school and school system performance  
209 and progress. The system of education performance audits  
210 shall provide information to the state board, the Legislature  
211 and the Governor, upon which they may determine whether  
212 a thorough and efficient system of schools is being provided.  
213 The system of education performance audits shall include:

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

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

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

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

226 (h) *Uses of school and school system assessment*  
227 *information.* – The state board shall use information from the  
228 system of education performance audits to assist it in  
229 ensuring that a thorough and efficient system of schools is  
230 being provided and to improve student, school and school  
231 system performance and progress. Information from the  
232 system of education performance audits further shall be used  
233 by the state board for these purposes, including, but not  
234 limited to, the following:

235 (1) Determining school accreditation and school system  
236 approval status;

237 (2) Holding schools and school systems accountable for  
238 the efficient use of existing resources to meet or exceed the  
239 standards; and

240 (3) Targeting additional resources when necessary to  
241 improve performance and progress.

242 The state board shall make accreditation information  
243 available to the Legislature, the Governor, the general public  
244 and to any individual who requests the information, subject  
245 to the provisions of any act or rule restricting the release of  
246 information.

247 (i) *Early detection and intervention programs.* – Based on  
248 the assessment of student, school and school system  
249 performance and progress, the state board shall establish  
250 early detection and intervention programs using the available  
251 resources of the Department of Education, the regional  
252 educational service agencies, the Center for Professional  
253 Development and the Principals Academy, as appropriate, to  
254 assist underachieving schools and school systems to improve  
255 performance before conditions become so grave as to warrant  
256 more substantive state intervention. Assistance shall include,  
257 but is not limited to, providing additional technical assistance

258 and programmatic, professional staff development, providing  
259 monetary, staffing and other resources where appropriate.

260 (j) *Office of Education Performance Audits.* –

261 (1) To assist the state board in the operation of a system  
262 of education performance audits, the state board shall  
263 establish an Office of Education Performance Audits  
264 consistent with the provisions of this section. The Office of  
265 Education Performance Audits shall be operated under the  
266 direction of the state board independently of the functions  
267 and supervision of the State Department of Education and  
268 state superintendent. The Office of Education Performance  
269 Audits shall report directly to and be responsible to the state  
270 board in carrying out its duties under the provisions of this  
271 section.

272 (2) The office shall be headed by a director who shall be  
273 appointed by the state board and who serves at the will and  
274 pleasure of the state board. The annual salary of the director  
275 shall be set by the state board and may not exceed eighty  
276 percent of the salary cap of the State Superintendent of  
277 Schools.

278 (3) The state board shall organize and sufficiently staff  
279 the office to fulfill the duties assigned to it by law and by the  
280 state board. Employees of the State Department of Education  
281 who are transferred to the Office of Education Performance  
282 Audits shall retain their benefits and seniority status with the  
283 Department of Education.

284 (4) Under the direction of the state board, the Office of  
285 Education Performance Audits shall receive from the West  
286 Virginia education information system staff research and  
287 analysis data on the performance and progress of students,  
288 schools and school systems, and shall receive assistance, as  
289 determined by the state board, from staff at the State



290 Department of Education, the regional education service  
291 agencies, the Center for Professional Development, the  
292 Principals Academy and the School Building Authority to  
293 carry out the duties assigned to the office.

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

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

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

302 (i) Processes for the accreditation of schools and the  
303 approval of school systems; and

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

307 (C) Determine, in conjunction with the assessment and  
308 accountability processes, what capacity may be needed by  
309 schools and school systems to meet the standards established  
310 by the state board and recommend to the state board plans to  
311 establish those needed capacities;

312 (D) Determine, in conjunction with the assessment and  
313 accountability processes, whether statewide system  
314 deficiencies exist in the capacity of schools and school  
315 systems to meet the standards established by the state board,  
316 including the identification of trends and the need for  
317 continuing improvements in education, and report those  
318 deficiencies and trends to the state board;

319 (E) Determine, in conjunction with the assessment and  
320 accountability processes, staff development needs of schools  
321 and school systems to meet the standards established by the  
322 state board and make recommendations to the state board, the  
323 Center for Professional Development, the regional  
324 educational service agencies, the Higher Education Policy  
325 Commission and the county boards;

326 (F) Identify, in conjunction with the assessment and  
327 accountability processes, school systems and best practices  
328 that improve student, school and school system performance  
329 and communicate those to the state board for promoting the  
330 use of best practices. The state board shall provide  
331 information on best practices to county school systems; and

332 (G) Develop reporting formats, such as check lists, which  
333 shall be used by the appropriate administrative personnel in  
334 schools and school systems to document compliance with  
335 applicable laws, policies and process standards as considered  
336 appropriate and approved by the state board, which may  
337 include, but is not limited to, the following:

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

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

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

346 (iv) The appropriate provision of multicultural activities.

347 Information contained in the reporting formats is subject  
348 to examination during an on-site review to determine

349 compliance with laws, policies and standards. Intentional and  
350 grossly negligent reporting of false information are grounds  
351 for dismissal of any employee.

352 (k) *On-site reviews.* –

353 (1) The system of education performance audits shall  
354 include on-site reviews of schools and school systems which  
355 shall be conducted only at the specific direction of the state  
356 board upon its determination that circumstances exist that  
357 warrant an on-site review. Any discussion by the state board  
358 of schools to be subject to an on-site review or dates for  
359 which on-site reviews will be conducted may be held in  
360 executive session and is not subject to the provisions of  
361 article nine-a, chapter six of this code relating to open  
362 governmental proceedings. An on-site review shall be  
363 conducted by the Office of Education Performance Audits of  
364 a school or school system for the purpose of making  
365 recommendations to the school and school system, as  
366 appropriate, and to the state board on such measures as it  
367 considers necessary. The investigation may include, but is  
368 not limited to, the following:

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

371 (B) Examining compliance with the laws and policies  
372 affecting student, school and school system performance and  
373 progress;

374 (C) Evaluating the effectiveness and implementation  
375 status of school and school system electronic strategic  
376 improvement plans;

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

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

384 (F) Determining and reporting whether required reviews  
385 and inspections have been conducted by the appropriate  
386 agencies, including, but not limited to, the State Fire Marshal,  
387 the Health Department, the School Building Authority and  
388 the responsible divisions within the Department of Education,  
389 and whether noted deficiencies have been or are in the  
390 process of being corrected.

391 (2) The Director of the Office of Education Performance  
392 Audits shall notify the county superintendent of schools five  
393 school days prior to commencing an on-site review of the  
394 county school system and shall notify both the county  
395 superintendent and the principal five school days before  
396 commencing an on-site review of an individual school:  
397 *Provided*, That the state board may direct the Office of  
398 Education Performance Audits to conduct an unannounced  
399 on-site review of a school or school system if the state board  
400 believes circumstances warrant an unannounced on-site  
401 review.

402 (3) The Office of Education Performance Audits shall  
403 conduct on-site reviews which are limited in scope to specific  
404 areas in which performance and progress are persistently  
405 below standard as determined by the state board unless  
406 specifically directed by the state board to conduct a review  
407 which covers additional areas.

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

412 (5) At the conclusion of an on-site review of a school  
413 system, the director and team leaders shall hold an exit  
414 conference with the superintendent and shall provide an  
415 opportunity for principals to be present for at least the portion  
416 of the conference pertaining to their respective schools. In  
417 the case of an on-site review of a school, the exit conference  
418 shall be held with the principal and curriculum team of the  
419 school and the superintendent shall be provided the  
420 opportunity to be present. The purpose of the exit conference  
421 is to review the initial findings of the on-site review, clarify  
422 and correct any inaccuracies and allow the opportunity for  
423 dialogue between the reviewers and the school or school  
424 system to promote a better understanding of the findings.

425 (6) The Office of Education Performance Audits shall  
426 report the findings of an on-site review to the county  
427 superintendent and the principals whose schools were  
428 reviewed within thirty days following the conclusion of the  
429 on-site review. The Office of Education Performance Audits  
430 shall report the findings of the on-site review to the state  
431 board within forty-five days after the conclusion of the  
432 on-site review. A school or county that believes one or more  
433 findings of a review are clearly inaccurate, incomplete or  
434 misleading, misrepresent or fail to reflect the true quality of  
435 education in the school or county or address issues unrelated  
436 to the health, safety and welfare of students and the quality of  
437 education, may appeal to the state board for removal of the  
438 findings. The state board shall establish a process for it to  
439 receive, review and act upon the appeals. The state board  
440 shall report to the Legislative Oversight Commission on  
441 Education Accountability during its July interim meetings, or  
442 as soon thereafter as practical, on each appeal during the  
443 preceding school year.

444 (7) The Legislature finds that the accountability and  
445 oversight of some activities and programmatic areas in the  
446 public schools are controlled through other mechanisms and

447 agencies and that additional accountability and oversight may  
448 be unnecessary, counterproductive and impair necessary  
449 resources for teaching and learning. Therefore, the Office of  
450 Education Performance Audits may rely on other agencies  
451 and mechanisms in its review of schools and school systems.

452 (l) *School accreditation.* –

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

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

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

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

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

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

475 (A) To require a school to revise its electronic strategic  
476 plan;

477 (B) To define extraordinary circumstances under which  
478 the state board may intervene directly or indirectly in the  
479 operation of a school;

480 (C) To appoint monitors to work with the principal and  
481 staff of a school where extraordinary circumstances are found  
482 to exist, and to appoint monitors to assist the school principal  
483 after intervention in the operation of a school is completed;

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

487 (E) To intervene directly in the operation of a school and  
488 declare the position of principal vacant and assign a principal  
489 for the school who will serve at the will and pleasure of the  
490 state board. If the principal who was removed elects not to  
491 remain an employee of the county board, then the principal  
492 assigned by the state board shall be paid by the county board.  
493 If the principal who was removed elects to remain an  
494 employee of the county board, then the following procedure  
495 applies:

496 (i) The principal assigned by the state board shall be paid  
497 by the state board until the next school term, at which time  
498 the principal assigned by the state board shall be paid by the  
499 county board;

500 (ii) The principal who was removed is eligible for all  
501 positions in the county, including teaching positions, for  
502 which the principal is certified, by either being placed on the  
503 transfer list in accordance with section seven, article two,  
504 chapter eighteen-a of this code, or by being placed on the  
505 preferred recall list in accordance with section seven-a, article  
506 four, chapter eighteen-a of this code; and

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

511 (F) Such other powers and actions the state board  
512 determines necessary to fulfill its duties of general  
513 supervision of the schools and school systems of West  
514 Virginia.

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

518 (m) *School system approval.* – The state board annually  
519 shall review the information submitted for each school  
520 system from the system of education performance audits and  
521 issue one of the following approval levels to each county  
522 board: Full approval, temporary approval, conditional  
523 approval or nonapproval.

524 (1) Full approval shall be given to a county board whose  
525 schools have all been given full, temporary or conditional  
526 accreditation status and which does not have any deficiencies  
527 which would endanger student health or safety or other  
528 extraordinary circumstances as defined by the state board. A  
529 fully approved school system in which other deficiencies are  
530 discovered shall remain on full accreditation status for the  
531 remainder of the approval period and shall have an  
532 opportunity to correct those deficiencies, notwithstanding  
533 other provisions of this subsection.

534 (2) Temporary approval shall be given to a county board  
535 whose education system is below the level required for full  
536 approval. Whenever a county board is given temporary  
537 approval status, the county board shall revise its electronic  
538 county strategic improvement plan in accordance with



539 subsection (b) of this section to increase the performance and  
540 progress of the school system to a full approval status level.  
541 The revised plan shall be submitted to the state board for  
542 approval.

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

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

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

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

552 (4) Nonapproval status shall be given to a county board  
553 which fails to submit and gain approval for its electronic  
554 county strategic improvement plan or revised electronic  
555 county strategic improvement plan within a reasonable time  
556 period as defined by the state board or which fails to meet the  
557 objectives and time line of its revised electronic county  
558 strategic improvement plan or fails to achieve full approval  
559 by the date specified in the revised plan.

560 (A) The state board shall establish and adopt additional  
561 standards to identify school systems in which the program  
562 may be nonapproved and the state board may issue  
563 nonapproval status whenever extraordinary circumstances  
564 exist as defined by the state board.

565 (B) Whenever a county board has more than a casual  
566 deficit, as defined in section one, article one of this chapter,  
567 the county board shall submit a plan to the state board  
568 specifying the county board's strategy for eliminating the  
569 casual deficit. The state board either shall approve or reject

570 the plan. If the plan is rejected, the state board shall  
571 communicate to the county board the reason or reasons for  
572 the rejection of the plan. The county board may resubmit the  
573 plan any number of times. However, any county board that  
574 fails to submit a plan and gain approval for the plan from the  
575 state board before the end of the fiscal year after a deficit  
576 greater than a casual deficit occurred or any county board  
577 which, in the opinion of the state board, fails to comply with  
578 an approved plan may be designated as having nonapproval  
579 status.

580 (C) Whenever nonapproval status is given to a school  
581 system, the state board shall declare a state of emergency in  
582 the school system and shall appoint a team of improvement  
583 consultants to make recommendations within sixty days of  
584 appointment for correcting the emergency. When the state  
585 board approves the recommendations, they shall be  
586 communicated to the county board. If progress in correcting  
587 the emergency, as determined by the state board, is not made  
588 within six months from the time the county board receives the  
589 recommendations, the state board shall intervene in the  
590 operation of the school system to cause improvements to be  
591 made that will provide assurances that a thorough and  
592 efficient system of schools will be provided. This  
593 intervention may include, but is not limited to, the following:

594 (i) Limiting the authority of the county superintendent  
595 and county board as to the expenditure of funds, the  
596 employment and dismissal of personnel, the establishment  
597 and operation of the school calendar, the establishment of  
598 instructional programs and rules and any other areas  
599 designated by the state board by rule, which may include  
600 delegating decision-making authority regarding these matters  
601 to the state superintendent;

602 (ii) Declaring that the office of the county superintendent  
603 is vacant;

604 (iii) Delegating to the state superintendent both the  
605 authority to conduct hearings on personnel matters and  
606 school closure or consolidation matters and, subsequently, to  
607 render the resulting decisions and the authority to appoint a  
608 designee for the limited purpose of conducting hearings while  
609 reserving to the state superintendent the authority to render  
610 the resulting decisions;

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

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

616 (I) Delegating to the state superintendent the authority to  
617 replace administrators and principals in low performing  
618 schools and to transfer them into alternate professional  
619 positions within the county at his or her discretion; and

620 (II) Delegating to the state superintendent the authority to  
621 fill positions of administrators and principals with individuals  
622 determined by the state superintendent to be the most  
623 qualified for the positions. Any authority related to  
624 intervention in the operation of a county board granted under  
625 this paragraph is not subject to the provisions of article four,  
626 chapter eighteen-a of this code;

627 (n) Notwithstanding any other provision of this section,  
628 the state board may intervene immediately in the operation of  
629 the county school system with all the powers, duties and  
630 responsibilities contained in subsection (m) of this section, if  
631 the state board finds the following:

632 (1) That the conditions precedent to intervention exist as  
633 provided in this section; and that delaying intervention for

634 any period of time would not be in the best interests of the  
635 students of the county school system; or

636 (2) That the conditions precedent to intervention exist as  
637 provided in this section and that the state board had  
638 previously intervened in the operation of the same school  
639 system and had concluded that intervention within the  
640 preceding five years.

641 (o) *Capacity*. – The process for improving education  
642 includes a process for targeting resources strategically to  
643 improve the teaching and learning process. Development of  
644 electronic school and school system strategic improvement  
645 plans, pursuant to subsection (b) of this section, is intended,  
646 in part, to provide mechanisms to target resources  
647 strategically to the teaching and learning process to improve  
648 student, school and school system performance. When  
649 deficiencies are detected through the assessment and  
650 accountability processes, the revision and approval of school  
651 and school system electronic strategic improvement plans  
652 shall ensure that schools and school systems are efficiently  
653 using existing resources to correct the deficiencies. When the  
654 state board determines that schools and school systems do not  
655 have the capacity to correct deficiencies, the state board shall  
656 work with the county board to develop or secure the  
657 resources necessary to increase the capacity of schools and  
658 school systems to meet the standards and, when necessary,  
659 seek additional resources in consultation with the Legislature  
660 and the Governor.

661 The state board shall recommend to the appropriate body  
662 including, but not limited to, the Legislature, county boards,  
663 schools and communities methods for targeting resources  
664 strategically to eliminate deficiencies identified in the  
665 assessment and accountability processes. When making  
666 determinations on recommendations, the state board shall  
667 include, but is not limited to, the following methods:

668 (1) Examining reports and electronic strategic  
669 improvement plans regarding the performance and progress  
670 of students, schools and school systems relative to the  
671 standards and identifying the areas in which improvement is  
672 needed;

673 (2) Determining the areas of weakness and of  
674 ineffectiveness that appear to have contributed to the  
675 substandard performance and progress of students or the  
676 deficiencies of the school or school system and requiring the  
677 school or school system to work collaboratively with the  
678 West Virginia Department of Education State System of  
679 Support to correct the deficiencies;

680 (3) Determining the areas of strength that appear to have  
681 contributed to exceptional student, school and school system  
682 performance and progress and promoting their emulation  
683 throughout the system;

684 (4) Requesting technical assistance from the School  
685 Building Authority in assessing or designing comprehensive  
686 educational facilities plans;

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

689 (6) Requesting special staff development programs from  
690 the Center for Professional Development, the Principals  
691 Academy, higher education, regional educational service  
692 agencies and county boards based on identified needs;

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

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

698 (9) Ensuring that the need for facilities in counties with  
699 increased enrollment are appropriately reflected and  
700 recommended for funding;

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

703 (11) Ensuring that the needed capacity is available from  
704 the state and local level to assist the school or school system  
705 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 year  
5 when the balances become available. Any remaining funds  
6 transferred to the Strategic Staff Development Fund during  
7 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 serves at the will and pleasure  
3 of the state board. He or she shall be a person of good moral  
4 character, shall be able to perform the duties listed in this  
5 article and possess such other educational, administrative,  
6 experiential and other qualifications as determined by the  
7 State Board of Education. He or she shall hold at least a  
8 master's degree from a regionally accredited institution of  
9 higher education or equivalent degree as determined by the  
10 state board. He or she shall receive an annual salary set by  
11 the state board, to be paid monthly:. The state superintendent  
12 also shall receive necessary traveling expenses incident to the  
13 performance of his or her duties to be paid out of the General  
14 School Fund upon warrants of the State Auditor. The state  
15 superintendent shall have his or her office at the state Capitol.  
16 The state board shall report to the Legislative Oversight  
17 Commission on Education Accountability upon request  
18 concerning its progress during any hiring process for a state  
19 superintendent.

20       The state board annually shall evaluate the performance  
21 of the state superintendent and publicly announce the results  
22 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 a neighborhood of at least five public  
4 schools, which shall include at least one elementary and  
5 middle school, for the duration of five years. The  
6 neighborhood of public schools designated by the state  
7 superintendent for the pilot shall have significant enrollments  
8 of disadvantaged, minority and underachieving students. The  
9 designated neighborhood of public schools under the  
10 direction of the county board and county superintendent shall  
11 work in collaboration with higher education, community  
12 organizations, Center for Professional Development, local  
13 community leaders, affected classroom teachers, affected  
14 parents and the state board to develop and implement  
15 strategies that could be replicated in other public schools with  
16 significant enrollments of disadvantaged, minority and  
17 underachieving students to improve academic achievement.  
18 For purposes of this section “neighborhood” means an area  
19 of no more than seven square miles.

20 (b) Beginning in January, 2014, on or before the first day  
21 of the regular session of the Legislature, and each year  
22 thereafter, the state superintendent, county superintendent for  
23 the county in which the schools are located and lead  
24 community-based organizations shall make a status report to  
25 the Legislative Oversight Commission on Education  
26 Accountability and to the state board. The report may  
27 include any recommendations based on the progress of the  
28 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 other  
31 public schools through replication of successful  
32 demonstration school programs.

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

**§18-5-18. Kindergarten programs.**

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

9 (b) Persons employed as kindergarten teachers, as  
10 distinguished from paraprofessional personnel, shall be  
11 required to hold a certificate valid for teaching at the assigned  
12 level as prescribed by rules established by the state board.  
13 The state board shall establish the minimum requirements for  
14 all paraprofessional personnel employed in kindergarten  
15 programs established pursuant to the provisions of this  
16 section and no such paraprofessional personnel may be  
17 employed in any kindergarten program unless he or she meets  
18 the minimum requirements. Beginning July 1, 2014, any  
19 person previously employed as an aide in a kindergarten  
20 program and who is employed in the same capacity on and  
21 after that date and any new person employed in that capacity  
22 in a kindergarten program on and after that date shall hold the  
23 position of either Early Childhood Classroom Assistant  
24 Teacher - Temporary Authorization, Early Childhood  
25 Classroom Assistant Teacher - Permanent Authorization or  
26 Early Childhood Classroom Assistant Teacher -  
27 Paraprofessional Certificate. Any person employed as an  
28 aide in a kindergarten program that is eligible for full  
29 retirement benefits before July 1, 2020, may remain  
30 employed as an aide in that position and may not be required  
31 to 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 of  
40 those programs by the state superintendent, provided  
41 application for the evaluation and approval is made in writing  
42 by proper authorities in control of the programs. The state  
43 superintendent, annually, shall publish a list of nonpublic  
44 kindergarten programs, including Montessori kindergartens  
45 that have been approved in accordance with the provisions of  
46 this section. Montessori kindergartens established and  
47 operated in accordance with usual and customary practices  
48 for the use of the Montessori method which have teachers  
49 who have training or experience, regardless of additional  
50 certification, in the use of the Montessori method of  
51 instruction for kindergartens shall be considered to be  
52 approved.

53 (d) Pursuant to the guidelines and criteria, and only  
54 pursuant to the guidelines and criteria, the county boards may  
55 establish programs taking kindergarten to the homes of the  
56 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 the county board may  
64 determine, taking into consideration the cost, the terrain, the  
65 existing available facilities, the distances each child may be  
66 required to travel, the time each child may be required to be  
67 away from home, the child's health, the involvement of

68 parents and other factors as each county board may find  
69 pertinent. The determinations by any county board are final  
70 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 bachelor's  
23 degree and the education level of parents is a strong indicator  
24 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, subject to subdivision (3) of this  
72 subsection;

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

83 provide all resident children with the opportunity to enroll in  
84 a full-day program; and

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

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

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

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

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

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

152       (j) Every county board shall submit its plan for  
153 reapproval by the Secretary of the Department of Health and  
154 Human Resources and by the state board at least every two  
155 years after the initial approval of the plan and until full  
156 implementation of the early childhood education program in  
157 the county. As part of the submission, the county board shall  
158 provide a detailed statement of the progress made in  
159 implementing its plan. The standards and procedures  
160 provided for the original approval of the plan apply to any  
161 reapproval.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

209 (1) Standards for curriculum;

210 (2) Standards for preparing students;

211 (3) Attendance requirements;

212 (4) Standards for personnel; and

213 (5) Any other terms necessary to implement the  
214 provisions of this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



**§18-5-45. School calendar.**

1 (a) As used in this section:

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

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

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

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

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

14 (b) *Findings.* –

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

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

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

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

24 (1) An employment term that excludes Saturdays and  
25 Sundays and consists of at least two hundred days, which

26 need not be successive. The beginning and closing dates of  
27 the employment term may not exceed forty-eight weeks;

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

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

36 (A) Seven paid holidays;

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

39 (C) Six days to be designated by the county board to be  
40 used by the employees outside the school environment, with  
41 at least four outside the school environment days scheduled  
42 to occur after the one hundred and thirtieth instructional day  
43 of the school calendar; and

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

46 (i) Curriculum development;

47 (ii) Preparation for opening and closing school;

48 (iii) Professional development;

49 (iv) Teacher-pupil-parent conferences;

50 (v) Professional meetings;

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

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

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

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

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

70 (A) Holidays;

71 (B) Election day;

72 (C) Saturdays and Sundays.

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

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

80 (h) The following applies to cocurricular activities:

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

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

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

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

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

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

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

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

107 (n) The minimum instructional term may be decreased by  
108 order of the state superintendent in any county declared a

109 federal disaster area and where the event causing the  
110 declaration is substantially related to a reduction of  
111 instructional days.

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

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

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

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

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

1 (a) There is established at every public school in this state  
2 a faculty senate which is comprised of all permanent,  
3 full-time professional educators employed at the school who  
4 shall all be voting members. Professional educators, as used  
5 in this section, means “professional educators” as defined in  
6 chapter eighteen-a of this code. A quorum of more than one  
7 half of the voting members of the faculty shall be present at  
8 any meeting of the faculty senate at which official business  
9 is conducted. Prior to the beginning of the instructional term

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

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

40 (1) Each faculty senate shall control funds allocated to the  
41 school from legislative appropriations pursuant to section  
42 nine, article nine-a of this chapter. From those funds, each  
43 classroom teacher and librarian shall be allotted \$100 for  
44 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 or otherwise obtain information regarding  
70 applicants for classroom teaching vacancies that will enable  
71 the faculty senate to submit recommendations regarding  
72 employment to the principal. To facilitate the establishment  
73 of a process that is timely, effective, consistent among  
74 schools and counties and designed to avoid litigation or  
75 grievance, the state board shall promulgate a rule pursuant to  
76 article three-b, chapter twenty-nine-a of this code to  
77 implement the provisions of this subdivision. The rule may  
78 include the following:

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

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

88 (C) Time lines that will assure the timely completion of  
89 the recommendation or the forfeiture of the right to make a  
90 recommendation upon the failure to complete a  
91 recommendation within a reasonable time;

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

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

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

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

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



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

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

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

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

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

131 (11) Any faculty senate may review the evaluation  
132 procedure as conducted in their school to ascertain whether  
133 the evaluations were conducted in accordance with the  
134 written system required pursuant to section twelve, article  
135 two, chapter eighteen-a of this code or pursuant to section  
136 two, article three-c, chapter eighteen-a of this code, as  
137 applicable, and the general intent of this Legislature  
138 regarding meaningful performance evaluations of school  
139 personnel. If a majority of members of the faculty senate  
140 determine that such evaluations were not so conducted, they  
141 shall submit a report in writing to the State Board of

142 Education: *Provided*, That nothing herein creates any new  
143 right of access to or review of any individual's evaluations.

144 (12) A local board shall provide to each faculty senate a  
145 two-hour block of time for a faculty senate meeting on a day  
146 scheduled for the opening of school prior to the beginning of  
147 the instructional term and at least four additional two-hour  
148 blocks of time during noninstructional days, with each two-  
149 hour block of time scheduled once at least every forty-five  
150 instructional days. A faculty senate may meet for an  
151 unlimited block of time during noninstructional days to  
152 discuss and plan strategies to improve student instruction and  
153 to conduct other faculty senate business. A faculty senate  
154 meeting scheduled on a noninstructional day shall be  
155 considered as part of the purpose for which the  
156 noninstructional day is scheduled. This time may be used  
157 and determined at the local school level and includes, but is  
158 not limited to, faculty senate meetings.

159 (13) Each faculty senate shall develop a strategic plan to  
160 manage the integration of special needs students into the  
161 regular classroom at their respective schools and submit the  
162 strategic plan to the superintendent of the county board  
163 periodically pursuant to guidelines developed by the State  
164 Department of Education. Each faculty senate shall  
165 encourage the participation of local school improvement  
166 councils, parents and the community at large in developing  
167 the strategic plan for each school.

168 Each strategic plan developed by the faculty senate shall  
169 include at least: (A) A mission statement; (B) goals; (C)  
170 needs; (D) objectives and activities to implement plans  
171 relating to each goal; (E) work in progress to implement the  
172 strategic plan; (F) guidelines for placing additional staff into  
173 integrated classrooms to meet the needs of exceptional needs  
174 students without diminishing the services rendered to the  
175 other students in integrated classrooms; (G) guidelines for

176 implementation of collaborative planning and instruction; and  
177 (H) training for all regular classroom teachers who serve  
178 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:

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 county  
9 superintendent regarding their employment;

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

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

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

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

31 (b) Professional personnel employed as deputy, associate  
32 or assistant superintendents by the board in offices,  
33 departments or divisions at locations other than a school and  
34 who are directly answerable to the superintendent shall serve  
35 at the will and pleasure of the superintendent and may be  
36 removed by the superintendent upon approval of the board.  
37 Such professional personnel shall retain seniority rights only  
38 in the area or areas in which they hold valid certification or  
39 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. The hearing on  
20 the proposed transfer shall be held on or before April 15. At  
21 the hearing, the reasons for the proposed transfer must be  
22 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 the  
33 minute record of the meeting and all those so listed shall be  
34 notified in writing, which notice shall be delivered in writing,  
35 by certified mail, return receipt requested, to the persons' last  
36 known addresses within ten days following the board  
37 meeting, of their having been so recommended for transfer  
38 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 and  
42 the period of suspension may not exceed thirty days unless  
43 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 of  
71 this subsection are met: *Provided*, That the reassignment may  
72 not occur after the last day of the second school month.

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

78 (4) A service employee reassigned under this subsection  
79 shall be the least senior of the surplus personnel who holds

80 the same classification or multiclassification needed to  
81 perform the duties at the other school or at the grade level or  
82 program within the same school.

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

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

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

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

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

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

1 (a) Teaching is a profession that directly correlates to the  
2 social and economic well being of a society and its citizens.  
3 Superior teaching is essential to a well-educated and

4 productive populace. Strong academic leadership provided  
5 by principals and administrators skilled in modern  
6 management principles is also essential. The intent of this  
7 article is to recognize the value of professional involvement  
8 by experienced educators, principals and administrators in  
9 building and maintaining a superior force of professional  
10 educators and to establish avenues for applying this  
11 involvement.

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

32 Nothing in this article requires any specific level of  
33 funding by the Legislature.

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



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

40 (A) Entitled to vote; and

41 (B) A cochair of the board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

90 (4) The President of West Virginia University and  
91 Marshall University each appoints an employee to fill the

92 unexpired term of any member who ceases to be employed by  
93 that institution.

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

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

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

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

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

120 (4) Requesting from the Governor and the Legislature  
121 any resources or statutory changes that would help in  
122 enhancing the collaboration of all professional development

123 providers in the state, in advancing the quality of professional  
124 development through any other means or both;

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

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

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

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

153 (i) The Center for Professional Development shall  
154 implement training and professional development programs

155 for the Principals Academy based upon the minimum  
156 qualities, proficiencies and skills necessary for principals in  
157 accordance with the standards established by the state board  
158 pursuant to the terms of section two-c, article three of this  
159 chapter.

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

165 (k) Persons attending the professional development  
166 offerings of the center and other courses and services offered  
167 by the Center for Professional Development, except the  
168 Principals Academy shall be assessed fees which shall be less  
169 than the full cost of attendance. There is hereby created in  
170 the State Treasury a special revenue account known as the  
171 Center for Professional Development Fund. All moneys  
172 collected by the center shall be deposited in the fund for  
173 expenditure by the center board for the purposes specified in  
174 this section. Moneys remaining in the fund at the end of the  
175 fiscal year are subject to reappropriation by the Legislature.

176 (l) The center board shall make collaboration with the  
177 state board in providing professional development services in  
178 the following areas a priority:

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

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

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

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

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

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

31 (3) Serve in a coordinating capacity to assure that the  
32 knowledge, skills, attitude and other pertinent complements

33 of appropriate professional performance which evolve over  
34 time in the public school environment are appropriately  
35 reflected in the programs approved for the education of  
36 professional personnel, including, but not limited to, advising  
37 the teacher education programs of major statutory and policy  
38 changes in the public schools which affect the job  
39 performance requirements of professional educators,  
40 including principals and administrators;

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

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

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

67 professional development to help teachers, principals and  
68 administrators demonstrate appropriate performance based on  
69 the laws, policies and regulations adopted for the public  
70 schools of West Virginia; and

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

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

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

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

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

8 (2) Establish programs that provide instruction to  
9 classroom teachers who will serve as beginning teacher  
10 mentors in accordance with the provisions of section two-b,  
11 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 finds and declares that the rigorous  
2 standards and processes for certification by the National  
3 Board for Professional Teaching Standards (NBPTS) helps to  
4 promote the quality of teaching and learning. Therefore,  
5 classroom teachers in the public schools of West Virginia  
6 should be encouraged to achieve national board certification  
7 through a reimbursement of expenses and an additional salary  
8 bonus which reflects their additional certification, to be paid  
9 in accordance with the provisions of this section.

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

15 (2) \$3,500 shall be paid annually to each classroom  
16 teacher who holds a valid renewal certificate issued by the  
17 National Board of Professional Teaching Standards for the  
18 life of the renewal certificate, but in no event more than ten  
19 years for any one renewal certificate.

20 (c) The payments:

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

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

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

26 (d) For initial certification, one half the certification fee  
27 shall be paid for reimbursement once to each teacher who  
28 enrolls in the program for the National Board for Professional  
29 Teaching Standards certification and one half the certification  
30 fee shall be paid for reimbursement once to each teacher who  
31 completes the National Board for Professional Teaching  
32 Standards certification. Completion shall be defined as the  
33 completion of ten scorable entries, as verified by the National  
34 Board for Professional Teaching Standards. Teachers who  
35 achieve National Board for Professional Teaching Standards  
36 certification may be reimbursed a maximum of \$600 for  
37 expenses actually incurred while obtaining the National  
38 Board for Professional Teaching Standards certification.

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

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

49 (g) Funding for reimbursement of the initial certification  
50 fee and expenses actually incurred while obtaining the  
51 National Board for Professional Teaching Standards  
52 certifications and funding for reimbursement of the renewal  
53 certification fee shall be administered by the State  
54 Department of Education from an appropriation established  
55 for that purpose by the Legislature. If funds appropriated by  
56 the Legislature to accomplish the purposes of this subsection  
57 are insufficient, the state department shall prorate the  
58 reimbursements for expenses and shall request of the  
59 Legislature, at its next regular session, funds sufficient to

60 accomplish the purposes of this subsection, including needed  
61 retroactive payments.

62 (h) The state board shall promulgate legislative rules  
63 pursuant to article three-b, chapter twenty-nine-a of this code  
64 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 filling of vacancies in professional positions of  
3 employment on the basis of the applicant with the highest  
4 qualifications: *Provided*, That the county superintendent shall  
5 be hired under separate criteria pursuant to section two,  
6 article four, chapter eighteen of this code.

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

10 (1) Appropriate certification, licensure or both;

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

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

16 (4) Academic achievement;

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

20 (6) Specialized training relevant to the performance of the  
21 duties of the job;

22 (7) Past performance evaluations conducted pursuant to  
23 section twelve, article two of this chapter and section two,  
24 article three-c of this chapter or, in the case of a classroom  
25 teacher, past evaluations of the applicant's performance in the  
26 teaching profession;

27 (8) Seniority;

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

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

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

40 (c) In considering the filling of a vacancy pursuant to this  
41 section, a county board is entitled to determine the  
42 appropriate weight to apply to each of the criterion when  
43 assessing an applicant's qualifications: *Provided*, That if one  
44 or more permanently employed instructional personnel apply  
45 for a classroom teaching position and meet the standards set  
46 forth in the job posting, each criterion under subsection (b) of  
47 this section shall be given equal weight except that the  
48 criterion in subdivisions (10) and (11) shall each be double  
49 weighted.

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

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

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

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

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

91 (i) Guidance counselors and all other professional  
92 employees, as defined in section one, article one of this  
93 chapter, except classroom teachers, shall gain seniority in  
94 their nonteaching area of professional employment on the  
95 basis of the length of time the employee has been employed  
96 by the county board of education in that area: *Provided*, That  
97 if an employee is certified as a classroom teacher, the  
98 employee accrues classroom teaching seniority for the time  
99 that that employee is employed in another professional area.  
100 For the purposes of accruing seniority under this paragraph,  
101 employment as principal, supervisor or central office  
102 administrator, as defined in section one, article one of this  
103 chapter, shall be considered one area of employment.

104 (j) Employment for a full employment term shall equal  
105 one year of seniority, but no employee may accrue more than  
106 one year of seniority during any given fiscal year.  
107 Employment for less than the full employment term shall be  
108 prorated. A random selection system established by the  
109 employees and approved by the board shall be used to  
110 determine the priority if two or more employees accumulate  
111 identical seniority: *Provided*, That when two or more  
112 principals have accumulated identical seniority, decisions on  
113 reductions in force shall be based on qualifications.

114 (k) Whenever a county board is required to reduce the  
115 number of professional personnel in its employment, the

116 employee with the least amount of seniority shall be properly  
117 notified and released from employment pursuant to the  
118 provisions of section two, article two of this chapter. The  
119 provisions of this subsection are subject to the following:

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

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

133 (3) An employee subject to release shall be employed in  
134 any other professional position where the employee is  
135 certified and was previously employed or to any lateral area  
136 for which the employee is certified, licensed or both, if the  
137 employee's seniority is greater than the seniority of any other  
138 employee in that area of certification, licensure or both;

139 (4) If an employee subject to release holds certification,  
140 licensure or both in more than one lateral area and if the  
141 employee's seniority is greater than the seniority of any other  
142 employee in one or more of those areas of certification,  
143 licensure or both, the employee subject to release shall be  
144 employed in the professional position held by the employee  
145 with the least seniority in any of those areas of certification,  
146 licensure or both; and

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

162 (l) For the purpose of this article, all positions which meet  
163 the definition of "classroom teacher" as defined in section  
164 one, article one of this chapter shall be lateral positions. For  
165 all other professional positions, the county board of education  
166 shall adopt a policy by October 31, 1993, and may modify the  
167 policy thereafter as necessary, which defines which positions  
168 shall be lateral positions. The board shall submit a copy of its  
169 policy to the state board within thirty days of adoption or any  
170 modification, and the state board shall compile a report and  
171 submit the report to the Legislative Oversight Commission on  
172 Education Accountability by December 31, 1993, and by that  
173 date in any succeeding year in which any county board  
174 submits a modification of its policy relating to lateral  
175 positions. In adopting the policy, the board shall give  
176 consideration to the rank of each position in terms of title;  
177 nature of responsibilities; salary level; certification, licensure  
178 or both; and days in the period of employment.

179 (m) After the twentieth day prior to the beginning of the  
180 instructional term, no person employed and assigned to a  
181 professional position may transfer to another professional



182 position in the county during that instructional term unless  
183 the person holding that position does not have valid  
184 certification. The provisions of this subsection are subject to  
185 the following:

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

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

192 (3) The county board, upon recommendation of the  
193 superintendent may fill a position before the next  
194 instructional term when it is determined to be in the best  
195 interest of the students. The county superintendent shall  
196 notify the state board of each transfer of a person employed  
197 in a professional position to another professional position  
198 after the twentieth day prior to the beginning of the  
199 instructional term;

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

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

213 (n) All professional personnel whose seniority with the  
214 county board is insufficient to allow their retention by the  
215 county board during a reduction in work force shall be placed  
216 upon a preferred recall list. As to any professional position  
217 opening within the area where they had previously been  
218 employed or to any lateral area for which they have  
219 certification, licensure or both, the employee shall be recalled  
220 on the basis of seniority if no regular, full-time professional  
221 personnel, or those returning from leaves of absence with  
222 greater seniority, are qualified, apply for and accept the  
223 position.

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

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

237 (1) Boards shall be required to post and date notices of  
238 each opening at least once. At their discretion, boards may  
239 post an opening for a position other than classroom teacher  
240 more than once in order to attract more qualified applicants.  
241 At their discretion, boards may post an opening for a  
242 classroom teacher one additional time after the first posting  
243 in order to attract more qualified applicants only if fewer than  
244 three individuals apply during the first posting subject to the  
245 following:

246 (A) Each notice shall be posted in conspicuous working  
247 places for all professional personnel to observe for at least  
248 five working days;

249 (B) At least one notice shall be posted within twenty  
250 working days of the position openings and shall include the  
251 job description;

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

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

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

261 (2) No vacancy shall be filled until after the five-day  
262 minimum posting period of the most recent posted notice of  
263 the vacancy;

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

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

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

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

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

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

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

301 (s) Any board failing to comply with the provisions of  
302 this article may be compelled to do so by mandamus and shall  
303 be liable to any party prevailing against the board for court  
304 costs and reasonable attorney fees as determined and  
305 established by the court. Further, employees denied

306 promotion or employment in violation of this section shall be  
307 awarded the job, pay and any applicable benefits retroactive  
308 to the date of the violation and payable entirely from local  
309 funds. Further, the board shall be liable to any party  
310 prevailing against the board for any court reporter costs  
311 including copies of transcripts.

312 (t) The county board shall compile, update annually on  
313 July 1 and make available by electronic or other means to all  
314 employees a list of all professional personnel employed by  
315 the county, their areas of certification and their seniority.

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

322 (v) The amendments to this section during the 2013  
323 regular session of the Legislature shall be effective for school  
324 years beginning on or after July 1, 2013, and the provisions  
325 of this section immediately prior to those amendments remain  
326 in effect until July 1, 2013.

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

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

7 (b) Service personnel employed on a yearly or  
8 twelve-month basis may be employed by calendar months.

9 Whenever there is a change in job assignment during the  
10 school year, the minimum pay scale and any county  
11 supplement are applicable.

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

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

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

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

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

38 (2) A service person’s schedule is considered to be  
39 interrupted if he or she does not work a continuous period in

40 one day. Aides are not regarded as working an interrupted  
41 schedule when engaged exclusively in the duties of  
42 transporting students;

43 (3) The additional compensation provided in this  
44 subsection:

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

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

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

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

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

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

67 (2) "Years of employment" means the number of years  
68 which an employee classified as a service person has been

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

155 (19) “Cafeteria manager” means a person employed to  
156 direct the operation of a food services program in a school,  
157 including assigning duties to employees, approving  
158 requisitions for supplies and repairs, keeping inventories,

159 inspecting areas to maintain high standards of sanitation,  
160 preparing financial reports and keeping records pertinent to  
161 food services of a school;

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

164 (21) "Carpenter II" means a person classified as a  
165 journeyman carpenter;

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

170 (23) "Clerk I" means a person employed to perform  
171 clerical tasks;

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

175 (25) "Computer operator" means a qualified person  
176 employed to operate computers;

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

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

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

188 (29) “Crew leader” means a person employed to organize  
189 the work for a crew of maintenance employees to carry out  
190 assigned projects;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

280 (50) "Heavy equipment operator" means a person  
281 employed to operate heavy equipment;

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

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

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

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

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

297 (56) "Machinist" means a person employed to perform  
298 machinist tasks which include the ability to operate a lathe,

299 planer, shaper, threading machine and wheel press. A person  
300 holding this class title also should have the ability to work  
301 from blueprints and drawings;

302 (57) “Mail clerk” means a person employed to receive,  
303 sort, dispatch, deliver or otherwise handle letters, parcels and  
304 other mail;

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

309 (59) “Mason” means a person employed to perform tasks  
310 connected with brick and block laying and carpentry tasks  
311 related to these activities;

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

316 (61) “Mechanic assistant” means a person employed as a  
317 mechanic apprentice and helper;

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

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



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

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

336 (66) "Paraprofessional" means a person certified pursuant  
337 to section two-a, article three of this chapter to perform duties  
338 in a support capacity including, but not limited to, facilitating  
339 in the instruction and direct or indirect supervision of  
340 students under the direction of a principal, a teacher or  
341 another designated professional educator.

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

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

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

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

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

365 (69) "Plumber II" means a person employed as a  
366 journeyman plumber;

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

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

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

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

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

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

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

387 (B) Certified to operate a bus or previously certified to  
388 operate a bus;

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

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

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

411 (79) “Supervisor of maintenance” means a skilled person  
412 who is not a professional person or professional educator as

413 defined in section one, article one of this chapter. The  
414 responsibilities include directing the upkeep of buildings  
415 and shops, and issuing instructions to subordinates relating  
416 to cleaning, repairs and maintenance of all structures and  
417 mechanical and electrical equipment of a county board;

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

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

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

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

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

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

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

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

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

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

473 (j) Notwithstanding any provision in this code to the  
474 contrary, and in addition to the compensation provided for  
475 service personnel in section eight-a of this article, each

476 service person is entitled to all service personnel employee  
477 rights, privileges and benefits provided under this or any  
478 other chapter of this code without regard to the employee's  
479 hours of employment or the methods or sources of  
480 compensation.

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

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

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

499 (1) Reclassified by class title; or

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

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

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

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

523 (q) Without the written consent of the service person, a  
524 county board may not establish the beginning work station  
525 for a bus operator or transportation aide at any site other than  
526 a county board-owned facility with available parking. The  
527 workday of the bus operator or transportation aide  
528 commences at the bus at the designated beginning work  
529 station and ends when the employee is able to leave the bus  
530 at the designated beginning work station, unless he or she  
531 agrees otherwise in writing. The application or acceptance of  
532 a posted position may not be construed as the written consent  
533 referred to in this subsection.

534 (r) "Itinerant status" means a service person who does not  
535 have a fixed work site and may be involuntarily reassigned to  
536 another work site. A service person is considered to hold  
537 itinerant status if he or she has bid upon a position posted as

538 itinerant or has agreed to accept this status. A county board  
539 may establish positions with itinerant status only within the  
540 aide and autism mentor classification categories and only  
541 when the job duties involve exceptional students. A service  
542 person with itinerant status may be assigned to a different  
543 work site upon written notice ten days prior to the  
544 reassignment without the consent of the employee and  
545 without posting the vacancy. A service person with itinerant  
546 status may be involuntarily reassigned no more than twice  
547 during the school year. At the conclusion of each school  
548 year, the county board shall post and fill, pursuant to section  
549 eight-b of this article, all positions that have been filled  
550 without posting by a service person with itinerant status. A  
551 service person who is assigned to a beginning and ending  
552 work site and travels at the expense of the county board to  
553 other work sites during the daily schedule, shall not be  
554 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 State  
7 Minimum Pay Scale Pay Grade and the minimum monthly  
8 pay for each service employee whose employment is for a  
9 period of three and one-half hours or less a day shall be at  
10 least one half the amount indicated in the State Minimum Pay  
11 Scale Pay Grade set forth in this subdivision.



12 STATE MINIMUM PAY SCALE PAY GRADE

13 Years

14 Exp. Pay Grade

		<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>	<u>F</u>	<u>G</u>	<u>H</u>
15	0	1,627	1,648	1,689	1,741	1,793	1,855	1,886	1,958
16	1	1,659	1,680	1,721	1,773	1,825	1,887	1,918	1,990
17	2	1,691	1,712	1,753	1,805	1,857	1,919	1,950	2,022
18	3	1,723	1,744	1,785	1,837	1,889	1,951	1,982	2,054
19	4	1,755	1,776	1,817	1,869	1,921	1,983	2,014	2,087
20	5	1,787	1,808	1,849	1,901	1,953	2,015	2,046	2,119
21	6	1,819	1,840	1,882	1,933	1,985	2,047	2,078	2,151
22	7	1,852	1,872	1,914	1,965	2,017	2,079	2,110	2,183
23	8	1,884	1,904	1,946	1,997	2,049	2,111	2,142	2,215
24	9	1,916	1,936	1,978	2,030	2,081	2,143	2,174	2,247
25	10	1,948	1,969	2,010	2,062	2,113	2,176	2,207	2,279
26	11	1,980	2,001	2,042	2,094	2,145	2,208	2,239	2,311
27	12	2,012	2,033	2,074	2,126	2,178	2,240	2,271	2,343
28	13	2,044	2,065	2,106	2,158	2,210	2,272	2,303	2,375
29	14	2,076	2,097	2,138	2,190	2,242	2,304	2,335	2,407
30	15	2,108	2,129	2,170	2,222	2,274	2,336	2,367	2,439
31	16	2,140	2,161	2,202	2,254	2,306	2,368	2,399	2,472
32	17	2,172	2,193	2,235	2,286	2,338	2,400	2,431	2,504
33	18	2,204	2,225	2,267	2,318	2,370	2,432	2,463	2,536
34	19	2,237	2,257	2,299	2,350	2,402	2,464	2,495	2,568
35	20	2,269	2,289	2,331	2,383	2,434	2,496	2,527	2,601
36	21	2,301	2,321	2,363	2,415	2,466	2,528	2,559	2,634
37	22	2,333	2,354	2,395	2,447	2,498	2,561	2,593	2,666
38	23	2,365	2,386	2,427	2,479	2,531	2,594	2,625	2,699
39	24	2,397	2,418	2,459	2,511	2,563	2,627	2,658	2,732
40	25	2,429	2,450	2,491	2,543	2,596	2,659	2,691	2,764

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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	Early Childhood Classroom Assistant Teacher - Temporary Authorization	E
94	Early Childhood Classroom Assistant Teacher - Permanent Authorization	E
95	Early Childhood Classroom Assistant Teacher - Paraprofessional Certificate	E
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 the  
150 minimum monthly pay of each service employee for each of  
151 the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

202 (f) To meet the objective of salary equity among the  
203 counties, each service employee shall be paid an equity  
204 supplement, as set forth in section five of this article, of \$152  
205 per month, subject to the provisions of that section. These  
206 payments: (i) Shall be in addition to any amounts prescribed  
207 in the applicable State Minimum Pay Scale Pay Grade, any  
208 specific additional amounts prescribed in this section and  
209 article and any county supplement in effect in a county  
210 pursuant to section five-b of this article; (ii) shall be paid in  
211 equal monthly installments; and (iii) shall be considered a  
212 part of the state minimum salaries for service personnel.

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

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

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

227 (j) No service employee may have his or her daily work  
228 schedule changed during the school year without the  
229 employee's written consent and the employee's required  
230 daily work hours may not be changed to prevent the payment  
231 of time and one-half wages or the employment of another  
232 employee.

233 (k) The minimum hourly rate of pay for extra duty  
234 assignments as defined in section eight-b of this article shall be  
235 no less than one seventh of the employee's daily total salary  
236 for each hour the employee is involved in performing the  
237 assignment and paid entirely from local funds: *Provided*, That  
238 an alternative minimum hourly rate of pay for performing extra  
239 duty assignments within a particular category of employment  
240 may be used if the alternate hourly rate of pay is approved both  
241 by the county board and by the affirmative vote of a two-thirds  
242 majority of the regular full-time employees within that  
243 classification category of employment within that county:  
244 *Provided, however*, That the vote shall be by secret ballot if  
245 requested by a service person within that classification  
246 category within that county. The salary for any fraction of an  
247 hour the employee is involved in performing the assignment  
248 shall be prorated accordingly. When performing extra duty  
249 assignments, employees who are regularly employed on a one-  
250 half day salary basis shall receive the same hourly extra duty  
251 assignment pay computed as though the employee were  
252 employed on a full-day salary basis.

253 (l) The minimum pay for any service personnel  
254 employees engaged in the removal of asbestos material or

255 related duties required for asbestos removal shall be their  
256 regular total daily rate of pay and no less than an additional  
257 \$3 per hour or no less than \$5 per hour for service personnel  
258 supervising asbestos removal responsibilities for each hour  
259 these employees are involved in asbestos-related duties.  
260 Related duties required for asbestos removal include, but are  
261 not limited to, travel, preparation of the work site, removal of  
262 asbestos decontamination of the work site, placing and  
263 removal of equipment and removal of structures from the site.  
264 If any member of an asbestos crew is engaged in asbestos  
265 related duties outside of the employee's regular employment  
266 county, the daily rate of pay shall be no less than the  
267 minimum amount as established in the employee's regular  
268 employment county for asbestos removal and an additional  
269 \$30 per each day the employee is engaged in asbestos  
270 removal and related duties. The additional pay for asbestos  
271 removal and related duties shall be payable entirely from  
272 county funds. Before service personnel employees may be  
273 used in the removal of asbestos material or related duties,  
274 they shall have completed a federal Environmental Protection  
275 Act approved training program and be licensed. The  
276 employer shall provide all necessary protective equipment  
277 and maintain all records required by the Environmental  
278 Protection Act.

279 (m) For the purpose of qualifying for additional pay as  
280 provided in section eight, article five of this chapter, an aide  
281 shall be considered to be exercising the authority of a  
282 supervisory aide and control over pupils if the aide is required  
283 to supervise, control, direct, monitor, escort or render service  
284 to a child or children when not under the direct supervision of  
285 a certified professional person within the classroom, library,  
286 hallway, lunchroom, gymnasium, school building, school  
287 grounds or wherever supervision is required. For purposes of  
288 this section, "under the direct supervision of a certified  
289 professional person" means that certified professional person  
290 is present, with and accompanying the aide.

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

1 (a) Notwithstanding the provisions of section seven,  
2 article two of this chapter, every teacher who is employed for  
3 a period of time more than one half the class periods of the  
4 regular school day and every service 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 the employee shall  
10 not be assigned any responsibilities during this recess. The  
11 recess shall be included in the number of hours worked, and  
12 no county shall increase the number of hours to be worked by  
13 an employee as a result of the employee being granted a  
14 recess under the provisions of this section.

15 (b) 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. No  
20 teacher may be assigned any responsibilities during this  
21 period, and no county shall increase the number of hours to  
22 be worked by a teacher as a result of such teacher being  
23 granted a planning period subsequent to the adoption of this  
24 section (March 13, 1982).

25 The duration of the planning period shall be in  
26 accordance with the following:

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

30 (2) For grades where students take separate courses  
31 during at least four separate periods of instruction, most  
32 usually delivered by different teachers for each subject, the  
33 planning period shall be the length of the usual class period  
34 taught by the teacher, but no less than forty minutes.

35 Principals, and assistant principals, where applicable,  
36 shall cooperate in carrying out the provisions of this  
37 subsection, including, but not limited to, assuming control of  
38 the class period or supervision of students during the time the  
39 teacher is engaged in the planning period. Substitute teachers  
40 may also be utilized to assist with classroom responsibilities  
41 under this subsection: *Provided*, That any substitute teacher  
42 who is employed to teach a minimum of two consecutive  
43 days in the same position shall be granted a planning period  
44 pursuant to this section.

45 (c) Nothing in this section prevents any teacher from  
46 exchanging his or her lunch recess or a planning period or  
47 any service person from exchanging his or her lunch recess  
48 for any compensation or benefit mutually agreed upon by the  
49 employee and the county superintendent or his or her agent:  
50 *Provided*, That a teacher and the superintendent or his or her  
51 agent may not agree to terms which are different from those  
52 available to any other teacher granted rights under this  
53 section within the individual school or to terms which in any  
54 way discriminate among those teachers within the individual  
55 school, and a service person granted rights under this section  
56 and the superintendent or his or her agent may not agree to  
57 terms which are different from those available to any other  
58 service personnel within the same classification category  
59 granted rights under this section within the individual school  
60 or to terms which in any way discriminate among those  
61 service personnel within the same classification category  
62 within the individual school.

63 (d) The state board shall conduct a study on planning  
64 periods. The study shall include, but not be limited to, the

65 appropriate length for planning periods at the various grade  
66 levels and for the different types of class schedules. The  
67 board shall report its findings and recommendations to the  
68 Legislative Oversight Commission on Education  
69 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 be closed on Saturdays and on the  
2 following days which are designated as legal school holidays:  
3 Independence Day, Labor Day, Veterans Day, Thanksgiving  
4 Day, Christmas Day, New Year's Day, Martin Luther King's  
5 birthday, Memorial Day and West Virginia Day. Schools  
6 also shall be closed on any day on which a primary election,  
7 general election or special election is held throughout the  
8 state or school district and on any day appointed and set apart  
9 by the president or the Governor as a holiday of special  
10 observance by the people of the state.

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

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

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

25           (1) Under any or all of the above provisions, the time lost  
26 by the school closings may not be counted as days of  
27 employment and may not be counted as meeting a part of the  
28 requirements of the minimum term of one hundred eighty  
29 days of instruction. A school employee's pay per pay period  
30 may not change as a result of a school closing not being  
31 counted as a day of employment, and the employee shall be  
32 paid the same amount during any pay period in which a  
33 school closing occurs that the employee would have been  
34 paid during the pay period if a school closing had not  
35 occurred.

36           (2) On the day or days when a school or schools are  
37 closed, county boards may provide appropriate alternate work  
38 schedules for professional and service personnel affected by  
39 the closing of any school or schools under any or all of the  
40 provisions of this subsection. Professional and service  
41 personnel shall receive pay the same as if school were in  
42 session.

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

47           (e) In addition to any other provisions of this chapter, the  
48 board further is authorized to provide in its annual budget for  
49 meetings, workshops, vacation time or other holidays through  
50 extended employment of personnel at the same rate 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 fall  
10 semester, 2014, and thereafter, particular efforts shall be  
11 made in the scholarship selection criteria and procedures to  
12 reflect the state’s present and projected subject and  
13 geographic areas of critical need.



14 (b) In consultation with the State Board of Education and  
15 the State Superintendent of Schools the commission shall  
16 propose legislative rules in accordance with the provisions of  
17 article three-a, chapter twenty-nine-a of this code. The rules  
18 shall provide for the administration of the Underwood-Smith  
19 Teacher Scholarship and Loan Assistance programs by the  
20 vice chancellor for administration in furtherance of the  
21 purposes of this article and article four-a of this chapter,  
22 including, but not limited to, the following:

23 (1) Establishing scholarship selection criteria and  
24 procedures;

25 (2) Establishing criteria and procedures for identifying  
26 subject areas, public schools or geographic areas in critical  
27 need of teachers;

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

31 (4) Determining eligibility for loan assistance renewal;

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

34 (6) Establishing criteria for determining participant  
35 compliance or noncompliance with terms of the agreement  
36 and establishing procedures to address noncompliance  
37 including, but not limited to, repayment, deferral and excusal;  
38 and

39 (7) Developing model agreements.

40 (c) There is created in the State Treasury a special  
41 revolving fund to be known as the Underwood-Smith

42 Teacher Scholarship and Loan Assistance Fund to be  
43 administered by the vice chancellor for administration solely  
44 for granting scholarships and loan assistance to teachers and  
45 prospective teachers in accordance with this article and  
46 article four-a of this chapter. Any moneys which may be  
47 appropriated by the Legislature, or received by the vice  
48 chancellor for administration from other sources, for the  
49 purposes of this article and article four-a of this chapter, shall  
50 be deposited in the fund. Any moneys remaining in the fund  
51 at the close of a fiscal year shall be carried forward for use in  
52 the next fiscal year. Any moneys repaid to the vice  
53 chancellor for administration by reason of default of a  
54 scholarship or loan assistance agreement under this article or  
55 article four-a of this chapter also shall be deposited in the  
56 fund. Fund balances shall be invested with the state's  
57 consolidated investment fund, and any and all interest  
58 earnings on these investments shall be used solely for the  
59 purposes for which moneys invested were appropriated or  
60 otherwise received.

61 (d) The vice chancellor for administration may accept and  
62 expend any gift, grant, contribution, bequest, endowment or  
63 other money for the purposes of this article and article four-a  
64 of this chapter and shall make a reasonable effort to  
65 encourage external support for the scholarship and loan  
66 assistance programs.

67 (e) For the purpose of encouraging support for the  
68 scholarship and loan assistance programs from private  
69 sources, the vice chancellor for administration may set aside  
70 no more than half of the funds appropriated by the  
71 Legislature for Underwood-Smith Teacher Scholarships and  
72 Loan Assistance Awards to be used to match two state dollars  
73 to each private dollar from a nonstate source contributed on  
74 behalf of a specific institution of higher education in this  
75 state.

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

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 the recipients of  
4 Underwood-Smith teacher scholarships who meet the  
5 eligibility criteria set forth in subsection (b) of this section.

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

9 (1) Have graduated or are graduating from a West  
10 Virginia high school and rank in the top ten percent of their  
11 graduating class or the top ten percent statewide of those  
12 West Virginia students taking the ACT test;

13 (2) Have a cumulative grade point average of at least 3.25  
14 on a possible scale of four after successfully completing two  
15 years of course work at an approved institution of higher  
16 education in West Virginia;

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

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

26 (c) In accordance with the rules of the commission, the  
27 vice chancellor for administration shall develop criteria and  
28 procedures for the selection of scholarship recipients. The

29 selection criteria shall reflect the purposes of this article and  
30 shall specify the areas in which particular efforts will be  
31 made in the selection of scholars as set forth in section one of  
32 this article. Selection procedures and criteria also may  
33 include, but are not limited to, the grade point average of the  
34 applicant, involvement in extracurricular activities, financial  
35 need, current academic standing and an expression of interest  
36 in teaching as demonstrated by an essay written by the  
37 applicant.

38       These criteria and procedures further may require the  
39 applicant to furnish letters of recommendation from teachers  
40 and others.

41       It is the intent of the Legislature that academic abilities be  
42 the primary criteria for selecting scholarship recipients.  
43 However, the qualified applicants with the highest academic  
44 abilities who intend to pursue teaching careers in areas of  
45 critical need and shortage pursuant to section one of this  
46 article shall be given priority.

47       (d) In developing the selection criteria and procedures to  
48 be used by the Higher Education Student Financial Aid  
49 Advisory Board, the vice chancellor for administration shall  
50 solicit the views of public and private education agencies and  
51 institutions and other interested parties. Input from interested  
52 parties shall be solicited by means of written and published  
53 selection criteria and procedures in final form for  
54 implementation and may be solicited by means of public  
55 hearings on the present and projected teacher needs of the  
56 state or any other methods the vice chancellor for  
57 administration may determine to be appropriate to gather the  
58 information.

59       (e) The vice chancellor for administration shall make  
60 application forms for Underwood-Smith Teacher  
61 Scholarships available to public and private high schools in

62 the state and in other locations convenient to applicants,  
63 parents and others, and shall make an effort to attract students  
64 from low-income backgrounds, ethnic or racial minority  
65 students, students with disabilities, and women or minority  
66 students who show interest in pursuing teaching careers in  
67 mathematics and science and who are underrepresented in  
68 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 vice  
3 chancellor for administration under which the recipient shall  
4 meet the following conditions:

5 (1) Provide the commission with evidence of compliance  
6 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 fewer than two years for each year for which a  
12 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 pursuant to section one of this article, in an exceptional  
17 children program in this state, in a school having less than  
18 average academic results or in a school in an economically  
19 disadvantaged area of this state; or

20 (C) Within the ten-year period, while seeking and unable  
21 to secure a full-time teaching position under contract with a

22 county board of education which satisfies the conditions of  
23 paragraph (A) of this subdivision:

24 (i) Teach full-time in a private school, parochial or other  
25 school approved for the instruction of students of compulsory  
26 school age pursuant to section one, article eight, chapter  
27 eighteen of this code; or

28 (ii) Teach in an institution of higher education in this  
29 state as defined in section two, article one, chapter eighteen-b  
30 of this code or in a post-secondary vocational education  
31 program in this state for a period of not fewer than two years  
32 for each year for which a scholarship was received; or

33 (iii) Perform alternative service or employment in this  
34 state pursuant to rules promulgated by the commission, in  
35 federal, state, county or local supported programs with an  
36 educational component, including mental or physical health  
37 care, or with bona fide tax exempt charitable organizations  
38 dedicated to the above, for a period of not fewer than two  
39 years for each year for which a scholarship was received.

40 Any teaching time accrued as a substitute teacher for a  
41 county board of education under paragraph (A) or (B) of this  
42 subdivision shall be credited pro rata in accordance with rules  
43 promulgated by the commission; or

44 (3) Repay all or part of an Underwood-Smith teacher  
45 scholarship received under this article plus interest and, if  
46 applicable, reasonable collection fees in accordance with  
47 subsection (c), section four of this article, except as provided  
48 in subsection (d) of section four of this article.

49 (b) Scholarship agreements shall disclose fully the terms  
50 and conditions under which assistance under this article is  
51 provided and under which repayment may be required. The  
52 agreements shall include the following:

53 (1) A description of the conditions and procedures to be  
54 established under section four of this article; and

55 (2) A description of the appeals procedure required to be  
56 established under section four of this article.

57 (c) Individuals who were awarded an Underwood-Smith  
58 teacher scholarship prior to the effective date of this section  
59 may apply the provisions of paragraph (A), (B) or (C),  
60 subdivision (2), subsection (a) of this section to teaching or  
61 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 those periods when the recipient meets the following  
4 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  
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. Guidelines also shall  
21 provide for proration of the amount to be repaid by a  
22 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 is not in violation of the agreement  
27 entered into under section three of this article during any  
28 period in which the recipient is meeting any of the following  
29 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 that  
38 subdivision;

39 (4) Satisfying the provisions of additional repayment  
40 exemptions that may be prescribed by the commission by  
41 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) The rules adopted by the commission may provide  
46 guidelines under which the vice chancellor for administration  
47 may extend the period for fulfilling the obligation to fifteen  
48 years, if extenuating 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.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....  
*Chairman Senate Committee*

.....  
*Chairman House Committee*

Originated in the Senate.

In effect ninety days from passage.

.....  
*Clerk of the Senate*

.....  
*Clerk of the House of Delegates*

.....  
*President of the Senate*

.....  
*Speaker of the House of Delegates*

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The within ..... this the .....  
Day of ....., 2013.

.....  
*Governor*