

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 2711**

MR. SPEAKER (MR. ARMSTEAD) AND DELEGATE MILEY

(BY REQUEST OF THE EXECUTIVE)

[Originating in the Committee on Finance;

March 24, 2017]



1 A BILL to repeal §18-2-26a of the Code of West Virginia, 1931, as amended; to amend and  
2 reenact §18-2-26 of said code; to amend and reenact §18-2E-5 of said code; to amend  
3 and reenact §18-5-13 and §18-5-45 of said code; to further amend said code by adding  
4 thereto two new sections designated §18-5-13b and §18-5-13c; to amend and reenact  
5 §18-9A-8a of said code; and to amend and reenact §18A-4-14 of said code, all relating  
6 generally to education; repealing requirement for biennial meetings of county boards by  
7 region; providing for dissolving regional educational service agencies by certain date;  
8 allowing for modification and dissolving by cooperative agreement before said date;  
9 providing for the transfer, liquidation or disbursement of property and records; clarifying  
10 responsibilities and authority of Legislature and state board with respect to process for  
11 improving education and purposes and intent of system of accountability; requiring high  
12 quality digital literacy skill standard; modifying statewide assessment program; modifying  
13 annual performance measures for accreditation; requiring county board use of statewide  
14 electronic information system; modifying process for assessing school and school system  
15 performance; eliminating office of education performance audits and authorizing  
16 employment of experienced education professionals with certain duties; modifying school  
17 accreditation and removing authorization for state board intervention in school operations;  
18 modifying school system approval and processes for state board intervention; modifying  
19 processes for improving capacity; modifying process for building leadership capacity of  
20 system during intervention; expanding county board authority for entering into cooperative  
21 agreements; establishing the County Superintendents' Advisory Council; setting forth the  
22 council's authority and responsibilities, including the formation of four geographic  
23 quadrants to carry out the work of the council; requiring certain meetings and reports;  
24 authorizing county board agreements to establish educational services cooperatives;  
25 providing references to regional education service agencies mean cooperatives; providing  
26 priorities for transfer, liquidation and disbursement of regional education service agency

27 property, equipment and records upon dissolution; providing for governing council of  
28 educational services cooperatives; providing for powers and duties; providing for  
29 cooperative annual plan and optional programs and services; providing for selection of  
30 fiscal agent county board and annual audit; providing for staff and member expenses;  
31 providing for member compensation; defining instructional day and instruction through  
32 alternative methods; providing for increasing length of instructional day and uses of  
33 instructional time gained; providing for use of instruction delivered through alternative  
34 methods; providing flexibility in scheduling faculty senate meetings; authorizing reduction  
35 in instructional term for certain emergency or disaster declaration by Governor; reducing  
36 foundation allowance for regional education service agencies; requiring planning period  
37 within school day, rather than instructional day and encouraging districts and schools to  
38 develop and execute planning period strategy; and making technical improvements and  
39 removing obsolete provisions.

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

1 That §18-2-26a of the Code of West Virginia, 1931, as amended, be repealed; that §18-  
2 2-26 of said code be amended and reenacted; that §18-2E-5 of said code be amended and  
3 reenacted; that §18-5-13 and §18-5-45 of said code be amended and reenacted; that said code  
4 be further amended by adding thereto two new sections designated, §18-5-13b and §18-5-13c;  
5 that §18-9A-8a of said code be amended and reenacted; and that §18A-4-14 of said code be  
6 amended and reenacted, all to read as follows:

## **CHAPTER 18. EDUCATION.**

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

**§18-2-26. ~~Establishment of multicounty regional educational service agencies; purpose;~~  
~~authority of state board; governance; annual performance standards. Abolishment~~  
~~and transition of regional education service agencies.~~**

1           ~~(a) Legislative intent.~~ — The intent of the Legislature in providing for establishment of  
2 regional education service agencies, hereinafter referred to in this section as agency or agencies,  
3 is to provide for high quality, cost effective education programs and services to students, schools  
4 and school systems.

5           ~~Since the first enactment of this section in 1972, the focus of public education has shifted~~  
6 ~~from a reliance on input models to determine if education programs and services are providing to~~  
7 ~~students a thorough and efficient education to a performance based accountability model which~~  
8 ~~relies on the following:~~

9           ~~(1) Development and implementation of standards which set forth the things that students~~  
10 ~~should know and be able to do as the result of a thorough and efficient education including~~  
11 ~~measurable criteria to evaluate student performance and progress;~~

12           ~~(2) Development and implementation of assessments to measure student performance~~  
13 ~~and progress toward meeting the standards;~~

14           ~~(3) Development and implementation of a system for holding schools and school systems~~  
15 ~~accountable for student performance and progress toward obtaining a high quality education~~  
16 ~~which is delivered in an efficient manner; and~~

17           ~~(4) Development and implementation of a method for building the capacity and improving~~  
18 ~~the efficiency of schools and school systems to improve student performance and progress.~~

19           ~~(b) Purpose.~~ — In establishing the agencies the Legislature envisions certain areas of  
20 service in which the agencies can best assist the state board in implementing the standards based  
21 accountability model pursuant to subsection (a) of this section and, thereby, in providing high  
22 quality education programs. These areas of service include the following:

23           ~~(1) Providing technical assistance to low performing schools and school systems;~~

24           ~~(2) Providing high quality, targeted staff development designed to enhance the~~  
25 ~~performance and progress of students in state public education;~~

26           ~~(3) Facilitating coordination and cooperation among the county boards within their~~  
27 ~~respective regions in such areas as cooperative purchasing; sharing of specialized personnel,~~  
28 ~~communications and technology; curriculum development; and operation of specialized programs~~  
29 ~~for exceptional children;~~

30           ~~(4) Installing, maintaining and/or repairing education related technology equipment and~~  
31 ~~software with special attention to the state level technology learning tools for public schools~~  
32 ~~program;~~

33           ~~(5) Receiving and administering grants under the provisions of federal and/or state law;~~  
34 ~~and~~

35           ~~(6) Developing and/or implementing any other programs or services as directed by law,~~  
36 ~~the state board or the regional council.~~

37           ~~(c) State board rule. — The state board shall reexamine the powers and duties of the~~  
38 ~~agencies in light of the changes in state level education policy that have occurred and shall~~  
39 ~~establish multicounty regional education service agencies by rule, promulgated in accordance~~  
40 ~~with the provisions of article three b, chapter twenty-nine a of this code.~~

41           ~~The rule shall contain all information necessary for the effective administration and~~  
42 ~~operation of the agencies. In developing the rule, the state board may not delegate its~~  
43 ~~Constitutional authority for the general supervision of schools to the agencies, however, it may~~  
44 ~~allow the agencies greater latitude in the development and implementation of programs in the~~  
45 ~~service areas outlined in subsection (b) of this section with the exceptions of providing technical~~  
46 ~~assistance to low performing schools and school systems and providing high quality, targeted~~  
47 ~~staff development designed to enhance the performance and progress of students in state public~~  
48 ~~education. These two areas constitute the most important responsibilities for the agencies.~~

49           ~~The rule establishing the agencies shall be promulgated before November 1, 2015, and~~  
50 ~~shall be consistent with the provisions of this section. It shall include, but is not limited to, the~~  
51 ~~following procedures:~~

52           ~~(1) Providing for a uniform governance structure for the agencies containing at least these~~  
53 ~~elements:~~

54           ~~(A) Selection by the state board of an executive director who shall be responsible for the~~  
55 ~~administration of his or her respective agency. The rule shall provide for the state board to select~~  
56 ~~the executive director only upon the nomination of one or more candidates by the regional council~~  
57 ~~of the agency. In case the board refuses to select any of the candidates nominated, the regional~~  
58 ~~council shall nominate others and submit them to the board. All candidates nominated must meet~~  
59 ~~the qualifications for the position established by the state board. Nothing shall prohibit the timely~~  
60 ~~employment of persons to perform necessary duties;~~

61           ~~(B) Development of a job description and qualifications for the position of executive~~  
62 ~~director, together with procedures for informing the public of position openings, for taking and~~  
63 ~~evaluating applications, for making nominations for these positions, and for annually evaluating~~  
64 ~~the performance of persons employed as executive director. The state board shall consult with~~  
65 ~~the regional councils on the development of the job description, qualifications and procedures;~~

66           ~~(C) Provisions for the annual performance evaluation of the executive director that provide~~  
67 ~~for one half of the evaluation rating to be determined by the regional council;~~

68           ~~(D) Provisions for the agencies to employ other staff, as necessary, with the approval of~~  
69 ~~the state board and upon the recommendation of the executive director: *Provided*, That prior to~~  
70 ~~July 1, 2003, no person who is an employee of an agency on the effective date of this section~~  
71 ~~may be terminated or have his or her salary and benefit levels reduced as the sole result of the~~  
72 ~~changes made to this section or by state board rule;~~

73           ~~(E) Appointment by the county boards of a regional council in each agency area consisting~~  
74 ~~of representatives of county boards and county superintendents from within that area for the~~  
75 ~~purpose of advising, assisting and informing the executive director in carrying out his or her duties~~  
76 ~~to achieve the purposes of this section and provide educational services to the county school~~  
77 ~~systems within the region. The state board may provide for membership on the regional council~~

78 ~~for representatives from other agencies and institutions who have interest or expertise in the~~  
79 ~~development or implementation of regional education programs; and~~

80 ~~(F) Selection by the state superintendent of a representative from the state Department of~~  
81 ~~Education to serve on each regional council. These representatives shall meet with their~~  
82 ~~respective regional councils at least quarterly;~~

83 ~~(2) Establishing statewide standards by the state board for service delivery by the~~  
84 ~~agencies. These standards may be revised annually and shall include, but are not limited to,~~  
85 ~~programs and services to fulfill the purposes set forth in subsection (b) of this section;~~

86 ~~(3) Establishing procedures for developing and adopting an annual basic operating budget~~  
87 ~~for each agency and for other budgeting and accounting procedures as the state board may~~  
88 ~~require;~~

89 ~~(4) Establishing procedures clarifying that agencies may acquire and hold real property;~~

90 ~~(5) Dividing the state into appropriate, contiguous geographical areas and designating an~~  
91 ~~agency to serve each area. The rule shall provide that each of the state's counties is contained~~  
92 ~~within a single service area and that all counties located within the boundaries of each agency,~~  
93 ~~as determined by the state board, shall be members of that agency; and~~

94 ~~(6) Such other standards or procedures as the state board finds necessary or convenient.~~

95 ~~(d) *Regional services.* — In furtherance of the purposes provided for in this section, the~~  
96 ~~state board and the regional council of each agency shall continually explore possibilities for the~~  
97 ~~delivery of services on a regional basis which will facilitate equality in the education offerings~~  
98 ~~among counties in its service area, permit the delivery of high quality education programs at a~~  
99 ~~lower per student cost, strengthen the cost effectiveness of education funding resources, reduce~~  
100 ~~administrative and/or operational costs, including the consolidation of administrative, coordinating~~  
101 ~~and other county level functions into region level functions, and promote the efficient~~  
102 ~~administration and operation of the public school systems generally.~~

103 ~~Technical, operational, programmatic or professional services are among the types of~~  
104 ~~services appropriate for delivery on a regional basis. Nothing in this section prohibits regional~~  
105 ~~education service agencies from cooperating, sharing or combining services or programs with~~  
106 ~~each other, at their discretion, to further the purposes of this section.~~

107 ~~(e) *Virtual education.* — The state board, in conjunction with the various agencies, shall~~  
108 ~~develop an effective model for the regional delivery of instruction in subjects where there exists~~  
109 ~~low student enrollment or a shortage of certified teachers or where the delivery method~~  
110 ~~substantially improves the quality of an instructional program. The model shall incorporate an~~  
111 ~~interactive electronic classroom approach to instruction. To the extent funds are appropriated or~~  
112 ~~otherwise available, county boards or regional education service agencies may adopt and utilize~~  
113 ~~the model for the delivery of the instruction.~~

114 ~~(f) *Computer information system.* — Each county board of education shall use the~~  
115 ~~statewide electronic information system established by the state board for data collection and~~  
116 ~~reporting to the state Department of Education.~~

117 ~~(g) *Reports and evaluations.* — Each agency shall submit to the state superintendent on~~  
118 ~~such date and in such form as specified in the rules adopted by the state board a report and~~  
119 ~~evaluation of the technical assistance and other services provided and utilized by the schools~~  
120 ~~within each respective region and their effectiveness. Additionally, any school may submit an~~  
121 ~~evaluation of the services provided by the agency to the state superintendent at any time. This~~  
122 ~~report shall include an evaluation of the agency program, suggestions on methods to improve~~  
123 ~~utilization and suggestions on the development of new programs and the enhancement of existing~~  
124 ~~programs. The reports and evaluations submitted pursuant to this subsection shall be submitted~~  
125 ~~to the state board and shall be made available upon request to the standing committees on~~  
126 ~~education of the West Virginia Senate and House of Delegates and to the secretary of education~~  
127 ~~and the arts.~~

128 ~~(h) *Funding sources.*— An agency may receive and disburse funds from the state and~~  
129 ~~federal governments, from member counties, or from gifts and grants.~~

130 ~~(i) *Employee expenses.*— Notwithstanding any other provision of this code to the~~  
131 ~~contrary, employees of agencies shall be reimbursed for travel, meals and lodging at the same~~  
132 ~~rate as state employees under the travel management office of the Department of Administration.~~

133 ~~A county board member may not be an employee of an agency.~~

134 ~~(j) *Meetings and compensation.*—~~

135 ~~(1) Agencies shall hold at least one half of their regular meetings during hours other than~~  
136 ~~those of a regular school day. The executive director of each agency shall attend at least one~~  
137 ~~meeting of each of the member county boards of education each year to explain the agency's~~  
138 ~~services, garner suggestions for program improvement and provide any other information as may~~  
139 ~~be requested by the county board.~~

140 ~~(2) Notwithstanding any other provision of this code to the contrary, county board~~  
141 ~~members serving on regional councils may receive compensation at a rate not to exceed \$100~~  
142 ~~per meeting attended, not to exceed fifteen meetings per year. County board members serving~~  
143 ~~on regional councils may be reimbursed for travel at the same rate as state employees under the~~  
144 ~~rules of the travel management office of the Department of Administration.~~

145 (a) The regional education service agencies previously established by this section and W.  
146 Va. 126CSR72, filed October 15, 2015, and effective November 16, 2015, shall remain and may  
147 continue to operate in accordance with the provisions of this section prior to its amendment and  
148 reenactment at the Regular Session of the Legislature, 2017, and with said rule, unless and until  
149 modified by a cooperative agreement entered into by county boards within the agency boundaries  
150 or dissolved by said county boards: *Provided*, That on July 1, 2018, the regional education service  
151 agencies as provided under prior provisions of this section are dissolved.

152 (b) On July 1, 2018, all property, equipment and records held by the regional education  
153 service agencies necessary to effectuate the purposes of this article shall be transferred or  
154 liquidated or disbursed in accordance with section thirteen-c, article five of this chapter.

## **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 Legislature makes the following  
2 findings with respect to the process for improving education and its purpose and intent in the  
3 enactment of this section:

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

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

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

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

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

17 (2) As the constitutional body charged with the general supervision of schools as provided  
18 by general law, the state board has the authority following constructive engagement of the  
19 Legislature and as delegated by the Legislature by general law and the responsibility to establish

20 the standards and assess the performance and progress of students against the standards, and  
21 to exercise its supervisory responsibility to hold schools and school systems accountable and  
22 assist schools and school systems to build capacity and improve efficiency so that the standards  
23 are met, including, when necessary, seeking additional resources in consultation with the  
24 Legislature and the Governor;

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

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

37 (5) The intent of the Legislature in enacting this section ~~and section five-c of this article is~~  
38 to establish a process through which the Legislature, the Governor and the state board ~~can work~~  
39 ~~in the spirit of cooperation and collaboration intended in the process for improving education, to~~  
40 will constructively consult on any measures affecting standards, assessments and accountability  
41 prior to their adoption, ~~and~~ examine the performance and progress of students, schools and  
42 school systems and, when necessary, ~~to~~ consider alternative measures to ensure that all students  
43 continue to receive the thorough and efficient education to which they are entitled. However,  
44 nothing in this section requires any specific level of funding by the Legislature.

45           (b) *Electronic county and school strategic improvement plans.* — The state board shall  
46 promulgate a rule consistent with ~~the provisions of~~ this section and in accordance with article  
47 three-b, chapter twenty-nine-a of this code establishing an electronic county strategic  
48 improvement plan for each county board and an electronic school strategic improvement plan for  
49 each public school in this state. Each respective plan shall be for a period of no more than five  
50 years and shall include the mission and goals of the school or school system to improve student,  
51 school or school system performance and progress, as applicable. The strategic plan shall be  
52 revised annually in each area in which the school or system is below the standard on the annual  
53 performance measures. The plan shall be revised when required pursuant to this section to  
54 include each annual performance measure upon which the school or school system fails to meet  
55 the standard for performance and progress, the action to be taken to meet each measure, a  
56 separate time line and a date certain for meeting each measure, a cost estimate and, when  
57 applicable, the assistance to be provided by the department and other education agencies to  
58 improve student, school or school system performance and progress to meet the annual  
59 performance measure.

60           The department shall make available to all public schools through its website or the West  
61 Virginia Education Information System an electronic school strategic improvement plan  
62 boilerplate designed for use by all schools to develop an electronic school strategic improvement  
63 plan which incorporates all required aspects and satisfies all improvement plan requirements of  
64 ~~the No Child Left Behind Act.~~ Every Student Succeeds Act or subsequent federal law.

65           (c) *High-quality education standards and efficiency standards.* — In accordance with ~~the~~  
66 ~~provisions of~~ article three-b, chapter twenty-nine-a of this code, the state board shall adopt and  
67 periodically review and update high-quality education standards for student, school and school  
68 system performance and processes in the following areas:

- 69           (1) Curriculum;
- 70           (2) Workplace readiness skills;

- 71 (3) Finance;
- 72 (4) Transportation;
- 73 (5) Special education;
- 74 (6) Facilities;
- 75 (7) Administrative practices;
- 76 (8) Training of county board members and administrators;
- 77 (9) Personnel qualifications;
- 78 (10) Professional development and evaluation;
- 79 (11) Student performance, progress and attendance;
- 80 (12) Professional personnel, including principals and central office administrators, and
- 81 service personnel attendance;
- 82 (13) School and school system performance and progress;
- 83 (14) A code of conduct for students and employees;
- 84 (15) Indicators of efficiency
- 85 (16) Digital literacy skills; and
- 86 ~~(16)~~ (17) Any other areas determined by the state board.

87 (d) *Comprehensive statewide student assessment program.* — The state board shall  
88 establish a comprehensive statewide student assessment program to assess student  
89 performance and progress in grades three through twelve. The assessment program is subject to  
90 the following:

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

94 (2) Prior to the ~~2014-2015~~ testing window of the-2017-2018 school year, the state board  
95 shall align the comprehensive statewide student assessment for all grade levels in which the test  
96 is given with the college-readiness standards adopted pursuant to section thirty-nine, article two

97 of this chapter or develop other aligned tests to be required ~~at each grade level so that~~ in grades  
98 three through eight and administered once during the grade span of nine through twelve to assess  
99 progress toward college and career readiness in English/language arts and math. ~~can be~~  
100 measured The assessment in science shall be administered once in grade spans three through  
101 five, once in grade spans six through nine, and once in grade spans ten through twelve;

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

105 (3) In accordance with articles two and two-e, chapter eighteen of this code, the state  
106 board shall adopt a standard, curriculum-based achievement college entrance examination for  
107 grade eleven. The college entrance examination must include separate tests in English, reading,  
108 writing, mathematics and science. The adopted examination administered in grade eleven counts  
109 as the statewide student assessment;

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

113 (4) The comprehensive statewide student assessment shall be administered to students  
114 in accordance with the requirements of the Every Student Succeeds Act or subsequent federal  
115 law;

116 (5) The state board may provide, through the statewide assessment program, other  
117 optional testing or assessment instruments applicable to grade levels kindergarten through grade  
118 twelve which may be used by each school to promote student achievement. The state board  
119 annually shall publish and make available, electronically or otherwise, to school curriculum teams  
120 and teacher collaborative processes the optional testing and assessment instruments. For any  
121 online assessment, the state board shall provide online assessment preparation to ensure that  
122 students have the requisite digital literacy skills to be successful on the assessment; and

123           (6) The state board may adopt a career readiness assessment that measures and  
124 documents foundational workplace skills and leads to a nationally recognized work readiness  
125 certificate for students that meet minimum proficiency requirements.

126           (e) *State annual performance measures for school and school system accreditation.* —

127           The state board shall promulgate a rule in accordance with ~~the provisions of~~ article three-  
128 b, chapter twenty-nine-a of this code that establishes a system that is based in multiple measures  
129 and meets the requirements of any federal law to assess and weigh annual performance  
130 measures ~~for state accreditation of schools and school systems~~ to assure that schools and school  
131 systems are providing a thorough and efficient education to their students. State accreditation  
132 shall be reviewed and approved in a balanced manner that gives fair credit to all measures  
133 affecting students and subgroups of students in the schools and school systems. The state board  
134 also may establish performance incentives for schools and school systems as part of the state  
135 accreditation system. On or before December 1, ~~2013~~ 2018, the state board shall report to the  
136 Governor and to the Legislative Oversight Commission on Education Accountability the proposed  
137 rule for establishing the measures and incentives of accreditation and the estimated cost  
138 therefore, if any. Thereafter, the state board shall provide an annual report to the Governor and  
139 to the Legislative Oversight Commission on Education Accountability on the impact and  
140 effectiveness of the accreditation system. The rule for school and school system accreditation  
141 proposed by the board may include, but is not limited to, the following measures:

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

144           (2) Graduation and attendance rate;

145           (3) Students taking and passing AP tests;

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

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

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

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

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

154 (2) Transportation;

155 (3) Facilities;

156 (4) Administrative practices;

157 (5) Personnel; and

158 ~~(6) Use of regional educational service agency programs and services, including programs~~  
159 ~~and services that may be established by their assigned regional educational service agency or~~  
160 ~~other regional services that may be initiated between and among participating county boards; and~~

161 ~~(7)~~ (6) Any other indicators as determined by the state board.

162 Each county board of education shall use the statewide electronic information system  
163 established by the state board for data collection and reporting to the state Department of  
164 Education.

165 (g) *Assessment and accountability of school and school system performance and*  
166 *processes.* — In accordance with ~~the provisions of~~ article three-b, chapter twenty-nine-a of this  
167 code, the state board shall establish by rule a system of education performance audits which  
168 measures to evaluate the quality of education and the preparation of students based on the annual  
169 measures of student, school and school system performance and progress. The system of  
170 education performance audits measures shall provide information to the state board, the  
171 Legislature and the Governor, upon which they may determine whether a thorough and efficient  
172 system of schools is being provided. The system of education performance audits measures shall  
173 include:

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

176 (2) The evaluation of records, reports and other ~~information collected by the Office of~~  
177 ~~Education Performance Audits upon which~~ documents that provide information on the quality of  
178 education and compliance with statutes, policies and standards; ~~and may be determined;~~

179 (3) The review of school and school system electronic strategic improvement plans. ~~and~~

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

182 (h) *Uses of school and school system assessment information.* — The state board shall  
183 use information from the system of education performance audits measures to assist it in ensuring  
184 that a thorough and efficient system of schools is being efficiently provided and to improve  
185 student, school and school system performance and progress. Information from the system of  
186 education performance audits measures further shall be used by the state board for these  
187 purposes, including, but not limited to, the following:

188 (1) Determining ~~school~~ accountability and accreditation for schools and school system  
189 approval status as required by state board rule and any federal law or regulations; and

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

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

193 The state board shall make ~~accreditation~~ the performance measures information available  
194 to the Legislature, the Governor, the general public and to any individual who requests the  
195 information, subject to the provisions of any act or rule restricting the release of information.

196 (i) *Early detection and intervention programs.* — Based on the assessment of student,  
197 school and school system performance and progress, the state board shall establish early  
198 detection and intervention programs using the available resources of the Department of  
199 Education, ~~the regional educational service agencies, the Center for Professional Development~~

200 ~~and the Principals Academy~~, or other resources as appropriate, to assist underachieving schools  
201 and school systems to improve performance before conditions become so grave as to warrant  
202 more substantive state intervention. Assistance shall include, but is not limited to, providing  
203 additional technical assistance and programmatic, professional staff development, and providing  
204 monetary, staffing and other resources where appropriate.

205 ~~(j) Office of Education Performance Audits.—~~

206 ~~(1) To assist the state board in the operation of a system of education performance audits,~~  
207 ~~the state board shall establish an Office of Education Performance Audits consistent with the~~  
208 ~~provisions of this section. The Office of Education Performance Audits shall be operated under~~  
209 ~~the direction of the state board independently of the functions and supervision of the State~~  
210 ~~Department of Education and state superintendent. The Office of Education Performance Audits~~  
211 ~~shall report directly to and be responsible to the state board in carrying out its duties under the~~  
212 ~~provisions of this section.~~

213 ~~(2) The office shall be headed by a director who shall be appointed by the state board and~~  
214 ~~who serves at the will and pleasure of the state board. The annual salary of the director shall be~~  
215 ~~set by the state board and may not exceed eighty percent of the salary of the State Superintendent~~  
216 ~~of Schools.~~

217 ~~(3) The state board shall organize and sufficiently staff the office to fulfill the duties~~  
218 ~~assigned to it by law and by the state board. Employees of the State Department of Education~~  
219 ~~who are transferred to the Office of Education Performance Audits shall retain their benefits and~~  
220 ~~seniority status with the Department of Education.~~

221 ~~(4) Under the direction of the state board, the Office of Education Performance Audits shall~~  
222 ~~receive from the West Virginia education Information System staff research and analysis data on~~  
223 ~~the performance and progress of students, schools and school systems, and shall receive~~  
224 ~~assistance, as determined by the state board, from staff at the State Department of Education,~~

225 ~~the regional education service agencies, the Center for Professional Development, the Principals~~  
226 ~~Academy and the School Building Authority to carry out the duties assigned to the office.~~

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

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

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

233 ~~(i) Processes for the accreditation of schools and the approval of school systems; and~~

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

236 ~~(C) Determine, in conjunction with the assessment and accountability processes, what~~  
237 ~~capacity may be needed by schools and school systems to meet the standards established by~~  
238 ~~the state board and recommend to the state board plans to establish those needed capacities;~~

239 ~~(D) Determine, in conjunction with the assessment and accountability processes, whether~~  
240 ~~statewide system deficiencies exist in the capacity of schools and school systems to meet the~~  
241 ~~standards established by the state board, including the identification of trends and the need for~~  
242 ~~continuing improvements in education, and report those deficiencies and trends to the state~~  
243 ~~board;~~

244 ~~(E) Determine, in conjunction with the assessment and accountability processes, staff~~  
245 ~~development needs of schools and school systems to meet the standards established by the state~~  
246 ~~board and make recommendations to the state board, the Center for Professional Development,~~  
247 ~~the regional educational service agencies, the Higher Education Policy Commission and the~~  
248 ~~county boards;~~

249 ~~(F) Identify, in conjunction with the assessment and accountability processes, school~~  
250 ~~systems and best practices that improve student, school and school system performance and~~

251 ~~communicate those to the state board for promoting the use of best practices. The state board~~  
252 ~~shall provide information on best practices to county school systems; and~~

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

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

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

262 ~~(iii) The appropriate licensure of school personnel; and~~

263 ~~(iv) The appropriate provision of multicultural activities.~~

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

267 ~~(k) On-site reviews.—~~

268 ~~(1) The system of education performance audits shall include on-site reviews of schools~~  
269 ~~and school systems which shall be conducted only at the specific direction of the state board upon~~  
270 ~~its determination that circumstances exist that warrant an on-site review. Any discussion by the~~  
271 ~~state board of schools to be subject to an on-site review or dates for which on-site reviews will be~~  
272 ~~conducted may be held in executive session and is not subject to the provisions of article nine-a,~~  
273 ~~chapter six of this code relating to open governmental proceedings. An on-site review shall be~~  
274 ~~conducted by the Office of Education Performance Audits of a school or school system for the~~  
275 ~~purpose of making recommendations to the school and school system, as appropriate, and to the~~

276 ~~state board on such measures as it considers necessary. The investigation may include, but is~~  
277 ~~not limited to, the following:~~

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

279 ~~(B) Examining compliance with the laws and policies affecting student, school and school~~  
280 ~~system performance and progress;~~

281 ~~(C) Evaluating the effectiveness and implementation status of school and school system~~  
282 ~~electronic strategic improvement plans;~~

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

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

288 ~~(F) Determining and reporting whether required reviews and inspections have been~~  
289 ~~conducted by the appropriate agencies, including, but not limited to, the State Fire Marshal, the~~  
290 ~~Health Department, the School Building Authority and the responsible divisions within the~~  
291 ~~department of education, and whether noted deficiencies have been or are in the process of being~~  
292 ~~corrected.~~

293 ~~(2) The Director of the Office of Education Performance Audits shall notify the county~~  
294 ~~superintendent of schools five school days prior to commencing an on-site review of the county~~  
295 ~~school system and shall notify both the county superintendent and the principal five school days~~  
296 ~~before commencing an on-site review of an individual school. *Provided*, That the state board may~~  
297 ~~direct the Office of Education Performance Audits to conduct an unannounced on-site review of~~  
298 ~~a school or school system if the state board believes circumstances warrant an unannounced on-~~  
299 ~~site review.~~

300 ~~(3) The Office of Education Performance Audits shall conduct on-site reviews which are~~  
301 ~~limited in scope to specific areas in which performance and progress are persistently below~~

302 ~~standard as determined by the state board unless specifically directed by the state board to~~  
303 ~~conduct a review which covers additional areas.~~

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

306 ~~(5) At the conclusion of an on-site review of a school system, the director and team leaders~~  
307 ~~shall hold an exit conference with the superintendent and shall provide an opportunity for~~  
308 ~~principals to be present for at least the portion of the conference pertaining to their respective~~  
309 ~~schools. In the case of an on-site review of a school, the exit conference shall be held with the~~  
310 ~~principal and curriculum team of the school and the superintendent shall be provided the~~  
311 ~~opportunity to be present. The purpose of the exit conference is to review the initial findings of the~~  
312 ~~on-site review, clarify and correct any inaccuracies and allow the opportunity for dialogue between~~  
313 ~~the reviewers and the school or school system to promote a better understanding of the findings.~~

314 ~~(6) The Office of Education Performance Audits shall report the findings of an on-site~~  
315 ~~review to the county superintendent and the principals whose schools were reviewed within thirty~~  
316 ~~days following the conclusion of the on-site review. The Office of Education Performance Audits~~  
317 ~~shall report the findings of the on-site review to the state board within forty-five days after the~~  
318 ~~conclusion of the on-site review. A school or county that believes one or more findings of a review~~  
319 ~~are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of~~  
320 ~~education in the school or county or address issues unrelated to the health, safety and welfare of~~  
321 ~~students and the quality of education, may appeal to the state board for removal of the findings.~~  
322 ~~The state board shall establish a process for it to receive, review and act upon the appeals.~~

323 ~~(7) The Legislature finds that the accountability and oversight of some activities and~~  
324 ~~programmatic areas in the public schools are controlled through other mechanisms and agencies~~  
325 ~~and that additional accountability and oversight may be unnecessary, counterproductive and~~  
326 ~~impair necessary resources for teaching and learning. Therefore, the Office of Education~~

327 ~~Performance Audits may rely on other agencies and mechanisms in its review of schools and~~  
328 ~~school systems~~

329 (j) The state board may employ experienced education professionals, who serve at the  
330 will and pleasure of the state board, to coordinate on site and school system improvement efforts  
331 with staff at the State Department of Education to support schools and school systems in  
332 improving education performance measures.

333 ~~(k) School accreditation. —~~

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

336 (A) The levels will be designed to demonstrate school performance ~~in all the areas outlined~~  
337 ~~in this section and also those~~ on multiple measures as established by the state board by legislative  
338 rule in accordance with article three-b, chapter twenty-nine-a of this code and consistent with the  
339 applicable state laws, policies and standards, which include standards for performance-based  
340 accountability, high-quality education, and continuous improvement; and

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

344 ~~(C) The state board will establish the levels of accreditation in such a manner as to~~  
345 ~~minimize the number of systems of school recognition, both state and federal, that are employed~~  
346 ~~to recognize and accredit schools~~ (B) Will ensure compliance with federal law and applicable state  
347 laws, policies and standards at a minimum.

348 (2) The state board annually shall review the information from the system of education  
349 performance audits measures submitted for each school and shall ~~issue to every school a level~~  
350 ~~of accreditation as designated and determined by the state board.~~ accredit each school as  
351 designated in the rule, and consistent with the applicable state laws, policies and standards; and

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

354 ~~(A) To require a school to revise its electronic strategic plan;~~

355 ~~(B) To define extraordinary circumstances under which the state board may intervene~~  
356 ~~directly or indirectly in the operation of a school;~~

357 ~~(C) To appoint monitors to work with the principal and staff of a school where extraordinary~~  
358 ~~circumstances are found to exist and to appoint monitors to assist the school principal after~~  
359 ~~intervention in the operation of a school is completed;~~

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

362 ~~(E) To intervene directly in the operation of a school and declare the position of principal~~  
363 ~~vacant and assign a principal for the school who will serve at the will and pleasure of the state~~  
364 ~~board. If the principal who was removed elects not to remain an employee of the county board,~~  
365 ~~then the principal assigned by the state board shall be paid by the county board. If the principal~~  
366 ~~who was removed elects to remain an employee of the county board, then the following procedure~~  
367 ~~applies:~~

368 ~~(i) The principal assigned by the state board shall be paid by the state board until the next~~  
369 ~~school term, at which time the principal assigned by the state board shall be paid by the county~~  
370 ~~board;~~

371 ~~(ii) The principal who was removed is eligible for all positions in the county, including~~  
372 ~~teaching positions, for which the principal is certified, by either being placed on the transfer list in~~  
373 ~~accordance with section seven, article two, chapter eighteen-a of this code, or by being placed~~  
374 ~~on the preferred recall list in accordance with section seven-a, article four, chapter eighteen-a of~~  
375 ~~this code; and~~

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

379 ~~(F) (2) Exercise~~ other powers and actions the state board determines necessary to fulfill  
380 its duties of general supervision of the schools and school systems of West Virginia.

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

383 ~~(m) (l) School system approval.~~ — The state board annually shall review the information  
384 submitted for each school system from the system of education performance audits measures  
385 and issue ~~one of the following approval levels to each county board Full approval, temporary~~  
386 ~~approval, conditional approval or nonapproval~~ an approval status in compliance with federal law  
387 and established by state board rule.

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

394 ~~(2) Temporary approval shall be given to a county board whose education system is below~~  
395 ~~the level required for full approval. Whenever a county board is given temporary approval status,~~  
396 ~~the county board shall revise its electronic county strategic improvement plan in accordance with~~  
397 ~~subsection (b) of this section to increase the performance and progress of the school system to~~  
398 ~~a full approval status level. The revised plan shall be submitted to the state board for approval.~~

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

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

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

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

405 ~~(4) Nonapproval status shall be given to a county board which fails to submit and gain~~  
406 ~~approval for its electronic county strategic improvement plan or revised electronic county strategic~~  
407 ~~improvement plan within a reasonable time period as defined by the state board or which fails to~~  
408 ~~meet the objectives and time line of its revised electronic county strategic improvement plan or~~  
409 ~~fails to achieve full approval by the date specified in the revised plan.~~

410 (m) Nonapproval for extraordinary circumstances.

411 ~~(A)~~ (1) The state board shall establish and adopt additional standards to identify school  
412 systems in which the program may be nonapproved and the state board may issue nonapproval  
413 status whenever extraordinary circumstances exist as defined by the state board.

414 ~~(B) Whenever a county board has more than a casual deficit, as defined in section one,~~  
415 ~~article one of this chapter, the county board shall submit a plan to the state board specifying the~~  
416 ~~county board's strategy for eliminating the casual deficit. The state board either shall approve or~~  
417 ~~reject the plan. If the plan is rejected, the state board shall communicate to the county board the~~  
418 ~~reason or reasons for the rejection of the plan. The county board may resubmit the plan any~~  
419 ~~number of times. However, any county board that fails to submit a plan and gain approval for the~~  
420 ~~plan from the state board before the end of the fiscal year after a deficit greater than a casual~~  
421 ~~deficit occurred or any county board which, in the opinion of the state board, fails to comply with~~  
422 ~~an approved plan may be designated as having nonapproval status.~~

423 ~~(C)~~ (2) ~~Whenever nonapproval status is given to a school system, When extraordinary~~  
424 ~~circumstances exist, but do not rise to the level of immediate intervention as described in~~  
425 ~~subsection (n) of this section,~~ the state board shall ~~may~~ declare a state of emergency in the school  
426 system and shall ~~appoint a team of improvement consultants to make~~ direct designees to provide  
427 recommendations within sixty days of appointment for correcting the ~~emergency~~ extraordinary

428 circumstances. When the state board approves the recommendations, they shall be  
429 communicated to the county board. If progress in correcting the ~~emergency~~ extraordinary  
430 circumstances, as determined by the state board, is not made within six months from the time the  
431 county board receives the recommendations, the state board shall intervene in the operation of  
432 the school system to cause improvements to be made that will provide assurances that a thorough  
433 and efficient system of schools will be provided. This intervention may include, but is not limited  
434 to, the following:

435 ~~(i) (A) Limiting the authority of the county superintendent and county board as to the~~  
436 ~~expenditure of funds, the employment and dismissal of personnel, the establishment and~~  
437 ~~operation of the school calendar, the establishment of instructional programs and rules and any~~  
438 ~~other areas in areas that compromise the delivery of a thorough and efficient education to its~~  
439 students as designated by the state board by rule, which may include delegating decision-making  
440 authority regarding these matters to the state superintendent who may:

441 ~~(ii) (B) Declaring~~ Declare that the office of the county superintendent is vacant;

442 ~~(iii) (C) Declaring~~ Declare that the positions of personnel who serve at the will and pleasure  
443 of the county superintendent as provided in section one, article two, chapter eighteen-a of this  
444 code, are vacant, subject to application and reemployment;

445 (D) Fill the declared vacancies during the period of intervention; and

446 ~~(iv) Delegating to the state superintendent both the authority to conduct hearings on~~  
447 ~~personnel matters and school closure or consolidation matters and, subsequently, to render the~~  
448 ~~resulting decisions and the authority to appoint a designee for the limited purpose of conducting~~  
449 ~~hearings while reserving to the state superintendent the authority to render the resulting decisions;~~

450 ~~(v) Functioning in lieu of the county board of education in a transfer, sale, purchase or~~  
451 ~~other transaction regarding real property; and~~

452 ~~(vi) Taking~~ (E) Take any direct action necessary to correct the ~~emergency including, but~~  
453 ~~not limited to, the following~~ extraordinary circumstance.

454 ~~(l) Delegating to the state superintendent the authority to replace administrators and~~  
455 ~~principals in low performing schools and to transfer them into alternate professional positions~~  
456 ~~within the county at his or her discretion; and~~

457 ~~(ll) Delegating to the state superintendent the authority to fill positions of administrators~~  
458 ~~and principals with individuals determined by the state superintendent to be the most qualified for~~  
459 ~~the positions. Any authority related to intervention in the operation of a county board granted~~  
460 ~~under this paragraph is not subject to the provisions of article four, chapter eighteen-a of this~~  
461 ~~code.~~

462 (n) Notwithstanding any other provision of this section, the state board may intervene  
463 immediately in the operation of the county school system with all the powers, duties and  
464 responsibilities contained in subsection (m) of this section, if the state board finds any of the  
465 following:

466 (1) A county board fails to act on a statutory obligation which would interrupt the day-to-  
467 day operations of the school system;

468 ~~(4)~~ (2) That the conditions precedent to intervention exist as provided in this section; and  
469 that delaying intervention for any period of time would not be in the best interests of the students  
470 of the county school system; or

471 ~~(2)~~ (3) That the conditions precedent to intervention exist as provided in this section and  
472 that the state board had previously intervened in the operation of the same school system and  
473 had concluded that intervention within the preceding five years.

474 (o) *Capacity*. — The process for improving education includes a process for targeting  
475 resources strategically to improve the teaching and learning process. Development of electronic  
476 school and school system strategic improvement plans, pursuant to subsection (b) of this section,  
477 is intended, in part, to provide mechanisms to target resources strategically to the teaching and  
478 learning process to improve student, school and school system performance. When deficiencies  
479 are detected through the assessment and accountability processes, the revision and approval of

480 school and school system electronic strategic improvement plans shall ensure that schools and  
481 school systems are efficiently using existing resources to correct the deficiencies. When the state  
482 board determines that schools and school systems do not have the capacity to correct  
483 deficiencies, the state board shall take one or more of the following actions:

484 (1) Work with the county board to develop or secure the resources necessary to increase  
485 the capacity of schools and school systems to meet the standards and, when necessary, seek  
486 additional resources in consultation with the Legislature and the Governor;

487 (2) Recommend to the appropriate body including, but not limited to, the Legislature,  
488 county boards, schools and communities methods for targeting resources strategically to  
489 eliminate deficiencies identified in the assessment and accountability processes. When making  
490 determinations on recommendations, the state board shall include, but is not limited to, the  
491 following methods:

492 The state board, or its designee, the West Virginia Department of Education, and county  
493 school systems, shall work collaboratively in:

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

497 (B) (2) Determining the areas of weakness and of ineffectiveness that appear to have  
498 contributed to the substandard performance and progress of students or the deficiencies of the  
499 school or school system; ~~and requiring the school or school system to work collaboratively with~~  
500 ~~the West Virginia Department of Education State System of Support to correct the deficiencies;~~

501 (C) (3) Determining the areas of strength that appear to have contributed to exceptional  
502 student, school and school system performance and progress and promoting their emulation  
503 throughout the system;

504 (D) (4) Requesting technical assistance from the School Building Authority in assessing  
505 or designing comprehensive educational facilities plans;

506           ~~(E)~~ (5) Recommending priority funding from the School Building Authority based on  
507 identified needs;

508           ~~(F)~~ (6) ~~Providing or recommending to~~ Requesting special staff development programs  
509 ~~from the Center for Professional Development, the Principals Academy, higher education,~~  
510 ~~regional educational service agencies and county boards based on identified needs;~~

511           ~~(G)~~ (7) Submitting requests to the Legislature for appropriations to meet the identified  
512 needs for improving education;

513           ~~(H)~~ ~~Directing county boards to target their~~ (8) Allocating funds strategically toward  
514 alleviating deficiencies;

515           ~~(I)~~ (9) Ensuring that the need for facilities in counties with increased enrollment are  
516 appropriately reflected and recommended for funding;

517           ~~(J)~~ (10) Ensuring that the appropriate person or entity is held accountable for eliminating  
518 deficiencies; and

519           ~~(K)~~ (11) Ensuring that the needed capacity is available from the state and local level to  
520 assist the school or school system in achieving the standards and alleviating the deficiencies.

521           (p) *Building leadership capacity.* — To help build the governance and leadership capacity  
522 of a county board during an intervention in the operation of its school system ~~by the state board,~~  
523 and to help assure sustained success following return of control to the county board, ~~the state~~  
524 ~~board shall require~~ the county board ~~to~~ shall establish goals and action plans, subject to approval  
525 of the state ~~board~~ superintendent, to improve performance sufficiently to end the intervention  
526 within a period of not more than five years. The state superintendent shall maintain oversight and  
527 provide assistance and feedback to the county board on development and implementation of the  
528 goals and action plans. At a minimum, the goals and action plans shall include:

529           ~~(A)~~ (1) An analysis of the training and development activities needed by the county board  
530 and leadership of the school system ~~and schools~~ for effective governance and school  
531 improvement;

532           ~~(B)~~ (2) Support for the training and development activities identified which may include  
533 those made available through the state superintendent, ~~regional education service agencies,~~  
534 ~~Center for Professional Development,~~ West Virginia School Board Association, ~~Office of~~  
535 ~~Education Performance Audits,~~ West Virginia Education Information System and other sources  
536 identified in the goals and action plans; ~~Attendance at these activities included in the goals and~~  
537 ~~action plans is mandatory as specified in the goals and action plans;~~ and

538           ~~(C)~~ (3) Active involvement by the county board in the improvement process, working in  
539 tandem with the county superintendent to gather, analyze and interpret data, write time-specific  
540 goals to correct deficiencies, prepare and implement action plans and allocate or request from  
541 the ~~State Board~~ Department of Education the resources, including board development training  
542 and coaching, necessary to achieve approved goals and action plans and sustain system and  
543 school improvement.

544           At least once each year during the period of intervention, the ~~Office of Education~~  
545 ~~Performance Audits shall~~ state board shall appoint a designee to assess the readiness of the  
546 county board to accept the return of control of the system or school from the state board and  
547 sustain the improvements, and shall make a report and recommendations to the state board  
548 supported by documented evidence of the progress made on the goals and action plans. The  
549 state board may ~~end the intervention or~~ return any portion of control of the operations of the school  
550 system or school that was previously removed at its sole determination or end the intervention in  
551 its entirety by a majority vote. If the state board determines at the fifth annual assessment that  
552 the county board is still not ready to accept return of control by the state board and sustain the  
553 improvements, the state board shall hold a public hearing in the affected county at which the  
554 attendance by all members of the county board is requested so that the reasons for continued  
555 intervention and the concerns of the citizens of the county may be heard. The state board may  
556 continue the intervention only after it holds the public hearing and may require revision of the  
557 goals and action plans. The state board must thereafter hold a public hearing after each annual

558 assessment beyond the fifth year. If a school system is in intervention status on the effective date  
559 of this provision, the total years of intervention shall be calculated from the date of initial  
560 intervention.

561           Following the termination of an intervention in the operation of a school system and return  
562 of full control by the state board, the support for governance education and development shall  
563 continue as needed for up to three years. If at any time within this three years, the state board  
564 determines that intervention in the operation of the school system is again necessary, the state  
565 board shall again hold a public hearing in the affected county so that the reasons for the  
566 intervention and the concerns of the citizens of the county may be heard prior to intervening.

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

### **§18-5-13. Authority of boards generally.**

1           Subject to the provisions of this chapter and the rules of the state board, each county  
2 board may:

3           (a) Control and manage all of the schools and school interests for all school activities and  
4 upon all school property owned or leased by the county, including:

5           (1) Requiring schools to keep records regarding funds connected with the school or school  
6 interests, including all receipts and disbursements of all funds collected or received by:

7           (A) Any principal, teacher, student or other person in connection with the schools and  
8 school interests;

9           (B) Any program, activity or other endeavor of any nature operated or conducted by or in  
10 the name of the school; and

11           (C) Any organization or body directly connected with the school;

12           (2) Allowing schools to expend funds for student, parent, teacher and community  
13 recognition programs. A school may use only funds it generates through a fund-raising or  
14 donation-soliciting activity. Prior to commencing the activity, the school shall:

15           (A) Publicize the activity as intended for this purpose; and

16 (B) Designate for this purpose the funds generated;

17 (3) Auditing the records and conserving the funds, including securing surety bonds by  
18 expending board moneys. The funds described in this subsection are quasipublic funds, which  
19 means the moneys were received for the benefit of the school system as a result of curricular or  
20 noncurricular activities;

21 (b) Establish:

22 (1) Schools, from preschool through high school;

23 (2) Vocational schools; and

24 (3) Schools and programs for post-high school instruction, subject to approval of the state  
25 board;

26 (c) Close any school:

27 (1) Which is unnecessary and assign the students to other schools. The closing shall occur  
28 pursuant to official action of the county board. Except in emergency situations when the timing  
29 and manner of notification are subject to approval by the state superintendent, the county board  
30 shall notify the affected teachers and service personnel of the county board action not later than  
31 the first Monday in April. The board shall provide notice in the same manner as set forth in section  
32 four of this article; or

33 (2) Pursuant to ~~the provisions of~~ subsection (e) of this section;

34 (d) Consolidate schools;

35 (e) Close any elementary school whose average daily attendance falls below twenty  
36 students for two consecutive months. The county board may assign the students to other schools  
37 in the district or to schools in adjoining districts. If the teachers in the closed school are not  
38 transferred or reassigned to other schools, they shall receive one month's salary;

39 (f) Provide transportation according to rules established by the county board, as follows:

40 (1) To provide at public expense adequate means of transportation:

41 (A) For all children of school age who live more than two miles distance from school by  
42 the nearest available road;

43 (B) For school children participating in county board-approved curricular and  
44 extracurricular activities;

45 (C) Across county lines for students transferred from one district to another by mutual  
46 agreement of both county boards. The agreement shall be recorded in the meeting minutes of  
47 each participating county board and is subject to ~~the provisions of~~ subsection (h) of this section;  
48 and

49 (D) Within available revenues, for students within two miles distance of the school; and

50 (2) To provide transportation for participants in projects operated, financed, sponsored or  
51 approved by the Bureau of Senior Services. This transportation shall be provided at no cost to  
52 the county board. All costs and expenses incident in any way to this transportation shall be borne  
53 by the bureau or the local or county affiliate of the bureau;

54 (3) Any school bus owned by the county board may be operated only by a bus operator  
55 regularly employed by the county board, except as provided in subsection (g) of this section;

56 (4) Pursuant to rules established by the state board, the county board may provide for  
57 professional employees to be certified to drive county board-owned vehicles that have a seating  
58 capacity of fewer than ten passengers. These employees may use the vehicles to transport  
59 students for school-sponsored activities, but may not use the vehicles to transport students  
60 between school and home. Not more than one of these vehicles may be used for any school-  
61 sponsored activity;

62 (5) Students may not be transported to a school-sponsored activity in any county-owned  
63 or leased vehicle that does not meet school bus or public transit ratings. This section does not  
64 prohibit a parent from transporting ten or fewer students in a privately-owned vehicle;

65           (6) Students may be transported to a school-sponsored activity in a vehicle that has a  
66 seating capacity of sixteen or more passengers which is not owned and operated by the county  
67 board only as follows:

68           (A) The state board shall promulgate a rule to establish requirements for:

69           (i) Automobile insurance coverage;

70           (ii) Vehicle safety specifications;

71           (iii) School bus or public transit ratings; and

72           (iv) Driver training, certification and criminal history record check; and

73           (B) The vehicle owner shall provide to the county board proof that the vehicle and driver  
74 satisfy the requirements of the state board rule; and

75           (7) Buses shall be used for extracurricular activities as provided in this section only when  
76 the insurance coverage required by this section is in effect;

77           (g) Lease school buses pursuant to rules established by the county board.

78           (1) Leased buses may be operated only by bus operators regularly employed by the  
79 county board, except that these buses may be operated by bus operators regularly employed by  
80 another county board in this state if bus operators from the owning county are unavailable.

81           (2) The lessee shall bear all costs and expenses incurred by, or incidental to the use of,  
82 the bus.

83           (3) The county board may lease buses to:

84           (A) Public and private nonprofit organizations and private corporations to transport school-  
85 age children for camps or educational activities;

86           (B) Any college, university or officially recognized campus organization for transporting  
87 students, faculty and staff to and from the college or university. Only college and university  
88 students, faculty and staff may be transported pursuant to this paragraph. The lease shall include  
89 provisions for:

90           (i) Compensation for bus operators;

91 (ii) Consideration for insurance coverage, repairs and other costs of service; and

92 (iii) Any rules concerning student behavior;

93 (C) Public and private nonprofit organizations, including education employee  
94 organizations, for transportation associated with fairs, festivals and other educational and cultural  
95 events. The county board may charge fees in addition to those charges otherwise required by this  
96 subsection;

97 (h) To provide at public expense for insurance coverage against negligence of the drivers  
98 of school buses, trucks or other vehicles operated by the county board. Any contractual  
99 agreement for transportation of students shall require the vehicle owner to maintain insurance  
100 coverage against negligence in an amount specified by the county board;

101 (i) Provide for the full cost or any portion thereof for group plan insurance benefits not  
102 provided or available under the West Virginia Public Employees Insurance Act. Any of these  
103 benefits shall be provided:

104 (1) Solely from county board funds; and

105 (2) For all regular full-time employees of the county board;

106 (j) Employ teacher aides; to provide in-service training for the aides pursuant to rules  
107 established by the state board; and, prior to assignment, to provide a four-clock-hour program of  
108 training for a service person assigned duties as a teacher aide in an exceptional children program.  
109 The four-clock-hour program shall consist of training in areas specifically related to the education  
110 of exceptional children;

111 (k) Establish and operate a self-supporting dormitory for:

112 (1) Students attending a high school or participating in a post high school program; and

113 (2) Persons employed to teach in the high school or post high school program;

114 (l) At the county board's discretion, employ, contract with or otherwise engage legal  
115 counsel in lieu of using the services of the prosecuting attorney to advise, attend to, bring,

116 prosecute or defend, as the case may be, any matters, actions, suits and proceedings in which  
117 the county board is interested;

118 (m) Provide appropriate uniforms for school service personnel;

119 (n) Provide at public expense for payment of traveling expenses incurred by any person  
120 invited to appear to be interviewed concerning possible employment by the county board, subject  
121 to rules established by the county board;

122 (o) Allow designated employees to use publicly provided carriage to travel from their  
123 residences to their workplace and return. The use:

124 (1) Is subject to the supervision of the county board; and

125 (2) Shall be directly connected with, required by and essential to the performance of the  
126 employee's duties and responsibilities;

127 (p) Provide at public expense adequate public liability insurance, including professional  
128 liability insurance, for county board employees;

129 (q) (1) Enter into cooperative agreements with ~~other~~ one or more county boards or  
130 educational services cooperative to provide improvements to the instructional needs of each  
131 district. The cooperative agreements may be used to employ specialists in a field of academic  
132 study or for support functions or services for the field. ~~The agreements are subject to approval by~~  
133 ~~the state board;~~

134 (2) Enter into cooperative agreements with one or more county boards to facilitate  
135 coordination and cooperation in areas of service to reduce administrative and/or operational  
136 costs, including the consolidation of administrative, coordinating, and other county level functions  
137 into shared functions to promote the efficient administration and operation of the public school  
138 systems including, but not limited to:

139 (A) Purchasing;

140 (B) Operation of specialized programs for exceptional children;

141 (C) Employment of any school personnel as defined in section one, article one, chapter  
142 eighteen-a of this code;

143 (D) Professional development;

144 (E) Technology including, but not limited to WVEIS; and

145 (F) Billing for school-based Medicaid services in schools throughout the state.

146 Each such cooperative agreement shall be in writing and agreed to by each county board  
147 participating in the cooperative agreement. Each cooperative agreement that is an employment  
148 agreement may be entered into on a case-by-case basis. Notwithstanding the geographic  
149 quadrants as provided in section thirteen-b of this article, school systems may enter into  
150 cooperative agreements with any school system in the state.

151 (3) Enter into a cooperative agreement with other county boards to establish educational  
152 services cooperatives as provided in section thirteen-c of this article.

153 (r) Provide information about vocational and higher education opportunities to exceptional  
154 students. The county board shall provide in writing to the students and their parents or guardians  
155 information relating to programs of vocational education and to programs available at state  
156 institutions of higher education. The information may include sources of available funding,  
157 including grants, mentorships and loans for students who wish to attend classes at institutions of  
158 higher education;

159 (s) Enter into agreements with other county boards for the transfer and receipt of any funds  
160 determined to be fair when students are permitted or required to attend school in a district other  
161 than the district of their residence. These agreements are subject to the approval of the state  
162 board; and

163 (t) Enter into job-sharing arrangements, as defined in section one, article one, chapter  
164 eighteen-a of this code, with its employees, subject to the following provisions:

165 (1) A job-sharing arrangement shall meet all the requirements relating to posting,  
166 qualifications and seniority, as provided in article four, chapter eighteen-a of this code;

167 (2) Notwithstanding any contrary provision of this code or legislative rule and specifically  
168 ~~the provisions of~~ article sixteen, chapter five of this code, a county board that enters into a job-  
169 sharing arrangement:

170 (A) Shall provide insurance coverage to the one employee mutually agreed upon by the  
171 employees participating in that arrangement; and

172 (B) May not provide insurance benefits of any type to more than one of the job-sharing  
173 employees, including any group plan available under the State Public Employees Insurance Act;

174 (3) Each job-sharing agreement shall be in writing on a form prescribed and furnished by  
175 the county board. The agreement shall designate specifically one employee only who is entitled  
176 to the insurance coverage. Any employee who is not designated is not eligible for state public  
177 employees insurance coverage regardless of the number of hours he or she works;

178 (4) All employees involved in the job-sharing agreement shall meet the requirements of  
179 subdivision (3), section two, article sixteen, chapter five of this code; and

180 (5) When entering into a job-sharing agreement, the county board and the participating  
181 employees shall consider issues such as retirement benefits, termination of the job-sharing  
182 agreement and any other issue the parties consider appropriate. Any provision in the agreement  
183 relating to retirement benefits may not cause any cost to be incurred by the retirement system  
184 that is more than the cost that would be incurred if a single employee were filling the position; and

185 (u) Under rules it establishes for each child, expend an amount not to exceed the  
186 proportion of all school funds of the district that each child would be entitled to receive if all the  
187 funds were distributed equally among all the children of school age in the district upon a per capita  
188 basis.

**§18-5-13b. County Superintendents' Advisory Council, purpose,-reports.**

1 (a) The County Superintendents' Advisory Council, ("the Council") is hereby established.  
2 The purpose of the council is to promote collaboration among county districts and to provide input  
3 to the State Board of Education and state superintendent on issues facing school systems.

4 (b) After the effective date of this section, but no later than June 1, 2017, all fifty-five county  
5 superintendents shall convene to divide the state into four geographic quadrants for the purpose  
6 of carrying out the work of the council as described herein.

7 (c) County superintendents' responsibilities –

8 (1) County superintendents belonging to the same geographic quadrant shall meet to  
9 select a county superintendent to represent the geographic quadrant. The method of selection of  
10 the representative is at the discretion of each geographic quadrant. The representative of each  
11 geographic quadrant will represent the council at the state level.

12 (2) County superintendents of each geographic quadrant shall meet as necessary to  
13 identify coordination and cooperation in areas of service to reduce administrative and/or  
14 operational costs, including the consolidation of administrative, coordinating, and other county  
15 level functions into shared functions to promote the efficient administration and operation of the  
16 public school systems. These areas of service include, but are not limited to, the cooperative  
17 agreement areas as provided in subsection (q), section thirteen of this article.

18 (d) The representative from each of the four geographic quadrants of the council shall  
19 identify issues facing their geographic quadrants and present them at the state level as follows:

20 (1) Meet semiannually with the State Superintendent of Schools;

21 (2) Meet annually with the State Board of Education; and

22 (3) Provide an annual report to Legislative Oversight Commission on Education  
23 Accountability and the Governor on or before June 30 of each year.

24 (e) At least one meeting in each geographic quadrant annually shall include on the  
25 meeting agenda a discussion of any recommendations of the county boards in the quadrant for  
26 changes in laws or policies needed to better empower them to meet the state's education goals.  
27 A report of these recommendations, if any, shall be included in the annual report to Legislative  
28 Oversight Commission on Education Accountability and the Governor.

**§18-5-13c. Educational services cooperatives; purpose; establishment; governance; authorized functions and services.**

1       (a) Pursuant to subsection (g), section thirteen of this article, a county board is authorized  
2 to enter into a cooperative agreement with one or more other county boards to establish  
3 educational services cooperatives which shall serve as regional units to provide for high quality,  
4 cost effective lifelong education programs and services to students, schools, school systems, and  
5 communities in accordance with this section. Each educational services cooperative may serve  
6 as a regional public multi-service agency to develop, manage, and provide such services or  
7 programs as determined by its governing council and as provided in this section or otherwise  
8 provided in this code. All references in this code to regional education service agencies or RESA's  
9 mean an educational services cooperative as authorized under this section.

10       (b) The regional education service agencies previously established by section twenty-six,  
11 article two of this chapter and W. Va. 126CSR72, filed October 15, 2015, and effective November  
12 16, 2015, shall remain and may continue to operate in accordance with said section and rule  
13 unless and until modified by a cooperative agreement entered into by county boards within the  
14 boundaries of the agency or dissolved by said county boards: *Provided*, That on July 1, 2018, the  
15 regional education service agencies as provided under prior provisions of section twenty-six,  
16 article two of this chapter are dissolved. If a regional education service agency is reconfigured  
17 pursuant to a cooperative agreement or is dissolved, all property, equipment and records held by  
18 the regional education service agency necessary to effectuate the purposes of this section shall  
19 be transferred or liquidated and disbursed in accordance with the following priority order: (1) To  
20 any successor educational services cooperative substantially covering the same geographical  
21 area; (2) To the county boards who were members of the regional education service agency as  
22 agreed upon by those counties; or (3) To the state board or to other appropriate entities as  
23 provided by law.

24 (c) An educational services cooperative shall be under the direction and control of a  
25 governing council consisting of the following members:

26 (1) The county superintendent of each county participating in the cooperative agreement;

27 (2) A member of the board of education from each county participating in the cooperative  
28 agreement selected by the county board of education as provided in the bylaws of the cooperative;

29 and

30 (3) The following representatives, if any, to be selected by the agency administrator with  
31 the consent of the governing council:

32 (A) Representatives of institutions of higher education and community and technical  
33 colleges serving the geographical area covered by the cooperative agreement;

34 (B) One non-superintendent chief instructional leader employed by a member county;

35 (C) One school principal employed by a member county;

36 (D) One teacher employed by a member county; and

37 (E) Additional members representing business and industry, or other appropriate entities,  
38 as the council determines fit to meet its responsibilities.

39 (d) The governing council of an educational services cooperative:

40 (1) Shall adopt bylaws concerning the appointment and terms of its members, including  
41 the authorization of designees by its members, the selection of officers and their terms, the filling  
42 of vacancies, the appointment of task forces and study groups, the evaluation of the executive  
43 director and staff and any other provisions necessary for the operation of the cooperative. A  
44 quorum for governing council meetings shall be a simple majority of the number of members of  
45 each council;

46 (2) Shall appoint an individual to serve as agency administrator who shall serve at the will  
47 and pleasure of the governing council and shall implement the policies of the governing council.

48 (3) May employ regular full-time and part-time staff, as necessary, after a majority of the  
49 members of a regional council, by vote, verify that such employment is necessary for effective

50 provision of services and to perform services or other projects that may require staff and support  
51 services for effective implementation. Staff who are hired into a position that requires a specified  
52 certification must maintain the certification for the duration of employment. The council is the sole  
53 employer of the personnel it employs. Employees of the council are considered state employees  
54 for the purposes of participation in the state's public employees' insurance and retirement  
55 programs. A recipient of personnel services from cooperative personnel is not deemed an  
56 employer because of the exercise of supervision or control over any personnel services provided;

57 (4) May purchase, hold, encumber and dispose of real property, in the name of the agency,  
58 for use as its office or for any educational service provided by the cooperative if a resolution to do  
59 so is adopted by a two-thirds vote of the members of the council and then approved by  
60 three-fourths of the county boards in the cooperative by majority vote of each county board;

61 (5) Shall operate as Local Educational Agencies (LEA's) for financial purposes, including  
62 grants and cooperative purchasing, and collectively as essential agencies responsible for  
63 performing service functions to the total community. An educational services cooperative is  
64 eligible as an LEA to participate in partnership with or on behalf of any county school system or  
65 school in those programs that will accomplish implementation of the strategic plan and/or state  
66 education initiative of the system or school, or to further statutory priorities consistent with  
67 educational services cooperative operations;

68 (6) May receive, expend and disburse funds from the state and federal governments, from  
69 member counties, or from gifts and grants and may contract with county boards of education, the  
70 West Virginia Department of Education, institutions of higher education, persons, companies, or  
71 other agencies to implement programs and services at the direction of the council, requested by  
72 the state board or department or any member county board in the cooperative. An educational  
73 services cooperative may also receive funds from profit-generating enterprises, the funds of which  
74 will contribute to cooperative initiatives. Each cooperative is encouraged to partner with member  
75 school systems, particularly those designated as low-performing, and other organizations as

76 appropriate to attract and leverage resources available from federal programs to maximize its  
77 capacity for meeting the needs of member schools and school systems. Educational services  
78 cooperatives are recognized as eligible LEA's for the purposes of applying, on behalf of school  
79 systems, for grant funds consistent with performing regional services and functions and/or  
80 supportive of education initiatives of the cooperative;

81 (7) Upon the request of one or more county boards of education, or by the state board as  
82 permitted or contracted, and if directed by law, an educational services cooperative may assume  
83 responsibility for one or more functions otherwise performed by one or more county boards of  
84 education;

85 (8) May offer technical assistance, including targeted comprehensive staff development  
86 services, or other technical assistance to any member school or school system, and give priority  
87 to those schools and school systems that are found to be out of compliance with a state law or  
88 federal law;

89 (9) Shall serve as repositories of research-based teaching and learning practices, and  
90 shall use technology, particularly web-based technology, to ensure maximum access to such  
91 practices by public schools in the region and state; and

92 (10) Shall develop and/or implement any other programs or services as directed by law or  
93 the governing council, or requested by individual member counties or groups of member counties  
94 subject to available funds. The educational services cooperative must give priority to low-  
95 performing school systems or schools that request programs or services required to implement  
96 their strategic plan. Because a standards-based accountability model entails capacity building  
97 targeted to meeting specific and often differing needs of schools and school systems for improving  
98 their efficiency and improving the performance and progress of their students, the Legislature  
99 expects that the assistance and programs developed and/or implemented by the cooperatives  
100 may differ among the schools, counties and cooperatives.

101 (d) The agency administrator of each educational services cooperative shall submit  
102 annually a plan to the governing council that identifies the programs and services which are  
103 suggested for implementation by the cooperative during the following year. The plan shall contain  
104 components of long-range planning determined by the governing council. These programs and  
105 services may include, but are not limited to, the following areas:

106 (1) Administrative services;

107 (2) Curriculum development;

108 (3) Data processing;

109 (4) Distance learning and other telecommunication services;

110 (5) Evaluation and research;

111 (6) Staff development;

112 (7) Media and technology centers;

113 (8) Publication and dissemination of materials;

114 (9) Pupil personnel services;

115 (10) Planning;

116 (11) Secondary, postsecondary, community, adult, and adult vocational education;

117 (12) Teaching and learning services, including services for students with special talents and  
118 special needs;

119 (13) Employee personnel and employment services;

120 (14) Vocational rehabilitation;

121 (15) Health, diagnostic, and child development services and centers;

122 (16) Leadership or direction in early childhood and family education;

123 (17) Community services;

124 (18) Fiscal services and risk management programs;

125 (19) Legal services;

126 (20) Technology planning, training, and support services;

127 (21) Health and safety services;

128 (22) Student academic challenges;

129 (23) Cooperative purchasing services; and

130 (24) Other programs and services as may be provided pursuant to other provisions of this

131 Code.

132 (e) The agency administrator, with advice and assistance of the governing council, may  
133 select as its fiscal agent one of the county boards of education comprising the cooperative. The  
134 county board so selected may maintain a separate bank account or accounts for the receipt and  
135 disbursement of all cooperative funds and perform the accounting functions specified in the  
136 policies adopted by the state board. A county board of education serving as a fiscal agent may  
137 not initiate action, direct the programs or substitute its judgment for that of the agency  
138 administrator as advised by the governing council. The county board of education may reject an  
139 action of the agency administrator if sufficient funds are not available, or if it perceives a legal  
140 conflict. The agency administrator shall make arrangements for an annual audit to be conducted  
141 in accordance with the requirements of the Single Audit Act (Office of Management and Budget  
142 Circular A-133) and the cost of the audit shall be incurred by the cooperative. Prior to making  
143 those arrangements, the agency administrator must coordinate with the respective fiscal agent to  
144 ensure the audit addresses all applicable issues.

145 (f) Notwithstanding any other provision of this code to the contrary, employees of educational  
146 services cooperatives shall be reimbursed for travel, meals and lodging at the same rate as state  
147 employees under the travel management office of the Department of Administration.

148 (g) Notwithstanding any other provision of this code to the contrary, county board members  
149 -serving on educational services cooperatives may receive compensation at a rate not to exceed  
150 \$100 per meeting attended, not to exceed fifteen meetings per year. County board members  
151 -serving on regional councils may be reimbursed for travel at the same rate as state employees  
152 under the rules of the travel management office of the Department of Administration. A county  
153 board member may not be an employee of an agency.

**§18-5-45. School calendar.**

1 (a) As used in this section:

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

4 (A) Instruction is offered to students for at least the minimum amount of hours provided by  
5 ~~state board rule~~ number of minutes as follows:

6 (i) For early childhood programs as provided in subsection (d) section forty-four of this  
7 article;

8 (ii) For schools with grade levels kindergarten through and including grade five, 315  
9 minutes of instructional time per day;

10 (iii) For schools with grade levels six through and including grade eight, 330 minutes of  
11 instructional time per day; and

12 (iv) For schools with grade levels nine through and including grade twelve, 345 minutes of  
13 instructional time per day.

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

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

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

19 (3) “Instruction delivered through alternative methods” means a plan developed by a  
20 county board and approved by the state board for teachers to assign and grade work to be  
21 completed by students on days when schools are closed due to inclement weather or other  
22 unforeseen circumstances.

23 (b) *Findings.* –

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

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

27 (3) The school calendar shall provide for one hundred eighty separate instructional days  
28 or an equivalent amount of instructional time as provided in this section.

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

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

33 (2) Within the employment term, an instructional term for students of no less than one  
34 hundred eighty separate instructional days, which includes an inclement weather and  
35 emergencies plan designed to guarantee an instructional term for students of no less than one  
36 hundred eighty separate instructional days: Provided, That notwithstanding any other provision of  
37 this section to the contrary, a county board may increase the length of the instructional day as  
38 defined in this section by at least thirty minutes per day to ensure that it achieves at least an  
39 equivalent amount of instructional time within its school calendar and (A) apply up to five days of  
40 this equivalent time to cancel days lost due to necessary school closures; and (B) plan within its  
41 school calendar and not subject to cancellation and rescheduling as instructional days up to an

42 additional five days or an equivalent portions of days without students present to be used as  
43 determined by the county board exclusively for activities by educators at the school level designed  
44 to improve instruction: *Provided further*, That subject to approval of its plan by the state board, a  
45 county board may deliver instruction through alternative methods on up to five days when schools  
46 are closed due to inclement weather or other unforeseen circumstances and these days are  
47 instructional days notwithstanding the closure of schools. The use of equivalent time gained by  
48 lengthening the school day to cancel days lost, and the delivery of instruction through alternative  
49 methods, both as defined in this section, shall be considered instructional days for the purpose of  
50 meeting the 180 separate day requirement and as employment days for the purpose of meeting  
51 the 200 day employment term.

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

54 (A) Seven paid holidays;

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

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

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

61 (i) Curriculum development;

62 (ii) Preparation for opening and closing school;

63 (iii) Professional development;

64 (iv) Teacher-pupil-parent conferences;

65 (v) Professional meetings;

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

67 (vii) In addition to the faculty senate meeting required prior to the beginning of the  
68 instructional term pursuant to section five, article five-a of this chapter, at least four two-hour  
69 blocks of time for faculty senate meetings with each two-hour block of time scheduled once ~~at~~  
70 ~~least every forty-five instructional days~~ during the months of October, December, February and  
71 April; and

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

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

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

82 ~~(A)~~ (1) Holidays;

83 ~~(B)~~ (2) Election day;

84 ~~(C)~~ (3) Saturdays and Sundays.

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

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

90 (h) The following applies to cocurricular activities:

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

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

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

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

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

99           (k) Prior to implementing the school calendar, the county board shall secure approval of  
100 its proposed calendar from the state board or, if so designated by the state board, from the state  
101 superintendent.

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

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

110           (n) The minimum instructional term may be decreased by order of the state superintendent  
111 in any county declared a federal disaster area and in any county subject to an emergency or  
112 disaster declaration by the Governor ~~and where~~ when the event causing the declaration is  
113 substantially related to ~~a reduction~~ the loss of instructional days in the county.

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

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

121 ~~(q) The amendments to this section during the 2013 regular session of the Legislature~~  
122 ~~shall be effective for school years beginning on or after July 1, 2014, and the provisions of this~~  
123 ~~section existing immediately prior to the 2013 regular session of the Legislature remain in effect~~  
124 ~~for school years beginning prior to July 1, 2014.~~

## **ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

### **§18-9A-8a. Foundation allowance for regional education service agencies.**

1 For the fiscal year beginning on July 1, 2006, and for each fiscal year thereafter, the  
2 foundation allowance for regional education service agencies shall be equal to sixty-three one-  
3 hundredths percent of the allocation for professional educators as determined in section four of  
4 this article, but not more than \$3,690,750. The allowance shall be distributed to the regional  
5 education service agencies in accordance with rules adopted by the state board. The allowance  
6 for regional education service agencies shall be excluded from the computation of total basic state  
7 aid as provided in section twelve of this article: Provided, That the foundation allowance for  
8 regional education service agencies shall be reduced to zero for the fiscal year beginning on July  
9 1, 2017, and for each fiscal year thereafter.

## **CHAPTER 18A. SCHOOL PERSONNEL.**

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

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

1 (a) Notwithstanding ~~the provisions of~~ section seven, article two of this chapter, every  
2 teacher who is employed for a period of time more than one half the class periods of the regular  
3 school day and every service person whose employment is for a period of more than three and  
4 one-half hours per day and whose pay is at least the amount indicated in the state minimum pay

5 scale as set forth in section eight-a of this article shall be provided a daily lunch recess of not less  
6 than thirty consecutive minutes, and the employee shall not be assigned any responsibilities  
7 during this recess. The recess shall be included in the number of hours worked, and no county  
8 shall increase the number of hours to be worked by an employee as a result of the employee  
9 being granted a recess under ~~the provisions of~~ this section.

10 (b) Every teacher who is regularly employed for a period of time more than one half the  
11 class periods of the regular school day shall be provided at least one planning period within each  
12 school instructional day to be used to complete necessary preparations for the instruction of  
13 pupils. No teacher may be assigned any responsibilities during this period, and no county shall  
14 increase the number of hours to be worked by a teacher as a result of such teacher being granted  
15 a planning period subsequent to the adoption of this section (March 13, 1982). Districts and  
16 schools should develop and execute a planning period strategy that best meets their individual  
17 needs.

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

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

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

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

30 (c) Nothing in this section prevents any teacher from exchanging his or her lunch recess  
31 or a planning period or any service person from exchanging his or her lunch recess for any  
32 compensation or benefit mutually agreed upon by the employee and the county superintendent  
33 or his or her agent: *Provided*, That a teacher and the superintendent or his or her agent may not  
34 agree to terms which are different from those available to any other teacher granted rights under  
35 this section within the individual school or to terms which in any way discriminate among those  
36 teachers within the individual school, and a service person granted rights under this section and  
37 the superintendent or his or her agent may not agree to terms which are different from those  
38 available to any other service personnel within the same classification category granted rights  
39 under this section within the individual school or to terms which in any way discriminate among  
40 those service personnel within the same classification category within the individual school.

41 ~~(d) The state board shall conduct a study on planning periods. The study shall include, but~~  
42 ~~not be limited to, the appropriate length for planning periods at the various grade levels and for~~  
43 ~~the different types of class schedules. The board shall report its findings and recommendations~~  
44 ~~to the Legislative Oversight Commission on Education Accountability no later than December 31,~~  
45 ~~2013.~~