

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

**Introduced**

### **House Bill 2711**

**FISCAL  
NOTE**

BY MR. SPEAKER (MR. ARMSTEAD) AND DELEGATE MILEY

(BY REQUEST OF THE EXECUTIVE)

[Introduced February 27, 2017; Referred  
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18-2-5b, §18-2-24, §18-2-26 and §18-2-26a of the Code of West  
2 Virginia, 1931, as amended; to amend and reenact §18-2E-5 of said code; to amend and  
3 reenact §18-5-13 and §18-5-45 of said code; to amend and reenact §18-9A-8a of said  
4 code; to amend and reenact §18-9D-16 of said code; to amend and reenact §18A-4-2 and  
5 §18A-4-14 of said code; and to amend and reenact §30-31-11 of said code, all relating  
6 generally to education; abolishing regional educational service agencies and providing for  
7 the transfer of property and records; establishing the County Superintendents' Advisory  
8 Council; setting forth the council's authority and responsibilities, including the formation of  
9 four geographic quadrants to carry out the work of the council; requiring reports; removing  
10 requirement of county boards within regional educational service agency areas (RESA) to  
11 meet to identify areas of shared services; removing the requirement of the West Virginia  
12 School Board Association submit annual reports on recommended county level shared  
13 services and functions to the Legislative Oversight Committee on Education  
14 Accountability; requiring state summative assessments in English Language Arts and  
15 Math to be administered in grades three through eight and once in grades nine through  
16 twelve; requiring state summative assessment in science to be administered once in  
17 grades three through eight, six through nine and ten through twelve; requiring the State  
18 Board of Education to review or develop and approve a college-and career readiness  
19 assessment to be administered in eleventh grade; eliminating the office of Education  
20 Performance Audits and transitioning to a process of continuous improvement and  
21 performance measures; amending school accreditation, accountability and school  
22 performance to include multiple measures; preventing the use of one measure for  
23 accreditation of schools and school systems; including student growth as a measure that  
24 may be used for school and school system accreditation; eliminating intervention at the  
25 school level; changing the county level intervention process by the State Board of  
26 Education; transferring coordination functions of (RESA) to county school systems;

27 requiring the State Board of Education to set a minimum number of hours or minutes of  
 28 instructional time per year to use to meet one hundred eighty separate days of instruction;  
 29 providing up to five days in the school calendar that may be “reimagined” and used to  
 30 meet the one hundred-eighty separate days of instruction requirement; reducing funding  
 31 allowance for (RESA); removing “economies of scale” language from guidelines for the  
 32 School Building Authority project proposals; providing for a pay raise for classroom  
 33 teachers; requiring uninterrupted time for planning periods each week to be used for  
 34 instructional planning; and removing the outdated requirement for the State Board of  
 35 Education to conduct a study on planning periods and report findings to the Legislative  
 36 Oversight Committee on Education Accountability.

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

1 That §18-2-5b, §18-2-24, §18-2-26 and §18-2-26a of the Code of West Virginia, 1931, as  
 2 amended, be amended and reenacted; that §18-2E-5 of said code be amended and reenacted;  
 3 that §18-5-13 and §18-5-45 of said code be amended and reenacted; that §18-9A-8a of said code  
 4 be amended and reenacted; that §18-9D-16 of said code be amended and reenacted; that §18A-  
 5 4-2 and §18A-4-14 of said code be amended and reenacted; and that §30-31-11 of said code be  
 6 amended and reenacted, all to read as follows:

## **CHAPTER 18. EDUCATION.**

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

#### **§18-2-5b. Medicaid eligible children; school health services advisory committee.**

1 (a) The state board shall become a Medicaid provider and seek out Medicaid eligible  
 2 students for the purpose of providing Medicaid and related services to students eligible under the  
 3 Medicaid program and to maximize federal reimbursement for all services available under the  
 4 Omnibus Budget Reconciliation Act of 1989, as it relates to Medicaid expansion and any future  
 5 expansions in the Medicaid program for Medicaid and related services for which state dollars are

6 or will be expended: *Provided*, That the state board may delegate this provider status and  
7 subsequent reimbursement to ~~regional educational service agencies (RESA) and/or county~~  
8 boards: *Provided, however*, That annually the state board shall report to the Legislature the  
9 number and age of children eligible for Medicaid, the number and age of children with Medicaid  
10 coverage, the types of Medicaid eligible services provided, the frequency of services provided,  
11 the Medicaid dollars reimbursed; and the problems encountered in the implementation of this  
12 system and that this report shall be on a county by county basis and made available no later than  
13 January 1,1992, and annually thereafter.

14 (b) The state board shall appoint and convene a school health services advisory  
15 committee to advise the secretary of health and human resources and the state superintendent  
16 on ways to improve the ability of ~~regional education service agencies~~ local school boards, and  
17 Department of Health and Human Resources employees to provide Medicaid eligible children  
18 with all the school-based Medicaid services for which they are eligible and to ensure that the  
19 school-based Medicaid service providers bill for and receive all the Medicaid reimbursement to  
20 which they are entitled. The committee shall consist of at least the following individuals: The  
21 person within the Department of Education responsible for coordinating the provision of and billing  
22 for school-based Medicaid services in schools throughout the state, who shall provide secretarial,  
23 administrative and technical support to the advisory committee; the person within the Department  
24 of Health and Human Resources responsible for coordinating the enrollment of Medicaid eligible  
25 school children throughout the state; ~~two representatives of regional education services agencies~~  
26 ~~who are experienced with the process of billing Medicaid for school-based health services~~ two  
27 Department of Health and Human Resources employees responsible for supervising employees,  
28 two persons jointly appointed by the secretary of health and human resources and the state  
29 superintendent; and one representative of the Governor's task force on school health.

30 The school health services advisory committee shall meet in the first instance at the  
31 direction of the state superintendent, select a chairperson from among its members, and meet

32 thereafter at the direction of the chairperson. The committee shall report its findings and  
33 recommendations to the state board and Department of Health and Human Resources, which  
34 findings shall then be included in the report to the Legislature by the state board and Department  
35 of Health and Human Resources provided for in subsection (a) of this section.

36 All actual and necessary travel expenses of the members of the committee shall be  
37 reimbursed by the member's employing agency, for those members not employed by a state  
38 agency, the member's actual and necessary travel expenses shall be paid by the state board. All  
39 such expenses shall be reimbursed in the same manner as the expenses of state employees are  
40 reimbursed.

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

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

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

7 (c) The Legislature finds that:

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

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

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

14 (4) The state's research and doctoral degree-granting public institutions of higher

15 education, West Virginia University and Marshall University, have the most capacity to be  
16 important sources of research and expertise on professional development;

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

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

22 (7) The coordination by West Virginia University and Marshall University of the efforts of  
23 other teacher preparation institutions to collaborate with the Center for Professional Development,  
24 and the state board ~~and each of the regional education service agencies~~ will provide points of  
25 accountability for the collaboration efforts of the other institutions; ~~and~~

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

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

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

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

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

40 (4) Arranging for other state institutions of higher education having a teacher preparation

41 program to assist the center when that assistance would be helpful.

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

44 ~~(1) Prevent unnecessary duplication of services;~~

45 ~~(2) Assist in the implementation of the professional development programs of the regional~~  
46 ~~education service agency; and~~

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

49 ~~(f) Since no teacher preparation institution exists in the service area of Regional Education~~  
50 ~~Service Agency IV, Marshall University shall collaborate with that agency for the purposes set~~  
51 ~~forth in subdivision (e) of this section~~

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

54 (1) Coordinate the collaboration of each of the other teacher preparation institutions in  
55 their designated coordination area ~~with the appropriate regional education service agency. This~~  
56 ~~coordination at least includes ensuring that each of the other institutions are collaborating with~~  
57 ~~the appropriate regional education service agency areas; and~~

58 (2) Collaborate with each of the other teacher preparation institutions in their designated  
59 coordination area. This collaboration at least includes providing assistance to the other institutions  
60 in providing professional development. ~~and in their collaboration with the appropriate regional~~  
61 ~~education service agency.~~

62 ~~(h) The designated coordination area of West Virginia University includes the service~~  
63 ~~areas of Regional Education Service Agencies V, VI, VII and VIII. The designated coordination~~  
64 ~~area of Marshall University includes the service areas of Regional Education Service Agencies I,~~  
65 ~~II, III and IV.~~

66 ~~(i) The state board shall ensure that each of the regional education service agencies is~~

67 ~~collaborating with the teacher preparation institution or institutions in its service area for the~~  
68 ~~purposes set forth in subsection (e) of this section. Since Regional Education Service Agency IV~~  
69 ~~does not have a teacher preparation institution in its service area, the state board shall ensure~~  
70 ~~that it is collaborating with Marshall University for the purposes set forth in subsection (e) of this~~  
71 ~~section.~~

72 ~~(j) Before a regional education service agency, except for Regional Education Service~~  
73 ~~Agency IV, obtains professional development related services or expertise from any teacher~~  
74 ~~preparation institution outside of that agency's service area, the agency shall inform the state~~  
75 ~~board. Before Regional Education Service Agency IV obtains professional development related~~  
76 ~~services or expertise from any teacher preparation institution other than Marshall University, the~~  
77 ~~agency shall inform the state board~~

78 ~~(k) (f)~~ The collaboration and coordination requirements of this section include collaborating  
79 and coordinating to provide professional development for at least teachers, principals and  
80 paraprofessionals.

**~~§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 contrary,~~  
131 ~~employees of agencies shall be reimbursed for travel, meals and lodging at the same rate as state~~  
132 ~~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, are  
146 hereby abolished on or after July 1, 2017.

147 (b) On July 1, 2017, all property, equipment and records held by the regional education  
148 service agencies necessary to effectuate the purposes of this article shall be transferred to the  
149 state board or to other appropriate entities as provided by law.

150 (c) The rules of the state board pertaining to the operation of the regional education service  
151 agencies that are in effect immediately prior to July 1, 2017, shall remain in force and effect until  
152 new or additional rules are promulgated by the state board.

**~~§18-2-26a. Regional meetings on shared services and functions; notice, solicitation of~~**  
**~~input and approval; Establish County Superintendents' Advisory Council, purpose,~~**  
**~~reports.~~**

153 ~~(a) During the months of July and August, 2013, and thereafter biennially within two~~  
154 ~~months following the organizational meetings of county boards required by section one-c, article~~  
155 ~~five of this chapter, all county superintendents of schools and members of county boards~~  
156 ~~belonging to the same regional educational service agency shall meet together to identify~~  
157 ~~administrative, coordinating and other county level services and functions that may be shared~~  
158 ~~between or among the county boards, especially when resignations, retirements, staffing~~  
159 ~~realignments or similar events may occur. The meeting shall be a special meeting of each~~  
160 ~~participating county board, to be called pursuant to section four, article five of this chapter solely~~  
161 ~~for the purposes set forth in this section.~~

162 ~~(b) As soon as each meeting is scheduled, the West Virginia School Board Association~~

163 shall notify the State Superintendent in writing of the time, place and date of the meeting. The  
164 association shall conduct the meetings and for that purpose may consult with the regional  
165 educational service agencies. The format of the meetings shall be approved by the state board in  
166 advance.

167 ~~(c) Prior to seeking the approval of the state board for the format of the meetings, the~~  
168 ~~association shall solicit input from statewide organizations that have an interest in public~~  
169 ~~education, including organizations representing the interests of parents, business and industry,~~  
170 ~~public school administrators, teachers and service personnel.~~

171 ~~(d) By October 1, following the meetings required by this section, the West Virginia School~~  
172 ~~Board Association shall provide a report of the meetings to the state board and the Legislative~~  
173 ~~Oversight Commission on Education Accountability. The report shall include, but is not limited to,~~  
174 ~~the following items:~~

175 ~~(1) Identification of the administrative, coordinating and other county level services and~~  
176 ~~functions that may be shared between or among the county boards;~~

177 ~~(2) An analysis of the advantages and disadvantages of sharing services in each instance;~~  
178 ~~and~~

179 ~~(3) A process for implementing recommended changes.~~

180 ~~(e) Subject to state board approval, the county board member training standards review~~  
181 ~~committee established by section one-a, article five of this chapter may determine that the~~  
182 ~~attendance of a county board member at the meeting required by subsection (a) of this section~~  
183 ~~shall be approved as training related to boardsmanship and governance effectiveness.~~

184 ~~(f) Nothing in this section requires the elimination or consolidation of county school~~  
185 ~~districts.~~

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

189 (b) After the effective date of this section, as amended and reenacted in the regular  
190 legislative session 2017, but no later than September 1, 2017, all fifty-five county superintendents  
191 shall convene to divide the state into four geographic quadrants for the purpose of carrying out  
192 the work of the council as described herein.

193 (c) County superintendents' responsibilities –

194 (1) County superintendents belonging to the same geographic quadrant shall meet  
195 together to select a county superintendent to represent the geographic quadrant. Method of  
196 selection of the representative is at the discretion of each geographic quadrant. The  
197 representative of each geographic quadrant will represent the council at the state level.

198 (2) County superintendents of each geographic quadrant shall meet as necessary to  
199 identify coordination and cooperation in areas of service to reduce administrative and/or  
200 operational costs, including the consolidation of administrative, coordinating, and other county  
201 level functions into shared functions to promote the efficient administration and operation of the  
202 public school systems. Pursuant to section thirteen, article five, chapter eighteen of this code,  
203 these shared services and functions include, but are not limited to:

204 (i) Purchasing;

205 (ii) Operation of specialized programs for exceptional children;

206 (iii) Employment of any school personnel as defined in section one, article one, chapter  
207 eighteen-a of this code;

208 (iv) Professional development;

209 (v) Technology, including, but not limited to, WVEIS; and

210 (vi) Billing for school-based Medicaid services in schools throughout the state.

211 (3) Each cooperative agreement shall be in writing and agreed to by each county board  
212 participating in the cooperative agreement.

213 (4) Each cooperative employment agreement may be entered into on a case-by-case  
214 basis.



215 (5) Notwithstanding the geographic quadrants, school systems may enter into cooperative  
 216 agreements with any school system in the state.

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

219 (1) Meet at least monthly with the State Superintendent of Schools;

220 (2) Meet at least two times per year with the State Board of Education; and

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

## **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 schools and districts to meet~~  
 12 ~~rigorous outcomes that assure student performance and progress toward obtaining the~~  
 13 ~~knowledge and skills intrinsic to a high-quality education rather than monitoring for compliance~~  
 14 ~~with specific laws and regulations~~ that is based in multiple measures and meets the requirements

15 of any federal law; and

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

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

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

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

36 (5) The intent of the Legislature in enacting this section and section five-c of this article is  
37 to establish a process through which the Legislature, the Governor and the state board can work  
38 in the spirit of cooperation and collaboration intended in the process for improving education, to  
39 consult and examine the performance and progress of students, schools and school systems and,  
40 when necessary, to consider alternative measures to ensure that all students continue to receive

41 the thorough and efficient education to which they are entitled. However, nothing in this section  
42 requires any specific level of funding by the Legislature.

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

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

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

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

84 (d) *Comprehensive statewide student assessment program.* — The state board shall

85 establish a comprehensive statewide student assessment program to assess student

86 performance and progress in grades three through twelve. The assessment program is subject to

87 the following:

88 (1) The state board shall promulgate a rule in accordance with ~~the provisions of~~ article

89 three-b, chapter twenty-nine-a of this code establishing the comprehensive statewide student

90 assessment program;

91 (2) Prior to the ~~2014-2015~~ testing window of the-2017-2018 school year, the state board

92 shall align the comprehensive statewide student assessment for all grade levels in which the test

93 is given with the college-readiness standards adopted pursuant to section thirty-nine, article two  
94 of this chapter or develop other aligned tests to be required ~~at each grade level so that~~ in grades  
95 three through eight and administered at least once during the grade span of nine through twelve  
96 to assess progress toward college and career readiness in English/language arts and math. ~~can~~  
97 ~~be measured~~ The assessment in science shall be administered at least once in grade spans three  
98 through five, six through nine, and ten through twelve;

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

102 (3) In accordance with articles two and two-e, chapter eighteen of this code, the state  
103 board shall review or develop, and adopt a college and career readiness assessment to be  
104 administered in grade eleven: *Provided*, That the adopted college and career readiness  
105 assessment administered in grade eleven counts toward the statewide student assessment;

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

109 (5) The state board may provide, through the statewide assessment program, other  
110 optional testing or assessment instruments applicable to grade levels kindergarten through grade  
111 twelve which may be used by each school to promote student achievement. The state board  
112 annually shall publish and make available, electronically or otherwise, to school curriculum teams  
113 and teacher collaborative processes the optional testing and assessment instruments; and

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

117 (e) *State annual performance measures for school and school system accreditation.* —  
118 The state board shall promulgate a rule in accordance with ~~the provisions of~~ article three-

119 b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual  
120 performance measures for state accreditation of schools and school systems in a manner that  
121 gives credit or points such as an index to prevent any one measure alone from compromising a  
122 school or school system's accreditation. The state board also may establish performance  
123 incentives for schools and school systems as part of the state accreditation system. On or before  
124 December 1, ~~2013~~ 2018, the state board shall report to the Governor and to the Legislative  
125 Oversight Commission on Education Accountability the proposed rule for establishing the  
126 measures and incentives of accreditation and the estimated cost therefore, if any. Thereafter, the  
127 state board shall provide an annual report to the Governor and to the Legislative Oversight  
128 Commission on Education Accountability on the impact and effectiveness of the accreditation  
129 system. The rule for school and school system accreditation proposed by the board may include,  
130 but is not limited to, the following measures:

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

133 (2) Graduation and attendance rate;

134 (3) Students taking and passing AP tests;

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

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

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

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

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

143 (2) Transportation;

144 (3) Facilities;

145 (4) Administrative practices;  
146 (5) Personnel; and  
147 ~~(6) Use of regional educational service agency programs and services, including programs~~  
148 ~~and services that may be established by their assigned regional educational service agency or~~  
149 ~~other regional services that may be initiated between and among participating county boards; and~~  
150 ~~(7)~~ (6) Any other indicators as determined by the state board.

151 (g) *Assessment and accountability of school and school system performance and*  
152 *processes.* — In accordance with ~~the provisions of~~ article three-b, chapter twenty-nine-a of this  
153 code, the state board shall establish by rule a system of education performance ~~audits~~ measures  
154 which ~~measures~~ evaluates the quality of education and the preparation of students based on the  
155 annual measures of student, school and school system performance and progress. The system  
156 of education performance ~~audits~~ measures shall provide information to the state board, the  
157 Legislature and the Governor, upon which they may determine whether a thorough and efficient  
158 system of schools is being provided. The system of education performance ~~audits~~ measures shall  
159 include:

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

162 (2) The evaluation of records, reports and other information collected ~~by the Office of~~  
163 ~~Education Performance Audits upon which~~ to demonstrate the quality of education and  
164 compliance with statutes, policies and standards. ~~may be determined;~~

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

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

168 (h) *Uses of school and school system assessment information.* — The state board shall  
169 use information from the system of education performance ~~audits~~ measures to assist it in ensuring  
170 that a thorough and efficient system of schools is being provided and to improve student, school

171 and school system performance and progress. Information from the system of education  
172 performance ~~audits~~ measures further shall be used by the state board for these purposes,  
173 including, but not limited to, the following:

174 (1) Determining school accountability and accreditation for schools and school system  
175 approval status as required by federal law or federal regulations; and

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

178 ~~(3)~~ (2) Targeting additional resources when necessary to improve performance and  
179 progress.

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

183 (i) *Early detection and intervention programs.* — Based on the assessment of student,  
184 school and school system performance and progress, the state board shall establish early  
185 detection and intervention programs using the available resources of the Department of  
186 Education, ~~the regional educational service agencies,~~ the Center for Professional Development  
187 and the Principals Academy, or other resources as appropriate, to assist underachieving schools  
188 and school systems to improve performance before conditions become so grave as to warrant  
189 more substantive state intervention. Assistance shall include, but is not limited to, providing  
190 additional technical assistance and programmatic, professional staff development, providing  
191 monetary, staffing and other resources where appropriate.

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

193 ~~(4) To assist the state board in the operation of a system of education performance audits,~~  
194 ~~the state board shall establish an Office of Education Performance Audits consistent with the~~  
195 ~~provisions of this section. The Office of Education Performance Audits shall be operated under~~  
196 ~~the direction of the state board independently of the functions and supervision of the State~~



197 ~~Department of Education and state superintendent. The Office of Education Performance Audits~~  
198 ~~shall report directly to and be responsible to the state board in carrying out its duties under the~~  
199 ~~provisions of this section.~~

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

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

208 ~~(4) Under the direction of the state board, the Office of Education Performance Audits shall~~  
209 ~~receive from the West Virginia education Information System staff research and analysis data on~~  
210 ~~the performance and progress of students, schools and school systems, and shall receive~~  
211 ~~assistance, as determined by the state board, from staff at the State Department of Education,~~  
212 ~~the regional education service agencies, the Center for Professional Development, the Principals~~  
213 ~~Academy and the School Building Authority to carry out the duties assigned to the office.~~

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

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

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

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

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

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

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

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

236 ~~(F) Identify, in conjunction with the assessment and accountability processes, school~~  
237 ~~systems and best practices that improve student, school and school system performance and~~  
238 ~~communicate those to the state board for promoting the use of best practices. The state board~~  
239 ~~shall provide information on best practices to county school systems; and~~

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

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

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

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

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

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

254 ~~(k) On-site reviews.—~~

255 ~~(1) The system of education performance audits shall include on-site reviews of schools~~  
256 ~~and school systems which shall be conducted only at the specific direction of the state board upon~~  
257 ~~its determination that circumstances exist that warrant an on-site review. Any discussion by the~~  
258 ~~state board of schools to be subject to an on-site review or dates for which on-site reviews will be~~  
259 ~~conducted may be held in executive session and is not subject to the provisions of article nine-a,~~  
260 ~~chapter six of this code relating to open governmental proceedings. An on-site review shall be~~  
261 ~~conducted by the Office of Education Performance Audits of a school or school system for the~~  
262 ~~purpose of making recommendations to the school and school system, as appropriate, and to the~~  
263 ~~state board on such measures as it considers necessary. The investigation may include, but is~~  
264 ~~not limited to, the following:~~

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

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

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

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

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

274 ~~and~~

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

280 ~~(2) The Director of the Office of Education Performance Audits shall notify the county~~  
281 ~~superintendent of schools five school days prior to commencing an on-site review of the county~~  
282 ~~school system and shall notify both the county superintendent and the principal five school days~~  
283 ~~before commencing an on-site review of an individual school: *Provided*, That the state board may~~  
284 ~~direct the Office of Education Performance Audits to conduct an unannounced on-site review of~~  
285 ~~a school or school system if the state board believes circumstances warrant an unannounced on-~~  
286 ~~site review.~~

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

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

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

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

310 ~~(7) The Legislature finds that the accountability and oversight of some activities and~~  
311 ~~programmatic areas in the public schools are controlled through other mechanisms and agencies~~  
312 ~~and that additional accountability and oversight may be unnecessary, counterproductive and~~  
313 ~~impair necessary resources for teaching and learning. Therefore, the Office of Education~~  
314 ~~Performance Audits may rely on other agencies and mechanisms in its review of schools and~~  
315 ~~school systems~~

316 (j) The state board may employ individuals, who serve at the will and pleasure of the state  
317 board, to coordinate on site and school system improvement efforts with staff at the State  
318 Department of Education to support schools and school systems in improving education  
319 performance measures.

320 ~~(k) School accreditation. —~~

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

323 (A) The levels will be designed to demonstrate school performance in all the areas outlined  
324 in this section and also those multiple measures as established by the state board in rule in  
325 accordance with article three-b, chapter twenty-nine-a of this code;

326 (B) ~~The state board shall promulgate legislative rules in accordance with the provisions of~~

327 ~~article three b, chapter twenty-nine a of this code to establish the performance and standards~~  
328 ~~required for a school to be assigned a particular level of accreditation; and~~

329 ~~(C) (B) The state board will establish the levels of accreditation in such a manner as to~~  
330 ~~minimize the number of systems of school recognition, both state and federal, that are employed~~  
331 ~~to recognize and accredit schools determine accreditation in accordance with federal law.~~

332 ~~(2) The state board annually shall review the information from the system of education~~  
333 ~~performance audits measures submitted for each school and shall issue to every school a level~~  
334 ~~of accreditation as designated and determined by the state board. accredit each school as~~  
335 ~~designated in the rule.~~

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

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

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

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

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

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

352 ~~(i) The principal assigned by the state board shall be paid by the state board until the next~~

353 ~~school term, at which time the principal assigned by the state board shall be paid by the county~~  
354 ~~board;~~

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

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

363 ~~(F) Other powers and actions the state board determines necessary to fulfill its duties of~~  
364 ~~general supervision of the schools and school systems of West Virginia.~~

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

367 ~~(m) (l) *School system approval.* — The state board annually shall review the information~~  
368 ~~submitted for each school system from the system of education performance audits measures~~  
369 ~~and issue one of the following approval levels to each county board Full approval, temporary~~  
370 ~~approval, conditional approval or nonapproval in compliance with federal law and established by~~  
371 ~~state board rule.~~

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

378 ~~(2) Temporary approval shall be given to a county board whose education system is below~~

379 ~~the level required for full approval. Whenever a county board is given temporary approval status,~~  
380 ~~the county board shall revise its electronic county strategic improvement plan in accordance with~~  
381 ~~subsection (b) of this section to increase the performance and progress of the school system to~~  
382 ~~a full approval status level. The revised plan shall be submitted to the state board for approval.~~

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

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

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

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

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

394 ~~(m) Nonapproval for extraordinary circumstances.~~

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

398 ~~(B) Whenever a county board has more than a casual deficit, as defined in section one,~~  
399 ~~article one of this chapter, the county board shall submit a plan to the state board specifying the~~  
400 ~~county board's strategy for eliminating the casual deficit. The state board either shall approve or~~  
401 ~~reject the plan. If the plan is rejected, the state board shall communicate to the county board the~~  
402 ~~reason or reasons for the rejection of the plan. The county board may resubmit the plan any~~  
403 ~~number of times. However, any county board that fails to submit a plan and gain approval for the~~  
404 ~~plan from the state board before the end of the fiscal year after a deficit greater than a casual~~



405 ~~deficit occurred or any county board which, in the opinion of the state board, fails to comply with~~  
406 ~~an approved plan may be designated as having nonapproval status.~~

407 ~~(C) (2) Whenever nonapproval status is given to a school system, When extraordinary~~  
408 ~~circumstances exist, but do not rise to the level of immediate intervention as described in~~  
409 ~~subsection (n) of this section, the state board shall may declare a state of emergency in the school~~  
410 ~~system and shall appoint a team of improvement consultants to make direct designees to provide~~  
411 ~~recommendations within sixty days of appointment for correcting the ~~emergency~~ extraordinary~~  
412 ~~circumstances.~~ When the state board approves the recommendations, they shall be  
413 communicated to the county board. If progress in correcting the ~~emergency~~ extraordinary  
414 circumstances, as determined by the state board, is not made within six months from the time the  
415 county board receives the recommendations, the state board shall intervene in the operation of  
416 the school system to cause improvements to be made that will provide assurances that a thorough  
417 and efficient system of schools will be provided. This intervention may include, but is not limited  
418 to, the following:

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

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

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

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

430 ~~(iv) Delegating to the state superintendent both the authority to conduct hearings on~~

431 ~~personnel matters and school closure or consolidation matters and, subsequently, to render the~~  
432 ~~resulting decisions and the authority to appoint a designee for the limited purpose of conducting~~  
433 ~~hearings while reserving to the state superintendent the authority to render the resulting decisions;~~

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

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

438 ~~(I) Delegating to the state superintendent the authority to replace administrators and~~  
439 ~~principals in low performing schools and to transfer them into alternate professional positions~~  
440 ~~within the county at his or her discretion; and~~

441 ~~(II) Delegating to the state superintendent the authority to fill positions of administrators~~  
442 ~~and principals with individuals determined by the state superintendent to be the most qualified for~~  
443 ~~the positions. Any authority related to intervention in the operation of a county board granted~~  
444 ~~under this paragraph is not subject to the provisions of article four, chapter eighteen-a of this~~  
445 ~~code.~~

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

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

452 ~~(1) (2)~~ That the conditions precedent to intervention exist as provided in this section; and  
453 that delaying intervention for any period of time would not be in the best interests of the students  
454 of the county school system; or

455 ~~(2) (3)~~ That the conditions precedent to intervention exist as provided in this section and  
456 that the state board had previously intervened in the operation of the same school system and

457 had concluded that intervention within the preceding five years.

458 (o) *Capacity*. — The process for improving education includes a process for targeting  
459 resources strategically to improve the teaching and learning process. Development of electronic  
460 school and school system strategic improvement plans, pursuant to subsection (b) of this section,  
461 is intended, in part, to provide mechanisms to target resources strategically to the teaching and  
462 learning process to improve student, school and school system performance. When deficiencies  
463 are detected through the assessment and accountability processes, the revision and approval of  
464 school and school system electronic strategic improvement plans shall ensure that schools and  
465 school systems are efficiently using existing resources to correct the deficiencies. ~~When the state~~  
466 ~~board determines that schools and school systems do not have the capacity to correct~~  
467 ~~deficiencies, the state board shall take one or more of the following actions:~~

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

471 ~~(2) Recommend to the appropriate body including, but not limited to, the Legislature, county~~  
472 ~~boards, schools and communities methods for targeting resources strategically to eliminate~~  
473 ~~deficiencies identified in the assessment and accountability processes. When making~~  
474 ~~determinations on recommendations, the state board shall include, but is not limited to, the~~  
475 ~~following methods~~ The state board, or its designee, the West Virginia Department of Education,  
476 and county school systems, shall work collaboratively in:

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

480 (B) (2) Determining the areas of weakness and of ineffectiveness that appear to have  
481 contributed to the substandard performance and progress of students or the deficiencies of the  
482 school or school system; and ~~requiring the school or school system to work collaboratively with~~

483 ~~the West Virginia Department of Education State System of Support to correct the deficiencies;~~  
484       ~~(G)~~ (3) Determining the areas of strength that appear to have contributed to exceptional  
485 student, school and school system performance and progress and promoting their emulation  
486 throughout the system;

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

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

491       ~~(F)~~ (6) Requesting special staff development programs from the Center for Professional  
492 Development, the Principals Academy, higher education, ~~regional educational service agencies~~  
493 and county boards based on identified needs;

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

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

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

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

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

504       

(p) *Building leadership capacity* — To help build the governance and leadership capacity  
505 of a county board during an intervention in the operation of its school system ~~by the state board,~~  
506 and to help assure sustained success following return of control to the county board, ~~the state~~  
507 ~~board shall require~~ the county board to shall establish goals and action plans, subject to approval  
508 of the state ~~board~~ superintendent, to improve performance sufficiently to end the intervention

509 within a period of not more than five years. The state superintendent shall maintain oversight and  
510 provide assistance and feedback to the county board on development and implementation of the  
511 goals and action plans. At a minimum, the goals and action plans shall include:

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

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

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

527 At least once each year during the period of intervention, the ~~Office of Education~~  
528 ~~Performance Audits shall~~ state board shall appoint a designee to assess the readiness of the  
529 county board to accept the return of control of the system or school from the state board and  
530 sustain the improvements, and shall make a report and recommendations to the state board  
531 supported by documented evidence of the progress made on the goals and action plans. The  
532 state board may ~~end the intervention or~~ return any portion of control of the operations of the school  
533 system ~~or school that was previously removed at its sole determination~~ or end the intervention in  
534 its entirety by a majority vote. If the state board determines at the fifth annual assessment that

535 the county board is still not ready to accept return of control by the state board and sustain the  
536 improvements, the state board shall hold a public hearing in the affected county at which the  
537 attendance by all members of the county board is requested so that the reasons for continued  
538 intervention and the concerns of the citizens of the county may be heard. The state board may  
539 continue the intervention only after it holds the public hearing and may require revision of the  
540 goals and action plans. The state board must thereafter hold a public hearing after each annual  
541 assessment beyond the fifth year. If a school system is in intervention status on the effective date  
542 of this provision, the total years of intervention shall be calculated from the date of initial  
543 intervention.

544 Following the termination of an intervention in the operation of a school system and return  
545 of full control by the state board, the support for governance education and development shall  
546 continue as needed for up to three years. If at any time within this three years, the state board  
547 determines that intervention in the operation of the school system is again necessary, the state  
548 board shall again hold a public hearing in the affected county so that the reasons for the  
549 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 to provide  
130 improvements to the instructional needs of each district. The cooperative agreements may be  
131 used to employ specialists in a field of academic study or for support functions or services for the  
132 field. The agreements are subject to approval by the state board; facilitate coordination and  
133 cooperation in areas of service to reduce administrative and/or operational costs, including the  
134 consolidation of administrative, coordinating, and other county level functions into shared  
135 functions to promote the efficient administration and operation of the public school systems  
136 including, but not limited to:

137 (i) Purchasing;

138 (ii) Operation of specialized programs for exceptional children;

139 (iii) Employment of any school personnel as defined in section one, article one, chapter

140 eighteen-a of this code:

141 (iv) Professional development;

142 (v) Technology including, but not limited to WVEIS; and

143 (vi) Billing for school-based Medicaid services in schools throughout the state.

144 (2) Each cooperative agreement shall be in writing and agreed to by each county board  
145 participating in the cooperative agreement.

146 (3) Each cooperative employment agreement may be entered into on a case-by-case  
147 basis.

148 (4) Notwithstanding the geographic quadrants, school systems may enter into cooperative  
149 agreements with any school system in the state.

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

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

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

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

164 (2) Notwithstanding any contrary provision of this code or legislative rule and specifically  
165 ~~the provisions of~~ article sixteen, chapter five of this code, a county board that enters into a job-

166 sharing arrangement:

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

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

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

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

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

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

**§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;

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

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

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

11 (b) *Findings.* –

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

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

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

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

17 (1) The school calendar shall provide for one hundred eighty separate instructional days  
18 or the equivalent of the minimal amount of instructional time per year as further defined by the  
19 state board. Upon approval of the state board or, from the state superintendent if so designated  
20 by the state board, a county board may propose a school calendar using the equivalent of the  
21 minimal amount of instructional time per year as further defined by the state board.

22 ~~(4)~~ (2) An employment term that excludes Saturdays and Sundays and consists of at least  
23 two hundred days, which need not be successive. The beginning and closing dates of the  
24 employment term may not exceed forty-eight weeks;

25 ~~(2)~~ (3) Within the employment term, an instructional term for students of no less than one  
26 hundred eighty separate instructional days, which includes an inclement weather and  
27 emergencies plan designed to guarantee an instructional term for students of no less than one  
28 hundred eighty separate instructional days;

29 (4) A county may apply up to five days that are "reimagined" instructional days to fulfill the  
30 requirement of one hundred eighty separate instructional days.

31 ~~(3)~~ (5) Within the employment term, noninstructional days shall total twenty and shall be

32 comprised of the following:

33 (A) Seven paid holidays;

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

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

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

40 (i) Curriculum development;

41 (ii) Preparation for opening and closing school;

42 (iii) Professional development;

43 (iv) Teacher-pupil-parent conferences;

44 (v) Professional meetings;

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

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

48 ~~(4)~~ (6) Scheduled out-of-calendar days that are to be used for instructional days in the  
49 event school is canceled for any reason.

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

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

58           ~~(A)~~ (1) Holidays;

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

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

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

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

66           (h) The following applies to cocurricular activities:

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

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

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

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

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

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

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



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

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

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

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

96 (q) The amendments to this section during the ~~2013~~ 2017 regular session of the  
97 Legislature shall be effective for school years beginning on or after July 1, ~~2014~~ 2017, and the  
98 provisions of this section existing immediately prior to the ~~2013~~ 2017 regular session of the  
99 Legislature remain in effect for school years beginning prior to July 1, ~~2014~~ 2017.

## **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.

## ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

**§18-9D-16. Authority to establish guidelines and procedures for facilities and major improvement plans; guidelines for modifications and updates, etc.; guidelines for project evaluation; submission of certified list of projects to be funded; department on-site inspection of facilities; enforcement of required changes or additions to project plans.**

1 (a) The authority shall establish guidelines and procedures to promote the intent and  
2 purposes of this article and assure the prudent and resourceful expenditure of state funds for  
3 projects under this article including, but not limited to, the following:

4 (1) Guidelines and procedures for the facilities plans, school major improvement plans  
5 and projects submitted in the furtherance of the plans that address, but are not limited to, the  
6 following:

7 (A) All of the elements of the respective plans as defined in section two of this article;

8 (B) The procedures for a county to submit a preliminary plan, a plan outline or a proposal  
9 for a plan to the authority prior to the submission of the facilities plan. The preliminary plan, plan  
10 outline or proposal for a plan shall be the basis for a consultation meeting between representatives  
11 of the county and members of the authority, including at least one citizen member, which shall be  
12 held promptly following submission of the preliminary plan, plan outline or proposal for a plan to  
13 assure understanding of the general goals of this article and the objective criteria by which  
14 projects will be evaluated, to discuss ways the plan may be structured to meet those goals, and  
15 to assure efficiency and productivity in the project approval process;

16 (C) The manner, time line and process for the submission of each plan and annual plan  
17 updates to the authority;

18 (D) The requirements for public hearings, comments or other means of providing broad-  
19 based input on plans and projects under this article within a reasonable time period as the

20 authority may consider appropriate. The submission of each plan must be accompanied by a  
21 synopsis of all comments received and a formal comment by the county board, the state board or  
22 the administrative council of an area vocational educational center submitting the plan;

23 (E) Any project specifications and maintenance specifications considered appropriate by  
24 the authority including, but not limited to, such matters as energy efficiency, preferred siting,  
25 construction materials, maintenance plan and any other matter related to how the project is to  
26 proceed;

27 (F) A prioritization by the county board, the state board or the administrative council  
28 submitting the plan of each project contained in the plan. In prioritizing the projects, the county  
29 board, the state board or the administrative council submitting the plan shall make determinations  
30 in accordance with the objective criteria formulated by the School Building Authority in accordance  
31 with this section. The priority list is one of the criteria that shall be considered by the authority  
32 deciding how the available funds should be expended;

33 (G) The objective means to be set forth in the plan and used in evaluating implementation  
34 of the overall plan and each project included in the plan. The evaluation must measure how the  
35 plan addresses the goals of this article and any guidelines adopted under this article, and how  
36 each project is in furtherance of the facilities plan and school major improvement plan, as  
37 applicable, as well as the importance of the project to the overall success of the facilities plan or  
38 school major improvement plan and the overall goals of the authority; and

39 (H) Any other matters considered by the authority to be important reflections of how a  
40 construction project or a major improvement project or projects will further the overall goals of this  
41 article.

42 (2) Guidelines and procedures which may be adopted by the authority for requiring that a  
43 county board modify, update, supplement or otherwise submit changes or additions to an  
44 approved facilities plan or for requiring that a county board, the state board or the administrative  
45 council of an area vocational educational center modify, update, supplement or otherwise submit

46 changes or additions to an approved school major improvement plan. The authority shall provide  
47 reasonable notification and sufficient time for the change or addition as delineated in guidelines  
48 developed by the authority. The guidelines shall require an update of the estimated duration of  
49 school bus transportation times for students associated with any construction project under  
50 consideration by the authority that includes the closure, consolidation or construction of a school  
51 or schools.

52 (3) Guidelines and procedures for evaluating project proposals that are submitted to the  
53 authority that address, but are not limited to, the following:

54 (A) Any project funded by the authority must be in furtherance of the facilities plan or  
55 school major improvement plan and in compliance with the guidelines established by the  
56 authority;

57 (B) If a project is to benefit more than one county in the region, the facilities plan must  
58 state the manner in which the cost and funding of the project will be apportioned among the  
59 counties;

60 (C) If a county board proposes to finance a construction project through a lease with an  
61 option to purchase pursuant to an investment contract as described in subsection (f), section  
62 fifteen of this article, the specifications for the project must include the term of the lease, the  
63 amount of each lease payment, including the payment due upon exercise of the option to  
64 purchase, and the terms and conditions of the proposed investment contract; and

65 (D) The objective criteria for the evaluation of projects which shall include, but are not  
66 limited to, the following:

67 (i) How the current facilities do not meet and how the plan and any project under the plan  
68 meets the following:

69 (I) Student health and safety including, but not limited to, critical health and safety needs;

70 ~~(II) Economies of scale, including compatibility with similar schools that have achieved the~~  
71 ~~most economical organization, facility use and pupil-teacher ratios;~~

72           ~~(III)~~ (II) Reasonable travel time and practical means of addressing other demographic  
73 considerations. The authority may not approve a project after July 1, 2008, that includes a school  
74 closure, consolidation or new construction for which a new bus route will be created for the  
75 transportation of students in any of the grade levels prekindergarten through grade five to and  
76 from any school included in the project, which new bus route exceeds by more than fifteen minutes  
77 the recommended duration of the one-way school bus transportation time for elementary students  
78 adopted by the state board as provided in section five-d, article two-e of this chapter, unless the  
79 county has received the written permission of the state board to create the route in accordance  
80 with said section five-d;

81           ~~(IV)~~ (III) Multicounty and regional planning to achieve the most effective and efficient  
82 instructional delivery system;

83           ~~(V)~~ (IV) Curriculum improvement and diversification, including the use of instructional  
84 technology, distance learning and access to advanced courses in science, mathematics,  
85 language arts and social studies;

86           ~~(VI)~~ (V) Innovations in education;

87           ~~(VII)~~ (VI) Adequate space for projected student enrollments;

88           ~~(VIII)~~ (VII) The history of efforts taken by the county board to propose or adopt local school  
89 bond issues or special levies to the extent Constitutionally permissible; and

90           ~~(IX)~~ (VIII) Regularly scheduled preventive maintenance; and

91           (ii) How the project will assure the prudent and resourceful expenditure of state funds and  
92 achieve the purposes of this article for constructing, expanding, renovating or otherwise improving  
93 and maintaining school facilities for a thorough and efficient education.

94           (4) Guidelines and procedures for evaluating projects for funding that address, but are not  
95 limited to, the following:

96           (A) Requiring each county board's facilities plan and school major improvement plan to  
97 prioritize all the construction projects or major improvement projects, respectively, within the

98 county. A school major improvement plan submitted by the state board or the administrative  
99 council of an area vocational educational center shall prioritize all the school improvement  
100 projects contained in the plan. The priority list shall be one of the criteria to be considered by the  
101 authority in determining how available funds shall be expended. In prioritizing the projects, the  
102 county board, the state board or the administrative council submitting a plan shall make  
103 determinations in accordance with the objective criteria formulated by the School Building  
104 Authority;

105 (B) The return to each county submitting a project proposal an explanation of the  
106 evaluative factors underlying the decision of the authority to fund or not to fund the project; and

107 (C) The allocation and expenditure of funds in accordance with this article, subject to the  
108 availability of funds.

109 (b) Prior to final action on approving projects for funding under this article, the authority  
110 shall submit a certified list of the projects to the Joint Committee on Government and Finance.

111 (c) The State Department of Education shall conduct on-site inspections, at least annually,  
112 of all facilities which have been funded wholly or in part by moneys from the authority or state  
113 board to ensure compliance with the county board's facilities plan and school major improvement  
114 plan as related to the facilities; to preserve the physical integrity of the facilities to the extent  
115 possible; and to otherwise extend the useful life of the facilities: *Provided*, That the state board  
116 shall submit reports regarding its on-site inspections of facilities to the authority within thirty days  
117 of completion of the on-site inspections: *Provided, however*, That the state board shall promulgate  
118 rules regarding the on-site inspections and matters relating thereto, in consultation with the  
119 authority, as soon as practical and shall submit proposed rules for legislative review no later than  
120 December 1, 1994.

121 (d) Based on its on-site inspection or notification by the authority to the state board that  
122 the changes or additions to a county's board facilities plan or school major improvement plan  
123 required by the authority have not been implemented within the time period prescribed by the

124 authority, the state board shall restrict the use of the necessary funds or otherwise allocate funds  
 125 from moneys appropriated by the Legislature for those purposes set forth in section nine, article  
 126 nine-a of this chapter.

## CHAPTER 18A. SCHOOL PERSONNEL.

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

#### §18A-4-2. State minimum salaries for teachers.

1 (a) It is the goal of the Legislature to increase the state minimum salary for teachers with  
 2 zero years of experience and an A. B. degree, including the equity supplement, to at least \$43,000  
 3 by fiscal year 2019.

4 (b) Beginning July 1, 2014, and continuing thereafter, each teacher shall receive the  
 5 amount prescribed in the State Minimum Salary Schedule as set forth in this section, specific  
 6 additional amounts prescribed in this section or article and any county supplement in effect in a  
 7 county pursuant to section five-a of this article during the contract year.

#### STATE MINIMUM SALARY SCHEDULE

Years Exp.	4th Class	3rd Class	2 <sup>nd</sup> Class	A.B. A.B.	A.B. +15	M.A. M.A.	M.A. +15	M.A. +30	M.A. +45	Doc- torate
0	27,917	28,606	28,872	30,315	31,076	32,843	33,604	34,365	35,126	36,161
1	28,245	28,934	29,200	30,833	31,594	33,362	34,123	34,883	35,644	36,679
2	28,574	29,262	29,528	31,352	32,113	33,880	34,641	35,402	36,163	37,198
3	28,902	29,590	29,856	31,871	32,631	34,399	35,160	35,920	36,681	37,716
4	29,474	30,162	30,428	32,633	33,394	35,162	35,923	36,683	37,444	38,479
5	29,802	30,490	30,756	33,152	33,913	35,680	36,441	37,202	37,963	38,998
6	30,130	30,818	31,084	33,670	34,431	36,199	36,960	37,720	38,481	39,516
7	30,458	31,147	31,412	34,189	34,950	36,717	37,478	38,239	39,000	40,035
8	30,786	31,475	31,741	34,707	35,468	37,236	37,997	38,757	39,518	40,553
9	31,114	31,803	32,069	35,226	35,987	37,754	38,515	39,276	40,037	41,072
10	31,443	32,131	32,397	35,746	36,506	38,274	39,035	39,796	40,556	41,591
11	31,771	32,459	32,725	36,264	37,025	38,793	39,553	40,314	41,075	42,110
12	32,099	32,787	33,053	36,783	37,543	39,311	40,072	40,833	41,593	42,628
13	32,427	33,115	33,381	37,301	38,062	39,830	40,590	41,351	42,112	43,147
14	32,755	33,443	33,709	37,820	38,580	40,348	41,109	41,870	42,630	43,665

15	33,083	33,771	34,037	38,338	39,099	40,867	41,627	42,388	43,149	44,184
16	33,411	34,099	34,365	38,857	39,617	41,385	42,146	42,907	43,667	44,702
17	33,739	34,428	34,693	39,375	40,136	41,904	42,665	43,425	44,186	45,221
18	34,067	34,756	35,022	39,894	40,655	42,422	43,183	43,944	44,705	45,740
19	34,395	35,084	35,350	40,412	41,173	42,941	43,702	44,462	45,223	46,258
20	34,723	35,412	35,678	40,931	41,692	43,459	44,220	44,981	45,742	46,777
21	35,052	35,740	36,006	41,449	42,210	43,978	44,739	45,499	46,260	47,295
22	35,380	36,068	36,334	41,968	42,729	44,496	45,257	46,018	46,779	47,814
23	35,708	36,396	36,662	42,487	43,247	45,015	45,776	46,536	47,297	48,332
24	36,036	36,724	36,990	43,005	43,766	45,534	46,294	47,055	47,816	48,851
25	36,364	37,052	37,318	43,524	44,284	46,052	46,813	47,574	48,334	49,369
26	36,692	37,380	37,646	44,042	44,803	46,571	47,331	48,092	48,853	49,888
27	37,020	37,708	37,974	44,561	45,321	47,089	47,850	48,611	49,371	50,406
28	37,348	38,037	38,302	45,079	45,840	47,608	48,368	49,129	49,890	50,925
29	37,676	38,365	38,631	45,598	46,358	48,126	48,887	49,648	50,408	51,443
30	38,004	38,693	38,959	46,116	46,877	48,645	49,405	50,166	50,927	51,962
31	38,333	39,021	39,287	46,635	47,396	49,163	49,924	50,685	51,445	52,480
32	38,661	39,349	39,615	47,153	47,914	49,682	50,443	51,203	51,964	52,999
33	38,989	39,677	39,943	47,672	48,433	50,200	50,961	51,722	52,483	53,518
34	39,317	40,005	40,271	48,190	48,951	50,719	51,480	52,240	53,001	54,036
35	39,645	40,333	40,599	48,709	49,470	51,237	51,998	52,759	53,520	54,555

8           (c) (1) Eight hundred and eight dollars shall be paid annually to each classroom teacher,  
9 effective July 1, 2017.

10           (2) Six hundred dollars shall be paid annually to each classroom teacher who has at least  
11 twenty years of teaching experience.

12           (3) The payments required by subdivisions (1) and (2) of this subsection: (i) (A) Shall be  
13 in addition to any amounts prescribed in the applicable State Minimum Salary Schedule; (ii) (B)  
14 shall be paid in equal monthly installments; and (iii) (C) shall be considered a part of the state  
15 minimum salaries for teachers.

16           (d) To meet the objective of salary equity among the counties as set forth in section five  
17 of this article, each teacher shall be paid an equity supplement amount as applicable for his or  
18 her classification of certification or classification of training and years of experience as follows,  
19 subject to ~~the provisions of~~ that section:

20           (1) For "4th Class" at zero years of experience, \$1,781. An additional \$38 shall be paid for



21 each year of experience up to and including thirty-five years of experience;

22 (2) For "3rd Class" at zero years of experience, \$1,796. An additional \$67 shall be paid  
23 for each year of experience up to and including thirty-five years of experience;

24 (3) For "2nd Class" at zero years of experience, \$1,877. An additional \$69 shall be paid  
25 for each year of experience up to and including thirty-five years of experience;

26 (4) For "A. B." at zero years of experience, \$2,360. An additional \$69 shall be paid for  
27 each year of experience up to and including thirty-five years of experience;

28 (5) For "A. B. + 15" at zero years of experience, \$2,452. An additional \$69 shall be paid  
29 for each year of experience up to and including thirty-five years of experience;

30 (6) For "M. A." at zero years of experience, \$2,644. An additional \$69 shall be paid for  
31 each year of experience up to and including thirty-five years of experience;

32 (7) For "M. A. + 15" at zero years of experience, \$2,740. An additional \$69 shall be paid  
33 for each year of experience up to and including thirty-five years of experience;

34 (8) For "M. A. + 30" at zero years of experience, \$2,836. An additional \$69 shall be paid  
35 for each year of experience up to and including thirty-five years of experience;

36 (9) For "M. A. + 45" at zero years of experience, \$2,836. An additional \$69 shall be paid  
37 for each year of experience up to and including thirty-five years of experience; and

38 (10) For "Doctorate" at zero years of experience, \$2,927. An additional \$69 shall be paid  
39 for each year of experience up to and including thirty-five years of experience.

40 These payments: (i) Shall be in addition to any amounts prescribed in the applicable State  
41 Minimum Salary Schedule, any specific additional amounts prescribed in this section and article  
42 and any county supplement in effect in a county pursuant to section five-a of this article; (ii) shall  
43 be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum  
44 salaries for teachers.

**§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). Educators shall  
16 receive uninterrupted time for planning periods each week. Administrators may not require a  
17 teacher to use the planning period time allotted to complete duties beyond instructional planning,  
18 including, but not limited to, administrative tasks and meetings. Districts and schools should  
19 develop and execute a planning period strategy that best meets their individual needs.

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

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

23 (2) For grades where students take separate courses during at least four separate periods  
24 of instruction, most usually delivered by different teachers for each subject, the planning period  
25 shall be the length of the usual class period taught by the teacher, but no less than forty minutes.  
26 Principals, and assistant principals, where applicable, shall cooperate in carrying out the  
27 provisions of this subsection, including, but not limited to, assuming control of the class period or

28 supervision of students during the time the teacher is engaged in the planning period. Substitute  
29 teachers may also be utilized to assist with classroom responsibilities under this subsection:  
30 *Provided, That any substitute teacher who is employed to teach a minimum of two consecutive*  
31 *days in the same position shall be granted a planning period pursuant to this section.*

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

43 ~~(d) The state board shall conduct a study on planning periods. The study shall include, but~~  
44 ~~not be limited to, the appropriate length for planning periods at the various grade levels and for~~  
45 ~~the different types of class schedules. The board shall report its findings and recommendations~~  
46 ~~to the Legislative Oversight Commission on Education Accountability no later than December 31,~~  
47 ~~2013~~

## **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

### **ARTICLE 31. LICENSED PROFESSIONAL COUNSELORS.**

#### **§30-31-11. Persons exempted from licensure.**

1 (a) The following activities are exempt from ~~the provisions of~~ this article:

2 (1) Teaching, lecturing or engaging in research in professional counseling or marriage and

3 family therapy so long as such activities do not otherwise involve the practice of professional  
4 counseling or marriage and family therapy directly affecting the welfare of the person counseled;

5 (2) The official duties of persons employed as professional counselors or marriage and  
6 family therapists by the State of West Virginia or any of its departments, agencies, divisions,  
7 bureaus or political subdivisions, counties, county boards of education, ~~regional education service~~  
8 ~~agencies~~ municipalities or any other facilities or programs established, supported or funded, in  
9 whole or in part, by the governmental entity;

10 (3) The official duties of persons employed as professional counselors or marriage and  
11 family therapists by any department, agency, division or bureau of the United States of America;

12 (4) The official duties of persons serving as professional counselors or marriage and family  
13 therapists, whether as volunteers or for compensation or other personal gain, in any public or  
14 private nonprofit corporations, organizations, associations or charities;

15 (5) The official duties of persons who are employed by a licensed professional counselor  
16 or licensed marriage and family therapist, whose duties are supervised by a licensed professional  
17 counselor or licensed marriage and family therapists and who represent themselves by the title  
18 provisionally licensed counselor or provisionally licensed marriage and family therapist, and do  
19 not represent themselves as licensed professional counselors or licensed marriage and family  
20 therapists as defined in this article;

21 (6) The activities of a student of professional counseling or marriage and family therapy  
22 which are part of the prescribed course of study at an accredited educational institution and are  
23 supervised by a licensed professional counselor, licensed marriage and family therapist or by a  
24 teacher, instructor or professor of counseling or marriage and family therapy acting within the  
25 official duties or scope of activities exempted by this section; or

26 (7) The activities and services of qualified members of other recognized professions such  
27 as physicians, psychologists, psychoanalysts, social workers, lawyers, clergy, nurses or teachers  
28 performing counseling or marriage and family therapy consistent with the laws of this state, their

29 training and any code of ethics of their professions so long as such persons do not represent  
30 themselves as licensed professional counselors or licensed marriage and family therapists as  
31 defined by section three of this article.

32 (b) Nothing in the article requires licensing of the following persons pursuant to this article:

33 (1) A school counselor who holds a school counseling certificate issued by the West  
34 Virginia Department of Education and who is engaged in counseling solely within the scope of his  
35 or her employment with the department, a county board of education; ~~or a regional education~~  
36 ~~service agency~~ or

37 (2) A nonresident professional counselor or marriage and family therapist who holds a  
38 license or other authorization to engage in the practice of professional counseling or marriage  
39 and family therapy issued by another state, the qualifications for which in the opinion of the board  
40 are at least as stringent as those provided in section eight and section nine of this article, and  
41 who renders counseling services in this state for no more than thirty days in any calendar year.

42 (c) Nothing in this article permits a licensed professional counselor or licensed marriage  
43 and family therapist to administer or prescribe drugs or otherwise engage in the practice of  
44 medicine as defined in articles three and fourteen, ~~of~~ chapter thirty of this code.

NOTE: The purpose of this bill is to promote an efficient and effective public education system by reducing state bureaucracy, restoring local control through increased flexibility in regulations for county school systems, and providing supports for classroom teachers throughout the state. This bill abolishes Regional Education Service Agencies (RESA) and funding by July 1, 2017. The bill eliminates the office of Education Performance Audits. The bill establishes the County Superintendents' Advisory Council. The bill provides authority for county school systems to share services. The bill also modifies school accreditation and accountability measures, alters school and school system intervention procedures and requirements, and reduces statewide student assessment requirements. The bill requires flexibility to meet the one hundred eighty instructional days in the school calendar. The bill provides teachers with uninterrupted time for planning periods each week, and includes an \$808 pay raise for classroom teachers.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.