

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 530

FISCAL NOTE

BY SENATOR KARNES

[Introduced March 7, 2017; Referred
to the Committee on Education; and then to the
Committee on Finance]

1 A BILL to repeal §18-2-26 of the Code of West Virginia, 1931, as amended; to repeal §18-9A-8a
2 of said code; to amend and reenact §5B-3-5 of said code; to amend and reenact §6C-2-2
3 of said code; to amend and reenact §16-4C-6c of said code; to amend and reenact §18-
4 2-5b, §18-2-24 and §18-2-26a of said code; to amend and reenact §18-2A-3 and §18-2A-
5 5 of said code; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-
6 2I-3 and §18-2I-4 of said code; to amend and reenact §18-5-22 of said code; to amend
7 and reenact §18-5A-4 of said code; to amend said code by adding thereto a new article,
8 designated §18-5F-1, §18-5F-2, §18-5F-3, §18-5F-4, §18-5F-5, §18-5F-6, §18-5F-7, §18-
9 5F-8 and §18-5F-9; to amend and reenact §18-9A-10 of said code; to amend and reenact
10 §18-9D-2 and §18-9D-3 of said code; to amend and reenact §18-9E-4 of said code; to
11 amend and reenact §18A-3-1a, §18A-3-1b and §18A-3-11 of said code; to amend and
12 reenact §18A-3A-1 of said code; to amend and reenact §29-1-3 of said code; to amend
13 and reenact §30-21-2 of said code; and to amend and reenact §30-31-11 of said code, all
14 relating to replacing regional education service agencies with education service centers;
15 providing for transfer of property, equipment and records; changing meaning of the
16 remaining code references to the agencies; setting forth legislative intent; setting forth
17 services to be offered by the centers; designating the two most important responsibilities
18 of the centers; designating initial school district membership for each center; providing
19 certain school districts with flexibility to not be a member of a center; allowing districts to
20 apply to be a member of a different center; requiring random selection system be used to
21 determine center membership if a district is required to be a member of a center but is not;
22 allowing centers to merge; allowing three or more counties from different centers to form
23 a new center; establishing annual deadlines and effective date for any change in status of
24 a district's membership; limiting change in membership status to once every four years;
25 allowing districts to purchase services from any center that agrees to sell the services;
26 abolishing a center and its regional council whenever it ceases to have fewer than three

27 member districts; providing for a regional council to govern each center; allowing each
28 regional council to hire an executive director, other officers and other staff; requiring each
29 regional council to select one of its member county school districts to act as fiscal agent;
30 allowing a regional council to form a nonprofit corporation; requiring each regional council
31 to establish standards for service delivery; requiring each center to conform to the
32 standards and requirements prescribed by the State Auditor; allowing centers to acquire
33 and hold real property; requiring each center to continually explore possibilities for the
34 delivery of services on a regional basis; requiring centers to develop an effective model
35 for the regional delivery of instruction in certain subjects; requiring each center to submit
36 a report and evaluation of the technical assistance and other services provided and
37 utilized; allowing a school to submit evaluation of the services provided; allowing a center
38 to receive and disburse funds from the state and federal governments, from member
39 counties or from gifts and grants; setting forth the rate for center employees to be
40 reimbursed for travel, meals and lodging; prohibiting county school board member from
41 being employed by a center; excluding center employees from being eligible for or
42 participating in Public Employee Insurance Agency insurance plans, the state Teachers
43 Retirement System and the Teachers' Defined Contribution Retirement System; requiring
44 at least half of regional council regular meetings be held during hours other than those of
45 a regular school day; requiring the executive director to attend at least one meeting of
46 each of the member of county boards of education; providing for compensation and
47 reimbursement for travel of county board members serving on regional councils; removing
48 reference to the agencies in required study of the feasibility of establishing common
49 regional configurations for all purposes the Joint Commission on Economic Development
50 considers feasible; removing the agencies from participation in the public employees
51 grievance procedure; replacing the agencies with the centers as one of the entities the
52 State Board of Education may delegate Medicaid provider status and subsequent

53 reimbursement; replacing the agencies with the centers as it pertains to the purpose of
54 the school health services advisory committee; replacing the two agency representatives
55 on the school health services advisory committee with two center representatives;
56 modifying the provisions pertaining to the structure to enhance collaboration between
57 professional development providers to be consistent with replacing the agencies with the
58 centers; modifying the provisions on the required regional meetings on shared services
59 and functions to be consistent with replacing the agencies with the centers; modifying the
60 provisions pertaining to instructional resource sample items to be consistent with replacing
61 the agencies with the centers; modifying the provisions pertaining to allowing the
62 establishment of an instructional resources selection team to be consistent with replacing
63 the agencies with the centers; modifying the provisions pertaining to the adoption of
64 indicators of efficiency by the state board to be consistent with replacing the agencies with
65 the centers; replacing the agencies with the centers as an entity the state board may seek
66 resources from in establishing early detection and intervention programs for
67 underachieving schools and school systems; replacing the agencies with the centers as
68 an entity for which the Office of Education Performance Audits may receive assistance;
69 replacing agencies with the centers as the entity the Office of Education Performance
70 Audits is to make staff development need recommendations to; replacing the agencies
71 with the centers as an entity the state board may request special staff development
72 programs from when it determines a school or school system has insufficient capacity to
73 correct deficiency; replacing the agencies with the centers as a source of training and
74 development activities including the goals and action plans required of a county board
75 under state board intervention must include; replacing the agencies with the centers as
76 the entities to which the state board must submit its master plan for professional
77 development; replacing the agencies with the centers as to the entity for which its state
78 board-approved plan must be included in the master plan for professional development;

79 modifying the basis on which county school nurses are to meet on for the purposes of
80 preparing recommendations; providing for electing a representative to serve on the council
81 of school nurses to be consistent with replacing the agencies with the centers; modifying
82 the selection of schools of excellence; modifying the sharing of services requirement for
83 use of instructional improvement funds for personnel costs to be consistent with replacing
84 the agencies with the centers; modifying the definition of “region” pertaining to the School
85 Building Authority to be consistent with replacing the agencies with the centers; replacing
86 agency with center as one of the entities the School Building Authority may contract for
87 services for; replacing agency with center as one of the entities that may employ heating,
88 ventilation and air-conditioning technicians at the discretion of the state board; replacing
89 the agencies with the centers as one of the entities that have the option of contracting for
90 heating, ventilation and air-conditioning services from prequalified vendors if more cost
91 effective than certain other options; replacing agency with center as one of the entities a
92 school or school district may partner with to offer a rigorous alternative program for teacher
93 certification; modifying the preference for designating a person as a 21st Century Learner
94 Fellow to be consistent with replacing the agencies with the centers; replacing the agency
95 executive director with a center representative on the Center for Professional
96 Development Board; modifying the Commission on the Arts membership limitation to be
97 consistent with replacing the agencies with the centers; modifying exclusions from the
98 terms “practice of psychology” and “practice of school psychology” and modifying the
99 definition of “school board” pertaining to psychologists and school psychologists to be
100 consistent with replacing the agencies with the centers; and modifying exemptions from
101 requirements pertaining to licensed professional counselors to be consistent with
102 replacing the agencies with centers.

Be it enacted by the Legislature of West Virginia:

1 That §18-2-26 of the Code of West Virginia, 1931, as amended, be repealed; that §18-9A-
 2 8a of said code be repealed; that §5B-3-5 of said code be amended and reenacted; that §6C-2-2
 3 of said code be amended and reenacted; that §16-4C-6c of said code be amended and reenacted;
 4 that §18-2-5b, §18-2-24 and §18-2-26a of said code be amended and reenacted; that §18-2A-3
 5 and §18-2A-5 of said code be emended and reenacted; that §18-2E-5 of said code be amended
 6 and reenacted; that §18-2I-3 and §18-2I-4 of said code be amended and reenacted; that §18-5-
 7 22 of said code be amended and reenacted; that §18-5A-4 of said code be amended and
 8 reenacted; that said code be amended by adding thereto a new article, designated §18-5F-1, §18-
 9 5F-2, §18-5F-3, §18-5F-4, §18-5F-5, §18-5F-6, §18-5F-7, §18-5F-8 and §18-5F-9; that §18-9A-
 10 10 of said code be amended and reenacted; that §18-9D-2 and §18-9D-3 of said code be
 11 amended and reenacted; that §18-9E-4 of said code be amended and reenacted; that §18A-3-
 12 1a, §18A-3-1b and §18A-3-11 of said code be amended and reenacted; that §18A-3A-1 of said
 13 code be amended and reenacted; that §29-1-3 of said code be amended and reenacted; that §30-
 14 21-2 of said code be amended and reenacted; and that §30-31-11 of said code be amended and
 15 reenacted, all to read as follows:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

ARTICLE 3. WEST VIRGINIA ECONOMIC DEVELOPMENT STRATEGY: A VISION SHARED.

§5B-3-5. Joint Commission on Economic Development Studies.

1 (a) The Joint Commission on Economic Development shall study the following:

2 (1) The feasibility of establishing common regional configurations for local workforce
 3 investment areas ~~regional educational service agencies~~ and for all other purposes the
 4 Commission considers feasible. The study should review the existing levels of cooperation
 5 between state and local economic developers, complete an analysis of possible regional
 6 configurations and outline examples of other successful regional systems or networks found

7 throughout the world. If the study determines that the common regional configurations are
8 feasible, the Commission shall recommend legislation establishing common regional
9 designations for all feasible purposes. In making the designation of regional areas, the study shall
10 take into consideration, but not be limited to, the following:

11 (A) Geographic areas served by local educational agencies and intermediate educational
12 agencies;

13 (B) Geographic areas served by post-secondary educational institutions and area
14 vocational education schools;

15 (C) The extent to which the local areas are consistent with labor market areas;

16 (D) The distance that individuals will need to travel to receive services provided in the local
17 areas; and

18 (E) The resources of the local areas that are available to effectively administer the
19 activities or programs;

20 (2) The effectiveness and fiscal impact of incentives for attracting and growing businesses,
21 especially technology-intensive companies; and

22 (3) A comprehensive review of West Virginia's existing economic and community
23 development resources and the recommendation of an organizational structure, including, but not
24 limited to, the reorganization of the Department of Commerce and the Development Office that
25 would allow the state to successfully compete in the new global economy.

26 (b) In order to effectuate in the most cost-effective and efficient manner the studies
27 required in this article, it is necessary for the Joint Commission to assemble and compile a
28 tremendous amount of information. The Development Office will assist the Joint Commission in
29 the collection and analysis of this information. The Tourism Commission established pursuant to
30 article two of this chapter, the Economic Development Authority established pursuant to article
31 fifteen, chapter thirty-one of this code, the Bureau of Employment Programs established pursuant
32 to article four, chapter twenty-one-a of this code, the Workers' Compensation Commission

33 established pursuant to article one, chapter twenty-three of this code, the Workforce Investment
34 Commission established pursuant to article two-c of this chapter, West Virginia Jobs Investment
35 Trust, Regional Planning and Development Councils, West Virginia Rural Development Council,
36 Office of Technology and West Virginia Clearinghouse for Workforce Education shall provide a
37 copy of their annual reports as submitted to the Governor in accordance with the requirements
38 set forth in section twenty, article one, chapter five of this code to the West Virginia Development
39 Office. The Development Office shall review, analyze and summarize the data contained in the
40 reports, including its own annual report, and annually submit its findings to the Joint Commission
41 on or before December 31.

42 (c) The Legislative Auditor shall provide to the Joint Commission a copy of any and all
43 reports on agencies listed in subsection (b) of this section, which are required under article ten,
44 chapter four of this code.

45 (d) The Joint Commission shall complete the studies set forth in this section and any other
46 studies the Joint Commission determines to undertake prior to December 1, of each year and
47 may make recommendations, including recommended legislation for introduction during the
48 regular session of the Legislature.

CHAPTER 6C. PUBLIC EMPLOYEES.

ARTICLE 2. WEST VIRGINIA PUBLIC EMPLOYEES GRIEVANCE PROCEDURE.

§6C-2-2. Definitions.

1 For the purpose of this article and article three of this chapter:

2 (a) "Board" means the West Virginia Public Employees Grievance Board created in article
3 three of this chapter.

4 (b) "Chief administrator" means, in the appropriate context, the commissioner, chancellor,
5 director, president, secretary or head of any state department, board, commission, agency, state
6 institution of higher education, commission or council, the state superintendent, the county

7 ~~superintendent the executive director of a regional educational service agency~~ or the director of
8 a multicounty vocational center who is vested with the authority to resolve a grievance. A "chief
9 administrator" includes a designee, with the authority delegated by the chief administrator,
10 appointed to handle any aspect of the grievance procedure as established by this article.

11 (c) "Days" means working days exclusive of Saturday, Sunday, official holidays and any
12 day in which the employee's workplace is legally closed under the authority of the chief
13 administrator due to weather or other cause provided for by statute, rule, policy or practice.

14 (d) "Discrimination" means any differences in the treatment of similarly situated
15 employees, unless the differences are related to the actual job responsibilities of the employees
16 or are agreed to in writing by the employees.

17 (e) (1) "Employee" means any person hired for permanent employment by an employer
18 for a probationary, full- or part-time position.

19 (2) A substitute education employee is considered an "employee" only on matters related
20 to days worked or when there is a violation, misapplication or misinterpretation of a statute, policy,
21 rule or written agreement relating to the substitute.

22 (3) "Employee" does not mean a member of the West Virginia State Police employed
23 pursuant to article two, chapter fifteen of this code, but does include civilian employees hired by
24 the Superintendent of the State Police. "Employee" does not mean an employee of a
25 Constitutional officer unless he or she is covered under the civil service system, an employee of
26 the Legislature or a patient or inmate employed by a state institution.

27 (f) "Employee organization" means an employee advocacy organization with employee
28 members that has filed with the board the name, address, chief officer and membership criteria
29 of the organization.

30 (g) "Employer" means a state agency, department, board, commission, college, university,
31 institution, State Board of Education, Department of Education, county board of education,
32 ~~regional educational service agency~~ or multicounty vocational center, or agent thereof, using the

33 services of an employee as defined in this section.

34 (h) "Favoritism" means unfair treatment of an employee as demonstrated by preferential,
35 exceptional or advantageous treatment of a similarly situated employee unless the treatment is
36 related to the actual job responsibilities of the employee or is agreed to in writing by the employee.

37 (i) (1) "Grievance" means a claim by an employee alleging a violation, a misapplication or
38 a misinterpretation of the statutes, policies, rules or written agreements applicable to the
39 employee including:

40 (i) Any violation, misapplication or misinterpretation regarding compensation, hours, terms
41 and conditions of employment, employment status or discrimination;

42 (ii) Any discriminatory or otherwise aggrieved application of unwritten policies or practices
43 of his or her employer;

44 (iii) Any specifically identified incident of harassment;

45 (iv) Any specifically identified incident of favoritism; or

46 (v) Any action, policy or practice constituting a substantial detriment to or interference with
47 the effective job performance of the employee or the health and safety of the employee.

48 (2) "Grievance" does not mean any pension matter or other issue relating to public
49 employees insurance in accordance with article sixteen, chapter five of this code, retirement or
50 any other matter in which the authority to act is not vested with the employer.

51 (j) "Grievance proceeding", "proceeding" or the plural means a conference, level one
52 hearing, mediation, private mediation, private arbitration or level three hearing, or any
53 combination, unless the context clearly indicates otherwise.

54 (k) "Grievant" means an employee or group of similarly situated employees filing a
55 grievance.

56 (l) "Harassment" means repeated or continual disturbance, irritation or annoyance of an
57 employee that is contrary to the behavior expected by law, policy and profession.

58 (m) "Party", or the plural, means the grievant, intervenor, employer and the Director of the

59 Division of Personnel or his or her designee, for state government employee grievances. The
 60 Division of Personnel shall not be a party to grievances involving higher education employees.

61 (n) "Representative" means any employee organization, fellow employee, attorney or
 62 other person designated by the grievant or intervenor as his or her representative and may not
 63 include a supervisor who evaluates the grievant.

64 (o) "Reprisal" means the retaliation of an employer toward a grievant, witness,
 65 representative or any other participant in the grievance procedure either for an alleged injury itself
 66 or any lawful attempt to redress it.

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

§16-4C-6c. Certification requirements for emergency medical technician–mining.

1 (a) Commencing July 1, 2016, an applicant for certification as an emergency medical
 2 technician–mining shall:

- 3 (1) Be at least eighteen years old;
- 4 (2) Apply on a form prescribed by the Director of Miners’ Health, Safety and Training;
- 5 (3) Pay the application fee;
- 6 (4) Possess a valid cardiopulmonary resuscitation (CPR) certification;
- 7 (5) Successfully complete an emergency medical technician–mining education program
 8 authorized by the r Director of Miners’ Health, Safety and Training in consultation with the board
 9 of Miner Training, Education and Certification; and
- 10 (6) Successfully complete emergency medical technician–mining cognitive and skills
 11 examinations authorized by the Director of Miners' Health, Safety and Training in consultation
 12 with the board of Miner Training, Education and Certification.

13 (b) The emergency medical technician--mining certification is valid for three years.

14 (c) A certified emergency medical technician--mining may only practice on mining

15 operations, as defined in section three, article thirteen-c, chapter eleven of this Code.

16 (d) To be recertified as an emergency medical technician–mining, a certificate holder shall:

17 (1) Apply on a form prescribed by the Director of Miners’ Health, Safety and Training;

18 (2) Pay the application fee;

19 (3) Possess a valid cardiopulmonary resuscitation (CPR) certification;

20 (4) Successfully complete one of the following:

21 (A) A one-time thirty-two hour emergency medical technician–mining recertification course
22 authorized by the Director of Miners’ Health, Safety and Training in consultation with the board of
23 Miner Training, Education and Certification; or

24 (B) Three annual eight-hour retraining and testing programs authorized by the Director of
25 Miners’ Health, Safety and Training in consultation with the board of Miner Training, Education
26 and Certification; and

27 (5) Successfully complete emergency medical technician--mining cognitive and skills
28 recertification examinations authorized by the Director of Miners’ Health, Safety and Training in
29 consultation with the board of Miner Training, Education and Certification.

30 (e) The education program, training, courses, and cognitive and skills examinations
31 required for certification and recertification as an emergency medical technician--miner, also
32 known as emergency medical technician–mining, in existence on January 1, 2014, shall remain
33 in effect for the certification and recertification of emergency medical technician–industrial until
34 they are changed by legislative rule by the commissioner in consultation with the board of Miner
35 Training, Education and Certification.

36 (f) The administration of the emergency medical technician–mining certification and
37 recertification program by the Director of Miners’ Health, Safety and Training shall be done in
38 consultation with the board of Miner Training, Education and Certification.

39 (g) The Director of Miners' Health, Safety and Training shall propose rules for legislative
40 approval, pursuant to the provisions of article three, chapter twenty-nine-a of this code, in
41 consultation with the board of Miner Training, Education and Certification, and may propose
42 emergency rules, to:

43 (1) Establish emergency medical technician--mining certification and recertification
44 courses and examinations;

45 (2) Authorize providers to administer the certification and recertification courses and
46 examinations, including mine training personnel, independent trainers, community and technical
47 colleges, and ~~Regional Educational Service Agencies (RESA)~~ education service centers;
48 *Provided*, That the mine training personnel and independent trainers must have a valid
49 cardiopulmonary resuscitation (CPR) certification and must be an approved MSHA or OSHA
50 certified instructor;

51 (3) Establish a fee schedule: *Provided*, That the application fee may not exceed \$10 and
52 there shall be no fee for a certificate; and

53 (4) Implement the provisions of this section.

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)~~ education service
8 centers and/or county boards: *Provided, however,* That annually the state board shall report to
9 the Legislature the number and age of children eligible for Medicaid, the number and age of
10 children with Medicaid coverage, the types of Medicaid eligible services provided, the frequency
11 of services provided, the Medicaid dollars reimbursed; and the problems encountered in the
12 implementation of this system and that this report shall be on a county by county basis and made
13 available no later than 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 educational service agencies~~ education service centers,
17 local school boards, and Department of Health and Human Resources employees to provide
18 Medicaid eligible children with all the school-based Medicaid services for which they are eligible
19 and to ensure that the school-based Medicaid service providers bill for and receive all the
20 Medicaid reimbursement to which they are entitled. The committee shall consist of at least the
21 following individuals: The person within the Department of Education responsible for coordinating
22 the provision of and billing for school-based Medicaid services in schools throughout the state,
23 who shall provide secretarial, administrative and technical support to the advisory committee; the
24 person within the Department of Health and Human Resources responsible for coordinating the
25 enrollment of Medicaid eligible school children throughout the state; two representatives of
26 ~~regional educational service agencies~~ education service centers who are experienced with the
27 process of billing Medicaid for school-based health services; two Department of Health and
28 Human Resources employees responsible for supervising employees, two persons jointly
29 appointed by the Secretary of Health and Human Resources and the state superintendent; and
30 one representative of the Governor's task force on school health.

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

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

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

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~~ education service centers in providing professional
6 development.

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 education service centers;

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

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

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

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

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

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

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

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

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

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

40 (3) Providing any available research-based expertise that would be helpful in the

41 implementation of professional development programs; and

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

44 (e) All teacher preparation institutions shall collaborate with ~~the regional education service~~
45 ~~agency~~ the education service center of the service area in which the institution is located as those
46 service areas existed on July 1, 2017: *Provided, That once the service areas thereafter change*
47 in accordance with section four, article five-f of this chapter, West Virginia University or Marshall
48 University, as applicable based on which designated coordination area the teacher preparation
49 institution is located, may assign the teacher preparation institution to collaborate with a different
50 education service center. This collaboration shall at least to include:

51 (1) ~~Prevent~~ Preventing unnecessary duplication of services;

52 (2) ~~Assist~~ Assisting in the implementation of the professional development programs of
53 ~~the regional education service agency~~ education service center; and

54 (3) ~~Assist~~ Assisting the ~~regional education service agency~~ education service center in
55 obtaining any available grants for professional development or to apply for any available grant
56 with the ~~agency~~ center collaboratively.

57 (f) Since no teacher preparation institution exists in the service area of ~~Regional Education~~
58 ~~Service Agency IV~~ education service center four, Marshall University shall collaborate with that
59 agency for the purposes set forth in subdivision (e) of this section: *Provided, That once the service*
60 areas thereafter change in accordance with section four, article five-f of this chapter, Marshall
61 University may assign the education service center to collaborate with a different teacher
62 preparation institution within its designated coordination area.

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

65 (1) Coordinate the collaboration of each of the other teacher preparation institutions in
66 their designated coordination area with the appropriate ~~regional education service agency~~

67 education service center. This coordination at least includes ensuring that each of the other
68 institutions are collaborating with the appropriate ~~regional education service agency~~ education
69 service center; and

70 (2) Collaborate with each of the other teacher preparation institutions in their designated
71 coordination area. This collaboration at least includes providing assistance to the other institutions
72 in providing professional development and in their collaboration with the appropriate ~~regional~~
73 ~~education service agency~~ education service center.

74 (h) The designated coordination area of West Virginia University includes the service
75 areas of ~~Regional Education Service Agencies V, VI, VII and VIII~~ education service centers five,
76 six, seven and eight, as those service areas existed on July 1, 2017. The designated coordination
77 area of Marshall University includes the service areas of ~~Regional Education Service Agencies I,~~
78 ~~II, III and IV~~ education service centers one, two, three and four as those service areas existed on
79 July 1, 2017.

80 (i) ~~The state board~~ Each regional council shall ensure that ~~each of the regional education~~
81 ~~service agencies~~ its education service center is collaborating with the applicable teacher
82 preparation institution or institutions ~~in its service area~~ for the purposes set forth in subsection (e)
83 of this section. ~~Since Regional Education Service Agency IV does not have a teacher preparation~~
84 ~~institution in its service area, the state board shall ensure that it is collaborating with Marshall~~
85 ~~University for the purposes set forth in subsection (e) of this section.~~

86 (j) ~~Before a regional education service agency, except for Regional Education Service~~
87 ~~Agency IV, obtains professional development related services or expertise from any teacher~~
88 ~~preparation institution outside of that agency's service area, the agency shall inform the state~~
89 ~~board. Before Regional Education Service Agency IV obtains professional development related~~
90 ~~services or expertise from any teacher preparation institution other than Marshall University, the~~
91 ~~agency shall inform the state board.~~

92 (~~k~~) (j) The collaboration and coordination requirements of this section include collaborating

93 and coordinating to provide professional development for at least teachers, principals and
94 paraprofessionals.

**§18-2-26a. Regional meetings on shared services and functions; notice, solicitation of
input and approval; reports.**

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

10 (b) As soon as each meeting is scheduled, the West Virginia School Board Association
11 shall notify the state superintendent in writing of the time, place and date of the meeting. The
12 association shall conduct the meetings and for that purpose may consult with the regional
13 ~~educational service agencies~~ education service centers. The format of the meetings shall be
14 approved by the state board in advance.

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

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

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

25 (2) An analysis of the advantages and disadvantages of sharing services in each instance;
 26 and

27 (3) A process for implementing recommended changes.

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

32 (f) Nothing in this section requires the elimination or consolidation of county school
 33 districts.

**ARTICLE 2A. ADOPTION OF TEXTBOOKS, INSTRUCTIONAL MATERIALS AND
 LEARNING TECHNOLOGIES.**

§18-2A-3. Disposition of and requests for samples.

1 (a) Items to be reviewed in excess of the official sample submitted to the state board for
 2 examination shall remain the property of the vendor submitting them if claimed within thirty days
 3 after state board adoption of the multiple list. If not claimed within that period, the items may be
 4 sold by the state board and the money credited to the Department of Education Instructional
 5 Resources Fund or items may be distributed to state educational agencies.

6 (b) Sample items submitted to county boards or ~~regional education service agency~~
 7 education service center selection teams remain the property of the vendor submitting them if
 8 claimed within thirty days after instructional materials have been formally adopted. Unclaimed
 9 items may be distributed free of charge by the respective county board or ~~regional education~~
 10 ~~service agency~~ education service center to any school, library or individual who may have need
 11 for the sample items.

12 (c) Vendors claiming samples within the thirty-day period shall notify the respective board
13 of education or ~~regional education service agency~~ education service center at the time samples
14 are submitted for study of their intent to recall the samples. All costs shall be borne by the vendors.

15 (d) No county or ~~regional education service agency~~ education service center adoption
16 committee is entitled to request or receive more than eight free samples of any multigrade
17 program being considered for adoption. Any single grade level subject area items used above
18 grade six shall be limited to five free samples per county selection committee. Any individual
19 requesting samples in excess of these limits shall be billed by the vendor at the lowest wholesale
20 price plus shipping. In the case of electronic instructional resources, it is sufficient for vendors to
21 provide access for the purpose of reviewing the resources via a user name and password to a
22 web-based resource or through on-line file transfer or download.

§18-2A-5. Selection by county boards; school curriculum teams.

1 (a) Vendors, upon requests of county superintendents, shall furnish to county boards the
2 requested sample copies of resources that were selected and placed on the state multiple list by
3 the state board in accordance with the provisions of section three of this article. In the case of
4 electronic instructional resources, it is sufficient for vendors to provide access for the purpose of
5 reviewing the resources via a web-hosted online format.

6 (b) School curriculum teams shall make their curriculum and instructional needs known to
7 the county superintendent and selection committees prior to the consideration of any adopted
8 grouping in accordance with the provisions of section three of this article. The county board shall,
9 upon recommendation of the county superintendent with the aid of a committee of teachers and
10 not later than May 1 of the year following that in which the multiple list for the group was made
11 and approved, select from the state multiple list one or more resources to deliver instruction for a
12 period as provided for elsewhere in this article. Counties are authorized to include nonvoting
13 advisors from the general public in the adoption process, but shall require advisors to provide
14 their assessment of the resources appropriate for the subject before the voting committee

15 commences the selection process.

16 (c) In order to avoid duplication and to maximize resources, with agreement of all county
 17 superintendents ~~within a regional education service agency area~~ of school districts that are
 18 members of the same education service center and subsequent ~~regional education service~~
 19 ~~agency~~ education service center actions, ~~a regional education service agency~~ an education
 20 service center instructional resources selection team may be established to conduct a review of
 21 selected resources placed on the state multiple list by the state board. The membership of the
 22 selection team will be established through agreement of the county superintendents with
 23 representation of all counties, including any nonvoting advisors from the general public. The
 24 resource selection team will provide recommendations to each county superintendent for
 25 consideration, review and adoption by each county board.

26 (d) County boards adopting electronic instructional resources shall ensure equity of
 27 access for all students at school and shall have a plan to provide equity of access at home if
 28 necessary through alternate avenues including, but not limited to, print, software, and hardware
 29 support.

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; and

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

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

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

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

34 public school students on an equal education opportunity basis; and

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

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

57 The department shall make available to all public schools through its website or the West
58 Virginia Education Information System an electronic school strategic improvement plan
59 boilerplate designed for use by all schools to develop an electronic school strategic improvement

60 plan which incorporates all required aspects and satisfies all improvement plan requirements of
61 the No Child Left Behind Act.

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

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

83 (d) *Comprehensive statewide student assessment program.* — The state board shall
84 establish a comprehensive statewide student assessment program to assess student
85 performance and progress in grades three through twelve. The assessment program is subject to

86 the following:

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

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

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

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

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

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

107 The state board shall promulgate a rule in accordance with the provisions of article three-
108 b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual
109 performance measures for state accreditation of schools and school systems. The state board
110 also may establish performance incentives for schools and school systems as part of the state
111 accreditation system. On or before December 1, 2013, the state board shall report to the Governor

112 and to the Legislative Oversight Commission on Education Accountability the proposed rule for
113 establishing the measures and incentives of accreditation and the estimated cost therefore, if any.
114 Thereafter, the state board shall provide an annual report to the Governor and to the Legislative
115 Oversight Commission on Education Accountability on the impact and effectiveness of the
116 accreditation system. The rule for school and school system accreditation proposed by the board
117 may include, but is not limited to, the following measures:

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

120 (2) Graduation and attendance rate;

121 (3) Students taking and passing AP tests;

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

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

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

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

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

130 (2) Transportation;

131 (3) Facilities;

132 (4) Administrative practices;

133 (5) Personnel;

134 (6) Use of ~~regional educational service agency~~ education service center programs and
135 services if the district is a member of an education service center or is required to be a member
136 pursuant to section four, article five-f of this chapter, including programs and services that may
137 be established by ~~their assigned regional educational service agency~~ the education service center

138 the district is a member of or other regional services that may be initiated between and among
139 participating county boards; and

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

141 (g) *Assessment and accountability of school and school system performance and*
142 *processes.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this
143 code, the state board shall establish by rule a system of education performance audits which
144 measures the quality of education and the preparation of students based on the annual measures
145 of student, school and school system performance and progress. The system of education
146 performance audits shall provide information to the state board, the Legislature and the Governor,
147 upon which they may determine whether a thorough and efficient system of schools is being
148 provided. The system of education performance audits shall include:

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

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

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

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

157 (h) *Uses of school and school system assessment information.* — The state board shall
158 use information from the system of education performance audits to assist it in ensuring that a
159 thorough and efficient system of schools is being provided and to improve student, school and
160 school system performance and progress. Information from the system of education performance
161 audits further shall be used by the state board for these purposes, including, but not limited to,
162 the following:

163 (1) Determining school accreditation and school system approval status;

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

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

167 The state board shall make accreditation information available to the Legislature, the
168 Governor, the general public and to any individual who requests the information, subject to the
169 provisions of any act or rule restricting the release of information.

170 (i) *Early detection and intervention programs.* — Based on the assessment of student,
171 school and school system performance and progress, the state board shall establish early
172 detection and intervention programs using the available resources of the Department of
173 Education, the ~~regional educational service agencies~~ education service centers, the Center for
174 Professional Development and the Principals Academy, or other resources as appropriate, to
175 assist underachieving schools and school systems to improve performance before conditions
176 become so grave as to warrant more substantive state intervention. Assistance shall include, but
177 is not limited to, providing additional technical assistance and programmatic, professional staff
178 development, providing monetary, staffing and other resources where appropriate.

179 (j) *Office of Education Performance Audits.* —

180 (1) To assist the state board in the operation of a system of education performance audits,
181 the state board shall establish an Office of Education Performance Audits consistent with the
182 provisions of this section. The Office of Education Performance Audits shall be operated under
183 the direction of the state board independently of the functions and supervision of the state
184 Department of Education and state superintendent. The Office of Education Performance Audits
185 shall report directly to and be responsible to the state board in carrying out its duties under the
186 provisions of this section.

187 (2) The office shall be headed by a director who shall be appointed by the state board and
188 who serves at the will and pleasure of the state board. The annual salary of the director shall be
189 set by the state board and may not exceed eighty percent of the salary of the State Superintendent

190 of Schools.

191 (3) The state board shall organize and sufficiently staff the office to fulfill the duties
192 assigned to it by law and by the state board. Employees of the state Department of Education
193 who are transferred to the Office of Education Performance Audits shall retain their benefits and
194 seniority status with the Department of Education.

195 (4) Under the direction of the state board, the Office of Education Performance Audits shall
196 receive from the West Virginia education Information System staff research and analysis data on
197 the performance and progress of students, schools and school systems, and shall receive
198 assistance, as determined by the state board, from staff at the state Department of Education,
199 ~~the regional educational service agencies~~ education service centers, the Center for Professional
200 Development, the Principals Academy and the School Building Authority to carry out the duties
201 assigned to the office.

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

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

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

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

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

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

214 (D) Determine, in conjunction with the assessment and accountability processes, whether
215 statewide system deficiencies exist in the capacity of schools and school systems to meet the

216 standards established by the state board, including the identification of trends and the need for
217 continuing improvements in education, and report those deficiencies and trends to the state
218 board;

219 (E) Determine, in conjunction with the assessment and accountability processes, staff
220 development needs of schools and school systems to meet the standards established by the state
221 board and make recommendations to the state board, the Center for Professional Development,
222 the ~~regional educational service agencies~~ education service centers, the Higher Education Policy
223 Commission and the county boards;

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

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

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

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

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

238 (iv) The appropriate provision of multicultural activities.

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

242 (k) *On-site reviews.* —

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

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

254 (B) Examining compliance with the laws and policies affecting student, school and school
255 system performance and progress;

256 (C) Evaluating the effectiveness and implementation status of school and school system
257 electronic strategic improvement plans;

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

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

263 (F) Determining and reporting whether required reviews and inspections have been
264 conducted by the appropriate agencies, including, but not limited to, the State Fire Marshal, the
265 Health Department, the School Building Authority and the responsible divisions within the
266 Department of Education, and whether noted deficiencies have been or are in the process of
267 being corrected.

268 (2) The Director of the Office of Education Performance Audits shall notify the county
269 superintendent of schools five school days prior to commencing an on-site review of the county
270 school system and shall notify both the county superintendent and the principal five school days
271 before commencing an on-site review of an individual school: *Provided*, That the state board may
272 direct the Office of Education Performance Audits to conduct an unannounced on-site review of
273 a school or school system if the state board believes circumstances warrant an unannounced on-
274 site review.

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

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

281 (5) At the conclusion of an on-site review of a school system, the director and team leaders
282 shall hold an exit conference with the superintendent and shall provide an opportunity for
283 principals to be present for at least the portion of the conference pertaining to their respective
284 schools. In the case of an on-site review of a school, the exit conference shall be held with the
285 principal and curriculum team of the school and the superintendent shall be provided the
286 opportunity to be present. The purpose of the exit conference is to review the initial findings of the
287 on-site review, clarify and correct any inaccuracies and allow the opportunity for dialogue between
288 the reviewers and the school or school system to promote a better understanding of the findings.

289 (6) The Office of Education Performance Audits shall report the findings of an on-site
290 review to the county superintendent and the principals whose schools were reviewed within thirty
291 days following the conclusion of the on-site review. The Office of Education Performance Audits
292 shall report the findings of the on-site review to the state board within forty-five days after the
293 conclusion of the on-site review. A school or county that believes one or more findings of a review

294 are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of
295 education in the school or county or address issues unrelated to the health, safety and welfare of
296 students and the quality of education, may appeal to the state board for removal of the findings.
297 The state board shall establish a process for it to receive, review and act upon the appeals.

298 (7) The Legislature finds that the accountability and oversight of some activities and
299 programmatic areas in the public schools are controlled through other mechanisms and agencies
300 and that additional accountability and oversight may be unnecessary, counterproductive and
301 impair necessary resources for teaching and learning. Therefore, the Office of Education
302 Performance Audits may rely on other agencies and mechanisms in its review of schools and
303 school systems.

304 (l) *School accreditation.* —

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

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

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

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

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

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

- 320 (A) To require a school to revise its electronic strategic plan;
- 321 (B) To define extraordinary circumstances under which the state board may intervene
322 directly or indirectly in the operation of a school;
- 323 (C) To appoint monitors to work with the principal and staff of a school where extraordinary
324 circumstances are found to exist and to appoint monitors to assist the school principal after
325 intervention in the operation of a school is completed;
- 326 (D) To direct a county board to target resources to assist a school where extraordinary
327 circumstances are found to exist;
- 328 (E) To intervene directly in the operation of a school and declare the position of principal
329 vacant and assign a principal for the school who will serve at the will and pleasure of the state
330 board. If the principal who was removed elects not to remain an employee of the county board,
331 then the principal assigned by the state board shall be paid by the county board. If the principal
332 who was removed elects to remain an employee of the county board, then the following procedure
333 applies:
- 334 (i) The principal assigned by the state board shall be paid by the state board until the next
335 school term, at which time the principal assigned by the state board shall be paid by the county
336 board;
- 337 (ii) The principal who was removed is eligible for all positions in the county, including
338 teaching positions, for which the principal is certified, by either being placed on the transfer list in
339 accordance with section seven, article two, chapter eighteen-a of this code, or by being placed
340 on the preferred recall list in accordance with section seven-a, article four, chapter eighteen-a of
341 this code; and
- 342 (iii) The principal who was removed shall be paid by the county board and may be
343 assigned to administrative duties, without the county board being required to post that position
344 until the end of the school term; and
- 345 (F) Other powers and actions the state board determines necessary to fulfill its duties of

346 general supervision of the schools and school systems of West Virginia.

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

349 (m) *School system approval.* — The state board annually shall review the information
350 submitted for each school system from the system of education performance audits and issue
351 one of the following approval levels to each county board: Full approval, temporary approval,
352 conditional approval or nonapproval.

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

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

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

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

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

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

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

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

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

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

387 (C) Whenever nonapproval status is given to a school system, the state board shall
388 declare a state of emergency in the school system and shall appoint a team of improvement
389 consultants to make recommendations within sixty days of appointment for correcting the
390 emergency. When the state board approves the recommendations, they shall be communicated
391 to the county board. If progress in correcting the emergency, as determined by the state board,
392 is not made within six months from the time the county board receives the recommendations, the
393 state board shall intervene in the operation of the school system to cause improvements to be
394 made that will provide assurances that a thorough and efficient system of schools will be provided.
395 This intervention may include, but is not limited to, the following:

396 (i) Limiting the authority of the county superintendent and county board as to the
397 expenditure of funds, the employment and dismissal of personnel, the establishment and

398 operation of the school calendar, the establishment of instructional programs and rules and any
399 other areas designated by the state board by rule, which may include delegating decision-making
400 authority regarding these matters to the state superintendent;

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

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

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

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

411 (vi) Taking any direct action necessary to correct the emergency including, but not limited
412 to, the following:

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

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

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

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

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

430 (o) *Capacity*. — The process for improving education includes a process for targeting
431 resources strategically to improve the teaching and learning process. Development of electronic
432 school and school system strategic improvement plans, pursuant to subsection (b) of this section,
433 is intended, in part, to provide mechanisms to target resources strategically to the teaching and
434 learning process to improve student, school and school system performance. When deficiencies
435 are detected through the assessment and accountability processes, the revision and approval of
436 school and school system electronic strategic improvement plans shall ensure that schools and
437 school systems are efficiently using existing resources to correct the deficiencies. When the state
438 board determines that schools and school systems do not have the capacity to correct
439 deficiencies, the state board shall take one or more of the following actions:

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

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

448 (A) Examining reports and electronic strategic improvement plans regarding the
449 performance and progress of students, schools and school systems relative to the standards and

450 identifying the areas in which improvement is needed;

451 (B) Determining the areas of weakness and of ineffectiveness that appear to have
452 contributed to the substandard performance and progress of students or the deficiencies of the
453 school or school system and requiring the school or school system to work collaboratively with
454 the West Virginia Department of Education State System of Support to correct the deficiencies;

455 (C) Determining the areas of strength that appear to have contributed to exceptional
456 student, school and school system performance and progress and promoting their emulation
457 throughout the system;

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

460 (E) Recommending priority funding from the School Building Authority based on identified
461 needs;

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

465 (G) Submitting requests to the Legislature for appropriations to meet the identified needs
466 for improving education;

467 (H) Directing county boards to target their funds strategically toward alleviating
468 deficiencies;

469 (I) Ensuring that the need for facilities in counties with increased enrollment are
470 appropriately reflected and recommended for funding;

471 (J) Ensuring that the appropriate person or entity is held accountable for eliminating
472 deficiencies; and

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

475 (p) *Building leadership capacity* — To help build the governance and leadership capacity

476 of a county board during an intervention in the operation of its school system by the state board,
477 and to help assure sustained success following return of control to the county board, the state
478 board shall require the county board to establish goals and action plans, subject to approval of
479 the state board, to improve performance sufficiently to end the intervention within a period of not
480 more than five years. The state superintendent shall maintain oversight and provide assistance
481 and feedback to the county board on development and implementation of the goals and action
482 plans. At a minimum, the goals and action plans shall include:

483 (A) An analysis of the training and development activities needed by the county board and
484 leadership of the school system and schools for effective governance and school improvement;

485 (B) Support for the training and development activities identified which may include those
486 made available through the state superintendent, ~~regional educational service agencies~~
487 education service centers, Center for Professional Development, West Virginia School Board
488 Association, Office of Education Performance Audits, West Virginia Education Information
489 System and other sources identified in the goals and action plans. Attendance at these activities
490 included in the goals and action plans is mandatory as specified in the goals and action plans;
491 and

492 (C) Active involvement by the county board in the improvement process, working in
493 tandem with the county superintendent to gather, analyze and interpret data, write time-specific
494 goals to correct deficiencies, prepare and implement action plans and allocate or request from
495 the State Board of Education the resources, including board development training and coaching,
496 necessary to achieve approved goals and action plans and sustain system and school
497 improvement.

498 At least once each year during the period of intervention, the Office of Education
499 Performance Audits shall assess the readiness of the county board to accept the return of control
500 of the system or school from the state board and sustain the improvements, and shall make a
501 report and recommendations to the state board supported by documented evidence of the

502 progress made on the goals and action plans. The state board may end the intervention or return
503 any portion of control of the operations of the school system or school that was previously
504 removed at its sole determination. If the state board determines at the fifth annual assessment
505 that the county board is still not ready to accept return of control by the state board and sustain
506 the improvements, the state board shall hold a public hearing in the affected county at which the
507 attendance by all members of the county board is requested so that the reasons for continued
508 intervention and the concerns of the citizens of the county may be heard. The state board may
509 continue the intervention only after it holds the public hearing and may require revision of the
510 goals and action plans.

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

ARTICLE 2I. PROFESSIONAL DEVELOPMENT.

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

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

6 (b) The state board annually shall submit the master plan to the State Department of
7 Education, the Center for Professional Development, the ~~regional educational service agencies~~
8 education service centers, the Higher Education Policy Commission and the Legislative Oversight
9 Commission on Education Accountability.

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

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

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

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

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

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

6 (1) Standards for quality professional development that all professional development
7 providers shall use in designing, implementing and evaluating professional development that shall

8 become part of the statewide professional development plan;

9 (2) Processes for assuring professional development resources are appropriately
10 allocated to identified areas of need;

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

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

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

16 (6) Processes for collaboration among West Virginia Department of Education, Center for
17 Professional Development, RESAs, county boards and classroom teachers; and

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

21 (b) The state board approval of the proposed professional development plans/offerings
22 shall establish a Master Plan for Professional Development which shall be submitted by the state
23 board to the affected agencies and to the Legislative Oversight Commission on Education
24 Accountability. The Master Plan shall include the state board-approved plans for professional
25 development by the State Department of Education, the Center for Professional Development,
26 the state institutions of higher education and the ~~regional educational service agencies~~ education
27 service centers, to meet the professional development goals of the state board.

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

ARTICLE 5. COUNTY BOARD OF EDUCATION.

**§18-5-22. Medical and dental inspection; school nurses; specialized health procedures;
establishment of council of school nurses.**

1 (a) County boards shall provide proper medical and dental inspections for all pupils
2 attending the schools of their county and have the authority to take any other action necessary to
3 protect the pupils from infectious diseases, including the authority to require from all school
4 personnel employed in their county, certificates of good health and of physical fitness.

5 (b) Each county board shall employ full time at least one school nurse for every one
6 thousand five hundred kindergarten through seventh grade pupils in net enrollment or major
7 fraction thereof: *Provided*, That each county shall employ full time at least one school nurse:
8 *Provided, however*, That a county board may contract with a public health department for services
9 considered equivalent to those required by this section in accordance with a plan to be approved
10 by the state board: *Provided further*, That the state board shall promulgate rules requiring the
11 employment of school nurses in excess of the number required by this section to ensure adequate
12 provision of services to severely handicapped pupils. An appropriation may be made to the state
13 department to be distributed to county boards to support school health service needs that exceed
14 the capacity of staff as mandated in this section. Each county board shall apply to the state
15 superintendent for receipt of this funding in a manner set forth by the state superintendent that
16 assesses and takes into account varying acuity levels of students with specialized health care
17 needs.

18 (c) Any person employed as a school nurse must be a registered professional nurse
19 properly licensed by the West Virginia Board of Examiners for Registered Professional Nurses in
20 accordance with article seven, chapter thirty of this code.

21 (d) Specialized health procedures that require the skill, knowledge and judgment of a
22 licensed health professional may be performed only by school nurses, other licensed school
23 health care providers as provided in this section, or school employees who have been trained and
24 retrained every two years who are subject to the supervision and approval by school nurses. After
25 assessing the health status of the individual student, a school nurse, in collaboration with the
26 student's physician, parents and, in some instances, an individualized education program team,

27 may delegate certain health care procedures to a school employee who shall be trained pursuant
28 to this section, considered competent, have consultation with, and be monitored or supervised by
29 the school nurse: *Provided*, That nothing in this section prohibits any school employee from
30 providing specialized health procedures or any other prudent action to aid any person who is in
31 acute physical distress or requires emergency assistance. For the purposes of this section
32 "specialized health procedures" means, but is not limited to, catheterization, suctioning of
33 tracheostomy, naso-gastric tube feeding or gastrostomy tube feeding. "School employee" means
34 "teachers" as defined in section one, article one of this chapter and "aides" as defined in section
35 eight, article four, chapter eighteen-a of this code. Commencing with the school year beginning
36 on July 1, 2002, "school employee" also means "secretary I", "secretary II" and "secretary III" as
37 defined in section eight, article four, chapter eighteen-a of this code: *Provided, however*, That a
38 "secretary I", "secretary II" and "secretary III" shall be limited to the dispensing of medications.

39 (e) Any school service employee who elects, or is required by this section, to undergo
40 training or retraining to provide, in the manner specified in this section, the specialized health care
41 procedures for those students for which the selection has been approved by both the principal
42 and the county board shall receive additional pay of at least one pay grade higher than the highest
43 pay grade for which the employee is paid: *Provided*, That any training required in this section may
44 be considered in lieu of required in-service training of the school employee and a school employee
45 may not be required to elect to undergo the training or retraining: *Provided, however*, That
46 commencing with July 1, 1989, any newly employed school employee in the field of special
47 education is required to undergo the training and retraining as provided in this section: *Provided*
48 *further*, That if an employee who holds a class title of an aide is employed in a school and the
49 aide has received the training, pursuant to this section, then an employee in the field of special
50 education is not required to perform the specialized health care procedures.

51 (f) Each county school nurse, as designated and defined by this section, shall perform a
52 needs assessment. These nurses shall meet on the basis of ~~the area served by their regional~~

53 ~~educational service agency~~ school district membership with the education service centers,
54 prepare recommendations and elect a representative to serve on the council of school nurses
55 established under this section.

56 (g) There shall be a council of school nurses which shall be convened by the State Board
57 of Education. This council shall prepare a procedural manual and shall provide recommendations
58 regarding a training course to the Commissioner of the Bureau for Public Health who shall consult
59 with the state Department of Education. The state board then has the authority to promulgate a
60 rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code to
61 implement the training and to create standards used by those school nurses and school
62 employees performing specialized health procedures. The council shall meet every two years to
63 review the certification and training program regarding school employees.

64 (h) The State Board of Education shall work in conjunction with county boards to provide
65 training and retraining every two years as recommended by the Council of School Nurses and
66 implemented by the rule promulgated by the state board.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A-4. State board to establish criteria for selecting schools of excellence; annual school of excellence awards.

1 The State Board of Education shall promulgate rules, in accordance with the provisions of
2 article three-b, chapter twenty-nine-a of this code, outlining criteria for the identification of schools
3 of excellence. Such criteria shall include, but not be limited to, improvement in student
4 achievement in comparison to state and national norms, improvement in reducing drop-out rates,
5 improvement in standardized test scores, implementation of advanced or innovative programs,
6 implementation of the goals and purposes of jobs through education as provided in section eight,
7 article two-e of this chapter, improvement in parent and community involvement, improvement in
8 parent, teacher and student satisfaction, improvement in student attendance and other factors
9 which promote excellence in education. Such rules shall be promulgated by January 1, 1991.

10 Such rules may not prohibit any school from applying for consideration as a school of excellence.

11 Each year, the ~~state board~~ the regional council of each education service center shall
 12 select one high school, one middle or junior high school and one elementary school within each
 13 ~~regional educational service agency district~~ group of school districts that are members of the same
 14 education service center, and the state board shall select on a statewide basis one vocational
 15 school ~~selected on a statewide basis~~ to be awarded school of excellence status.

16 The rules promulgated by the state board shall outline appropriate methods of recognizing
 17 and honoring the students, teachers and other employees and parents or members of the school
 18 community who have contributed to excellence in education at the school.

ARTICLE 5F. EDUCATION SERVICE CENTERS.

**§18-5F-1. Dissolving regional education service agencies; creation of a system of
 education service centers; transfer of property, equipment and records.**

1 (a) The regional education service agencies are dissolved, and in their place a system of
 2 education service centers is established.

3 (b) All property, equipment and records held by each regional education service agency
 4 shall be transferred to the education service center that replaces the agency immediately after
 5 the effective date of this section.

6 (c) Any place in this code that refers to regional education service agency shall be
 7 considered to mean education service center.

§18-5F-2. Legislative intent.

1 The intent of the Legislature in providing for establishment of education service centers is
 2 to provide for high quality, cost effective education programs and services to students, schools
 3 and school systems.

§18-5F-3. Education service center services.

1 (a) The services offered by the centers shall include the following:
 2 (1) Providing technical assistance to low performing schools and school systems;

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

5 (3) Facilitating coordination and cooperation among the member county boards in such
6 areas as cooperative purchasing; sharing of specialized personnel, communications and
7 technology; curriculum development; and operation of specialized programs for exceptional
8 children;

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

12 (5) Receiving and administering grants under the provisions of federal and/or state law;
13 and

14 (6) Developing and/or implementing any other programs or service offerings as directed
15 by law or the regional council.

16 (b) Providing technical assistance to low performing schools and school systems and
17 providing high quality, targeted staff development designed to enhance the performance and
18 progress of students in state public education constitute the most important responsibilities for
19 the centers.

§18-5F-4. Education service center membership.

1 (a) Initially, the education service center system includes eight education service centers.
2 Each education service center initially shall include the following school district membership:

3 (1) Education service center 1– McDowell, Mercer, Monroe, Raleigh, Summers, Wyoming;

4 (2) Education service center 2 – Cabell, Lincoln, Logan, Mason, Mingo, Wayne;

5 (3) Education service center 3 – Boone, Clay, Kanawha, Putnam;

6 (4) Education service center 4 – Braxton, Fayette, Greenbrier, Nicholas, Pocahontas,
7 Webster;

8 (5) Education service center 5 – Calhoun, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt,

9 Wood:

10 (6) Education service center 6 – Brooke, Hancock, Marshall, Ohio, Wetzel;

11 (7) Education service center 7 – Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion,
12 Monongalia, Preston, Randolph, Taylor, Tucker, Upshur; and

13 (8) Education service center 8 – Berkeley, Grant, Hampshire, Hardy, Jefferson, Mineral,
14 Morgan, Pendleton.

15 (b) The school district membership set forth in subsection (a) of this section is subject to
16 the following:

17 (1) Every district scoring below the fiftieth percentile on the comprehensive statewide
18 student assessment shall be a member of an education service center;

19 (2) Any district scoring at the fiftieth percentile or above on the comprehensive statewide
20 student assessment is not required to be a member of any education service center;

21 (3) Any district may apply to be a member of a different education service center, and if
22 the regional council of the other center votes to approve the district's application, the district
23 ceases membership with its current center and begins membership with the accepting center;

24 (4) If a district for any reason fails to comply with subdivision (1) of this subsection for more
25 than sixty days, a random selection system approved by all of the existing centers shall be used
26 to determine which center the district becomes a member of.

27 (5) Any two or more education service centers may merge into one center in which case
28 a new regional council shall be created in accordance with section five of this article;

29 (6) Any three or more counties from different education service centers may form a new
30 center;

31 (7) Any change in status of a district's membership with an education service center
32 pursuant to this subsection shall be made by April 1 and become effective at the beginning of the
33 next fiscal year. In the case of a district applying to membership with a different center, the other
34 center must approve the district's application by April 1;

35 (8) No change in the status of a district's membership may occur before April 1, 2019, and
36 no district may change its membership status more than once every four years;

37 (9) Any district may purchase services from any education service center that agrees to
38 sell the services regardless of whether the district is a member of the center; and

39 (10) If any education service center ceases to have fewer than three member districts, the
40 center and its regional council are abolished.

§18-5F-5. Governance structure.

1 (a) The county board of each school district member of an education service center shall
2 appoint one of its members to the regional council so that the regional council consists of one
3 county board member from each of the center's school district members, subject to the following:

4 (1) No county board President is eligible to be a member of the regional council;

5 (2) If any education service center has three school districts as a member, then each
6 county board shall appoint two of its members to the regional council; and

7 (3) If any school district is not a member of an education service center, then the county
8 board of that district shall act as the regional council.

9 (b) The state board may appoint to the regional councils nonvoting members who are
10 representatives from other agencies and institutions who have interest or expertise in the
11 development or implementation of regional education programs.

12 (c) The state superintendent may appoint to the regional councils nonvoting member
13 representatives from the West Virginia Department of Education who shall meet with their
14 respective regional council at least quarterly.

15 (d) Each regional council is ultimately responsible for achieving the purposes of this article
16 and providing education services to each of its county school district members. The regional
17 council may hire an executive director and set forth the duties of the executive director. The
18 regional council also may hire other officers. If the regional council hires an executive director or
19 other officers, he, she or they are at-will employees of the regional council and not employees of

20 any of its member county boards. The regional council may but is not required to employ an
21 executive director that was employed by one of the regional education service agencies before
22 those agencies were dissolved. Each regional council also shall select one of its member county
23 school districts to act as the fiscal agent for the education service center, or in the alternative,
24 may form a nonprofit corporation pursuant to chapter thirty-one-e of this code.

25 (e) The education service centers are authorized to employ other staff, as determined
26 necessary by the regional council: *Provided*, That any staff employed shall be employees of the
27 regional council and not any of the member county boards. The centers may but are not required
28 to employ staff that were employed by the regional education service agencies before those
29 agencies were dissolved.

30 (f) Each regional council shall establish standards for service delivery by its education
31 service center. These standards may be revised annually and shall include, but are not limited to,
32 programs and services to fulfill the purposes set forth in this article. The standards established by
33 the state board and in effect on June 30, 2017, for the regional education service agencies may
34 be adopted and/or modified by the regional council.

35 (g) Each education service center shall conform to the standards and requirements
36 prescribed by the State Auditor.

37 (h) Education service centers may acquire and hold real property.

§18-5F-6. Regional services.

1 (a) In furtherance of the purposes provided in this article, the regional council of each
2 education service center shall continually explore possibilities for the delivery of services on a
3 regional basis which will facilitate equality in the education offerings among its member county
4 school districts, permit the delivery of high quality education programs at a lower per student cost,
5 strengthen the cost effectiveness of education funding resources, reduce administrative and/or
6 operational costs, including the consolidation of administrative, coordinating and other county
7 level functions into region level functions, and promote the efficient administration and operation

8 of the public school systems generally.

9 (b) Technical, operational, programmatic or professional services are among the types of
10 services appropriate for delivery on a regional basis. Nothing in this section prohibits education
11 service centers from cooperating, sharing or combining services or programs with each other, at
12 their discretion, to further the purposes of this section.

§18-5F-7. Virtual education.

1 The various education service centers shall develop an effective model for the regional
2 delivery of instruction in subjects where there exists low student enrollment or a shortage of
3 certified teachers or where the delivery method substantially improves the quality of an
4 instructional program. The model shall incorporate an interactive electronic classroom approach
5 to instruction. To the extent funds are appropriated or otherwise available, county boards or
6 education service centers may adopt and utilize the model for the delivery of the instruction.

§18-5F-8. Reports and evaluations.

1 Each education service center shall submit to each county board that is a member of the
2 center and the state superintendent by December 1 a report and evaluation of the technical
3 assistance and other services provided and utilized by the schools within each respective region
4 and their effectiveness. Additionally, any school may submit an evaluation of the services
5 provided by the center to the regional council of the center and state superintendent at any time.
6 This report shall include an evaluation of the education service center program, suggestions on
7 methods to improve utilization and suggestions on the development of new programs and the
8 enhancement of existing programs. The reports and evaluations submitted pursuant to this
9 subsection shall be submitted to the state board and shall be made available upon request to the
10 standing committees on education of the West Virginia Senate and House of Delegates and to
11 the secretary of education and the arts.

§18-5F-9. Funding sources; employee expenses; county board members not eligible for
center employment; employee benefit eligibility; meetings and compensation.

1 (a) Funding sources. -- An education service center may receive and disburse funds from
2 the state and federal governments, from member counties, or from gifts and grants.

3 (b) Employee expenses. -- Notwithstanding any other provision of this code to the
4 contrary, employees of education service centers shall be reimbursed for travel, meals and
5 lodging at the same rate as state employees under the travel management office of the
6 Department of Administration.

7 (c) A county board member may not be an employee of an education service center.

8 (d) No employees of an education service center, including an executive director or any
9 other officers, are eligible for any insurance plan provided for under article sixteen, chapter five of
10 this code; for participation in the State Teachers Retirement System provided in article seven-a
11 of this chapter; or for participation in the Teachers' Defined Contribution Retirement System
12 provided for in article seven-b of this chapter.

13 (e) Meetings and compensation. --

14 (1) Regional councils shall hold at least one half of their regular meetings during hours
15 other than those of a regular school day. For any education service center that hires an executive
16 director, the executive director of the center shall attend at least one meeting of each of the
17 member county boards of education each year to explain the center's services, garner
18 suggestions for program improvement and provide any other information as may be requested by
19 the county board.

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

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-10. Foundation allowance to improve instructional programs.

1 (a) The total allowance to improve instructional programs shall be the sum of the following:

2 (1) For instructional improvement, in accordance with county and school electronic
3 strategic improvement plans required by section five, article two-e of this chapter, an amount
4 equal to ten percent of the increase in the local share amount for the next school year above any
5 required allocation pursuant to section six-b of this article shall be added to the amount of the
6 appropriation for this purpose for the immediately preceding school year. The sum of these
7 amounts shall be distributed to the counties as follows:

8 (A) One hundred fifty thousand dollars shall be allocated to each county; and

9 (B) Distribution to the counties of the remainder of these funds shall be made proportional
10 to the average of each county's average daily attendance for the preceding year and the county's
11 second month net enrollment.

12 Moneys allocated by provision of this subdivision shall be used to improve instructional
13 programs according to the county and school strategic improvement plans required by section
14 five, article two-e of this chapter and approved by the state board: *Provided*, That notwithstanding
15 any other provision of this code to the contrary, moneys allocated by provision of this section also
16 may be used in the implementation and maintenance of the uniform integrated regional computer
17 information system.

18 Up to twenty-five percent of this allocation may be used to employ professional educators
19 and service personnel in counties after all applicable provisions of sections four and five of this
20 article have been fully utilized.

21 Prior to the use of any funds from this subdivision for personnel costs, the county board
22 must receive authorization from the state superintendent. The state superintendent shall require
23 the county board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal
24 responsibility in staffing; (3) sharing of services with adjoining counties and ~~regional educational~~
25 ~~service agency for that county~~ education service center of which that county is a member in the
26 use of the total local district board budget; and (4) employment of technology integration

27 specialists to meet the needs for implementation of the West Virginia Strategic Technology
28 Learning Plan. County boards shall make application for the use of funds for personnel for the
29 next fiscal year by May 1 of each year. On or before June 1, the state superintendent shall review
30 all applications and notify applying county boards of the approval or disapproval of the use of
31 funds for personnel during the fiscal year appropriate. The state superintendent shall require the
32 county board to demonstrate the need for an allocation for personnel based upon the county's
33 inability to meet the requirements of state law or state board policy.

34 The provisions relating to the use of any funds from this subdivision for personnel costs
35 are subject to the following: (1) The funds available for personnel under this subsection may not
36 be used to increase the total number of professional noninstructional personnel in the central
37 office beyond four; and (2) For the school year beginning July 1, 2013, and thereafter, any funds
38 available to a county for use for personnel under this subsection above the amount available for
39 the 2012-2013 school year, only may be used for technology systems specialists until the state
40 superintendent determines that the county has sufficient technology systems specialists to serve
41 the needs of the county.

42 The plan shall be made available for distribution to the public at the office of each affected
43 county board; plus

44 (2) For the purposes of improving instructional technology, an amount equal to twenty
45 percent of the increase in the local share amount for the next school year above any required
46 allocation pursuant to section six-b of this article shall be added to the amount of the appropriation
47 for this purpose for the immediately preceding school year. The sum of these amounts shall be
48 distributed to the counties as follows:

49 (A) Thirty thousand dollars shall be allocated to each county; and

50 (B) Distribution to the counties of the remainder of these funds shall be made proportional
51 to the average of each county's average daily attendance for the preceding year and the county's
52 second month net enrollment.

53 Effective July 1, 2014, moneys allocated by provision of this subdivision shall be used to
54 improve instructional technology programs according to the county and school strategic
55 improvement plans; plus

56 (3) One percent of the state average per pupil state aid multiplied by the number of
57 students enrolled in dual credit, advanced placement and international baccalaureate courses, as
58 defined by the state board, distributed to the counties proportionate to enrollment in these courses
59 in each county; plus

60 (4) An amount not less than the amount required to meet debt service requirements on
61 any revenue bonds issued prior to January 1, 1994, and the debt service requirements on any
62 revenue bonds issued for the purpose of refunding revenue bonds issued prior to January 1,
63 1994, shall be paid into the School Building Capital Improvements Fund created by section six,
64 article nine-d of this chapter and shall be used solely for the purposes of that article. The School
65 Building Capital Improvements Fund shall not be utilized to meet the debt services requirement
66 on any revenue bonds or revenue refunding bonds for which moneys contained within the School
67 Building Debt Service Fund have been pledged for repayment pursuant to that section.

68 (b) When the school improvement bonds secured by funds from the School Building
69 Capital Improvements Fund mature, the State Board of Education shall annually deposit an
70 amount equal to \$24,000,000 from the funds allocated in this section into the School Construction
71 Fund created pursuant to the provisions of section six, article nine-d of this chapter to continue
72 funding school facility construction and improvements.

73 (c) Any project funded by the School Building Authority shall be in accordance with a
74 comprehensive educational facility plan which must be approved by the state board and the
75 School Building Authority.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-2. Definitions.

1 For the purposes of this article, unless a different meaning clearly appears from the

2 context:

3 (1) "Authority" means the School Building Authority of West Virginia;

4 (2) "Bonds" means bonds issued by the authority pursuant to this article;

5 (3) "Construction project" means a project in the furtherance of a facilities plan with a cost
6 greater than \$1 million for the new construction, expansion or major renovation of facilities,
7 buildings and structures for school purposes, including:

8 (A) The acquisition of land for current or future use in connection with the construction
9 project;

10 (B) New or substantial upgrading of existing equipment, machinery and furnishings;

11 (C) Installation of utilities and other similar items related to making the construction project
12 operational; and

13 (D) Construction project does not include such items as books, computers or equipment
14 used for instructional purposes; fuel; supplies; routine utility services fees; routine maintenance
15 costs; ordinary course of business improvements; other items which are customarily considered
16 to result in a current or ordinary course of business operating charge or a major improvement
17 project.

18 (4) "Cost of project" means the cost of construction, expansion, renovation, repair and
19 safety upgrading of facilities, buildings and structures for school purposes; the cost of land,
20 equipment, machinery, furnishings, installation of utilities and other similar items related to making
21 the project operational; and the cost of financing, interest during construction, professional service
22 fees and all other charges or expenses necessary, appurtenant or incidental to the foregoing,
23 including the cost of administration of this article;

24 (5) "Facilities plan" means the ten-year countywide comprehensive educational facilities
25 plan established by a county board in accordance with guidelines adopted by the authority to meet
26 the goals and objectives of this article that:

27 (A) Addresses the existing school facilities and facility needs of the county to provide a

28 thorough and efficient education in accordance with the provisions of this code and policies of the
29 state board;

30 (B) Best serves the needs of individual students, the general school population and the
31 communities served by the facilities, including, but not limited to, providing for a facility
32 infrastructure that avoids excessive school bus transportation times for students consistent with
33 sound educational policy and within the budgetary constraints for staffing and operating the
34 schools of the county;

35 (C) Includes the school major improvement plan;

36 (D) Includes the county board's school access safety plan required by section three, article
37 nine-f of this chapter;

38 (E) Is updated annually to reflect projects completed, current enrollment projections and
39 new or continuing needs; and

40 (F) Is approved by the state board and the authority prior to the distribution of state funds
41 pursuant to this article to any county board or other entity applying for funds.

42 (6) "Project" means a construction project or a major improvement project;

43 (7) "Region" means ~~the area encompassed within and serviced by a regional educational~~
44 ~~service agency established pursuant to section twenty-six, article two of this chapter~~ the county
45 school districts that are members of the same education service center established pursuant to
46 article five-f of this chapter.

47 (8) "Revenue" or "revenues" means moneys:

48 (A) Deposited in the School Building Capital Improvements Fund pursuant to section ten,
49 article nine-a of this chapter;

50 (B) Deposited in the School Construction Fund pursuant to section thirty, article fifteen,
51 chapter eleven of this code and section eighteen, article twenty-two, chapter twenty-nine of this
52 code;

53 (C) Deposited in the School Building Debt Service Fund pursuant to section eighteen,

54 article twenty-two, chapter twenty-nine of this code;

55 (D) Deposited in the School Major Improvement Fund pursuant to section thirty, article
56 fifteen, chapter eleven of this code;

57 (E) Received, directly or indirectly, from any source for use in any project completed
58 pursuant to this article;

59 (F) Received by the authority for the purposes of this article; and

60 (G) Deposited in the Excess Lottery School Building Debt Services Fund pursuant to
61 section eighteen-a, article twenty-two, chapter twenty-nine of this code.

62 (9) "School major improvement plan" means a ten-year school maintenance plan that:

63 (A) Is prepared by a county board in accordance with the guidelines established by the
64 authority and incorporated in its Countywide Comprehensive Educational Facilities Plan, or is
65 prepared by the state board or the administrative council of an area vocational educational center
66 in accordance with the guidelines if the entities seek funding from the authority for a major
67 improvement project;

68 (B) Addresses the regularly scheduled maintenance for all school facilities of the county
69 or under the jurisdiction of the entity seeking funding;

70 (C) Includes a projected repair and replacement schedule for all school facilities of the
71 county or of entity seeking funding;

72 (D) Addresses the major improvement needs of each school within the county or under
73 the jurisdiction of the entity seeking funding; and

74 (E) Is required prior to the distribution of state funds for a major improvement project
75 pursuant to this article to the county board, state board or administrative council; ~~and~~

76 (10) "School major improvement project" means a project with a cost greater than \$50,000
77 and less than \$1 million for the renovation, expansion, repair and safety upgrading of existing
78 school facilities, buildings and structures, including the substantial repair or upgrading of
79 equipment, machinery, building systems, utilities and other similar items related to the renovation,

80 repair or upgrading in the furtherance of a school major improvement plan. A major improvement
81 project does not include such items as books, computers or equipment used for instructional
82 purposes; fuel; supplies; routine utility services fees; routine maintenance costs; ordinary course
83 of business improvements; or other items which are customarily considered to result in a current
84 or ordinary course of business operating charge.

§18-9D-3. Powers of authority.

1 The School Building Authority has the power:

2 (1) To sue and be sued, plead and be impleaded;

3 (2) To have a seal and alter the same at pleasure;

4 (3) To contract to acquire and to acquire, in the name of the authority, by purchase, lease-
5 purchase not to exceed a term of twenty-five years, or otherwise, real property or rights or
6 easements necessary or convenient for its corporate purposes and to exercise the power of
7 eminent domain to accomplish those purposes;

8 (4) To acquire, hold and dispose of real and personal property for its corporate purposes;

9 (5) To make bylaws for the management and rule of its affairs;

10 (6) To appoint, contract with and employ attorneys, bond counsel, accountants,
11 construction and financial experts, underwriters, financial advisers, trustees, managers, officers
12 and such other employees and agents as may be necessary in the judgment of the authority and
13 to fix their compensation: *Provided*, That contracts entered into by the School Building Authority
14 in connection with the issuance of bonds under this article to provide professional and technical
15 services, including, without limitation, accounting, actuarial, underwriting, consulting, trustee,
16 bond counsel, legal services and contracts relating to the purchase or sale of bonds are subject
17 to the provisions of article three, chapter five-a of this code: *Provided, however*, That
18 notwithstanding any other provisions of this code, any authority of the Attorney General of this
19 state relating to the review of contracts and other documents to effectuate the issuance of bonds
20 under this article shall be exclusively limited to the form of the contract and document: *Provided*

21 *further*, That the Attorney General of this state shall complete all reviews of contracts and
22 documents relating to the issuance of bonds under this article within ten calendar days of receipt
23 of the contract and document for review;

24 (7) To make contracts and to execute all instruments necessary or convenient to
25 effectuate the intent of and to exercise the powers granted to it by this article;

26 (8) To renegotiate all contracts entered into by it whenever, due to a change in situation,
27 it appears to the authority that its interests will be best served;

28 (9) To acquire by purchase, eminent domain or otherwise all real property or interests in
29 the property necessary or convenient to accomplish the purposes of this article;

30 (10) To require proper maintenance and insurance of any project authorized under this
31 section, including flood insurance for any facility within the one hundred year flood plain at which
32 authority funds are expended;

33 (11) To charge rent for the use of all or any part of a project or buildings at any time
34 financed, constructed, acquired or improved, in whole or in part, with the revenues of the authority;

35 (12) To assist any county board of education that chooses to acquire land, buildings and
36 capital improvements to existing school buildings and property for use as public school facilities,
37 by lease from a private or public lessor for a term not to exceed twenty-five years with an option
38 to purchase pursuant to an investment contract with the lessor on such terms and conditions as
39 may be determined to be in the best interests of the authority, the State Board of Education and
40 the county board of education, consistent with the purposes of this article, by transferring funds
41 to the State Board of Education as provided in subsection (d), section fifteen of this article for the
42 use of the county board of education;

43 (13) To accept and expend any gift, grant, contribution, bequest or endowment of money
44 and equipment to, or for the benefit of, the authority or any project under this article, from the
45 State of West Virginia or any other source for any or all of the purposes specified in this article or
46 for any one or more of such purposes as may be specified in connection with the gift, grant,

47 contribution, bequest or endowment;

48 (14) To enter on any lands and premises for the purpose of making surveys, soundings
49 and examinations;

50 (15) To contract for architectural, engineering or other professional services considered
51 necessary or economical by the authority to provide consultative or other services to the authority
52 or to any ~~regional educational service agency~~ education service center or county board requesting
53 professional services offered by the authority, to evaluate any facilities plan or any project
54 encompassed in the plan, to inspect existing facilities or any project that has received or may
55 receive funding from the authority or to perform any other service considered by the authority to
56 be necessary or economical. Assistance to the region or district may include the development of
57 preapproved systems, plans, designs, models or documents; advice or oversight on any plan or
58 project; or any other service that may be efficiently provided to ~~regional educational service~~
59 agency education service center agencies or county boards by the authority;

60 (16) To provide funds on an emergency basis to repair or replace property damaged by
61 fire, flood, wind, storm, earthquake or other natural occurrence, the funds to be made available in
62 accordance with guidelines of the School Building Authority;

63 (17) To transfer moneys to custodial accounts maintained by the School Building Authority
64 with a state financial institution from the school construction fund and the school improvement
65 fund created in the State Treasury pursuant to the provisions of section six of this article, as
66 necessary to the performance of any contracts executed by the School Building Authority in
67 accordance with the provisions of this article;

68 (18) To enter into agreements with county boards and persons, firms or corporations to
69 facilitate the development of county board projects and county board facilities plans. The county
70 board participating in an agreement shall pay at least twenty-five percent of the cost of the
71 agreement. Nothing in this section shall be construed to supersede, limit or impair the authority
72 of county boards to develop and prepare their projects or plans;

73 (19) To encourage any project or part thereof to provide opportunities for students to
 74 participate in supervised, unpaid work-based learning experiences related to the student's
 75 program of study approved by the county board. The work-based learning experience must be
 76 conducted in accordance with a formal training plan approved by the instructor, the employer and
 77 the student and which sets forth at a minimum the specific skills to be learned, the required
 78 documentation of work-based learning experiences, the conditions of the placement, including
 79 duration and safety provisions, and provisions for supervision and liability insurance coverage as
 80 applicable. Projects involving the new construction and renovation of vocational-technical and
 81 adult education facilities should provide opportunities for students to participate in supervised
 82 work-based learning experiences, to the extent practical, which meet the requirements of this
 83 subdivision. Nothing in this subdivision may be construed to affect registered youth apprenticeship
 84 programs or the provisions governing those programs; and

85 (20) To do all things necessary or convenient to carry out the powers given in this article.

ARTICLE 9E. AIR QUALITY IN NEW SCHOOLS ACT.

§18-9E-4. Heating, ventilation, and air-conditioning technicians.

1 (a) Subject to appropriation by the Legislature therefor, the state board, in consultation
 2 with the division of health, shall promulgate rules pursuant to article three-b, chapter twenty-nine-
 3 a of this code that will address servicing public school buildings by heating, ventilation and air-
 4 conditioning (HVAC) technicians. The rules shall set forth a job description for the HVAC
 5 technician. At the discretion of the state board, HVAC technicians may be employed by the county
 6 board of education, by the ~~regional educational service agency~~ education service center servicing
 7 the county or by the Department of Education using the funds allocated pursuant to this section.
 8 The hiring entity shall set a salary for the HVAC technician that is competitive with other employers
 9 of HVAC technicians in the region after accounting for annual leave, sick leave, insurance
 10 benefits, retirement benefits and any other benefits provided. Existing employees who have
 11 advanced HVAC skills or existing employees who receive appropriate HVAC training may be

12 utilized as HVAC technicians. The rules also shall provide for sufficient continuing education
 13 training for HVAC technicians to maintain proficiency in the changing technologies in the field.
 14 The rules shall be submitted to the Legislative Oversight commission on educational
 15 accountability prior to September 1, 1999.

16 (b) County boards, ~~regional educational service agency~~ education service center and the
 17 Department of Education shall have the option to contract for HVAC services from prequalified
 18 vendors if this option is more cost effective than using existing employees or creating a new
 19 position: *Provided*, That an existing employee may not be displaced by contracting for HVAC
 20 technician services: *Provided, however*, That HVAC services that have been performed in the
 21 past or which require knowledge and experience the employer does not have access to, may be
 22 contracted out to a prequalified vendor.

23 (c) Funds appropriated for the purpose of hiring HVAC technicians shall be appropriated
 24 originally to the Department of Education. The Department of Education then may allocate the
 25 funds to the ~~regional educational service agencies~~ education service centers or to the counties,
 26 depending upon which entity employs the HVAC technician as specified by rule.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.

§18A-3-1a. Alternative programs for the education of teachers; purpose; definitions.

1 (a) *Purpose.* – Sections one-a, one-b, one-c, one-d, one-e, one-f, one-g, one-h and one-i
 2 of this article create an alternative means for a qualified person to earn a professional teaching
 3 certificate. These sections authorize a school or a school district to offer a rigorous alternative
 4 program for teacher certification in partnership with an accredited higher education institution, an
 5 entity affiliated with an accredited higher education institution, the West Virginia Department of
 6 Education or a ~~regional educational service agency~~ an education service agency, all under the

7 supervision of the state board.

8 (b) *Definitions.* -- For the purposes of this section and sections one-b, one-c, one-d, one-
9 e, one-f, one-g, one-h and one-i of this article, the following terms have the meanings ascribed to
10 them, unless the context in which a term is used clearly requires a different meaning:

11 (1) "Alternative program" means a program for teacher education that is offered as an
12 alternative to the standard college or university programs for the education of teachers;

13 (2) "Alternative program teacher" means a teacher who holds an alternative program
14 teacher certificate and who participates in an alternative program;

15 (3) "Area of critical need and shortage" means an opening in an established, existing or
16 newly-created position which has been posted at least two times in accordance with section
17 seven-a, article four of this chapter and for which no fully-qualified applicant has been employed;

18 (4) "Alternative program teacher certificate" means a temporary teacher certificate that
19 authorizes a person to teach while participating in an alternative program;

20 (5) "Approved alternative program" means an alternative program that is approved by the
21 state board in accordance with section one-e of this article;

22 (6) "Approved education provider" means a partnership that the state board has approved
23 to provide an alternative program;

24 (7) "Partnership" means a partnership formed pursuant to section one-b of this article to
25 provide an alternative program;

26 (8) "Partnership agreement" means an agreement adopted by a partnership pursuant to
27 section one-b of this article; and

28 (9) "Professional support team" means the group of persons that an approved education
29 provider has selected to train and supervise alternative program teachers.

§18A-3-1b. Alternative program partnerships; formation; necessary partners; partnership agreements; single-provider programs.

1 (a) *Formation.* – One or more schools or school districts, or any combination of these, may

2 form a partnership with one or more institutions of higher education, one or more entities affiliated
3 with an institution of higher education, the West Virginia Department of Education, ~~a regional~~
4 ~~education service agency~~ and education service center, or any combination of these, to provide
5 an alternative program.

6 (b) *Necessary partners.* – Except as provided in subsection (d) of this section, a
7 partnership shall include at least one of the following:

8 (1) An institution of higher education with an accredited program for the education of
9 professional educators that has been approved by the state board;

10 (2) An entity affiliated with an institution of higher education that has an accredited
11 program for the education of professional educators that has been approved by the state board;

12 (3) The West Virginia Department of Education; or

13 (4) ~~A regional education service agency~~ An education service center.

14 (c) *Partnership agreement contents.* – A partnership shall adopt a written partnership
15 agreement that governs how the partnership will conduct its alternative program and that identifies
16 the rights and responsibilities of each partner. The partnership agreement shall include, at a
17 minimum, the following elements:

18 (1) Procedures and criteria for determining whether a person is eligible to enroll in the
19 alternative program;

20 (2) A requirement that a vacancy has to be advertised for a ten day period, and if no
21 qualified traditional certified teacher applies, only then may the partnership consider enrolling as
22 person in the alternative program;

23 (3) Procedures and criteria for making a formal offer of employment to a person who is
24 eligible to enroll in the alternative program;

25 (4) A detailed list, with descriptions, of the categories, methods and sources of instruction
26 that the alternative program will provide;

27 (5) A detailed description of the phases of on-the-job training and supervision that the

28 alternative program will provide;

29 (6) A detailed description of the academic and performance standards that an alternative
30 program teacher shall satisfy to receive the partnership's recommendation that the state
31 superintendent issue to him or her a professional teaching certificate;

32 (7) Procedures for selecting and training the professional support team who will instruct,
33 mentor or supervise alternative program teachers;

34 (8) Provisions for determining tuition or other charges, if any, relating to an alternative
35 program;

36 (9) A requirement, subject to the provisions of subsection (e), subsection one-f of this
37 article, that the hiring authority for any school or school district that hires an alternative program
38 teacher will renew the alternative program teacher's contract from year to year as long as he or
39 she makes satisfactory progress in the alternative education program and until he or she
40 completes the alternative program; and

41 (10) Any other provisions that the partners consider necessary or helpful to ensure that
42 the alternative program operates in accordance with this chapter.

§18A-3-11. Fellowship for 21st Century Learners.

1 (a) The Legislature finds that:

2 (1) There are instances, especially for the purpose of professional development, where it
3 would be beneficial for persons who are members of the Teachers' Retirement System or the
4 Teachers' Defined Contribution System to be employed by state institutions of higher education
5 or research corporations;

6 (2) Members of the Teachers' Retirement System are discouraged from terminating their
7 membership to that system because their annuity is based on their final average salary and their
8 total service credit;

9 (3) A member of the Teachers' Defined Contribution System may be discouraged from
10 terminating his or her membership to that system because the member may be completely vested

11 in that system or have made substantial progress toward being vested;

12 (4) These members also are discouraged from leaving employment that allows them to
13 participate in the Public Employees Insurance Program pursuant to article sixteen, chapter five of
14 this code; and

15 (5) An example of this beneficial arrangement would be the employment of a member of
16 the Teachers' Retirement System or a member of the Teachers' Defined Contribution System by
17 an entity that otherwise would not be considered an employer under article seven-a, chapter
18 eighteen of this code or article seven-b, chapter eighteen of this code for the purpose of working
19 on a joint professional development project between higher education and public education.

20 (b) For the purposes of this section only, unless the context clearly indicates otherwise:

21 (1) "Employer" means either the state institution of higher education or the research
22 corporation employing a 21st Century Learner Fellow;

23 (2) "Research corporation" means a corporation meeting the description set forth in
24 section three, article twelve, chapter eighteen-b of this code; and

25 (3) "State institution of higher education" means the same as defined in section two, article
26 one, chapter eighteen-b of this code.

27 (c) The State Superintendent is authorized to designate up to twenty-five professional
28 educators who are currently employed and who are members of either the Teachers' Retirement
29 System set forth in article seven-a, chapter eighteen of this code or the Teachers' Defined
30 Contribution System set forth in article seven-b, chapter eighteen of this code as 21st Century
31 Learner Fellows, subject to the following:

32 (1) Before designating a person as a 21st Century Learner Fellow, the state
33 superintendent shall consult with the state institution of higher education or the research
34 corporation that would employ the member if designated;

35 (2) In determining whether or not to designate a person as a 21st Century Learner Fellow,
36 the state superintendent shall give preference to a person who:

37 (A) Is certified by the National Board for Professional Teaching Standards; and

38 (B) Demonstrates leadership within his or her content field in the county, ~~regional~~
39 ~~education service agency area~~ the school district members of an education service center or the
40 state;

41 (3) The duration of the person's designation as a 21st Century Learner Fellow shall be for
42 the period in which the specific project to be undertaken by the person will last as determined by
43 the state superintendent at the time he or she designates the person; and

44 (4) Only the employer may terminate the employment of a person designated as a 21st
45 Century Learner Fellow prior to the end of the duration of the person's designation as set forth in
46 subsection (3) of this subsection.

47 (d) Notwithstanding any other provision of the code to the contrary, the professional
48 educators designated as 21st Century Learner Fellows may elect to remain a member of the
49 retirement system in which they were a member of immediately preceding their designation while
50 they are employed by either a state institution of higher education or a research corporation,
51 subject to the following:

52 (1) This authorization to remain a member of the retirement system in which they were a
53 member of immediately preceding their designation only applies to authorization to remain a
54 member of either the Teachers' Retirement System set forth in article seven-a, chapter eighteen
55 of this code or to the Teachers' Defined Contribution System set forth in article seven-b, chapter
56 eighteen of this code, but not both;

57 (2) Both the employer and the member each shall contribute their share as required by
58 article seven-a, chapter eighteen of this code or article seven-b, chapter eighteen of this code, as
59 applicable;

60 (3) If a 21st Century Learner Fellow elects to remain a member of either the Teachers'
61 Retirement System set forth in article seven-a, chapter eighteen of this code or the Teachers'
62 Defined Contribution System set forth in article seven-b, chapter eighteen of this code, he or she

63 may not participate in any retirement plan offered by the employer; and

64 (4) Notwithstanding any other provision of law to the contrary, the employer does not
65 assume any liability for benefits accrued by the 21st Century Learner Fellow while he or she was
66 employed by any other entity.

67 (e) Notwithstanding any other provision of code to the contrary, each 21st Century Learner
68 Fellow also qualifies as an employee for the purposes of being authorized to participate in the
69 Public Employees Insurance Program pursuant to article sixteen, chapter five of this code and
70 the state institution of higher education or the research corporation, as applicable, shall be
71 considered an employer under that program, subject to the following:

72 (1) The state institution of higher education or the research corporation, as applicable, is
73 not considered an employer with respect to any employee other than a 21st Century Learner
74 Fellow;

75 (2) For any employee that elects to participate in the program pursuant to this subdivision,
76 the employer shall pay their share of the premium and the employee shall pay his or her share of
77 the premium pursuant to article sixteen, chapter five of this code; and

78 (3) Notwithstanding any other provision of law to the contrary, the employer does not
79 assume any liability for benefits accrued by the 21st Century Learner Fellow while he or she was
80 employed by any other entity.

81 (f) Notwithstanding any other provision of law to the contrary:

82 (1) The employer is not responsible for any accrued annual leave, sick leave or both that
83 a 21st Century Learner Fellow has accumulated during any prior employment; and

84 (2) If a 21st Century Learner Fellow has accumulated sick leave from prior employment,
85 and if not for this subsection that sick leave obligation or any part of that obligation otherwise
86 would have been transferred to the employer, after expending all sick leave accrued with the
87 employer, the 21st Century Learner may expend the sick leave accumulated with the prior
88 employer, and the prior employer is responsible for paying the cost of the sick leave expended by

89 the 21st Century Learner Fellow at a rate equivalent to the salary and benefits paid to the 21st
90 Century Learner Fellow at the time his or her employment with the prior employer ended.

ARTICLE 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.

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

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

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

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

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

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

27 (A) Entitled to vote; and

28 (B) A cochair of the board.

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

30 (3) One person employed by West Virginia University and one person employed by
31 Marshall University, both of whom are:

32 (A) Appointed by the president of the employing institution;

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

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

35 (4) ~~One regional education service agency executive director, elected by all of the regional~~
36 ~~education service agency executive directors~~ education service center representative elected by
37 the education service centers. Each education service center is entitled to one vote;

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

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

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

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

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

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

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

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

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

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

54 (2) The ~~regional education service agency executive directors~~ education service centers
55 shall elect an ~~executive director~~ education service center representative to fill the unexpired term
56 of any ~~executive director who ceases to be employed in that capacity~~ vacancy in the education
57 service center membership. Each education service center is entitled to one vote.

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

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

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

68 (f) The position of executive director is abolished. The Governor shall appoint, by and with
69 the advice and consent of the Senate, a chief executive officer with knowledge and experience in
70 professional development and management principles. Any reference in this code to the
71 Executive Director of the Center for Professional Development means the Chief Executive Officer.
72 From appropriations to the Center for Professional Development, the center board sets the salary
73 of the chief executive officer. The center board, upon the recommendation of the chief executive

74 officer, may employ other staff necessary to carry out the mission and duties of the center. The
75 chief executive officer serves at the will and pleasure of the Governor. Annually, the center board
76 shall evaluate the chief executive officer, and shall report the results to the Governor. The duties
77 of the chief executive officer include:

- 78 (1) Managing the daily operations of the center;
- 79 (2) Ensuring the implementation of the center's mission;
- 80 (3) Ensuring collaboration of the center with other professional development providers;
- 81 (4) Requesting from the Governor and the Legislature any resources or statutory changes
82 that would help in enhancing the collaboration of all professional development providers in the
83 state, in advancing the quality of professional development through any other means or both;
- 84 (5) Serving as the Chair of the Principals Standards Advisory Council created in section
85 two-c, article three of this chapter and convening regular meetings of this council to effectuate its
86 purposes; and
- 87 (6) Other duties as assigned by the Governor or the center board.
- 88 (g) When practicable, personnel employed by state higher education agencies and state,
89 regional and county public education agencies shall be made available to the center to assist in
90 the operation of projects of limited duration, subject to the provisions of section twenty-four, article
91 two, chapter eighteen of this code.
- 92 (h) The center shall assist in the delivery of programs and activities pursuant to this article
93 to meet statewide, and if needed as determined by the goals and Master Plan for Professional
94 Staff Development established by the state board pursuant to article two-i, chapter eighteen-a of
95 this code, the local professional development needs of paraprofessionals, teachers, principals
96 and administrators and may contract with existing agencies or agencies created after the effective
97 date of this section or others to provide training programs in the most efficient manner. Existing
98 programs currently based in agencies of the state shall be continued in the agency of their origin
99 unless the center establishes a compelling need to transfer or cancel the existing program. The

100 center shall recommend to the Governor the transfer of funds to the providing agency, if needed,
101 to provide programs approved by the center.

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

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

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

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

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

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

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 1. DIVISION OF CULTURE AND HISTORY.

§29-1-3. Commission on the arts.

1 (a) The commission on the arts is continued and shall be composed of fifteen appointed
2 voting members and the ex officio nonvoting members set forth or authorized for appointment in
3 this section.

4 (b)(1) The Governor shall appoint, by and with the advice and consent of the Senate, the
5 voting members of the commission for staggered terms of three years. A person appointed to fill
6 a vacancy shall be appointed only for the remainder of that term.

7 (2) No more than eight voting members may be of the same political party. ~~Effective July~~
8 ~~1, 2004, No more than three voting members may be from the same regional educational service~~
9 ~~agency district created in section twenty-six, article two, chapter eighteen of this code~~ education
10 service center established in article five-f, chapter eighteen of this code as those districts existed
11 on July 1, 2017. Voting members of the commission shall be appointed so as to fairly represent
12 both sexes, the ethnic and cultural diversity of the state and the geographic regions of the state.

13 (3) The commission shall elect one of its members as chair. It shall meet at the times
14 specified by the chair. Notice of each meeting shall be given to each member by the chair in
15 compliance with the open meetings laws of the state. A majority of the voting members constitute
16 a quorum for the transaction of business. The director of the arts section shall be an ex officio
17 nonvoting member of the commission and shall serve as secretary. The director or a majority of
18 the members also may call a meeting upon notice as provided in this section.

19 (4) Each voting member or ex officio nonvoting member of the commission shall serve
20 without compensation, but shall be reimbursed for all reasonable and necessary expenses
21 actually incurred in the performance of the duties of the office; except that in the event the
22 expenses are paid, or are to be paid, by a third party, the member or ex officio member, as the
23 case may be, shall not be reimbursed by the state.

24 (5) Upon recommendation of the commissioner, the Governor also may appoint those
25 officers of the state that are appropriate to serve on the commission as ex officio nonvoting
26 members.

27 (c) The commission may:

28 (1) Advise the commissioner and the director of the arts section concerning the
29 accomplishment of the purposes of that section and establish a state plan with respect to the arts
30 section;

31 (2) Approve and distribute grants-in-aid and awards from federal and state funds relating
32 to the purposes of the arts section;

33 (3) Request, accept or expend federal funds to accomplish the purposes of the arts section
34 when federal law or regulations would prohibit those actions by the commissioner or section
35 director, but would permit them to be done by the commission on the arts;

36 (4) Otherwise encourage and promote the purposes of the arts section;

37 (5) Approve rules concerning the professional policies and functions of the section as
38 promulgated by the director of the arts section; and

39 (6) Advise and consent to the appointment of the director by the commissioner.

40 (d) A special revenue account in the State Treasury, known as the "cultural facilities and
41 capital resources matching grant program fund", is continued. The fund shall consist of moneys
42 received under section ten, article twenty-two-a of this chapter and funds from any other source.
43 The moneys in the fund shall be expended in accordance with the following:

44 (1) Fifty percent of the moneys deposited in the fund shall be expended by the commission
45 on the arts for capital improvements, preservation and operations of cultural facilities: *Provided,*
46 That the commission on the arts may use no more than twenty-five percent of the funding for
47 operations of cultural facilities pursuant to the rule required by this subdivision: *Provided,*
48 *however,* That the commission shall make a women's veterans memorial statue a priority when
49 expending the funds: *Provided further,* That the commission shall submit the plans for the statue
50 to the secretary of administration for his or her approval. The commission on the arts shall propose
51 rules for legislative approval in accordance with the provisions of article three, chapter twenty-
52 nine-a of this code to create a matching grant program for cultural facilities and capital resources;

53 and

54 (2) Fifty percent of the moneys deposited in the fund shall be expended by the Division of
55 Culture and History for:

56 (A) Capital improvements, preservation and operation of cultural facilities that are
57 managed by the division; and

58 (B) Capital improvements, preservation and operation of cultural facilities that are not
59 managed by the division.

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

§30-21-2. Definitions.

1 Unless the context in which used clearly requires a different meaning, as used in this
2 article:

3 (a) "Applicant" means any person making application for an original or renewal license or
4 a temporary permit under the provisions of this article.

5 (b) "Licensee" means any person holding a license or a temporary permit issued under
6 the provisions of this article.

7 (c) "Board" means the board of examiners of psychologists created by this article.

8 (d) "Psychology" means the science involving the principles, methods and procedures of
9 understanding, predicting and influencing behavior; the principles pertaining to learning,
10 perception, motivation, thinking, emotions and interpersonal relationships; the methods and
11 procedures of interviewing and counseling; the methods and procedures of psychotherapy,
12 meaning the use of learning, conditioning methods and emotional reactions, in a professional
13 relationship, to assist a person or persons to modify feelings, attitudes and behavior, which are
14 intellectually, socially or emotionally maladjustive or ineffectual; the constructing, administering
15 and interpreting of tests of intelligence, special abilities, aptitudes, interests, attitudes, personality

16 characteristics, emotions and motivation; the psychological evaluation, prevention and
17 improvements of adjustment problems of individuals and groups; and the resolution of
18 interpersonal and social conflicts.

19 (e) "Practice of psychology" means the rendering or offering to render for a fee, salary or
20 other compensation, monetary or otherwise, any psychological service involving: (i) The
21 application of the principles, methods and procedures of understanding, predicting and influencing
22 behavior; (ii) the application of the principles pertaining to learning, perception, motivation,
23 thinking, emotions and interpersonal relationships; (iii) the application of the methods and
24 procedures of interviewing and counseling; (iv) the application of the methods and procedures of
25 psychotherapy, meaning the use of learning, conditioning methods and emotional reactions, in a
26 professional relationship, to assist a person or persons to modify feelings, attitudes and behavior,
27 which are intellectually, socially or emotionally maladjustive or ineffectual; (v) the constructing,
28 administering and interpreting of tests of intelligence, special abilities, aptitudes, interests,
29 attitudes, personality characteristics, emotions and motivation; (vi) the psychological evaluation,
30 prevention and improvement of adjustment problems of individuals and groups; and (vii) the
31 resolution of interpersonal and social conflicts.

32 However, for the purpose of this article, the term "practice of psychology" shall not include:

33 (1) Teaching, lecturing or engaging in research in psychology as part of salaried
34 employment at an institution of higher learning;

35 (2) The official duties of a person employed as a psychologist by the State of West Virginia
36 or any of its departments, agencies, divisions or bureaus, or local governments, except for the
37 West Virginia Department of Education, a county board of education, or ~~a regional education~~
38 ~~agency~~ an education service center, which duties are performed under the direct and regular
39 supervision of a licensee;

40 (3) The official duties of a person employed as a psychologist by any department, agency,
41 division or bureau of the United States of America;

42 (4) The official duties of a person working under the direct and regular supervision of a
43 licensee for the purpose of gaining the experience required for a license hereunder by the
44 provisions of subdivision (4), subsection (a), section seven of this article, which experience is of
45 a type approved by the board;

46 (5) The use, in good faith, of certain psychological techniques, procedures, methods and
47 principles as an incident to engaging in a recognized occupation or profession, other than the
48 practice of psychology, including, but not limited to, the occupation or profession of a physician,
49 lawyer, dentist, social worker, sociologist, political scientist, economist, probation or parole officer,
50 rehabilitation or marriage counselor, clergyman, audiologist, speech pathologist, teacher,
51 educational or guidance counselor and a placement or personnel director;

52 (6) The activities of a student of psychology, psychological intern or psychological
53 resident, which activities are a part of and are engaged in pursuant to a course of study at an
54 institution of higher learning; or

55 (7) The activities of an assistant or technician which are performed under the direct and
56 regular supervision of a licensee.

57 (f) "Examination" means the examination in psychology required by subdivision (5),
58 subsection (a), section seven of this article.

59 (g) "School psychological services" means the activities which school psychologists may
60 engage in to promote mental health and to facilitate the education of school age children, which
61 include, but are not limited to, the following:

62 (A) Consultation, which includes collaboration with individuals and groups of school
63 personnel, parents, families and representatives of community agencies;

64 (B) Psychological and psychoeducational assessment, which includes the gathering,
65 interpreting and communicating of information derived from the assessment process which relates
66 to learning and behavior;

67 (C) Intervention, which includes individual and group counseling, behavioral intervention

68 and crisis intervention;

69 (D) Education, which includes parent training, school inservice and community education;

70 (E) Facilitation, which includes assisting in developing useful communication between
71 diverse groups of people separated by institutional, bureaucratic, educational or other barriers;

72 (F) Research, which includes designing, reporting and utilizing the results of research of
73 a psychological nature;

74 (G) Program planning and evaluation, which includes program development, program
75 implementation, program evaluation and problem solving for organizational decision making;

76 (H) Supervision, which includes the supervision of intern school psychologists, other
77 school psychologists and personnel contracted to provide either psychological or
78 psychoeducational assessment data;

79 However, for the purpose of this article, the term "practice of school psychology" shall not
80 include:

81 (1) The activities of clinical, counseling, child, industrial, health, and other types of
82 psychology which the board determines to be outside the scope of school psychology activities;

83 (2) Teaching, lecturing or engaging in research in school psychology as part of salaried
84 employment at an institution of higher learning;

85 (3) The official duties of a person employed as a school psychologist by the State of West
86 Virginia or any of its departments, agencies, divisions or bureaus, or local governments, except
87 for the West Virginia Department of Education, a county board of education, or a ~~regional~~
88 ~~education agency~~ an education service center, which duties are performed under the direct and
89 regular supervision of a licensee;

90 (4) The official duties of a person employed as a school psychologist by any department,
91 agency, division or bureau of the United States of America;

92 (5) The official duties of a school psychologist working under the direct and regular
93 supervision of a licensee for the purpose of gaining the experience required for a license

94 hereunder by the provisions of subdivision (4), subsection (a), section seven of this article, which
95 experience is of a type approved by the board;

96 (6) The use, in good faith, of certain psychological techniques, procedures, methods and
97 principles as an incident to engaging in a recognized occupation or profession, other than the
98 practice of school psychology, including, but not limited to, the occupation or profession of a
99 physician, lawyer, dentist, social worker, sociologist, political scientist, economist, probation or
100 parole officer, rehabilitation or marriage counselor, clergyman, audiologist, speech pathologist,
101 teacher, educational or guidance counselor and placement or personnel director;

102 (7) The activities of a student of school psychology, school psychological intern or extern,
103 which activities are a part of and are engaged in pursuant to a course of study at an institution of
104 higher learning;

105 (8) The activities of an assistant or technician which are performed under the direct and
106 regular supervision of a licensee.

107 (h) "Practice of school psychology" means the rendering or offering to render for a fee,
108 salary or other compensation to an individual or to the public school psychological services as
109 defined in this article;

110 (i) "School psychologist" means any person who proposes to provide school psychological
111 services as defined herein, to the public and in so doing claims to have the knowledge, training,
112 expertise and ethical standards necessary to engage in such practice;

113 (j) "School board" means a West Virginia county school board and also means the West
114 Virginia Department of Education, or ~~a regional education agency~~ an education service center.

115 (k) "School board employee" means any person who provides services for the school
116 board and is reimbursed via a salary and benefits and who has met the educational requirements
117 under the state law and regulations of the West Virginia Board of Education to be certified or
118 otherwise empowered by the State Superintendent of Schools to provide school psychological
119 services for school boards;

120 (l) "School board contractee" means any person who provides services for one or more
 121 school boards and is reimbursed on a per evaluation, per unit of service, or some other contract
 122 basis;

123 (m) "School psychologist resident" means a school psychologist who provides school
 124 psychology services on a school board property and is a school board employee;

125 (n) "Licensed school psychologist" means a school psychologist who provides school
 126 psychology services on school board property and is a school board employee or contractee;

127 (o) "Licensed school psychologist independent practitioners" means a school psychologist
 128 who provides school psychology services to an individual or the public on school board or
 129 nonschool board property, and provide such services for a fee or other compensation, or as a
 130 school board employee or contractee.

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~~ education service centers, municipalities or any other facilities or programs established,
 9 supported or funded, in 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 ~~regional education service~~
36 ~~agencies~~ an education service center; 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 replace regional education service agencies with education service centers. The bill provides for transfer of property, equipment and records. The bill changes the meaning of the remaining code references to the agencies. The bill sets forth legislative intent. The bill sets forth services to be offered by the centers. The bill designates the two most important responsibilities of the centers. The bill designates initial school district membership for each center. The bill provides certain school districts with flexibility to not be a member of a center. The bill allows districts to apply to be a member of a different center. The bill requires random selection system be used to determine center membership if a district is required to be a member of a center but is not. The bill allows centers to merge. The bill allows three or more counties from different centers to form a new center. The bill establishes annual deadlines and effective date for any change in status of a district's membership. The bill limiting change in membership status to once every four years. The bill allows districts to purchase services from any center that agrees to sell the services. The bill abolishes a center and its regional council whenever it ceases to have fewer than three member districts. The bill provides for a regional council to govern each center. The bill allows each regional council to hire an executive director, other officers and other staff. The bill requires each regional council to select one of its member county school districts to act as fiscal agent. The bill allows a regional council to form a nonprofit corporation. The bill requires each regional council to establish standards for service delivery. The bill requires each center to conform to the standards and requirements prescribed by the State Auditor. The bill allows centers to acquire and hold real property. The bill requires each center to continually explore possibilities for the delivery of services on a regional basis. The bill requires centers to develop an effective model for the regional delivery of instruction in certain subjects. The bill requires each center to submit a report and evaluation of the technical assistance and other services provided and utilized. The bill allows a school to submit evaluation of the services provide. The bill allows a center to receive and disburse funds from the state and federal governments, from member counties or from gifts and grants. The bill sets forth the rate for center employees to be reimbursed for travel, meals and lodging. The bill prohibiting county school board member from being employed by a center. The bill excluding center employees from being eligible for or participating in Public Employee Insurance Agency insurance plans, the state Teachers Retirement System and the Teachers' Defined Contribution Retirement System. The bill requires at least half of regional council regular meetings be held during hours other than those of a regular school day. The bill requires the executive director to attend at least one meeting of each of the member of county boards of education. The bill provides for compensation and reimbursement for travel of county board members serving on regional councils. The bill removes reference to the agencies in required study of the feasibility of establishing common regional configurations for all purposes the Joint Commission on Economic Development considers feasible. The bill removes the agencies from participation in the public employees grievance procedure. The bill replaces the agencies with the centers as one of the entities the State Board of Education may delegate Medicaid provider status and subsequent reimbursement. The bill replaces the agencies with the centers as it pertains to the purpose of the school health

services advisory committee. The bill replaces the two agency representatives on the school health services advisory committee with two center representatives. The bill modifies the law pertaining to the structure to enhance collaboration between professional development providers to be consistent with replaces the agencies with the centers. The bill modifies the law on the required regional meetings on shared services and functions to be consistent with replacing the agencies with the centers. The bill modifies the provisions pertaining to instructional resource sample items to be consistent with replacing the agencies with the centers. The bill modifies the provisions pertaining to allows the establishment of an instructional resources selection team to be consistent with replacing the agencies with the centers. The bill modifies the provisions pertaining to the adoption of indicators of efficiency by the state board to be consistent with replacing the agencies with the centers. The bill replaces the agencies with the centers as an entity the state board may seek resources from in establishing early detection and intervention programs for underachieving schools and school systems. The bill replaces the agencies with the centers as an entity for which the office of education performance audits may receive assistance. The bill replaces agencies with the centers as the entity the office of education performance audits is to make staff development need recommendations to. The bill replaces the agencies with the centers as an entity the state board may request special staff development programs from when it determines a school or school system has insufficient capacity to correct deficiency. The bill replaces the agencies with the centers as a source of training and development activities including the goals and action plans required of a county board under state board intervention must include. The bill replaces the agencies with the centers as the entities to which the state board must submit its master plan for professional development. The bill replaces the agencies with the centers as to the entity for which its state board-approved plan must be included in the master plan for professional development. The bill modifies the basis on which county school nurses are to meet on for the purposes of preparing recommendations. The bill proves for electing a representative to serve on the council of school nurses to be consistent with replacing the agencies with the centers. The bill modifies the selection of schools of excellence. The bill modifies the sharing of services requirement for use of instructional improvement funds for personnel costs to be consistent with replacing the agencies with the centers. The bill modifies the definition of "region" pertaining to the School Building Authority to be consistent with replacing the agencies with the centers. The bill replaces agency with center as one of the entities the School Building Authority may contract for services for. The bill replaces agency with center as one of the entities that may employ heating, ventilation, and air-conditioning technicians at the discretion of the state board. The bill replaces the agencies with the centers as one of the entities that have the option of contracting for heating, ventilation, and air-conditioning services from prequalified vendors if more cost effective than certain other options. The bill replaces agency with center as one of the entities a school or school district may partner with to offer a rigorous alternative program for teacher certification. The bill modifies the preference for designating a person as a 21st Century Learner Fellow to be consistent with replacing the agencies with the centers. The bill replaces the agency executive director with a center representative on the Center for Professional Development Board. The bill modifies the Commission on the Arts membership limitation to be consistent with replacing the agencies with the centers. The bill modifies exclusions from the terms "practice of psychology" and "practice of school psychology" and modifies the definition of "school board" pertaining to psychologists and school psychologists to be consistent with replacing the agencies with the centers. The bill modifies exemptions from requirements pertaining to licensed professional counselors to be consistent with replacing the agencies with centers.

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