

Senate Bill No. 610

(By Senators Barnes, Hall and Sypolt)

[Introduced February 16, 2012; referred to the Committee on
Education; and then to the Committee on Finance.]

**FISCAL
NOTE**

10 A BILL to amend and reenact §18-2E-5 of the Code of West Virginia,
11 1931, as amended; to amend and reenact §18-5-17 of said code;
12 to amend and reenact §18-5A-5 of said code; to amend said code
13 by adding thereto a new article, designated §18-5D-1,
14 §18-5D-2, §18-5D-3, §18-5D-4, §18-5D-5, §18-5D-6, §18-5D-7,
15 §18-5D-8, §18-5D-9, §18-5D-10, §18-5D-11, §18-5D-12,
16 §18-5D-13, §18-5D-14, §18-5D-15, §18-5D-16 and §18-5D-17; to
17 amend said code by adding thereto a new article, designated
18 §18-5E-1, §18-5E-2 and §18-5E-3; to amend and reenact §18-7A-3
19 of said code; to amend and reenact §18A-2-1, §18A-2-12 and
20 §18A-2-12a of said code; to amend and reenact §18A-3-1a of
21 said code; to amend said code by adding thereto three new
22 sections, designated §18A-4-2c, §18A-4-3a and §18A-4-3b; and
23 to amend and reenact §18A-4-5a and §18A-4-7a of said code, all
24 relating to the improvement of schools and school districts;

1 requiring electronic county and school strategic improvement
2 plans to plan for early warnings and interventions; requiring
3 electronic county and school strategic improvement plans to
4 report on the level of performance as relates to the high-
5 quality education standards and efficiency standards; revising
6 high-quality education standards; revising graduation
7 standards used to determine adequate yearly progress under the
8 No Child Left Behind Act; requiring state annual performance
9 measures to account for growth over the previous year;
10 revising extraordinary circumstances that may warrant a school
11 being given a low-performing accreditation status; narrowing
12 deadlines for improvement of low performance in schools;
13 authorizing the district-wide transfer of principals in school
14 systems on nonapproved status; revising school system approval
15 criteria for schools given temporary and conditional status;
16 requiring the revision of electronic county strategic
17 improvement plans to reach full approval status; establishing
18 the Education Opportunity Zone 180 program; requiring
19 comprehensive health screening for students entering public
20 school for the first time in this state, students entering
21 third grade, students entering sixth grade and students
22 entering ninth grade; defining terms; limiting developmental
23 screening; selecting faculty senate members of the hiring
24 committee; empowering faculty senates to establish a process

1 for faculty members to interview new paraprofessional
2 employees at the school; creating Charter Innovation Zone 2.0
3 Schools; defining terms; establishing legislative findings and
4 purpose; providing that Charter Innovation Zone 2.0 Schools
5 are part of the public education system; precluding the state
6 board from capping the number of schools; providing that
7 provisions should be liberally construed; establishing
8 autonomy factors; providing application contents, submission,
9 review and approval process; authorizing memorandums of
10 agreement and charters; providing for the renewal, revocation
11 and termination of schools; creating the Charter Innovation
12 Zone 2.0 Schools Commission; establishing powers and duties;
13 requiring reports; establishing review factors; providing for
14 site-based governance councils and membership; requiring
15 county board to serve as fiscal agent for school; allowing
16 site-based governance council to establish staff selection
17 committee in collaboration with county board; providing for
18 admissions and enrollment criteria for schools; establishing
19 lottery requirements for admission to school; providing for
20 credit transfers; requiring school district to provide
21 information regarding school; requiring monitoring of schools;
22 establishing funding requirements; authorizing the receipt of
23 grants and other moneys; requiring the reporting of grants and
24 other moneys; requiring a study of funding of schools;

1 establishing transportation requirements; providing for
2 facilities; requiring notice to the county board upon move or
3 termination of the school; requiring a facilities plan;
4 providing for maintenance agreements; authorizing rules and
5 emergency rules; authorizing virtual Charter Innovation Zone
6 2.0 Schools; permitting students to participate in
7 extracurricular activities; establishing purpose; authorizing
8 waiver of statutes and rules requiring certain committees;
9 authorizing the creation of collaborative teams in place of
10 certain committees; creating application and approval process
11 for waiver; providing for certain votes; authorizing
12 rulemaking; establishing additional compensation for
13 professional school personnel; providing the opportunity for
14 hiring committees to interview school personnel candidates;
15 evaluation of professional personnel in the public schools;
16 requiring annual evaluations; establishing effective dates;
17 providing for alternative principal and teacher certification;
18 authorizing alternative principal and teacher certification
19 programs; providing for alternative instructional
20 requirements; providing eligibility standards for principals;
21 authorizing alternative programs by approved education
22 providers; setting forth certain requirements for training and
23 induction; authorizing rules; authorizing additional
24 compensation for professional school personnel; establishing

1 findings; requiring a salary supplement for teachers,
2 principals and assistant principals employed in a school with
3 a student population that is high poverty or high minority;
4 requiring a salary supplement for classroom teachers employed
5 in a school with a student population that is high poverty or
6 high minority and who teach in a documented area of shortage;
7 defining terms; requiring a monetary incentive for meeting
8 goals for student growth during the previous school year;
9 requiring uniformity; authorizing additional monetary payments
10 paid from local funds; excluding certain monetary compensation
11 created by this legislation from inclusion for purposes of
12 calculating retirement benefits; authorizing rules; revising
13 criteria when hiring a professional personnel; requiring the
14 consideration of criteria according to equal weighting in
15 certain circumstances; providing for hiring committees;
16 providing for the selection of hiring committee members by the
17 faculty senate; and providing for the opportunity for hiring
18 committees to interview candidates.

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

20 That §18-2E-5 of the Code of West Virginia, 1931, as amended,
21 be amended and reenacted; that §18-5-17 of said code be amended and
22 reenacted; that §18-5A-5 of said code be amended and reenacted;
23 that said code be amended by adding thereto a new article,
24 designated §18-5D-1, §18-5D-2, §18-5D-3, §18-5D-4, §18-5D-5,

1 §18-5D-6, §18-5D-7, §18-5D-8, §18-5D-9, §18-5D-10, §18-5D-11,
 2 §18-5D-12, §18-5D-13, §18-5D-14, §18-5D-15, §18-5D-16 and
 3 §18-5D-17; that said code be amended by adding thereto a new
 4 article, designated §18-5E-1, §18-5E-2 and §18-5E-3; that §18-7A-3
 5 of said code be amended and reenacted; that §18A-2-1, §18A-2-12 and
 6 §18A-2-12a of said code be amended and reenacted; that §18A-3-1a of
 7 said code be amended and reenacted; that said code be amended by
 8 adding thereto three new sections, designated §18A-4-2c, §18A-4-3a
 9 and §18A-4-3b; and that §18A-4-5a and §18A-4-7a of said code be
 10 amended and reenacted, all to read as follows:

11 **CHAPTER 18. EDUCATION.**

12 **ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

13 **§18-2E-5. Process for improving education; education standards;**
 14 **statewide assessment program; accountability**
 15 **measures; Office of Education Performance Audits;**
 16 **school accreditation and school system approval;**
 17 **intervention to correct low performance.**

18 (a) *Legislative findings, purpose and intent.* -- The
 19 Legislature makes the following findings with respect to the
 20 process for improving education and its purpose and intent in the
 21 enactment of this section:

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

24 (A) Standards which set forth the knowledge and skills that

1 students should know and be able to do as the result of a thorough
2 and efficient education that prepares them for the twenty-first
3 century, including measurable criteria to evaluate student
4 performance and progress;

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

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

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

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

1 necessary, seeking additional resources in consultation with the
2 Legislature and the Governor.

3 (3) As the constitutional body charged with providing a
4 thorough and efficient system of schools, the Legislature has the
5 authority and the responsibility to establish and be engaged
6 constructively in the determination of the knowledge and skills
7 that students should know and be able to do as the result of a
8 thorough and efficient education. This determination is made by
9 using the process for improving education to determine when school
10 improvement is needed, by evaluating the results and the efficiency
11 of the system of schools, by ensuring accountability and by
12 providing for the necessary capacity and its efficient use.

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

20 (5) The intent of the Legislature in enacting this section and
21 section five-c of this article is to establish a process through
22 which the Legislature, the Governor and the state board can work in
23 the spirit of cooperation and collaboration intended in the process
24 for improving education to consult and examine the performance and

1 progress of students, schools and school systems and, when
2 necessary, to consider alternative measures to ensure that all
3 students continue to receive the thorough and efficient education
4 to which they are entitled. However, nothing in this section
5 requires any specific level of funding by the Legislature.

6 (b) *Electronic county and school strategic improvement plans.*

7 -- The state board shall promulgate a rule consistent with the
8 provisions of this section and in accordance with article three-b,
9 chapter twenty-nine-a of this code establishing an electronic
10 county strategic improvement plan for each county board and an
11 electronic school strategic improvement plan for each public school
12 in this state. Each respective plan shall be a five-year plan that
13 includes the mission and goals of the school or school system to
14 improve student, school or school system performance and progress,
15 ~~as applicable~~ and an analysis of early predictors and indicators to
16 identify at-risk students before the students are off-track for
17 graduation. Data for the analysis shall be provided by the West
18 Virginia Education Information System as part of the Early Warning
19 Indicator and Intervention System. The plan shall include
20 interventions needed to increase the number of students earning a
21 high school diploma. The strategic plan shall be revised annually
22 in each area in which the school or system is below the standard on
23 the annual performance measures. The revised annual plan also
24 shall identify ~~any deficiency which is reported on the check lists~~

1 ~~identified in paragraph (G), subdivision (5), subsection (1) of~~
2 ~~this section including any deficit more than a casual deficit by~~
3 ~~the county board~~ the level of performance for each of the high
4 quality education standards established pursuant to subsection (c)
5 of this section. The plan shall be revised when required pursuant
6 to this section to include each annual performance measure upon
7 which the school or school system fails to meet the standard for
8 performance and progress, the action to be taken to meet each
9 measure, a separate time line and a date certain for meeting each
10 measure, a cost estimate and, when applicable, the assistance to be
11 provided by the department and other education agencies to improve
12 student, school or school system performance and progress to meet
13 the annual performance measure.

14 The department shall make available to all public schools
15 through its website or the West Virginia Education Information
16 System an electronic school strategic improvement plan boilerplate
17 designed for use by all schools to develop an electronic school
18 strategic improvement plan which incorporates all required aspects
19 and satisfies all improvement plan requirements of the No Child
20 Left Behind Act.

21 (c) *High quality education standards.* -- ~~and efficiency~~
22 ~~standards.~~ In accordance with the provisions of article three-b,
23 chapter twenty-nine-a of this code, the state board shall adopt and
24 periodically review and update high quality education standards for

1 ~~student, school and school system performance and processes in the~~
2 ~~following areas:~~

3 ~~(1) Curriculum;~~

4 ~~(2) Workplace readiness skills;~~

5 ~~(3) Finance;~~

6 ~~(4) Transportation;~~

7 ~~(5) Special education;~~

8 ~~(6) Facilities;~~

9 ~~(7) Administrative practices;~~

10 ~~(8) Training of county board members and administrators;~~

11 ~~(9) Personnel qualifications;~~

12 ~~(10) Professional development and evaluation;~~

13 ~~(11) Student performance and progress;~~

14 ~~(12) School and school system performance and progress;~~

15 ~~(13) A code of conduct for students and employees;~~

16 ~~(14) Indicators of efficiency; and~~

17 The state board shall promulgate a rule in accordance with the

18 provisions of article three-b, chapter twenty-nine-a of this code

19 that establishes high quality education standards to ensure that

20 certain practices, processes and structures create student, school

21 and school system performance and success. The state board shall

22 periodically review and update the rule. The rule shall include

23 standards that address:

24 (1) Climate and culture that reflect the core beliefs,

1 personal behaviors, programs, policies and processes that
2 characterize a safe and orderly learning environment whereby all
3 students obtain mastery of the essential knowledge and skills;

4 (2) Leadership at the classroom, school and district level
5 that translates into a community of shared values that facilitates
6 organizational improvement and increased student achievement;

7 (3) Curriculum, instruction and assessment structures that
8 reflect knowledge of curriculum management, skill in instructional
9 design, including pedagogy and assessment, and an understanding of
10 how technology can enhance curriculum access and delivery to assure
11 student learning;

12 (4) Management systems that require teachers and
13 administrators to work collaboratively on the institutional and
14 organizational variables necessary to support a climate of high
15 expectations for student success;

16 (5) Student, family and community support systems that reflect
17 relationships between families, community and the school that
18 reflect authentic partnerships in which communication builds trust
19 in order to address the personal, social, emotional and physical
20 needs of students;

21 (6) Continuous improvement that reflects a process of inquiry
22 that is used to plan and implement the change necessary to
23 constantly increase student learning and promote student success;

24 (7) Educator development that assures that the professional

1 growth of all educators involves a collaborative approach that
2 supports organizing and delivering effective instruction to all
3 students; and

4 ~~(15)~~ (8) Any other areas determined by the state board.

5 The standards, as applicable, shall incorporate the state's
6 21st Century Skills Initiative and shall assure that graduates are
7 prepared for continuing post-secondary education, training and work
8 and that schools and school systems are making progress toward
9 achieving the education goals of the state.

10 (d) *Comprehensive statewide student assessment program.* -- The
11 state board shall promulgate a rule in accordance with the
12 provisions of article three-b, chapter twenty-nine-a of this code
13 establishing a comprehensive statewide student assessment program
14 to assess student performance and progress in grades three through
15 twelve. The state board may require that student proficiencies be
16 measured through the ACT EXPLORE and the ACT PLAN assessments or
17 other comparable assessments, which are approved by the state board
18 and provided by future vendors. The state board may require that
19 student proficiencies be measured through the West Virginia writing
20 assessment at any of the grade levels four, seven and ten
21 determined by the state board to be appropriate: *Provided, That*
22 effective July 1, 2008, the state board may require that student
23 proficiencies be measured through the West Virginia writing
24 assessment at any of the grade levels four, seven and eleven

1 determined by the state board to be appropriate. The state board
2 may provide through the statewide assessment program other optional
3 testing or assessment instruments applicable to grade levels
4 kindergarten through grade twelve which may be used by each school
5 to promote student achievement upon approval by the school
6 curriculum team or the process for teacher collaboration to improve
7 instruction and learning established by the faculty senate as
8 provided in section six, article five-a of this chapter. The state
9 board shall annually publish and make available, electronically or
10 otherwise, to school curriculum teams and teacher collaborative
11 processes the optional testing and assessment instruments. The
12 failure of a school to use any optional testing and assessment may
13 not be cited as a deficiency in any accreditation review of the
14 school; nor may the exercise of its discretion, as provided in
15 section six, article five-a of this chapter, in using the
16 assessments and implementing the instructional strategies and
17 programs that it determines best to promote student achievement at
18 the school be cited as a deficiency in any accreditation review of
19 the school or in the personnel evaluation of the principal. The
20 use of assessment results are subject to the following:

21 (1) The assessment results for grade levels three through
22 eight and eleven are the only assessment results which may be used
23 for determining whether any school or school system has made
24 adequate yearly progress (AYP);

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

5 (3) The results of the West Virginia writing assessment, the
6 ACT EXPLORE assessments and the ACT PLAN assessments may not be
7 used for determining whether a school or school system has made
8 adequate yearly progress (AYP);

9 (4) The results of testing or assessment instruments provided
10 by the state board for optional use by schools and school systems
11 to promote student achievement may not be used for determining
12 whether a school or school system has made adequate yearly progress
13 (AYP); and

14 (5) All assessment provisions of the comprehensive statewide
15 student assessment program in effect for the school year 2006-2007
16 shall remain in effect until replaced by the state board rule.

17 (e) *Annual performance measures for Public Law 107-110, the*
18 *Elementary and Secondary Education Act of 1965, as amended (No*
19 *Child Left Behind Act of 2001)*. -- The standards shall include
20 annual measures of student, school and school system performance
21 and progress for the grade levels and the content areas defined by
22 the act. The following annual measures of student, school and
23 school system performance and progress shall be the only measures

1 for determining whether adequately yearly progress under the No
2 Child Left Behind Act has been achieved:

3 (1) The acquisition of student proficiencies as indicated by
4 student performance and progress on the required accountability
5 assessments at the grade levels and content areas as required by
6 the act subject to the limitations set forth in subsection (d) of
7 this section.

8 (2) The student participation rate in the uniform statewide
9 assessment must be at least ninety-five percent or the average of
10 the participation rate for the current and the preceding two years
11 is ninety-five percent for the school, county and state;

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

16 (A) Student absences excused in accordance with the state
17 board rule promulgated pursuant to section four, article eight of
18 this chapter;

19 (B) Students not in attendance due to disciplinary measures;
20 and

21 (C) Absent students for whom the attendance director has
22 pursued judicial remedies compelling attendance to the extent of
23 his or her authority; and

1 (4) The high school graduation rate which shall be no less
2 than ~~eighty~~ ninety percent for the school, county and state; or if
3 the high school graduation rate is less than ~~eighty~~ ninety percent,
4 the high school graduation rate shall ~~be higher than the high~~
5 ~~school graduation rate of the preceding year as determined from~~
6 ~~information on the West Virginia Education Information System on~~
7 ~~August 15~~ decrease annually by one-tenth the difference between the
8 graduation rate from the previous school year and ninety percent or
9 shall decrease the difference between the graduation rate and
10 ninety percent at least one-tenth per year over a three-year
11 average.

12 (f) *State annual performance measures for school and school*
13 *system accreditation.* -- The state board shall establish a system
14 to assess and weigh annual performance measures for state
15 accreditation of schools and school systems ~~in a manner that~~
16 includes a growth model for expected growth over the previous year
17 as a way to achieve full accreditation and a system that gives
18 credit or points such as an index to prevent any one measure alone
19 from causing a school to achieve less than full accreditation
20 status or a school system from achieving less than full approval
21 status: *Provided,* That a school or school system that achieves
22 adequate yearly progress is eligible for no less than full
23 accreditation or approval status, as applicable, and the system

1 established pursuant to this subsection applies only to schools and
2 school systems that do not achieve adequate yearly progress.

3 The following types of measures, as may be appropriate at the
4 various programmatic levels, may be approved by the state board for
5 the school and school system accreditation:

6 (1) The acquisition of student proficiencies as indicated by
7 student performance and progress on the uniform statewide
8 assessment program at the grade levels as provided in subsection
9 (d) of this section. The state board may approve providing bonus
10 points or credits for students scoring at or above mastery and
11 distinguished levels;

12 (2) Writing assessment results in grades tested;

13 (3) School attendance rates;

14 (4) Percentage of courses taught by highly qualified teachers;

15 (5) Percentage of students scoring at benchmarks on the
16 currently tested ACT EXPLORE and ACT PLAN assessments or other
17 comparable assessments, which are approved by the state board and
18 provided by future vendors;

19 (6) Graduation rates;

20 (7) Job placement rates for vocational programs;

21 (8) Percent of students passing end-of-course career/technical
22 tests;

23 (9) Percent of students not requiring college remediation
24 classes; and

1 (10) Bonus points or credits for subgroup improvement,
2 advanced placement percentages, dual credit completers and
3 international baccalaureate completers.

4 (g) *Indicators of exemplary performance and progress.* -- The
5 standards shall include indicators of exemplary student, school and
6 school system performance and progress. The indicators of
7 exemplary student, school and school system performance and
8 progress shall be used only as indicators for determining whether
9 accredited and approved schools and school systems should be
10 granted exemplary status. These indicators shall include, but are
11 not limited to, the following:

12 (1) The percentage of graduates who declare their intent to
13 enroll in college and other post-secondary education and training
14 following high school graduation;

15 (2) The percentage of graduates who receive additional
16 certification of their skills, competence and readiness for
17 college, other post-secondary education or employment above the
18 level required for graduation; and

19 (3) The percentage of students who successfully complete
20 advanced placement, dual credit and honors classes.

21 (h) *Indicators of efficiency.* -- In accordance with the
22 provisions of article three-b, chapter twenty-nine-a of this code,
23 the state board shall adopt by rule and periodically review and
24 update indicators of efficiency for use by the appropriate

1 divisions within the department to ensure efficient management and
2 use of resources in the public schools in the following areas:

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

5 (2) Transportation;

6 (3) Facilities;

7 (4) Administrative practices;

8 (5) Personnel;

9 (6) Use of regional educational service agency programs and
10 services, including programs and services that may be established
11 by their assigned regional educational service agency or other
12 regional services that may be initiated between and among
13 participating county boards; and

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

15 (i) *Assessment and accountability of school and school system*
16 *performance and processes.* -- In accordance with the provisions of
17 article three-b, chapter twenty-nine-a of this code, the state
18 board shall establish by rule a system of education performance
19 audits which measures the quality of education and the preparation
20 of students based on the annual measures of student, school and
21 school system performance and progress. The system of education
22 performance audits shall provide information to the state board,
23 the Legislature and the Governor, individually and collectively as
24 the Process for Improving Education Council, upon which they may

1 determine whether a thorough and efficient system of schools is
2 being provided. The system of education performance audits shall
3 include:

4 (1) The assessment of student, school and school system
5 performance and progress based on the annual measures set forth in
6 subsection (d) of this section;

7 (2) The evaluation of records, reports and other information
8 collected by the department upon which the quality of education and
9 compliance with statutes, policies and standards may be determined;

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

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

15 (j) *Uses of school and school system assessment information.*

16 -- The state board and the Process for Improving Education Council
17 established pursuant to section five-c of this article shall use
18 information from the system of education performance audits to
19 assist them in ensuring that a thorough and efficient system of
20 schools is being provided and to improve student, school and school
21 system performance and progress. Information from the system of
22 education performance audits further shall be used by the state
23 board for these purposes, including, but not limited to, the
24 following:

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

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

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

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

12 (k) *Early detection and intervention programs.* -- Based on the
13 assessment of student, school and school system performance and
14 progress, the state board shall establish early detection and
15 intervention programs using the available resources of the
16 Department of Education, the regional educational service agencies,
17 the Center for Professional Development and the Principals Academy,
18 as appropriate, to assist underachieving schools and school systems
19 to improve performance before conditions become so grave as to
20 warrant more substantive state intervention. Assistance shall
21 include, but is not limited to, providing additional technical
22 assistance and programmatic, professional staff development,
23 providing monetary, staffing and other resources where appropriate,

1 and, if necessary, making appropriate recommendations to the
2 Process for Improving Education Council.

3 (1) *Office of Education Performance Audits.* --

4 (1) To assist the state board and the Process for Improving
5 Education Council in the operation of a system of education
6 performance audits, the state board shall establish an Office of
7 Education Performance Audits consistent with the provisions of this
8 section. The Office of Education Performance Audits shall be
9 operated under the direction of the state board independently of
10 the functions and supervision of the State Department of Education
11 and State Superintendent. The Office of Education Performance
12 Audits shall report directly to and be responsible to the state
13 board and the Process for Improving Education Council created in
14 section five-c of this article in carrying out its duties under the
15 provisions of this section.

16 (2) The office shall be headed by a director who shall be
17 appointed by the state board and who shall serve at the will and
18 pleasure of the state board. The annual salary of the director
19 shall be set by the state board and may not exceed eighty percent
20 of the salary cap of the State Superintendent of Schools.

21 (3) The state board shall organize and sufficiently staff the
22 office to fulfill the duties assigned to it by law and by the state
23 board. Employees of the State Department of Education who are
24 transferred to the Office of Education Performance Audits shall

1 retain their benefits and seniority status with the Department of
2 Education.

3 (4) Under the direction of the state board, the Office of
4 Education Performance Audits shall receive from the West Virginia
5 education information system staff research and analysis data on
6 the performance and progress of students, schools and school
7 systems, and shall receive assistance, as determined by the state
8 board, from staff at the State Department of Education, the
9 regional education service agencies, the Center for Professional
10 Development, the Principals Academy and the School Building
11 Authority to carry out the duties assigned to the office.

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

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

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

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

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

1 (C) Determine, in conjunction with the assessment and
2 accountability processes, what capacity may be needed by schools
3 and school systems to meet the standards established by the state
4 board and recommend to the state board and the Process for
5 Improving Education Council plans to establish those needed
6 capacities;

7 (D) Determine, in conjunction with the assessment and
8 accountability processes, whether statewide system deficiencies
9 exist in the capacity of schools and school systems to meet the
10 standards established by the state board, including the
11 identification of trends and the need for continuing improvements
12 in education, and report those deficiencies and trends to the state
13 board and the Process for Improving Education Council;

14 (E) Determine, in conjunction with the assessment and
15 accountability processes, staff development needs of schools and
16 school systems to meet the standards established by the state board
17 and make recommendations to the state board, the Process for
18 Improving Education Council, the Center for Professional
19 Development, the regional educational service agencies, the Higher
20 Education Policy Commission and the county boards;

21 (F) Identify, in conjunction with the assessment and
22 accountability processes, exemplary schools and school systems and
23 best practices that improve student, school and school system
24 performance and make recommendations to the state board and the

1 Process for Improving Education Council for recognizing and
2 rewarding exemplary schools and school systems and promoting the
3 use of best practices. The state board shall provide information
4 on best practices to county school systems and shall use
5 information identified through the assessment and accountability
6 processes to select schools of excellence; and

7 (G) Develop reporting formats, such as check lists, which
8 shall be used by the appropriate administrative personnel in
9 schools and school systems to document compliance with various of
10 the applicable laws, policies and process standards as considered
11 appropriate and approved by the state board, including, but not
12 limited to, the following:

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

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

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

20 (iv) The school provides multicultural activities.

21 Information contained in the reporting formats is subject to
22 examination during an on-site review to determine compliance with
23 laws, policies and standards. Intentional and grossly negligent
24 reporting of false information are grounds for dismissal.

1 (m) *On-site reviews.* --

2 (1) The system of education performance audits shall include
3 on-site reviews of schools and school systems which shall be
4 conducted only at the specific direction of the state board upon
5 its determination that the performance and progress of the school
6 or school system are persistently below standard or that other
7 circumstances exist that warrant an on-site review. Any discussion
8 by the state board of schools to be subject to an on-site review or
9 dates for which on-site reviews will be conducted may be held in
10 executive session and is not subject to the provisions of article
11 nine-a, chapter six of this code relating to open governmental
12 proceedings. An on-site review shall be conducted by the Office of
13 Education Performance Audits of a school or school system for the
14 purpose of investigating the reasons for performance and progress
15 that are persistently below standard and making recommendations to
16 the school and school system, as appropriate, and to the state
17 board on such measures as it considers necessary to improve
18 performance and progress to meet the standard. The investigation
19 may include, but is not limited to, the following:

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

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

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

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

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

7 (F) Determining and reporting whether required reviews and
8 inspections have been conducted by the appropriate agencies,
9 including, but not limited to, the State Fire Marshal, ~~the~~ a health
10 department, the School Building Authority and the responsible
11 divisions within the Department of Education, and whether noted
12 deficiencies have been or are in the process of being corrected.
13 The Office of Education Performance Audits may not conduct a
14 duplicate review or inspection of any compliance reviews or
15 inspections conducted by the department or its agents or other duly
16 authorized agencies of the state, nor may it mandate more stringent
17 compliance measures.

18 (2) The Director of the Office of Education Performance Audits
19 shall notify the county superintendent of schools five school days
20 prior to commencing an on-site review of the county school system
21 and shall notify both the county superintendent and the principal
22 five school days before commencing an on-site review of an
23 individual school: *Provided*, That the state board may direct the
24 Office of Education Performance Audits to conduct an unannounced

1 on-site review of a school or school system if the state board
2 believes circumstances warrant an unannounced on-site review.

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

8 (4) An on-site review of a school or school system shall
9 include a person or persons from the department of education or a
10 public education agency in the state who has expert knowledge and
11 experience in the area or areas to be reviewed and who has been
12 trained and designated by the state board to perform such
13 functions. If the size of the school or school system and issues
14 being reviewed necessitate the use of an on-site review team or
15 teams, the person or persons designated by the state board shall
16 advise and assist the director to appoint the team or teams. The
17 person or persons designated by the state board shall be the team
18 leaders.

19 The persons designated by the state board shall be responsible
20 for completing the report on the findings and recommendations of
21 the on-site review in their area of expertise. It is the intent of
22 the Legislature that the persons designated by the state board
23 participate in all on-site reviews that involve their area of
24 expertise, to the extent practicable, so that the on-site review

1 process will evaluate compliance with the standards in a uniform,
2 consistent and expert manner.

3 (5) The Office of Education Performance Audits shall reimburse
4 a county board for the costs of substitutes required to replace
5 county board employees while they are serving on a review team.

6 (6) At the conclusion of an on-site review of a school system,
7 the director and team leaders shall hold an exit conference with
8 the superintendent and shall provide an opportunity for principals
9 to be present for at least the portion of the conference pertaining
10 to their respective schools. In the case of an on-site review of
11 a school, the exit conference shall be held with the principal and
12 curriculum team of the school and the superintendent shall be
13 provided the opportunity to be present. The purpose of the exit
14 conference is to review the initial findings of the on-site review,
15 clarify and correct any inaccuracies and allow the opportunity for
16 dialogue between the reviewers and the school or school system to
17 promote a better understanding of the findings.

18 (7) The Office of Education Performance Audits shall report
19 the findings of an on-site review to the county superintendent and
20 the principals whose schools were reviewed within thirty days
21 following the conclusion of the on-site review. The Office of
22 Education Performance Audits shall report the findings of the
23 on-site review to the state board within forty-five days after the
24 conclusion of the on-site review. A copy of the report shall be

1 provided to the Process for Improving Education Council at its
2 request. A school or county that believes one or more findings of
3 a review are clearly inaccurate, incomplete or misleading,
4 misrepresent or fail to reflect the true quality of education in
5 the school or county or address issues unrelated to the health,
6 safety and welfare of students and the quality of education, may
7 appeal to the state board for removal of the findings. The state
8 board shall establish a process for it to receive, review and act
9 upon the appeals. The state board shall report to the Legislative
10 Oversight Commission on Education Accountability during its July
11 interim meetings, or as soon thereafter as practical, on each
12 appeal during the preceding school year.

13 (8) The Legislature finds that the accountability and
14 oversight of the following activities and programmatic areas in the
15 public schools is controlled through other mechanisms and that
16 additional accountability and oversight are not only unnecessary
17 but counterproductive in distracting necessary resources from
18 teaching and learning. Therefore, notwithstanding any other
19 provision of this section to the contrary, the following activities
20 and programmatic areas are not subject to review by the Office of
21 Education Performance Audits:

22 (A) Work-based learning;

23 (B) Use of advisory councils;

24 (C) Program accreditation and student credentials;

- 1 (D) Student transition plans;
2 (E) Graduate assessment form;
3 (F) Casual deficit;
4 (G) Accounting practices;
5 (H) Transportation services;
6 (I) Special education services;
7 (J) Safe, healthy and accessible facilities;
8 (K) Health services;
9 (L) Attendance director;
10 (M) Business/community partnerships;
11 (N) Pupil-teacher ratio/split grade classes;
12 (O) Local school improvement council, faculty senate, student
13 assistance team and curriculum team;
14 (P) Planning and lunch periods;
15 (Q) Skill improvement program;
16 (R) Certificate of proficiency;
17 (S) Training of county board members;
18 (T) Excellence in job performance;
19 (U) Staff development; and
20 (V) Preventive discipline, character education and student and
21 parental involvement.

22 (n) *School accreditation.* -- The state board annually shall
23 review the information from the system of education performance
24 audits submitted for each school and shall issue to every school

1 one of the following approval levels: Exemplary accreditation
2 status, distinction accreditation status, full accreditation
3 status, temporary accreditation status, conditional accreditation
4 status or low performing accreditation status.

5 (1) Full accreditation status shall be given to a school when
6 the school's performance and progress meet or exceed the standards
7 adopted by the state board pursuant to subsection (e) or (f), as
8 applicable, of this section and it does not have any deficiencies
9 which would endanger student health or safety or other
10 extraordinary circumstances as defined by the state board. A
11 school that meets or exceeds the performance and progress standards
12 but has the other deficiencies shall remain on full accreditation
13 status for the remainder of the accreditation period and shall have
14 an opportunity to correct those deficiencies, notwithstanding other
15 provisions of this subsection.

16 (2) Temporary accreditation status shall be given to a school
17 when the school's performance and progress are below the level
18 required for full accreditation status. Whenever a school is given
19 temporary accreditation status, the county board shall ensure that
20 the school's electronic strategic improvement plan is revised in
21 accordance with subsection (b) of this section to increase the
22 performance and progress of the school to a full accreditation
23 status level. The revised plan shall be submitted to the state
24 board for approval.

1 (3) Conditional accreditation status shall be given to a
2 school when the school's performance and progress are below the
3 level required for full accreditation, but the school's electronic
4 strategic improvement plan meets the following criteria:

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

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

8 (C) The school is meeting the objectives and time line
9 specified in the revised plan.

10 (4) Exemplary accreditation status shall be given to a school
11 when the school's performance and progress substantially exceed the
12 standards adopted by the state board pursuant to subsections (f)
13 and (g) of this section. The state board shall promulgate
14 legislative rules in accordance with the provisions of article
15 three-b, chapter twenty-nine-a of this code designated to establish
16 standards of performance and progress to identify exemplary
17 schools.

18 (5) Distinction accreditation status shall be given to a
19 school when the school's performance and progress exceed the
20 standards adopted by the state board. The state board shall
21 promulgate legislative rules in accordance with the provisions of
22 article three-b, chapter twenty-nine-a of this code establishing
23 standards of performance and progress to identify schools of
24 distinction.

1 (6) Low-performing accreditation status shall be given to a
2 school whenever extraordinary circumstances exist as defined by the
3 state board.

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

6 (i) The failure of a school on temporary accreditation status
7 to obtain approval of its revised electronic school strategic
8 improvement plan within a reasonable time period as defined by the
9 state board;

10 (ii) The failure of a school on conditional accreditation
11 status to meet the objectives and time line of its revised
12 electronic school strategic improvement plan;

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

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

19 (B) Whenever the state board determines that the quality of
20 education in a school is low performing, the state board shall
21 appoint a team of improvement consultants from the West Virginia
22 Department of Education State System of Support to make
23 recommendations for correction of the low performance. These
24 recommendations shall be communicated to the county board and a

1 process shall be established in conjunction with the State System
2 of Support to correct the identified deficiencies. If progress in
3 correcting the low performance as determined by the state board is
4 not made within ~~one year~~ six months, following the implementation
5 of the measures adopted to correct the identified deficiencies, ~~or~~
6 ~~by a date certain established by the state board after at least one~~
7 ~~year of implementation~~ the state board shall place the county board
8 on temporary approval status and provide consultation and
9 assistance to the county board to assist it in the following areas:

10 (i) Improving personnel management;

11 (ii) Establishing more efficient financial management
12 practices;

13 (iii) Improving instructional programs and rules; or

14 (iv) Making any other improvements that are necessary to
15 correct the low performance.

16 (C) If ~~the~~ progress to address the identified measures to
17 correct low performance is not ~~corrected by a date certain as set~~
18 ~~by the state board~~ made within six months:

19 (i) The state board shall appoint a monitor who shall be paid
20 at county expense to cause improvements to be made at the school to
21 bring it to full accreditation status within a reasonable time
22 period as determined by the state board. The monitor's work
23 location shall be at the school and the monitor shall work
24 collaboratively with the principal. The monitor shall, at a

1 minimum, report monthly to the state board on the measures being
2 taken to improve the school's performance and the progress being
3 made. The reports may include requests for additional assistance
4 and recommendations required in the judgment of the monitor to
5 improve the school's performance, including, but not limited to,
6 the need for targeting resources strategically to eliminate
7 deficiencies;

8 (ii) The state board may make a determination, in its sole
9 judgment, that the improvements necessary to provide a thorough and
10 efficient education to the students at the school cannot be made
11 without additional targeted resources, in which case it shall
12 establish a plan in consultation with the county board that
13 includes targeted resources from sources under the control of the
14 state board and the county board to accomplish the needed
15 improvements. Nothing in this subsection shall be construed to
16 allow a change in personnel at the school to improve school
17 performance and progress, except as provided by law;

18 (iii) If the progress to address the identified measures to
19 correct low performance is not ~~corrected~~ made within ~~one year~~ six
20 months after the appointment of a monitor, the state board may make
21 a determination, in its sole judgment, that continuing a monitor
22 arrangement is not sufficient to correct the low performance and
23 may intervene in the operation of the school to cause improvements
24 to be made that will provide assurances that a thorough and

1 efficient system of schools will be provided. This intervention
2 may include, but is not limited to, establishing instructional
3 programs, taking such direct action as may be necessary to correct
4 the low performance, declaring the position of principal is vacant
5 and assigning a principal for the school who shall serve at the
6 will and pleasure of and, under the sole supervision of, the state
7 board: *Provided*, That prior to declaring that the position of the
8 principal is vacant, the state board must make a determination that
9 all other resources needed to correct the low performance are
10 present at the school. If the principal who was removed elects not
11 to remain an employee of the county board, then the principal
12 assigned by the state board shall be paid by the county board. If
13 the principal who was removed elects to remain an employee of the
14 county board, then the following procedure applies:

15 (I) The principal assigned by the state board shall be paid by
16 the state board until the next school term, at which time the
17 principal assigned by the state board shall be paid by the county
18 board;

19 (II) The principal who was removed is eligible for all
20 positions in the county, including teaching positions, for which
21 the principal is certified, by either being placed on the transfer
22 list in accordance with section seven, article two, chapter
23 eighteen-a of this code, or by being placed on the preferred recall

1 list in accordance with section seven-a, article four, chapter
2 eighteen-a of this code; and

3 (III) The principal who was removed shall be paid by the
4 county board and may be assigned to administrative duties, without
5 the county board being required to post that position until the end
6 of the school term.

7 ~~(6)~~ (IV) The county board shall take no action nor refuse any
8 action if the effect would be to impair further the school in which
9 the state board has intervened.

10 (7) The state board may appoint a monitor pursuant to the
11 provisions of this subsection to assist the school principal after
12 intervention in the operation of a school is completed.

13 (o) *Transfers from low-performing schools.* -- Whenever a
14 school is determined to be low performing and fails to improve its
15 status within one year, following state intervention in the
16 operation of the school to correct the low performance, any student
17 attending the school may transfer once to the nearest fully
18 accredited school in the county, subject to approval of the fully
19 accredited school and at the expense of the school from which the
20 student transferred.

21 (p) *School system approval.* -- The state board annually shall
22 review the information submitted for each school system from the
23 system of education performance audits and issue one of the

1 following approval levels to each county board: Full approval,
2 temporary approval, conditional approval or nonapproval.

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

12 (2) Temporary approval shall be given to a county board whose
13 education system is below the level required for full approval.
14 ~~Whenever a county board is given temporary approval status, the~~
15 ~~county board shall revise its electronic county strategic~~
16 ~~improvement plan in accordance with subsection (b) of this section~~
17 ~~to increase the performance and progress of the school system to a~~
18 ~~full approval status level. The revised plan shall be submitted to~~
19 ~~the state board for approval. Temporary approval status shall stay~~
20 ~~in effect until the county board revises the electronic county~~
21 ~~strategic improvement plan and the plan is approved by the state~~
22 ~~board.~~

23 (3) Conditional approval shall be given to a county board
24 whose education system is below the level required for full

1 approval. ~~but whose electronic county strategic improvement plan~~
2 ~~meets the following criteria:~~

3 ~~(i) The plan has been revised in accordance with subsection~~
4 ~~(b) of this section;~~

5 ~~(ii) The plan has been approved by the state board; and~~

6 ~~(iii) The county board is meeting the objectives and time line~~
7 ~~specified in the revised plan. Conditional approval shall be given~~
8 ~~upon state board approval of the electronic county strategic~~
9 ~~improvement plan and shall stay in effect until full approval is~~
10 ~~attained.~~

11 (4) Nonapproval status shall be given to a county board which
12 fails to submit and gain approval for its electronic county
13 strategic improvement plan or revised electronic county strategic
14 improvement plan within a reasonable time period as defined by the
15 state board or which fails to meet the objectives and time line of
16 its revised electronic county strategic improvement plan or fails
17 to achieve full approval by the date specified in the revised plan.

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

23 (B) Whenever a county board has more than a casual deficit, as
24 defined in section one, article one of this chapter, the county

1 board shall submit a plan to the state board specifying the county
2 board's strategy for eliminating the casual deficit. The state
3 board either shall approve or reject the plan. If the plan is
4 rejected, the state board shall communicate to the county board the
5 reason or reasons for the rejection of the plan. The county board
6 may resubmit the plan any number of times. However, any county
7 board that fails to submit a plan and gain approval for the plan
8 from the state board before the end of the fiscal year after a
9 deficit greater than a casual deficit occurred or any county board
10 which, in the opinion of the state board, fails to comply with an
11 approved plan may be designated as having nonapproval status.

12 (C) Whenever nonapproval status is given to a school system,
13 the state board shall declare a state of emergency in the school
14 system and shall appoint a team of improvement consultants to make
15 recommendations within sixty days of appointment for correcting the
16 emergency. When the state board approves the recommendations, they
17 shall be communicated to the county board. If progress in
18 correcting the emergency, as determined by the state board, is not
19 made within six months from the time the county board receives the
20 recommendations, the state board shall intervene in the operation
21 of the school system to cause improvements to be made that will
22 provide assurances that a thorough and efficient system of schools
23 will be provided. This intervention may include, but is not
24 limited to, the following:

1 (i) Limiting the authority of the county superintendent and
2 county board as to the expenditure of funds, the employment and
3 dismissal of personnel, the establishment and operation of the
4 school calendar, the establishment of instructional programs and
5 rules and any other areas designated by the state board by rule,
6 which may include delegating decision-making authority regarding
7 these matters to the State Superintendent;

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

10 (iii) Delegating to the State Superintendent both the
11 authority to conduct hearings on personnel matters and school
12 closure or consolidation matters and, subsequently, to render the
13 resulting decisions and the authority to appoint a designee for the
14 limited purpose of conducting hearings while reserving to the State
15 Superintendent the authority to render the resulting decisions;

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

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

21 (I) Delegating to the State Superintendent the authority to
22 replace administrators and principals in low performing schools and
23 to transfer them into alternate professional positions within the

1 county at his or her discretion and to transfer principals
2 district-wide, if necessary, to effect district improvement; and

3 (II) Delegating to the State Superintendent the authority to
4 fill positions of administrators and principals with individuals
5 determined by the State Superintendent to be the most qualified for
6 the positions. Any authority related to intervention in the
7 operation of a county board granted under this paragraph is not
8 subject to the provisions of article four, chapter eighteen-a of
9 this code;

10 (q) Notwithstanding any other provision of this section, the
11 state board may intervene immediately in the operation of the
12 county school system with all the powers, duties and
13 responsibilities contained in subsection (p) of this section, if
14 the state board finds the following:

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

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

23 (r) *Capacity.* --

1 (1) The process for improving education includes a process for
2 targeting resources strategically to improve the teaching and
3 learning process. Development of electronic school and school
4 system strategic improvement plans, pursuant to subsection (b) of
5 this section, is intended, in part, to provide mechanisms to target
6 resources strategically to the teaching and learning process to
7 improve student, school and school system performance. When
8 deficiencies are detected through the assessment and accountability
9 processes, the revision and approval of school and school system
10 electronic strategic improvement plans shall ensure that schools
11 and school systems are efficiently using existing resources to
12 correct the deficiencies. When the state board determines that
13 schools and school systems do not have the capacity to correct
14 deficiencies, the state board shall work with the county board to
15 develop or secure the resources necessary to increase the capacity
16 of schools and school systems to meet the standards and, when
17 necessary, seek additional resources in consultation with the
18 Legislature and the Governor.

19 (2) (A) A county board given temporary, conditional or
20 nonapproval status shall revise its electronic county strategic
21 improvement plan in accordance with subsection (b) of this section
22 to increase the performance and progress of the school system to a
23 full approval status level. The county board shall meet the

1 objectives and time line specified in the revised plan. The
2 revised plan shall be submitted to the state board for approval.

3 (B) A county board given temporary, conditional or nonapproval
4 status shall be designated as a member of Educational Opportunity
5 Zone 180. A member of the Educational Opportunity Zone 180 shall
6 meet the following requirements:

7 (i) Members of the county board shall attend a five-day
8 training designed by the West Virginia School Board Association;

9 (ii) The county superintendent and the county leadership team
10 shall attend training designed by the West Virginia Department of
11 Education in conjunction with the West Virginia School Board
12 Association for no less than five days;

13 (iii) The county leadership team shall meet monthly with the
14 State System of Support to review progress on the revised
15 electronic county strategic improvement plan;

16 (iv) The county board shall examine various strategies to
17 bring the county to full approval including, but not limited to,
18 instituting year-round education, engaging external support
19 partners to intervene in low-performing schools, applying for
20 waiver of statute, rule or policy to address flexibility and
21 capacity to meet identified deficiencies, reorganizing central
22 office roles and responsibilities, examining the current staffing
23 patterns of the county to assess the critical human resource needs
24 of low-performing schools, instituting an efficiency audit in

1 conjunction with the Division of Student Services of the West
2 Virginia department of education, creating or revising standard
3 operating procedures of the district, and other strategies
4 collaboratively agreed upon with the State System of Support.

5 (3) The state board shall recommend to the appropriate body
6 including, but not limited to, the Process for Improving Education
7 Council, the Legislature, county boards, schools and communities
8 methods for targeting resources strategically to eliminate
9 deficiencies identified in the assessment and accountability
10 processes. When making determinations on recommendations, the
11 state board shall include, but is not limited to, the following
12 methods:

13 ~~(1)~~ (A) Examining reports and electronic strategic improvement
14 plans regarding the performance and progress of students, schools
15 and school systems relative to the standards and identifying the
16 areas in which improvement is needed;

17 ~~(2)~~ (B) Determining the areas of weakness and of
18 ineffectiveness that appear to have contributed to the substandard
19 performance and progress of students or the deficiencies of the
20 school or school system and requiring the school or school system
21 to work collaboratively with the West Virginia Department of
22 Education State System of Support to correct the deficiencies;

23 ~~(3)~~ (C) Determining the areas of strength that appear to have
24 contributed to exceptional student, school and school system

1 performance and progress and promoting their emulation throughout
2 the system;

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

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

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

12 ~~(7)~~ (G) Submitting requests to the Legislature for
13 appropriations to meet the identified needs for improving
14 education;

15 ~~(8)~~ (H) Directing county boards to target their funds
16 strategically toward alleviating deficiencies;

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

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

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

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

2 **§18-5-17. Kids First compulsory comprehensive health screening;**
3 **developmental screening for children under compulsory**
4 **school age.**

5 (a) Prior to January 1, 2013, all children entering public
6 school for the first time in this state shall be given prior to
7 their enrollments screening tests to determine if they might have
8 vision or hearing impairments or speech and language disabilities.
9 County boards of education may provide, upon request, ~~such~~ the
10 screening tests to all children entering nonpublic school. County
11 boards of education shall conduct these screening tests for all
12 children through the use of trained personnel. Parents or guardians
13 of children who are found to have vision or hearing impairments or
14 speech and language disabilities shall be notified of the results
15 of these tests and advised that further diagnosis and treatment of
16 the impairments or disabilities by qualified professional personnel
17 is recommended.

18 (b) Effective January 1, 2013:

19 (1) Students entering public school for the first time in this
20 state, students entering third grade, students entering sixth grade
21 and students entering ninth grade are required to have a
22 comprehensive health screening. Parents or guardians shall provide
23 appropriate documentation of a comprehensive health screening within
24 forty-five days of a student's entering public school for the first

1 time in this state or within forty-five days of a student's entering
2 third, sixth or ninth grade, as applicable.

3 (2) For the purposes of this section, "comprehensive health
4 screening" means a screening protocol developed by the state board
5 in consultation with the Department of Health and Human Resources
6 that includes, but is not limited to, hearing, vision, speech,
7 language, current health indicators and growth development.

8 (3) County boards shall:

9 (A) Coordinate with parents or guardians and community health
10 care providers to ensure that the requirements of this subsection
11 are communicated to all parties;

12 (B) Enter all comprehensive health screening data in the West
13 Virginia Education Information System; and

14 (C) Coordinate with parents or guardians and community health
15 care providers to ensure that suspected deficits identified through
16 a comprehensive health screening are addressed through referral to
17 specialty healthcare providers, county board student support
18 services or both.

19 ~~(b)~~ (c) ~~County boards of education~~ shall provide or contract
20 with appropriate health agencies to provide, upon the request of a
21 parent or guardian residing within the district, developmental
22 screening for their child or children under compulsory school
23 attendance age: *Provided*, That a county board is not required to
24 provide ~~such~~ developmental screening to the same child more than

1 once in any one school year. Effective January 1, 2013, a county
 2 board shall provide developmental screening for a child only if a
 3 comprehensive health screening identifies a suspected deficit.

4 Developmental screening is the process of measuring the progress of
 5 children to determine if there are problems or potential problems
 6 ~~or advanced abilities~~ in the areas of understanding language,
 7 perception through sight, perception through hearing, motor
 8 development and hand-eye coordination, health, and psycho-social or
 9 physical development. The boards shall coordinate the provision of
 10 developmental screening with other public agencies and the
 11 interagency plan for exceptional children under section eight,
 12 article twenty of this chapter to avoid the duplication of services
 13 and to facilitate the referral of children and their parents or
 14 guardians who need other services. The county boards shall provide
 15 notice to the public of the availability of these services.

16 ~~(c)~~ (d) The state Board of Education is hereby authorized to
 17 board may promulgate rules consistent with this section. The State
 18 Superintendent is directed to apply for federal funds, if available,
 19 for the implementation of the requirements of this section.

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

21 **§18-5A-5. Public school faculty senates established; election of**
 22 **officers; powers and duties.**

23 (a) There is established at every public school in this state
 24 a faculty senate which is comprised of all permanent, full-time

1 professional educators employed at the school who shall all be
2 voting members. Professional educators, as used in this section,
3 means professional educators as defined in chapter eighteen-a of
4 this code. A quorum of more than one half of the voting members of
5 the faculty shall be present at any meeting of the faculty senate
6 at which official business is conducted. Prior to the beginning of
7 the instructional term each year, but within the employment term,
8 the principal shall convene a meeting of the faculty senate to elect
9 a chair, vice chair and secretary and discuss matters relevant to
10 the beginning of the school year. The vice chair shall preside at
11 meetings when the chair is absent. Meetings of the faculty senate
12 shall be held during the times provided in accordance with
13 subdivision (12), subsection (b) of this section as determined by
14 the faculty senate. Emergency meetings may be held during
15 noninstructional time at the call of the chair or a majority of the
16 voting members by petition submitted to the chair and vice chair.
17 An agenda of matters to be considered at a scheduled meeting of the
18 faculty senate shall be available to the members at least two
19 employment days prior to the meeting. For emergency meetings the
20 agenda shall be available as soon as possible prior to the meeting.
21 The chair of the faculty senate may appoint such committees as may
22 be desirable to study and submit recommendations to the full faculty
23 senate, but the acts of the faculty senate shall be voted upon by
24 the full body.

1 (b) In addition to any other powers and duties conferred by
2 law, or authorized by policies adopted by the state or county board
3 of education or bylaws which may be adopted by the faculty senate
4 not inconsistent with law, the powers and duties listed in this
5 subsection are specifically reserved for the faculty senate. The
6 intent of these provisions is neither to restrict nor to require the
7 activities of every faculty senate to the enumerated items except
8 as otherwise stated. Each faculty senate shall organize its
9 activities as it deems most effective and efficient based on school
10 size, departmental structure and other relevant factors.

11 (1) Each faculty senate shall control funds allocated to the
12 school from legislative appropriations pursuant to section nine,
13 article nine-a of this chapter. From such funds, each classroom
14 teacher and librarian shall be allotted \$100 for expenditure during
15 the instructional year for academic materials, supplies or equipment
16 which, in the judgment of the teacher or librarian, will assist him
17 or her in providing instruction in his or her assigned academic
18 subjects or shall be returned to the faculty senate: *Provided*, That
19 nothing contained herein prohibits the funds from being used for
20 programs and materials that, in the opinion of the teacher, enhance
21 student behavior, increase academic achievement, improve self-esteem
22 and address the problems of students at-risk. The remainder of
23 funds shall be expended for academic materials, supplies or
24 equipment in accordance with a budget approved by the faculty

1 senate. Notwithstanding any other provisions of the law to the
2 contrary, funds not expended in one school year are available for
3 expenditure in the next school year: *Provided, however,* That the
4 amount of county funds budgeted in a fiscal year may not be reduced
5 throughout the year as a result of the faculty appropriations in the
6 same fiscal year for such materials, supplies and equipment.
7 Accounts shall be maintained of the allocations and expenditures of
8 such funds for the purpose of financial audit. Academic materials,
9 supplies or equipment shall be interpreted broadly, but does not
10 include materials, supplies or equipment which will be used in or
11 connected with interscholastic athletic events.

12 (2) (A) A faculty senate may establish a process for faculty
13 members to ~~interview new prospective professional educators and~~
14 select the faculty senate member of the committee established in
15 subdivision (2), subsection (d), section seven-a, article four,
16 chapter eighteen-a of this code.

17 (B) A faculty senate may establish a process for faculty
18 members to interview new paraprofessional employees at the school
19 and submit recommendations regarding employment to the principal,
20 who may also make independent recommendations, for submission to the
21 county superintendent: *Provided,* That such process shall be chaired
22 by the school principal and must permit the timely employment of
23 persons to perform necessary duties.

1 (3) A faculty senate may nominate teachers for recognition as
2 outstanding teachers under state and local teacher recognition
3 programs and other personnel at the school, including parents, for
4 recognition under other appropriate recognition programs and may
5 establish such programs for operation at the school.

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

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

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

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

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

21 (9) Each faculty senate shall have an opportunity to make
22 recommendations on the selection of faculty to serve as mentors for
23 beginning teachers under beginning teacher internship programs at
24 the school.

1 (10) A faculty senate may solicit, accept and expend any
2 grants, gifts, bequests, donations and any other funds made
3 available to the faculty senate: *Provided*, That the faculty senate
4 shall select a member who has the duty of maintaining a record of
5 all funds received and expended by the faculty senate, which record
6 shall be kept in the school office and is subject to normal auditing
7 procedures.

8 (11) Any faculty senate may review the evaluation procedure as
9 conducted in their school to ascertain whether the evaluations were
10 conducted in accordance with the written system required pursuant
11 to section twelve, article two, chapter eighteen-a of this code and
12 the general intent of this Legislature regarding meaningful
13 performance evaluations of school personnel. If a majority of
14 members of the faculty senate determine that such evaluations were
15 not so conducted, they shall submit a report in writing to the State
16 Board of Education: *Provided*, That nothing herein creates any new
17 right of access to or review of any individual's evaluations.

18 (12) A local board shall provide to each faculty senate a
19 two-hour block of time for a faculty senate meeting on a day
20 scheduled for the opening of school prior to the beginning of the
21 instructional term, and a two-hour block of time on each
22 instructional support and enhancement day scheduled by the board for
23 instructional activities for students and professional activities
24 for teachers pursuant to section forty-five, article five of this

1 chapter. A faculty senate may meet for an unlimited block of time
2 per month during noninstructional days to discuss and plan
3 strategies to improve student instruction and to conduct other
4 faculty senate business. A faculty senate meeting scheduled on a
5 noninstructional day shall be considered as part of the purpose for
6 which the noninstructional day is scheduled. This time may be
7 utilized and determined at the local school level and includes, but
8 is not limited to, faculty senate meetings.

9 (13) Each faculty senate shall develop a strategic plan to
10 manage the integration of special needs students into the regular
11 classroom at their respective schools and submit the strategic plan
12 to the superintendent of the county board of education periodically
13 pursuant to guidelines developed by the State Department of
14 Education. Each faculty senate shall encourage the participation
15 of local school improvement councils, parents and the community at
16 large in developing the strategic plan for each school.

17 Each strategic plan developed by the faculty senate shall
18 include at least: (A) A mission statement; (B) goals; (C) needs;
19 (D) objectives and activities to implement plans relating to each
20 goal; (E) work in progress to implement the strategic plan; (F)
21 guidelines for placing additional staff into integrated classrooms
22 to meet the needs of exceptional needs students without diminishing
23 the services rendered to the other students in integrated
24 classrooms; (G) guidelines for implementation of collaborative

1 planning and instruction; and (H) training for all regular classroom
2 teachers who serve students with exceptional needs in integrated
3 classrooms.

4 **ARTICLE 5D. CHARTER INNOVATION ZONE 2.0 SCHOOLS.**

5 **§18-5D-1. Definitions.**

6 Unless the context clearly requires a different meaning, as
7 used in this article:

8 (1) "Authorizer" means the state board.

9 (2) "Commission" means the Charter Innovation Zone 2.0 Schools
10 Commission.

11 (3) "Council" means the site-based governance council of a
12 Charter Innovation Zone 2.0 School.

13 (4) "Charter Innovation Zone 2.0 School" or "authorized school"
14 means a public school or a subdivision of a public school that:

15 (A) Has autonomy over decisions including, but not limited to,
16 matters concerning finance, staff selection, scheduling, curriculum
17 and instruction;

18 (B) Is governed by a council;

19 (C) Is established and operating under the terms of a charter
20 between the school's council and its authorizer;

21 (D) Is a school to which parents choose to send their children;

22 (E) Is a school that admits students on the basis of a lottery
23 if more students apply for admission than can be accommodated;

1 (F) Provides a program of education for any grade or grades
2 from kindergarten through twelfth grade;

3 (G) Operates in pursuit of a specific set of educational
4 objectives as defined in its charter; and

5 (H) Operates under the oversight of its authorizer in
6 accordance with its charter.

7 (5) "Nonauthorized school" is a public school that is not an
8 authorized school.

9 (6) "Sponsor" means the entity that files an application to be
10 a Charter Innovation Zone 2.0 School in accordance with the
11 provisions of this article. Sponsors may include a public school,
12 a group of existing public schools, a subdivision of a public
13 school, a public higher education institution in partnership with
14 a public school or group of public schools, or a county board.

15 **§18-5D-2. Legislative findings and purpose.**

16 (a) The Legislature finds that:

17 (1) It is in the best interest of the people of the state to
18 provide all children with public schools that reflect high
19 expectations;

20 (2) Education reform is necessary to strengthen the performance
21 of elementary and secondary public school students;

22 (3) Those who know students best, their parents and educators,
23 make the best education decisions regarding the students;

1 (4) Parents and educators have a right and a responsibility to
2 participate in the education institutions which serve them;

3 (5) Different students learn differently and public school
4 programs should be customized to fit the needs of individual
5 students; and

6 (6) Certain parents, educators and other citizens in the state
7 are willing and able to offer educational programs but lack a
8 channel through which they can direct their efforts.

9 (b) The purpose of this article is:

10 (1) To close achievement gaps between high-performing and
11 low-performing groups of public school students;

12 (2) To increase high-quality educational opportunities within
13 the public education system for all students;

14 (3) To create new professional opportunities for teachers,
15 school administrators and other school personnel that allow them to
16 have a direct voice in the operation of their schools and to create
17 a culture of shared decision-making toward the ultimate goal of
18 raising student achievement;

19 (4) To encourage the use of different, high-quality models of
20 teaching, governing, scheduling or other aspects of schooling that
21 meet a variety of student needs;

22 (5) To allow public schools freedom and flexibility in exchange
23 for exceptional levels of results-driven accountability;

1 (6) To provide students, parents, community members and local
2 entities with expanded opportunities for involvement in the public
3 education system; and

4 (7) To encourage the replication of successful Charter
5 Innovation Zone 2.0 Schools.

6 **§18-5D-3. General provisions.**

7 (a) All Charter Innovation Zone 2.0 Schools established under
8 this article are public schools and are part of the state's public
9 education system.

10 (b) The state board may not cap the number of schools
11 authorized under this article.

12 (c) A school authorized under this article shall be part of the
13 school district in which the school is located.

14 (d) The provisions of this article shall be interpreted,
15 construed and administered liberally to accomplish the purposes set
16 forth in section two of this article and to advance a commitment by
17 the state to the mission, goals and diversity of public education.

18 **§18-5D-4. Autonomy of authorized school.**

19 (a) The sponsor, the authorizer and the site-based governance
20 council shall encourage an authorized school to create a culture of
21 shared decision-making toward the ultimate goal of raising student
22 achievement.

1 (b) An authorized school may have autonomy regarding certain
2 elements of governance and instruction. In accordance with its
3 charter, the authorized school may:

4 (1) Determine the learning model of the school, which shall be
5 aligned with the objectives of the West Virginia Department of
6 Education;

7 (2) Determine the school's leadership model that shall include
8 a principal as well as groups of teacher leaders;

9 (3) Select and structure curriculum, instructional practices,
10 professional development and formative assessment practices aligned
11 with the objectives of the West Virginia Department of Education:
12 *Provided*, That the school may not be exempt from assessments
13 mandated by federal, state or county requirements;

14 (4) Create family involvement programs that assure strong
15 parental input and access;

16 (5) Create student policies including promotion, attendance and
17 discipline policies: *Provided*, That the school shall comply with
18 sections one-a and one-b, article five, chapter eighteen-a of this
19 code regarding the expulsion of students.

20 (6) Determine the length of school day and year, preparation
21 time or other related areas, subject to county board approval;

22 (7) Plan and manage the budget for the school;

23 (8) Recommend the selection of classroom teachers or other
24 professional personnel employed at the school; and

1 (9) Determine any other autonomies stipulated in the
2 application, other than section seven, article two, chapter
3 eighteen-a of this code and sections seven-a, seven-b, eight and
4 eight-b, article four, chapter eighteen-a of this code, necessary
5 to increase student learning and further the goals of the school.

6 **§18-5D-5. Application development and process.**

7 (a) A sponsor may apply for authorization as a Charter
8 Innovation Zone 2.0 School. Before submitting an application, the
9 sponsor shall undergo a one-year planning process to develop the
10 application. The state board shall offer technical assistance to
11 all sponsors during the planning process. The technical assistance
12 shall include, but not be limited to, a review of state statutes and
13 state board rules, the creation of a core founding group, access to
14 experts and the design of a comprehensive school plan. Sponsors may
15 obtain available funding from state and federal planning grants,
16 private foundation grants and corporate grants.

17 (b) The state board shall develop, through rule, an application
18 process that encompasses at least the following:

19 (1) The manner, time and process for the submission of a
20 Charter Innovation Zone 2.0 School application; and

21 (2) The contents of the application, including:

22 (A) A detailed plan for education, including the mission,
23 goals, objectives and strategies for improving student learning;

1 (B) Performance criteria to be used to measure student learning
2 and achievement of state goals;

3 (C) Student admissions procedures, including the ways by which
4 the school will achieve socioeconomic, racial and ethnic diversity,
5 and student dismissal procedures;

6 (D) A plan for the governance, administration and operation of
7 the Charter Innovation Zone 2.0 School including the composition of
8 the site-based governance council, the manner in which the council
9 will be selected, and provisions for involvement of parents,
10 professional personnel and community members in the governance and
11 operation of the Charter Innovation Zone 2.0 School;

12 (E) A description of the facilities that will house the
13 authorized school and under what terms and conditions they are to
14 be provided;

15 (F) The services to be provided by the county board and the
16 services to be provided by third parties and a memorandum of
17 understanding signed by the sponsor and the county board which shall
18 specify the roles, powers and responsibilities of each entity. The
19 memorandum of understanding shall address, but is not limited to,
20 transportation and facilities maintenance provided by the county
21 board;

22 (G) The procedures to be followed to ensure the health and
23 safety of students and staff;

1 (H) A financial plan including a proposed budget and the manner
2 in which the funds will be managed in accordance with the required
3 accounting procedures for public schools;

4 (I) An agreement to provide an annual report to parents, the
5 community and the county board indicating demographic information
6 about the student body, staff credentials, student turnover rate,
7 educational program, student performance on state assessments,
8 sources of revenue and financial accounting of expenditures;

9 (J) A plan for evaluating the effectiveness of the school and
10 progress made toward achieving the school goals; and

11 (K) The proposed bylaws of the school.

12 **§18-5D-6. Charter Innovation Zone 2.0 School Commission; members;**
13 **powers and duties.**

14 (a) The Charter Innovation Zone 2.0 School Commission is hereby
15 created.

16 (b) The commission consists of the following members:

17 (1) One member of the state board, who serves as chair,
18 appointed by the state board;

19 (2) One professional educator who shall be a classroom teacher,
20 appointed by the state board from a list of two to four nominees
21 provided by the State Superintendent;

22 (3) One county superintendent, appointed by the state board
23 from a list of two to four nominees provided by the State
24 Superintendent;

1 (4) One school principal, appointed by the state board from a
2 list of two to four nominees provided by the State Superintendent;

3 (5) One representative of business, appointed by the state
4 board from a list of two to four nominees provided by the State
5 Superintendent;

6 (6) One citizen member, preferably a member of a Local School
7 Improvement Council, appointed by the state board from a list of two
8 to four nominees provided by the State Superintendent;

9 (7) One representative of the West Virginia Community and
10 Technical College System, appointed by the state board from a list
11 of two to four nominees provided by the Council for Community and
12 Technical College Education;

13 (8) One representative of higher education, appointed by the
14 state board from a list of two to four nominees provided by the
15 Higher Education Policy Commission;

16 (9) One county board member, appointed by the state board from
17 a list of two to four nominees provided by the State Superintendent;
18 and

19 (10) One designee of the State Superintendent, who shall be an
20 *ex officio* nonvoting member.

21 (c) Upon initial appointment, three members shall be appointed
22 for one-year terms, three members shall be appointed for two-year
23 terms, and three members shall be appointed for three-year terms.
24 After the initial appointments, all members serve terms for three

1 years. Each term begins on July 1. Any vacancy on the board shall
2 be filled by the state board through appointment for the unexpired
3 term.

4 (d) Members of the commission shall exhibit high interest in
5 the success of elementary and secondary public education, have a
6 breadth of experience and expertise well-suited to the commission's
7 work and reflect, when practicable, the geographic regions where
8 authorized schools and sponsors are located.

9 (e) A member of the commission may be removed from office by
10 the state board for official misconduct, incompetence, neglect of
11 duty or gross immorality.

12 (f) The commission shall meet at least quarterly and its
13 members shall be reimbursed for reasonable and necessary expenses
14 actually incurred in the performance of official duties in a manner
15 consistent with guidelines of the travel management office of the
16 Department of Administration from funds appropriated or otherwise
17 made available for such purpose upon submission of an itemized
18 statement.

19 (g) Any act performed by a member of the state board in
20 furtherance of his or her duties as a member of the commission is
21 solely an act of the commission, and not the state board.

22 (h) The commission shall review applications for authorized
23 schools in accordance with this article.

1 (i) The commission shall review data provided by the state
2 board on Charter Innovation Zone 2.0 Schools and may provide
3 potential sponsors, county boards, the state board and the public
4 with topical studies relating to authorized schools as well as the
5 results of any evaluation of existing authorized schools.

6 (j) The commission shall monitor the status of Charter
7 Innovation Zone 2.0 School applications and shall maintain
8 information on the total number of Charter Innovation Zone 2.0
9 School applications submitted to the commission, total number of
10 authorizations granted by type of school and total number of
11 applications denied.

12 (k) The commission shall compare the performance of authorized
13 school students with the performance of ethnically and economically
14 comparable groups of students in other public schools who are
15 enrolled in academically comparable courses.

16 (l) The state board shall use existing personnel and resources
17 to support the work of the commission and may request legislative
18 appropriation for such costs. The state board may authorize
19 regional education service agencies to provide support and
20 assistance to the commission, including facilities, personnel and
21 other such services.

22 (m) The commission shall make an annual report to the state
23 board and the State Superintendent addressing any successful
24 innovations applied in authorized schools which may be replicated

1 in other schools. The report shall provide information about how
2 nonauthorized public schools may implement these innovations,
3 especially through reliance on article five-b of this chapter.

4 **§18-5D-7. Approval of applications; renewal, revocation and**
5 **termination of authorized status.**

6 (a) *Approval process.* -- The state board shall promulgate a
7 rule for the recommendation and approval of an application. The
8 rule shall provide for the review of the application by the county
9 board, the commission and the state board. Only the state board may
10 determine whether to authorize a sponsor.

11 (b) *Factors considered.* -- The county board, commission and
12 state board shall consider the following factors when evaluating an
13 application, in addition to any other factors set forth in state
14 board rules:

15 (1) The level of staff commitment to apply for designation as
16 an authorized school as determined by a vote by secret ballot at a
17 special meeting of all employees regularly employed at the school
18 who are eligible to vote. At least eighty percent of employees
19 affected by the implementation of the application submitted by the
20 sponsor must vote to apply for authorization as a Charter Innovation
21 Zone 2.0 School;

22 (2) Support from parents, students, the community, the county
23 board, the local school improvement council and school business
24 partners; and

1 (3) The potential for an applicant to be successful as a
2 Charter Innovation Zone 2.0 School.

3 (c) *Authorization and charter.* -- Upon authorization by the
4 state board, the school shall be authorized for three years. The
5 application recommended by the county board and approved by the
6 state board shall become the charter of the authorized school.
7 Authorization may be renewed for a term of up to five years by the
8 state board. The state board shall oversee the renewal of the
9 Charter Innovation Zone 2.0 School pursuant to a rule promulgated
10 by the state board.

11 (d) *Revocation.* -- The state board may revoke a school's
12 authorized status before the end of the three- or five-year term,
13 as applicable, if the state board determines that the authorized
14 school has not demonstrated appropriate growth in student
15 achievement, that the school has not met the conditions outlined in
16 the charter, or that the council has engaged in gross misconduct,
17 mismanagement of funds, incompetence or willful neglect of duty that
18 is detrimental to student achievement.

19 (e) *Dissolution.* -- Upon dissolution of a Charter Innovation
20 Zone 2.0 School for any reason, including nonrenewal, any
21 unencumbered public funds from the authorized school shall revert
22 to the county board of the district in which the school is located.

23 **§18-5D-8. Site-based governance council.**

1 (a) In accordance with its charter, each authorized school will
2 elect or select a site-based governance council to provide ongoing
3 oversight of the school, effectiveness of the leadership team,
4 finances and facilities.

5 (b) The charter shall set forth the council membership. The
6 council membership shall include, but not be limited to,
7 administrators, classroom teachers, service personnel, community
8 members and parents. Classroom teachers shall comprise the majority
9 of the membership. The county superintendent or his or her designee
10 shall be an *ex officio*, nonvoting member of the council.

11 (c) The council may appoint a staff selection committee to
12 participate in the county board's hiring process by interviewing
13 principals and classroom teachers considered for employment at the
14 authorized school. The staff selection committee may make
15 recommendations to the county superintendent and county board. The
16 staff selection committee shall have no more than five members and
17 shall include representation from the faculty senate, if applicable,
18 and the council.

19 **§18-5D-9. Admissions and enrollment; lottery requirements.**

20 (a) *General requirements.* --

21 (1) An authorized school shall be open to any student residing
22 in the state.

23 (2) A school district may not require any student enrolled in
24 the school district to attend an authorized school.

1 (3) An authorized school may not limit admission based on
2 ethnicity, national origin, religion, gender, income level,
3 disabling condition, exceptionality, proficiency in the English
4 language, or academic or athletic ability. An authorized school
5 shall seek equitable distribution of students that is representative
6 of other students in the county.

7 (4) An authorized school may limit admission to students within
8 a given age group or grade level.

9 (5) An authorized school shall enroll all students seeking to
10 attend the school, unless the number of students exceeds the
11 capacity of a program, class, grade level or building.

12 (6) If capacity is insufficient to enroll all students seeking
13 to attend the school, the authorized school shall select students
14 through a lottery, as outlined in subsection (b) of this section.

15 (b) *Lottery requirements and enrollment preferences.* --

16 (1) Any nonauthorized public school converting entirely to an
17 authorized school shall adopt and maintain a policy that allows all
18 students who reside within the attendance area of the former
19 nonauthorized school to enroll in the authorized school.

20 (2) If capacity is insufficient to enroll all students seeking
21 to attend an authorized school, the authorized school shall adopt
22 and maintain a policy consistent with its charter for enrollment.
23 The policy must state how enrollment preferences shall be
24 implemented and must provide for the following:

1 (A) Any nonauthorized public school converting partially to an
2 authorized school shall give enrollment preference to students who
3 reside in the attendance area.

4 (B) An authorized school shall give enrollment preference to
5 students enrolled in the school the previous school year and to
6 siblings of students already enrolled in the school.

7 (C) The authorized school shall select students through a
8 lottery after all enrollment preferences are considered.

9 (c) *Credit transfer.* -- A public school enrolling a student who
10 was previously enrolled in an authorized school shall accept credits
11 earned by the student in courses or instructional programs at the
12 authorized school in a uniform and consistent manner and according
13 to the same criteria that are used to accept academic credits from
14 other public schools.

15 (d) *Information to parents and the general public.* -- A school
16 district shall provide information to parents and the general public
17 within the district about authorized schools within the district to
18 the same extent and through the same means that the district
19 provides and publicizes information about nonauthorized public
20 schools in the district.

21 **§18-5D-10. Personnel.**

22 (a) Authorized schools shall comply with federal and state laws
23 and regulations regarding personnel certification and teaching
24 requirements.

1 (b) Employees of authorized schools shall be employees of the
2 county board.

3 (c) An employee regularly employed at an authorized school or
4 a school applying for authorization whose job duties may be affected
5 by the authorization may request a transfer to another school in the
6 school district. The county board shall make every reasonable
7 effort to accommodate the transfer.

8 **§18-5D-11. Monitoring and accountability.**

9 (a) *Preopening requirements or conditions.* -- The state board
10 may establish reasonable preopening requirements or conditions to
11 monitor the start-up progress of newly approved authorized schools
12 to ensure that they are prepared to open without difficulty on the
13 date agreed, and to ensure that each school meets all building,
14 health, safety, insurance and other legal requirements for school
15 opening.

16 (b) *Monitoring.* -- Authorized schools shall be monitored at
17 least annually by the commission and the Office of Education
18 Performance Audits. Schools shall be monitored on the following
19 items:

20 (1) Success in student achievement using assessments required
21 of other students statewide, including the student growth model;

22 (2) Success in meeting goals set forth in its charter;

1 (3) The responsible use of public funds and the reporting of
2 the use of funds in accordance with generally accepted accounting
3 principles; and

4 (4) Compliance with applicable federal, state and local laws
5 and regulations.

6 **§18-5D-12. Funding; fiscal agent.**

7 (a) (1) The county board of the county in which an authorized
8 school is located remains fiscally responsible for operational
9 support of the school, including the business functions, facilities,
10 student transportation, child nutrition and all other student
11 services normally provided by the school district as set forth in
12 article five-c of this chapter and in the charter. The county board
13 shall be fiscally responsible for child nutrition and all other
14 student services normally provided by the school district.

15 (2) The county board shall allocate the same amount of funds
16 on a per pupil basis to the authorized school as is allocated to all
17 other schools, as defined and determined by the county board. The
18 per pupil expenditure shall be based on the second month head count
19 enrollment of the district for the previous school year. All funds
20 allocated by the county board shall be spent according to the budget
21 of the authorized school, subject to state and federal law. The
22 authorized school shall comply with state board and county board
23 purchasing requirements.

1 (b) For a new authorized school not created from an existing
2 public school, funds which would otherwise be allocated on the basis
3 of enrollment in the new authorized school in the prior year shall
4 be allocated, during the first full academic year of operation of
5 such authorized school, on the basis of the anticipated enrollment
6 in the application as approved by the county board. The county
7 board shall subsequently adjust the amount to reflect the actual
8 number of students enrolled.

9 (c) (1) Charter Innovation Zone 2.0 School sponsors, authorized
10 schools, county boards and the State Superintendent may apply for
11 federal funds appropriated for the support of Charter Innovation
12 Zone 2.0 Schools.

13 (2) The schools may receive additional funds from the
14 following:

15 (A) Federal grants, including federal funds appropriated for
16 the support of Charter Innovation Zone 2.0 Schools;

17 (B) Gifts, devises or donations from any private sources;

18 (C) State funds appropriated for the support of Charter
19 Innovation Zone 2.0 Schools, if any; and

20 (D) Any other funds that may be received by the county board
21 of the district in which the authorized school is located.

22 (3) A sponsor and an authorized school shall report to the
23 county board the receipt of any of the funds listed in this
24 subsection, except funds from the county board.

1 (d) A council may present independent information to the
2 commission regarding equity of funding.

3 (e) County boards with Charter Innovation Zone 2.0 Schools
4 within the district shall conduct a triennial comprehensive study
5 to evaluate the equality of funding and programs among the various
6 schools within the county, including any authorized schools within
7 the county. Such study shall consider issues including, but not
8 limited to, cost per pupil and availability of curriculum and
9 programs. The state board and commission shall assist the county
10 board and shall provide a format for the report. The first report
11 compiling the results of this study shall be due July 1, 2013.
12 County boards shall submit the report to the commission.

13 (f) The county board shall serve as the fiscal agent for the
14 school.

15 **§18-5D-13. Student transportation.**

16 (a) Transportation shall be provided by agreement with the
17 county board of the district within which the authorized school is
18 located consistent with the district's transportation policy for the
19 schools within the district. The county board may reduce the amount
20 of funding paid to the authorized school or may otherwise charge the
21 authorized school for the transportation services pursuant to the
22 memorandum of agreement between the county board and the authorized
23 school.

1 (b) Except for any agreement with the county board to provide
2 transportation services to authorized school students, an authorized
3 school may not contract for transportation services with the
4 exception of curricular or extracurricular transportation services.

5 (c) Each authorized school shall develop a detailed
6 transportation plan which shall be submitted as part of the
7 application. The authorized school shall review the plan annually,
8 submitting any proposed modifications to its plan to the commission.
9 Any proposed modifications shall be considered by the commission,
10 which may suggest that the state board accept, modify or reject such
11 modifications.

12 **§18-5D-14. Facilities.**

13 (a) To the extent practicable, an authorized school shall be
14 housed in existing district school buildings or buildings which are
15 not being used for educational purposes due to school merger or
16 closure. Such schools shall meet applicable health and safety
17 standards as specified by the county board or state board rule, any
18 applicable rules of the School Building Authority of West Virginia,
19 and other agencies of state and county government having
20 jurisdiction for such, including, but not limited to, health
21 departments.

22 (b) An authorized school may negotiate and contract with a
23 school district, the governing body of a state college or university

1 or public community college or any other public or for-profit or
2 nonprofit private entity for the use of a school building.

3 (c) The county board shall provide maintenance for an
4 authorized school facility pursuant to the memorandum of agreement
5 between the county board and the authorized school. Such
6 maintenance services shall be provided by the county board in a
7 manner in which maintenance services are provided to the schools in
8 the county, unless an alternative agreement is contained within the
9 memorandum of agreement.

10 (d) The state board shall require the authorized school to
11 develop a three-year facilities plan, including specific
12 recommendations regarding how its facility or facilities will be
13 maintained. The plan must be submitted to the state board in the
14 sponsor's application.

15 (e) The county board shall make available to a sponsor or an
16 authorized school, upon request, a list of vacant and unused
17 buildings and vacant and unused portions of buildings that are owned
18 by the school district and that may be suitable for the operation
19 of an authorized school.

20 (f) An authorized school may operate within an existing public
21 school: *Provided*, That the existing public school wherein an
22 authorized school seeks to operate consents to the operation in
23 writing based on the approval of at least eighty percent of its
24 Local School Improvement Council and at least eighty percent of the

1 affected school employees through a secret ballot. The votes shall
2 be conducted in accordance with county board policies regarding such
3 voting. The county board policies shall detail the manner in which
4 an election shall be conducted.

5 (g) The council of an authorized school that disbands, chooses
6 alternate facilities approved by the county board, or has its
7 charter revoked shall notify the county board of such circumstances
8 at least one-hundred eighty days in advance or immediately upon
9 receiving notification of the revocation of the authorized status.

10 **§18-5D-15. Extracurricular activities.**

11 Authorized school students may participate in school district
12 athletic and extracurricular activities to the extent determined by
13 regulation of the West Virginia Secondary Schools Activities
14 Commission and as applied uniformly throughout the state.

15 **§18-5D-16. Virtual Charter Innovation Zone 2.0 Schools.**

16 The state board may promulgate a rule in accordance with
17 article three-b, chapter twenty-nine-a of this code that establishes
18 conditions for the creation of Virtual Charter Innovation Zone 2.0
19 Schools.

20 **§18-5D-17. Rule-making authority.**

21 The state board shall promulgate rules, including emergency
22 rules, if necessary, in accordance with article three-b, chapter
23 twenty-nine-a of this code to implement the provisions of this
24 article.

1 **ARTICLE 5E. COMMITTEE REORGANIZATION AND COLLABORATIVE TEAM**

2 **WAIVERS.**

3 **§18-5E-1. Purpose.**

4 The purpose of this article is:

5 (a) To facilitate and encourage teacher collaboration by
6 empowering schools to create alternative decision-making processes
7 that address school and classroom improvement and by allowing for
8 the reorganization or consolidation of certain school committees
9 required by statutes and state board rules, including the Local
10 School Improvement Council, School Curriculum Team, Strategic
11 Planning Committee, Technology Team and School Support Team; and

12 (b) To recognize that schools in this state differ greatly in
13 enrollment, grade configuration, demographics and student needs and
14 to provide flexibility to teachers and principals by allowing them
15 to determine the types of teams necessary to move the school
16 forward.

17 **§18-5E-2. Waiver application.**

18 (a) *Request for reorganization.* -- A school may submit a waiver
19 application to the state board to create collaborative teams that
20 may replace the Local School Improvement Council, required by
21 section two, article five-a of this chapter, the School Curriculum
22 Team, required by section six, article five-a of this chapter, and
23 the Strategic Planning Committee, the Technology Team and the School
24 Support Team, required by state board rules. Reorganization under

1 this article may not replace the Student Assistance Team or the
2 faculty senate. The waiver application shall include:

3 (1) A description of the collaborative teams, which shall
4 address all of the following:

5 (A) An emphasis on teacher collaboration and leadership;

6 (B) School and classroom effectiveness;

7 (C) Involvement and support of stakeholders; and

8 (D) A coherent learner-focused improvement plan;

9 (2) An explanation of how the existing membership of required
10 committees shall have representation in the reorganization, and how
11 the roles, responsibilities and tasks of required committees shall
12 be instituted in the reorganization;

13 (3) Evidence that the employees and stakeholders who are
14 involved in restructured collaborative teams have, or will enter
15 into, a process of professional learning that develops the necessary
16 knowledge and skills to enhance learner-focused collaboration; and

17 (4) Evidence that employees and stakeholders have researched
18 viable improvement structures and processes and have proposed an
19 effective structure that addresses the particular needs of the
20 school, its students and employees.

21 (b) *Approval*. -- Before submitting the waiver application to
22 the state board:

23 (1) Eighty percent of the faculty senate must vote in favor of
24 the reorganization. The vote shall be conducted by secret ballot

1 by the faculty senate chair. Before the vote, the faculty senate
2 shall be presented with the structure, roles and responsibilities
3 of the reorganization;

4 (2) Eighty percent of the local school improvement council must
5 vote in favor of the reorganization. The vote shall be conducted
6 by chair of the council and shall be conducted within one week of
7 the vote of the faculty senate. Before the vote, the council shall
8 be presented with the structure, roles and responsibilities of the
9 reorganization; and

10 (3) The county superintendent and county board must approve the
11 waiver application.

12 (c) After meeting the requirements of subsection (b), the
13 school shall submit its waiver application to the state board. Upon
14 review and approval of the waiver application, the state board may
15 approve the waiver of statutes requiring the Local School
16 Improvement Council, required by section two, article five-a of this
17 chapter, and the School Curriculum Team, required by section six,
18 article five-a of this chapter. The state board may also approve
19 the waiver of rules requiring the Strategic Planning Committee, the
20 Technology Team and the School Support Team. The school then may
21 institute the reorganization.

22 **§18-5E-3. Rulemaking.**

1 The state board shall promulgate a rule in accordance with
2 article three-b, chapter twenty-nine-a of this code to implement the
3 provisions of this article.

4 **ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

5 **§18-7A-3. Definitions.**

6 As used in this article, unless the context clearly requires
7 a different meaning:

8 (1) "Accumulated contributions" means all deposits and all
9 deductions from the gross salary of a contributor plus regular
10 interest.

11 (2) "Accumulated net benefit" means the aggregate amount of all
12 benefits paid to or on behalf of a retired member.

13 (3) "Actuarially equivalent" or "of equal actuarial value"
14 means a benefit of equal value computed upon the basis of the
15 mortality table and interest rates as set and adopted by the
16 retirement board in accordance with the provisions of this article:
17 *Provided*, That when used in the context of compliance with the
18 federal maximum benefit requirements of Section 415 of the Internal
19 Revenue Code, "actuarially equivalent" shall be computed using the
20 mortality tables and interest rates required to comply with those
21 requirements.

22 (4) "Annuities" means the annual retirement payments for life
23 granted beneficiaries in accordance with this article.

1 (5) "Average final salary" means the average of the five
2 highest fiscal year salaries earned as a member within the last
3 fifteen fiscal years of total service credit, including military
4 service as provided in this article, or if total service is less
5 than fifteen years, the average annual salary for the period on
6 which contributions were made: *Provided*, That salaries for
7 determining benefits during any determination period may not exceed
8 the maximum compensation allowed as adjusted for cost of living in
9 accordance with section seven, article ten-d, chapter five of this
10 code and Section 401(a) (17) of the Internal Revenue Code.

11 (6) "Beneficiary" means the recipient of annuity payments made
12 under the retirement system.

13 (7) "Contributor" means a member of the retirement system who
14 has an account in the Teachers Accumulation Fund.

15 (8) "Deposit" means a voluntary payment to his or her account
16 by a member.

17 (9) "Employer" means the agency of and within the state which
18 has employed or employs a member.

19 (10) "Employer error" means an omission, misrepresentation or
20 violation of relevant provisions of the West Virginia Code or of the
21 West Virginia Code of State Regulations or the relevant provisions
22 of both the West Virginia Code and of the West Virginia Code of
23 State Regulations by the participating public employer that has
24 resulted in an underpayment or overpayment of contributions

1 required. A deliberate act contrary to the provisions of this
2 section by a participating public employer does not constitute
3 employer error.

4 (11) "Employment term" means employment for at least ten
5 months, a month being defined as twenty employment days.

6 (12) "Gross salary" means the fixed annual or periodic cash
7 wages paid by a participating public employer to a member for
8 performing duties for the participating public employer for which
9 the member was hired. Gross salary also includes retroactive
10 payments made to a member to correct a clerical error, or made
11 pursuant to a court order or final order of an administrative agency
12 charged with enforcing federal or state law pertaining to the
13 member's rights to employment or wages, with all retroactive salary
14 payments to be allocated to and considered paid in the periods in
15 which the work was or would have been done. Gross salary does not
16 include any monetary compensation received for meeting goals for
17 student growth, as set forth in sections two-c, three-a, three-b and
18 five-a, article four, chapter eighteen-a of this code, lump sum
19 payments for bonuses, early retirement incentives, severance pay or
20 any other fringe benefit of any kind including, but not limited to,
21 transportation allowances, automobiles or automobile allowances, or
22 lump sum payments for unused, accrued leave of any type or
23 character.

1 (13) "Internal Revenue Code" means the Internal Revenue Code
2 of 1986, as it has been amended.

3 (14) "Member" means any person who has accumulated
4 contributions standing to his or her credit in the State Teachers
5 Retirement System. A member shall remain a member until the
6 benefits to which he or she is entitled under this article are paid
7 or forfeited, or until cessation of membership pursuant to section
8 thirteen of this article.

9 (15) "Members of the administrative staff of the public
10 schools" means deans of instruction, deans of men, deans of women,
11 and financial and administrative secretaries.

12 (16) "Members of the extension staff of the public schools"
13 means every agricultural agent, boys' and girls' club agent and
14 every member of the agricultural extension staff whose work is not
15 primarily stenographic, clerical or secretarial.

16 (17) "New entrant" means a teacher who is not a present
17 teacher.

18 (18) "Nonteaching member" means any person, except a teacher
19 member, who is regularly employed for full-time service by: (A) Any
20 county board of education; (B) the State Board of Education; (C) the
21 Higher Education Policy Commission; (D) the West Virginia Council
22 for Community and Technical College Education; or (E) a governing
23 board, as defined in section two, article one, chapter eighteen-b
24 of this code: *Provided*, That any person whose employment with the

1 Higher Education Policy Commission, the West Virginia Council for
2 Community and Technical College Education or a governing board
3 commences on or after July 1, 1991, is not considered a nonteaching
4 member.

5 (19) "Plan year" means the twelve-month period commencing on
6 July 1 and ending the following June 30 of any designated year.

7 (20) "Present member" means a present teacher who is a member
8 of the retirement system.

9 (21) "Present teacher" means any person who was a teacher
10 within the thirty-five years beginning July 1, 1934, and whose
11 membership in the retirement system is currently active.

12 (22) "Prior service" means all service as a teacher completed
13 prior to July 1, 1941, and all service of a present member who was
14 employed as a teacher, and did not contribute to a retirement
15 account because he or she was legally ineligible for membership
16 during the service.

17 (23) "Public schools" means all publicly supported schools,
18 including colleges and universities in this state.

19 (24) "Refund beneficiary" means the estate of a deceased
20 contributor or a person he or she has nominated as beneficiary of
21 his or her contributions by written designation duly executed and
22 filed with the retirement board.

1 (25) "Refund interest" means interest compounded, according to
2 the formula established in legislative rules, series seven of the
3 Consolidated Public Retirement Board, 162 CSR 7.

4 (26) "Regular interest" means interest at four percent
5 compounded annually, or a higher earnable rate if set forth in the
6 formula established in legislative rules, series seven of the
7 Consolidated Public Retirement Board, 162 CSR 7.

8 (27) "Regularly employed for full-time service" means
9 employment in a regular position or job throughout the employment
10 term regardless of the number of hours worked or the method of pay.

11 (28) "Required beginning date" means April 1 of the calendar
12 year following the later of: (A) The calendar year in which the
13 member attains age seventy and one-half years; or (B) the calendar
14 year in which the member retires or ceases covered employment under
15 the system after having attained the age of seventy and one-half
16 years.

17 (29) "Retirement system" means the State Teachers Retirement
18 System established by this article.

19 (30) "Teacher member" means the following persons, if regularly
20 employed for full-time service: (A) Any person employed for
21 instructional service in the public schools of West Virginia; (B)
22 principals; (C) public school librarians; (D) superintendents of
23 schools and assistant county superintendents of schools; (E) any
24 county school attendance director holding a West Virginia teacher's

1 certificate; (F) the executive director of the retirement board; (G)
2 members of the research, extension, administrative or library staffs
3 of the public schools; (H) the State Superintendent of Schools,
4 heads and assistant heads of the divisions under his or her
5 supervision, or any other employee under the State Superintendent
6 performing services of an educational nature; (I) employees of the
7 State Board of Education who are performing services of an
8 educational nature; (J) any person employed in a nonteaching
9 capacity by the State Board of Education, any county board of
10 education, the State Department of Education or the State Teachers
11 Retirement Board, if that person was formerly employed as a teacher
12 in the public schools; (K) all classroom teachers, principals and
13 educational administrators in schools under the supervision of the
14 Division of Corrections, the Division of Health or the Division of
15 Human Services; (L) an employee of the State Board of School
16 Finance, if that person was formerly employed as a teacher in the
17 public schools; and (M) any person designated as a 21st Century
18 Learner Fellow pursuant to section eleven, article three, chapter
19 eighteen-a of this code who elects to remain a member of the State
20 Teachers Retirement System provided in this article.

21 (31) "Total service" means all service as a teacher while a
22 member of the retirement system since last becoming a member and,
23 in addition thereto, credit for prior service, if any.

1 Age in excess of seventy years shall be considered to be
2 seventy years.

3 **CHAPTER 18A. SCHOOL PERSONNEL.**

4 **ARTICLE 2. SCHOOL PERSONNEL.**

5 **§18A-2-1. Employment in general.**

6 The employment of professional personnel shall be made by the
7 board only upon nomination and recommendation of the superintendent:
8 *Provided*, That the superintendent shall provide the ~~principal at the~~
9 ~~school at which the professional educator or paraprofessional~~
10 ~~employee is to be employed an opportunity to interview all committee~~
11 ~~established in section seven-a, article four of this chapter the~~
12 ~~opportunity to interview the most~~ qualified applicants and make
13 recommendations to the county superintendent regarding their
14 employment: *Provided, however*, That nothing shall prohibit the
15 timely employment of persons to perform necessary duties. In case
16 the board refuses to employ any or all of the persons nominated, the
17 superintendent shall nominate others and submit the same to the
18 board at such time as the board may direct. All personnel so
19 nominated and recommended for employment and for subsequent
20 assignment shall meet the certification, licensing, training and
21 other eligibility classifications as may be required by provisions
22 of this chapter and by state board regulation. In addition to any
23 other information required, the application for any certification
24 or licensing shall include the applicant's social security number.

1 Professional personnel employed as deputy, associate or assistant
2 superintendents by the board in offices, departments or divisions
3 at locations other than a school and who are directly answerable to
4 the superintendent shall serve at the will and pleasure of the
5 superintendent and may be removed by the superintendent upon
6 approval of the board. Such professional personnel shall retain
7 seniority rights only in the area or areas in which they hold valid
8 certification or licensure.

9 **§18A-2-12. Performance evaluations of school personnel;**
10 **professional personnel evaluation process.**

11 (a) The state board shall adopt a written system for the
12 evaluation of the employment performance of personnel, which system
13 shall be applied uniformly by county boards of education in the
14 evaluation of the employment performance of personnel employed by
15 the board.

16 (b) The system adopted by the state board for evaluating the
17 employment performance of professional personnel shall be in
18 accordance with the provisions of this section.

19 (c) For purposes of this section, "professional personnel",
20 "professional" or "professionals", means professional personnel as
21 defined in section one, article one of this chapter.

22 (d) In developing the professional personnel performance
23 evaluation system, and amendments thereto, the state board shall
24 consult with the Center for Professional Development created in

1 article three-a of this chapter. The center shall participate
2 actively with the state board in developing written standards for
3 evaluation which clearly specify satisfactory performance and the
4 criteria to be used to determine whether the performance of each
5 professional meets such standards.

6 (e) The performance evaluation system shall contain, but shall
7 not be limited to, the following information:

8 (1) The professional personnel positions to be evaluated,
9 whether they be teachers, substitute teachers, administrators,
10 principals or others;

11 (2) Before July 1, 2013, the frequency and duration of the
12 evaluations shall be on a regular basis and of such frequency and
13 duration as to insure the collection of a sufficient amount of data
14 from which reliable conclusions and findings may be drawn:
15 *Provided,* That for school personnel with five or more years of
16 experience, who have not received an unsatisfactory rating,
17 evaluations shall be conducted no more than once every three years
18 unless the principal determines an evaluation for a particular
19 school employee is needed more frequently: *Provided, however,* That
20 for classroom teachers with five or more years of experience who
21 have not received an unsatisfactory rating, an evaluation shall be
22 conducted or professional growth and development plan required only
23 when the principal determines it to be necessary for a particular

1 classroom teacher, or when a classroom teacher exercises the option
2 of being evaluated at more frequent intervals.

3 (3) Effective July 1, 2013, notwithstanding any other provision
4 of this section, the frequency and duration of the evaluations of
5 all professional personnel shall be on an annual basis to insure the
6 collection of a sufficient amount of data from which reliable
7 conclusions and findings may be drawn.

8 ~~(3)~~ (4) The evaluation shall serve the following purposes:

9 (A) Serve as a basis for the improvement of the performance of
10 the personnel in their assigned duties;

11 (B) Provide an indicator of satisfactory performance for
12 individual professionals;

13 (C) Serve as documentation for a dismissal on the grounds of
14 unsatisfactory performance; and

15 (D) Serve as a basis for programs to increase the professional
16 growth and development of professional personnel;

17 ~~(4)~~ (5) The standards for satisfactory performance for
18 professional personnel and the criteria to be used to determine
19 whether the performance of each professional meets such standards
20 and other criteria for evaluation for each professional position
21 evaluated. ~~Effective July 1, 2003, and thereafter,~~ Professional
22 personnel, as appropriate, shall demonstrate competency in the
23 knowledge and implementation of the technology standards adopted by
24 the state board. If a professional fails to demonstrate competency,

1 in the knowledge and implementation of these standards, he or she
2 will be subject to an improvement plan to correct the deficiencies;
3 and

4 ~~(5)~~ (6) Provisions for a written improvement plan, which shall
5 be specific as to what improvements, if any, are needed in the
6 performance of the professional and shall clearly set forth
7 recommendations for improvements, including recommendations for
8 additional education and training during the professional's
9 recertification process.

10 (f) A professional whose performance is considered to be
11 unsatisfactory shall be given notice of deficiencies. A remediation
12 plan to correct deficiencies shall be developed by the employing
13 county board of education and the professional. The professional
14 shall be given a reasonable period of time for remediation of the
15 deficiencies and shall receive a statement of the resources and
16 assistance available for the purposes of correcting the
17 deficiencies.

18 (g) No person may evaluate professional personnel for the
19 purposes of this section unless the person has an administrative
20 certificate issued by the State Superintendent and has successfully
21 completed education and training in evaluation skills through the
22 center for professional development, or equivalent education
23 training approved by the state board, which will enable the person
24 to make fair, professional, and credible evaluations of the

1 personnel whom the person is responsible for evaluating. ~~After~~
2 ~~July 1, 1994,~~ No person may be issued an administrative certificate
3 or have an administrative certificate renewed unless the state board
4 determines that the person has successfully completed education and
5 training in evaluation skills through the center for professional
6 development, or equivalent education and training approved by the
7 state board.

8 (h) Any professional whose performance evaluation includes a
9 written improvement plan shall be given an opportunity to improve
10 his or her performance through the implementation of the plan. If
11 the next performance evaluation shows that the professional is now
12 performing satisfactorily, no further action may be taken concerning
13 the original performance evaluation. If the evaluation shows that
14 the professional is still not performing satisfactorily, the
15 evaluator either shall make additional recommendations for
16 improvement or may recommend the dismissal of the professional in
17 accordance with the provisions of section eight of this article.

18 (i) Lesson plans are intended to serve as a daily guide for
19 teachers and substitutes for the orderly presentation of the
20 curriculum. Lesson plans may not be used as a substitute for
21 observations by an administrator in the performance evaluation
22 process. A classroom teacher, as defined in section one, article
23 one of this chapter, may not be required to post his or her lesson
24 plans on the internet or otherwise make them available to students

1 and parents or to include in his or her lesson plans any of the
2 following:

3 (1) Teach and reteach strategies;

4 (2) Write to learn activities;

5 (3) Cultural diversity;

6 (4) Color coding; or

7 (5) Any other similar items which are not required to serve as
8 a guide to the teacher or substitute for daily instruction. ~~and~~

9 (j) The Legislature finds that classroom teachers must be free
10 of unnecessary paper work so that they can focus their time on
11 instruction. Therefore, classroom teachers may not be required to
12 keep records or logs of routine contacts with parents or guardians.

13 (k) Nothing in this section may be construed to prohibit
14 classroom teachers from voluntarily posting material on the
15 Internet.

16 **§18A-2-12a. Statement of policy and practice for the county boards
17 and school personnel to minimize possible
18 disagreement and misunderstanding.**

19 (a) The Legislature makes the following findings:

20 (1) The effective and efficient operation of the public schools
21 depends upon the development of harmonious and cooperative
22 relationships between county boards and school personnel;

23 (2) Each group has a fundamental role to perform in the
24 educational program and each has certain separate, distinct and

1 clearly defined areas of responsibility as provided in chapters
2 eighteen and eighteen-a of this code; and

3 (3) There are instances, particularly involving questions of
4 wages, salaries and conditions of work, that are subject to
5 disagreement and misunderstanding between county boards and school
6 personnel and may not be so clearly set forth.

7 (b) The purpose of this section is to establish a statement of
8 policy and practice for the county boards and school personnel, as
9 follows, in order to minimize possible disagreement and
10 misunderstanding:

11 (1) County boards, subject to the provisions of this chapter,
12 chapter eighteen of this code and the policies and rules of the
13 state board, are responsible for the management of the schools
14 within their respective counties. The powers and responsibilities
15 of county boards in setting policy and in providing management are
16 broad, but not absolute;

17 (2) The school personnel shares the responsibility for putting
18 into effect the policies and practices approved by the county board
19 that employs them and the school personnel also have certain rights
20 and responsibilities as provided in statute, and in their contracts;

21 (3) School personnel are entitled to meet together, form
22 associations and work in concert to improve their circumstances and
23 the circumstances of the schools;

1 (4) County boards and school personnel can most effectively
2 discharge their total responsibilities to the public and to each
3 other by establishing clear and open lines of communication. School
4 personnel should be encouraged to make suggestions, proposals and
5 recommendations through appropriate channels to the county board.
6 Decisions of the county board concerning the suggestions, proposals
7 and recommendations should be communicated to the school personnel
8 clearly and openly;

9 (5) Official meetings of county boards are public meetings.
10 School personnel are free to attend the meetings without fear of
11 reprisal and should be encouraged to attend;

12 (6) All school personnel are entitled to know how well they are
13 fulfilling their responsibilities and should be offered the
14 opportunity of open and honest evaluations of their performance ~~on~~
15 ~~a regular basis~~ and in accordance with the provisions of section
16 twelve of this article. All school personnel are entitled to
17 opportunities to improve their job performance prior to the
18 termination or transfer of their services. Decisions concerning the
19 promotion, demotion, transfer or termination of employment of school
20 personnel, other than those for lack of need or governed by specific
21 statutory provisions unrelated to performance, should be based upon
22 the evaluations, and not upon factors extraneous thereto. All
23 school personnel are entitled to due process in matters affecting
24 their employment, transfer, demotion or promotion; and

1 (7) All official and enforceable personnel policies of a county
2 board must be written and made available to its employees.

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

5 **§18A-3-1a. Alternative programs for the education of teachers and**
6 **principals.**

7 (a) ~~By August 15, 2005,~~ The state board, after consultation
8 with the Secretary of Education and the Arts, shall promulgate rules
9 in accordance with the provisions of article three-b, chapter
10 twenty-nine-a of this code for the approval and operation of teacher
11 education programs which are an alternative to the regular college
12 or university programs for the education of teachers. To
13 participate in an approved alternative teacher education program,
14 the candidate must hold an alternative program teacher certificate
15 issued by the superintendent and endorsed for the instructional
16 field in which the candidate seeks certification. An alternative
17 program teacher certificate is a certificate issued for one year to
18 a candidate who does not meet the standard educational requirements
19 for certification. The certificate may be renewed no more than two
20 times. No individual may hold an alternative program teacher
21 certificate for a period exceeding three years. The alternative
22 program teacher certificate shall be considered a professional
23 teaching certificate for the purpose of the issuance of a continuing

1 contract. To be eligible for an alternative program teacher
2 certificate, an applicant shall:

3 (1) Possess at least a bachelor's degree from a regionally
4 accredited institution of higher education in a discipline taught
5 in the public schools except that the rules established by the board
6 may exempt candidates in selected vocational and technical areas who
7 have at least ten years' experience in the subject field from this
8 requirement;

9 (2) Pass an appropriate state board approved basic skills and
10 subject matter test in the area for which licensure is being sought;

11 (3) Be a citizen of the United States, be of good moral
12 character and physically, mentally and emotionally qualified to
13 perform the duties of a teacher, and have attained the age of
14 eighteen years on or before October 1, of the year in which the
15 alternative program teacher certificate is issued;

16 (4) Have been offered employment by a county board in an area
17 of critical need and shortage; and

18 (5) Qualify following a criminal history check pursuant to
19 section ten of this article.

20 Persons who satisfy the requirements set forth in subdivisions
21 (1) through (5) of this subsection shall be granted a formal
22 document which will enable them to work in a public school in West
23 Virginia.

1 (b) The rules adopted by the board shall include provisions for
2 the approval of alternative teacher education programs which may be
3 offered by schools, school districts, consortia of schools, ~~or~~
4 regional educational service ~~agency~~ agencies, or other approved
5 education providers and for the setting of tuition charges to offset
6 the program costs. ~~An approved alternative teacher education~~
7 ~~program shall be in effect for a school, school district, consortium~~
8 ~~of schools or regional educational service agency before an~~
9 ~~alternative program teacher may be employed in that school, school~~
10 ~~district, consortium of schools or regional educational service~~
11 ~~agency.~~ A person with an alternative program teacher certificate
12 shall enroll in an alternative teacher education program. An
13 approved alternative program shall provide essential knowledge and
14 skills to alternative program teachers through the following phases
15 of training:

16 (1) *Instruction.* -- The alternative preparation program shall
17 provide a minimum of eighteen semester hours of instruction from a
18 college or university or equivalent instruction approved by the
19 state board in the areas of student assessment; development and
20 learning; curriculum; classroom management; the use of educational
21 computers and other technology; and special education and diversity.
22 All programs shall contain a minimum of three semester hours of
23 instruction or equivalent instruction approved by the state board
24 in special education and diversity out of the minimum eighteen

1 required semester hours or equivalent instruction approved by the
2 state board.

3 (2) *Phase I.* -- Phase I shall consist of a period of intensive
4 on-the-job supervision by an assigned mentor and the school
5 administrator for a period of not less than two weeks and no more
6 than four weeks. The assigned mentor shall meet the requirements
7 for mentor set forth in section two-b of this article and be paid
8 the stipend pursuant to that section. During this time, the teacher
9 shall be observed daily. This phase shall include an orientation
10 to the policies, organization and curriculum of the employing
11 district. The alternative program teacher shall begin to receive
12 formal instruction in those areas listed in subdivision (1) of this
13 subsection.

14 (3) *Phase II.* -- Phase II shall consist of a period of
15 intensive on-the-job supervision beginning the first day following
16 the completion of Phase I and continuing for a period of at least
17 ten weeks. During Phase II, the alternative program teacher shall
18 be visited and critiqued no less than one time per week by members
19 of a professional support team, defined in subsection (c) of this
20 section, and shall be observed and formally evaluated at the end of
21 five weeks and at the end of ten weeks by the appropriately
22 certified members of the team. At the end of the ten-week period,
23 the alternative program teacher shall receive a formal written
24 progress report from the chairperson of the support team. The

1 alternative program teacher shall continue to receive formal
2 instruction in those areas listed above under subdivision (1) of
3 this subsection.

4 (4) *Phase III*. -- Phase III shall consist of an additional
5 period of continued supervision and evaluation of no less than
6 twenty weeks duration. The professional support team will determine
7 the requirements of this phase with at least one formal evaluation
8 being conducted at the completion of the phase. The alternative
9 program teacher shall continue to receive formal instruction in
10 those areas listed above under subdivision (1) of this subsection,
11 and receive opportunities to observe the teaching of experienced
12 colleagues.

13 (c) Training and supervision of alternative program teachers
14 shall be provided by a professional support team comprised of a
15 school principal, an experienced classroom teacher who satisfies the
16 requirements for mentor for the Beginning Educator Internship as
17 specified in section two-b of this article, a college or university
18 education faculty member, and a curriculum supervisor. The
19 professional support team may include a representative of an
20 approved education provider. Districts or schools which do not
21 employ curriculum supervisors or have been unable to establish a
22 relationship with a college or university shall provide for
23 comparable expertise on the team. The school principal shall serve
24 as chairperson of the team. In addition to other duties assigned

1 to it under this section and section one-b of this article, the
2 professional support team shall submit a written evaluation of the
3 alternative program teacher to the county superintendent. The
4 written evaluation shall be in a form specified by the county
5 superintendent and submitted on a date specified by the county
6 superintendent that is prior to the first Monday of May. The
7 evaluation shall report the progress of the alternative program
8 teacher toward meeting the academic and performance requirements of
9 the program.

10 (d) The training for professional support team members shall
11 be coordinated and provided by the Center for Professional
12 Development in coordination with the school district, consortium of
13 schools, regional educational service agency, ~~and~~ institution of
14 higher education and approved education provider, or any combination
15 of these agencies as set forth in the plan approved by the state
16 board pursuant to subsection (e) of this section.

17 (e) A school, school district, consortium of schools, ~~or~~
18 regional educational service agency or other education provider
19 seeking ~~to employ~~ approval for an alternative certification program
20 ~~teacher~~ must submit a plan to the state board and receive approval.
21 Each plan shall describe how the proposed training program will
22 accomplish the key elements of an alternative program for the
23 education of teachers as set forth in this section. ~~Each school,~~
24 ~~school district, consortium of schools or regional educational~~

1 ~~service agency shall show evidence in its plan of having sought~~
2 ~~joint sponsorship of their training program with institutions of~~
3 ~~higher education.~~

4 (f) The state board shall promulgate a rule in accordance with
5 article three-b, chapter twenty-nine-a of this code for the approval
6 and operation of alternative education programs to prepare highly
7 qualified special education teachers that are separate from the
8 programs established under the other provisions of this section and
9 are applicable only to teachers who have at least a bachelor's
10 degree in a program for the preparation of teachers from a
11 regionally accredited institution of higher education. These
12 programs are subject to the other provisions of this section only
13 to the extent specifically provided for in the rule. These programs
14 may be an alternative to the regular college and university programs
15 for the education of special education teachers and also may address
16 the content area preparation of certified special education
17 teachers. The programs shall incorporate professional development
18 to the maximum extent possible to help teachers who are currently
19 certified in special education to obtain the required content area
20 preparation. Participation in an alternative education program
21 pursuant to this subsection shall not affect any rights, privileges
22 or benefits to which the participant would otherwise be entitled as
23 a regular employee, nor does it alter any rights, privileges or
24 benefits of participants on continuing contract status. The state

1 board shall report to the Legislative Oversight Commission on
2 Education Accountability on the programs authorized under this
3 subsection during the July, 2005, interim meetings or as soon
4 thereafter as practical prior to implementation of the programs.

5 (g) The state board shall promulgate a rule in accordance with
6 article three-b, chapter twenty-nine-a of this code for the approval
7 and operation of alternative education programs to prepare highly
8 qualified special education teachers that are separate from the
9 programs established under the other provisions of this section and
10 are applicable only to persons who hold a bachelor's degree from a
11 regionally accredited institution of higher education. These
12 programs are subject to the other provisions of this section only
13 to the extent specifically provided for in this rule. These
14 programs may be an alternative to the regular college and university
15 programs for the education of special education teachers and also
16 may address the content area preparation of such persons. The state
17 board shall report to the Legislative Oversight Commission on
18 Education Accountability on the programs authorized under this
19 subsection during the July, 2005, interim meetings or as soon
20 thereafter as practical prior to implementation of the programs.

21 (h) For the purposes of this section, "area of critical need
22 and shortage" means an opening in an established, existing or newly
23 created position which has been posted in accordance with the

1 provisions of section seven-a, article four of this chapter, and for
2 which no fully qualified applicant has been employed.

3 (i) ~~The recommendation to rehire an alternative education~~
4 ~~program teacher pursuant to section eight-a, article two of this~~
5 ~~chapter is subject to the position being posted and no fully~~
6 ~~qualified applicant being employed: *Provided, That this provision*~~
7 ~~does not apply to teachers who hold a valid West Virginia~~
8 ~~professional teaching certificate and who are employed under a~~
9 ~~program operated pursuant to subsection (f) is subject to the~~
10 ~~teacher making satisfactory progress in the alternative teacher~~
11 ~~education program.~~

12 (j) When making decisions affecting the hiring of an
13 alternative program teacher under the provisions of this section,
14 a county board shall give preference to applicants who hold a valid
15 West Virginia professional teaching certificate.

16 (k) The state board, after consultation with the Secretary of
17 Education and the Arts, shall promulgate rules in accordance with
18 the provisions of article three-b, chapter twenty-nine-a of this
19 code for the approval and operation of principal education programs
20 which are an alternative to the regular college or university
21 programs for the education of principals and are separate from
22 programs established under the other provisions of this section.
23 To participate in an approved alternative principal education
24 program, the candidate must hold an alternative program principal

1 certificate issued by the superintendent and endorsed for the
2 programmatic level in which the candidate seeks certification. An
3 alternative program principal certificate is a certificate issued
4 for one year to a candidate who does not meet the standard
5 educational requirements for certification. The certificate may be
6 renewed no more than two times. No individual may hold an
7 alternative program principal certificate for a period exceeding
8 three years. The alternative program principal certificate shall
9 be considered a valid administrative certificate for the purpose of
10 the issuance of a written contract. To be eligible for an
11 alternative program principal certificate, an applicant shall:

12 (1) Possess at least a master's degree from a regionally
13 accredited institution of higher education in a field related to the
14 public school program;

15 (2) Be of good moral character and physically, mentally and
16 emotionally qualified to perform the duties of a principal, and have
17 attained the age of eighteen years on or before October 1, of the
18 year in which the alternative program principal certificate is
19 issued;

20 (3) Have been offered employment by a county board in a
21 principal or assistant principal position; and

22 (4) Qualify following a criminal history check pursuant to
23 section ten of this article.

1 Persons who satisfy these requirements shall be granted a
2 formal document which will enable them to work in a public school
3 in West Virginia.

4 (1) The rules adopted by the state board pursuant to subsection
5 (k) of this section shall include provisions for the approval of
6 alternative principal education programs which may be offered by
7 schools, school districts, consortia of schools, regional education
8 service agencies or other approved education providers. A person
9 with an alternative program principal certificate shall enroll in
10 an alternative principal education program. An approved alternative
11 program shall provide essential knowledge and skills to alternative
12 program principals through the following phases of training:

13 (1) *Instruction.* -- The alternative principal education program
14 shall provide instruction in interpersonal and collaborative skills,
15 establishing and supporting a learning mission, student learning,
16 building and sustaining culture, promoting continuous professional
17 growth, support systems for student success, managing operations,
18 connections to family and community and the continuous improvement
19 process; and

20 (2) *Induction.* -- The alternative principal education program
21 shall include an intense two-year induction that provides essential
22 support through a professional support team led by a qualified
23 mentor.

1 (m) The rehiring of an alternative education program principal
2 or assistant principal is subject to the principal or assistant
3 principal making satisfactory progress in the alternative principal
4 education program.

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

6 **§18A-4-2c. State minimum annual salary supplement for classroom**
7 **teachers employed in high minority and high poverty**
8 **areas; state minimum monetary incentive for classroom**
9 **teachers based on student growth.**

10 (a) *Findings.* -- The Legislature finds and declares that:

11 (1) Creating conditions for effective teaching and learning
12 requires a collaborative and systemic approach that supports and
13 develops educator talent to promote meaningful, evidence-based
14 improvements across the educator career continuum.

15 (2) The state should encourage experienced and effective
16 classroom teachers to teach in areas of high poverty or high
17 minority.

18 (3) The payment of an annual salary supplement to classroom
19 teachers in areas of high poverty or high minority will attract
20 experienced and effective classroom teachers to those areas and
21 persuade experienced and effective classroom teachers to stay in
22 those areas.

23 (4) The payment of additional compensation to classroom
24 teachers in areas of high poverty or high minority who teach in a

1 documented statewide area of shortage in the areas of math and
2 science will encourage teachers to teach in these areas.

3 (5) The payment of a monetary incentive to classroom teachers
4 based on student growth will encourage high-quality instruction and
5 reward classroom teachers for performance.

6 (b) *High poverty and high minority annual salary supplements.*

7 -- Effective July 1, 2013:

8 (1) One thousand dollars shall be paid annually in equal
9 monthly installments to each classroom teacher employed in a school
10 with a student population that is high poverty or high minority.

11 (2) Five hundred shall be paid annually in equal monthly
12 installments to each classroom teacher teaching in a documented
13 statewide area of shortage in the areas of math and science and
14 employed in a school with a student population that is high poverty
15 or high minority.

16 (3) The salary supplements required by this subsection are in
17 addition to any amounts prescribed in the applicable state minimum
18 salary schedule and shall be considered a part of the state minimum
19 salaries established under the provisions of this article.

20 (4) The salary supplements required by this subsection shall
21 be paid with state funds within the West Virginia Public School
22 Support Plan in accordance with article nine-a, chapter eighteen of
23 this code.

24 (5) For the purposes of this subsection:

1 (A) "High poverty" means a school which is ranked within the
2 top twenty-five percent of the public schools in the state based on
3 the percentage of students eligible for free and reduced price
4 meals.

5 (B) "High minority" means a school in which the student
6 population consists of twenty percent or more noncaucasian students.

7 (C) After a school is determined to have a student population
8 that is high poverty or high minority, the school remains classified
9 as such for one year beyond the year in which it is determined that
10 it no longer meets the definition of a high poverty or high minority
11 school.

12 (c) *Monetary incentive based on student growth.* --
13 Effective July 1, 2013:

14 (1) One thousand dollars shall be paid to each classroom
15 teacher who meets goals for student growth during the previous
16 school year: *Provided,* That a lesser amount may be paid to each
17 classroom teacher on a pro rata basis in accordance with subdivision
18 (4) of this subsection.

19 (2) The state board shall establish the criteria for annually
20 determining which classroom teachers, on an individual, group or
21 school basis, have met goals for student growth during the previous
22 school year as evidenced by multiple measures. The state board
23 shall promulgate a rule for this purpose which shall apply uniformly
24 to all classroom teachers in the public schools. The rule shall

1 define the area or areas of student growth and measures that support
2 teaching and learning.

3 (3) A classroom teacher shall receive his or her monetary
4 incentive in a lump sum.

5 (4) The monetary incentive required by this subsection shall
6 be paid from funds appropriated to the West Virginia Department of
7 Education or received by it from other sources specifically for this
8 purpose. The State Superintendent shall provide an estimate of the
9 amount of the appropriation required to the Governor for inclusion
10 in his or her proposed budget to the Legislature. If the amount of
11 the appropriation is insufficient to provide payment of all monetary
12 incentives required under this subsection, each county's allocation
13 for payment of the incentives shall be reduced pro rata. The
14 Legislature may appropriate additional amounts to provide payment
15 of all monetary incentives required under this subsection:
16 *Provided*, That nothing in this section may be construed to mandate
17 additional funding for monetary incentives or to require any
18 additional appropriation by the Legislature.

19 (d) *Rules*. -- The state board shall promulgate rules pursuant
20 to article three-b, chapter twenty-nine-a of this code to implement
21 the provisions of this section.

22 **§18A-4-3a. State minimum annual salary supplement for principals**
23 **and assistant principals in high minority and high**
24 **poverty areas; state minimum monetary incentive for**

1 **principals and assistant principals based on student**
2 **growth.**

3 (a) *Findings.* -- The Legislature finds and declares that:

4 (1) Creating conditions for effective teaching and learning
5 requires a collaborative and systemic approach that supports and
6 develops educator talent to promote meaningful, evidence-based
7 improvements across the educator career continuum.

8 (2) The state should encourage experienced and effective
9 principals and assistant principals to supervise schools in areas
10 of high poverty or high minority.

11 (3) The payment of an annual salary supplement to principals
12 and assistant principals in areas of high poverty or high minority
13 will attract experienced and effective personnel to those areas and
14 persuade experienced and effective principals and assistant
15 principals to stay in those areas.

16 (4) The payment of a monetary incentive to principals and
17 assistant principals based on student growth will encourage
18 high-quality support and leadership and will reward principals and
19 assistant principals for performance.

20 (b) *High poverty and high minority salary supplements.* --

21 Effective July 1, 2013:

22 (1) One thousand dollars shall be paid annually in equal
23 monthly installments to each principal and assistant principal

1 employed in a school with a student population that is high poverty
2 or high minority.

3 (2) The salary supplement required by this subsection is in
4 addition to the salary increments required by section three of this
5 article and is in addition to any salary increments for principals
6 and assistant principals paid from local funds.

7 (3) The salary supplements required by this subsection shall
8 be paid with state funds within the West Virginia Public School
9 Support Plan in accordance with article nine-a, chapter eighteen of
10 this code.

11 (4) The salary supplements required by this subsection are in
12 addition to any amounts prescribed in the applicable state minimum
13 salary schedule and shall be considered a part of the state minimum
14 salaries established under the provisions of this article.

15 (5) For the purposes of this subsection:

16 (A) "High poverty" means a school which is ranked within the
17 top twenty-five percent of the public schools in the state based on
18 the percentage of students eligible for free and reduced price
19 meals.

20 (B) "High minority" means a school in which the student
21 population consists of twenty percent or more noncaucasian students.

22 (C) After a school is determined to have a student population
23 that is high poverty or high minority, the school remains classified
24 as such for one year beyond the year in which it is determined that

1 it no longer meets the definition of a high poverty or high minority
2 school.

3 (c) *Monetary incentive based on student growth.* --

4 Effective July 1, 2013:

5 (1) One thousand dollars shall be paid to each principal and
6 assistant principal whose school meets goals for student growth
7 during the previous school year: *Provided*, That a lesser amount may
8 be paid to each principal and assistant principal on a pro rata
9 basis in accordance with subdivision (4) of this subsection.

10 (2) The state board shall establish the criteria for annually
11 determining which principals and assistant principals met goals for
12 student growth during the previous school year as evidenced by
13 multiple measures. The state board shall promulgate a rule for this
14 purpose which shall apply uniformly to all principals and assistant
15 principals in the public schools. The rule shall define the area
16 or areas of student growth and measures that support teaching and
17 learning.

18 (3) A principal or assistant principal shall receive his or her
19 monetary incentive in a lump sum.

20 (4) Monetary incentives required by this subsection shall be
21 paid from funds appropriated to the West Virginia Department of
22 Education or received by it from other sources specifically for this
23 purpose. The State Superintendent shall provide an estimate of the
24 amount of the appropriation required to the Governor for inclusion

1 in his or her proposed budget to the Legislature. If the amount of
2 the appropriation is insufficient to provide payment of all monetary
3 incentives required under this subsection, each county's allocation
4 for payment of the incentives shall be reduced pro rata. The
5 Legislature may appropriate additional amounts to provide payment
6 of all monetary incentives required under this subsection:
7 *Provided*, That nothing in this section may be construed to mandate
8 additional funding for monetary incentives or to require any
9 additional appropriation by the Legislature.

10 (5) The monetary incentive required by this subsection is in
11 addition to the salary increments required by section three of this
12 article and is in addition to any salary increments for principals
13 and assistant principals paid from local funds.

14 (6) The monetary incentive required by this subsection shall
15 not be included as gross salary in the calculation of average final
16 salary for purposes of calculating retirement benefits in article
17 seven-a, chapter eighteen of this code.

18 (d) *Rules*. -- The state board shall promulgate rules pursuant
19 to article three-b, chapter twenty-nine-a of this code to implement
20 the provisions of this section.

21 **§18A-4-3b. Additional monetary payments to principals and**
22 **assistant principals paid from local funds.**

23 (a) County boards may provide additional monetary payments to
24 principals and assistant principals, in addition to compensation

1 provided in section three and three-a of this article, based upon
2 any one or more of the following circumstances:

3 (1) For principals and assistant principals placed in special
4 supervisory assignments;

5 (2) For principals and assistant principals employed in a
6 school with a student population that is high poverty or high
7 minority: *Provided*, That the payment may not be greater than the
8 amount for high poverty and high minority salary supplements for
9 principals and assistant principals authorized in section three-a
10 of this article; or

11 (3) For principals and assistant principals whose school meets
12 goals for student growth during the previous school year as
13 evidenced by multiple measures.

14 (b) The state board shall promulgate a rule pursuant to article
15 three-b, chapter twenty-nine-a of this code to implement the
16 provisions of this section. The rule shall designate principals and
17 assistant principals eligible for the amounts authorized by this
18 section. For the purposes of subdivision (3), subsection (a) of
19 this section, the rule shall establish eligibility based upon
20 whether the school meets goals for student growth as evidenced by
21 multiple measures. The rule shall define the area or areas of
22 student growth and measures that support teaching and learning.

1 (c) Additional monetary payments authorized by this section
2 shall apply uniformly to principals and assistant principals
3 throughout the county.

4 (d) Any additional monetary payments for student growth
5 authorized by this section shall not be included as gross salary in
6 the calculation of average final salary for purposes of calculating
7 retirement benefits in article seven-a, chapter eighteen of this
8 code.

9 **§18A-4-5a. County monetary supplements for teachers; additional**
10 **monetary payments to teachers paid from local funds.**

11 (a) County boards ~~of education~~ in fixing the salaries of
12 teachers shall use at least the state minimum salaries established
13 under the provisions of this article. The board may establish
14 salary schedules which shall be in excess of the state minimums
15 fixed by this article, such county schedules to be uniform
16 throughout the county as to the classification of training,
17 experience, responsibility and other requirements.

18 (b) ~~Counties may fix higher salaries for~~ County boards may
19 provide additional monetary payments to teachers based upon any one
20 or more of the following circumstances:

21 (1) For teachers placed in special instructional or supervisory
22 assignments;

23 (2) For classroom teachers placed in a documented area of
24 shortage;

1 (3) For classroom teachers placed in a school with a student
2 population that is high poverty or high minority: *Provided, That*
3 the payment may not be greater than the amount for high poverty or
4 high minority salary supplements for classroom teachers authorized
5 in section two-c of this article;

6 (4) For ~~those~~ teachers assigned to or employed for duties other

7 than regular instructional duties; ~~and~~

8 (5) For teachers of one-teacher schools; ~~and they may provide~~
9 additional compensation

10 (6) For any teacher assigned duties in addition to the
11 teacher's regular instructional duties wherein ~~such~~ the
12 noninstructional duties are not a part of the scheduled hours of the
13 regular school day; or

14 (7) For a classroom teacher who meets goals for student growth
15 during the previous school year as evidenced by multiple measures.

16 (c) Uniformity ~~also~~ shall apply to ~~such~~ the additional salary
17 increments or compensation under this section for all persons
18 performing like assignments and duties within the county. ~~*Provided,*~~
19 ~~That~~

20 (d) Any monetary payment received for meeting goals for student
21 growth during the previous school year shall not be included as
22 gross salary in the calculation of average final salary for the
23 purposes of calculating retirement benefits in article seven-a,
24 chapter eighteen of this code.

1 (e) In establishing ~~such~~ local salary schedules, no county
2 shall reduce local funds allocated for salaries in effect on January
3 1, 1990, and used in supplementing the state minimum salaries as
4 provided ~~for~~ in this article, unless forced to do so by defeat of
5 a special levy, or a loss in assessed values or events over which
6 it has no control and for which the county board has received
7 approval from the state board prior to making such reduction.

8 (f) Counties may provide, in a uniform manner, benefits for
9 teachers which require an appropriation from local funds including,
10 but not limited to, dental, optical, health and income protection
11 insurance, vacation time and retirement plans excluding the State
12 Teachers Retirement System. Nothing herein shall prohibit the
13 maintenance nor result in the reduction of any benefits in effect
14 on January 1, 1984, by any county board of education.

15 (g) The state board shall promulgate a rule pursuant to article
16 three-b, chapter twenty-nine-a of this code to implement the
17 provisions of subsection (b) of this section. The rule shall
18 designate teachers eligible for the amounts authorized by this
19 section. For the purposes of subdivision (7), subsection (b) of
20 this section, the rule shall establish eligibility based upon
21 whether individual teachers, groups of teachers or schools meet
22 goals for student growth as evidenced by multiple measures. The
23 rule shall define the area or areas of student growth and measures

1 that support teaching and learning and shall apply uniformly to
2 teachers throughout the county.

3 **§18A-4-7a. Employment, promotion and transfer of professional**
4 **personnel; seniority.**

5 (a) A county board of education shall make decisions affecting
6 the hiring of professional personnel ~~other than classroom teachers~~
7 on the basis of the applicant with the highest qualifications.

8 ~~(b) The county board shall make decisions affecting the hiring~~
9 ~~of new classroom teachers on the basis of the applicant with the~~
10 ~~highest qualifications.~~

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

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

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

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

20 ~~(4) Academic achievement;~~

21 ~~(5) Relevant specialized training;~~

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

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

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

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

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

10 ~~(3) The existence of teaching experience in the required~~
11 ~~certification area;~~

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

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

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

18 ~~(7) Seniority.~~

19 ~~(e) In filling positions pursuant to subsection (d) of this~~
20 ~~section, consideration shall be given to each criterion with each~~
21 ~~criterion being given equal weight. If the applicant with the most~~
22 ~~seniority is not selected for the position, upon the request of the~~
23 ~~applicant a written statement of reasons shall be given to the~~

1 ~~applicant with suggestions for improving the applicant's~~
2 ~~qualifications.~~

3 (b) In judging the qualifications for hiring professional
4 personnel, consideration shall be given to each of the following
5 criteria: *Provided*, That for classroom teachers, the criteria shall
6 be considered according to equal weighting:

7 (1) Amount of experience relevant to the position;

8 (2) The amount of course work and degree level relevant to the
9 position;

10 (3) Past performance evaluations relevant to the position;

11 (4) Academic and professional achievement;

12 (5) Specialized training relevant to the position;

13 (6) Seniority, except in the case of hiring administrators,
14 including a principal, assistant principal or central office
15 administrator, where only seniority based on the length of time a
16 person was employed as an administrator may be considered; and

17 (7) Other measures or indicators upon which the relative
18 qualifications of the applicant may fairly be judged.

19 (c) In the event that no applicant holds the certification
20 required by the job posting, only those applicants who qualify for
21 a full-time permit or for an alternative program certificate in
22 accordance with section one-a, article three of this chapter, or an
23 applicant who is a prospective graduate of a teacher preparation
24 program who will obtain the required certification prior to the

1 commencement of his or her duties, may be considered for employment
2 by a county board of education. When selecting a candidate who does
3 not hold the certification required by the job posting, the county
4 board of education shall use the criteria listed in subsection (b)
5 of this section.

6 (d)(1) A hiring committee shall interview the most qualified
7 candidates based upon the application of the criteria listed in
8 subsection (b). The committee shall make a hiring recommendation
9 to the county superintendent, who may interview job candidates
10 independently. The county superintendent shall make the final
11 hiring recommendation to the county board.

12 (2) To hire a classroom teacher, the hiring committee shall be
13 composed of a member of the school's faculty senate, selected in
14 accordance with section five, article five-a, chapter eighteen of
15 this code, a representative designated by the county superintendent
16 and the school principal or his or her designee, who shall serve as
17 chairperson of the committee.

18 (3) To hire professional personnel who are not classroom
19 teachers and are not will and pleasure personnel as defined in
20 section one, article two of this chapter, the committee shall be
21 composed of at least a principal, a teacher and a representative
22 designated by and on behalf of the county superintendent. The
23 county board shall adopt a policy to determine the selection of
24 committee members and the chairperson of the committee.

1 ~~(f)~~ (e) With the exception of guidance counselors, the
2 seniority of classroom teachers, as defined in section one, article
3 one of this chapter, shall be determined on the basis of the length
4 of time the employee has been employed as a regular full-time
5 certified and/or licensed professional educator by the county board
6 of education and shall be granted in all areas that the employee is
7 certified, licensed or both.

8 ~~(g)~~ (f) Upon completion of one hundred thirty-three days of
9 employment in any one school year, substitute teachers, except
10 retired teachers and other retired professional educators employed
11 as substitutes, shall accrue seniority exclusively for the purpose
12 of applying for employment as a permanent, full-time professional
13 employee. One hundred thirty-three days or more of said employment
14 shall be prorated and shall vest as a fraction of the school year
15 worked by the permanent, full-time teacher.

16 ~~(h)~~ (g) Guidance counselors and all other professional
17 employees, as defined in section one, article one of this chapter,
18 except classroom teachers, shall gain seniority in their nonteaching
19 area of professional employment on the basis of the length of time
20 the employee has been employed by the county board of education in
21 that area: *Provided*, That if an employee is certified as a
22 classroom teacher, the employee accrues classroom teaching seniority
23 for the time that employee is employed in another professional area.
24 For the purposes of accruing seniority under this paragraph,

1 employment as principal, supervisor or central office administrator,
2 as defined in section one, article one of this chapter, shall be
3 considered one area of employment.

4 ~~(i)~~ (h) Employment for a full employment term shall equal one
5 year of seniority, but no employee may accrue more than one year of
6 seniority during any given fiscal year. Employment for less than
7 the full employment term shall be prorated. A random selection
8 system established by the employees and approved by the board shall
9 be used to determine the priority if two or more employees
10 accumulate identical seniority: *Provided*, That when two or more
11 principals have accumulated identical seniority, decisions on
12 reductions in force shall be based on qualifications.

13 ~~(j)~~ (i) Whenever a county board is required to reduce the
14 number of professional personnel in its employment, the employee
15 with the least amount of seniority shall be properly notified and
16 released from employment pursuant to the provisions of section two,
17 article two of this chapter. The provisions of this subsection are
18 subject to the following:

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

23 (2) An employee subject to release shall be employed in any
24 other professional position where the employee is certified and was

1 previously employed or to any lateral area for which the employee
2 is certified, licensed or both, if the employee's seniority is
3 greater than the seniority of any other employee in that area of
4 certification, licensure or both;

5 (3) If an employee subject to release holds certification,
6 licensure or both in more than one lateral area and if the
7 employee's seniority is greater than the seniority of any other
8 employee in one or more of those areas of certification, licensure
9 or both, the employee subject to release shall be employed in the
10 professional position held by the employee with the least seniority
11 in any of those areas of certification, licensure or both; and

12 (4) If, prior to August 1 of the year a reduction in force is
13 approved, the reason for any particular reduction in force no longer
14 exists as determined by the county board in its sole and exclusive
15 judgment, the board shall rescind the reduction in force or transfer
16 and shall notify the released employee in writing of his or her
17 right to be restored to his or her position of employment. Within
18 five days of being so notified, the released employee shall notify
19 the board, in writing, of his or her intent to resume his or her
20 position of employment or the right to be restored shall terminate.
21 Notwithstanding any other provision of this subdivision, if there
22 is another employee on the preferred recall list with proper
23 certification and higher seniority, that person shall be placed in

1 the position restored as a result of the reduction in force being
2 rescinded.

3 ~~(k)~~ (j) For the purpose of this article, all positions which
4 meet the definition of classroom teacher as defined in section one,
5 article one of this chapter shall be lateral positions. For all
6 other professional positions, the county board of education shall
7 adopt a policy by October 31, 1993, and may modify the policy
8 thereafter as necessary, which defines which positions shall be
9 lateral positions. The board shall submit a copy of its policy to
10 the state board within thirty days of adoption or any modification,
11 and the state board shall compile a report and submit the report to
12 the Legislative Oversight Commission on Education Accountability by
13 December 31, 1993, and by that date in any succeeding year in which
14 any county board submits a modification of its policy relating to
15 lateral positions. In adopting the policy, the board shall give
16 consideration to the rank of each position in terms of title; nature
17 of responsibilities; salary level; certification, licensure or both;
18 and days in the period of employment.

19 ~~(l)~~ (k) After the fifth day prior to the beginning of the
20 instructional term, no person employed and assigned to a
21 professional position may transfer to another professional position
22 in the county during that instructional term unless the person
23 holding that position does not have valid certification. The
24 provisions of this subsection are subject to the following:

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

4 (2) Professional personnel who have been on an approved leave
5 of absence may fill these vacancies upon their return from the
6 approved leave of absence; and

7 (3) The county board, upon recommendation of the superintendent
8 may fill a position before the next instructional term when it is
9 determined to be in the best interest of the students: *Provided,*
10 That the county superintendent shall notify the state board of each
11 transfer of a person employed in a professional position to another
12 professional position after the fifth day prior to the beginning of
13 the instructional term. The Legislature finds that it is not in the
14 best interest of the students particularly in the elementary grades
15 to have multiple teachers for any one grade level or course during
16 the instructional term. It is the intent of the Legislature that
17 the filling of positions through transfers of personnel from one
18 professional position to another after the fifth day prior to the
19 beginning of the instructional term should be kept to a minimum.

20 ~~(m)~~ (l) All professional personnel whose seniority with the
21 county board is insufficient to allow their retention by the county
22 board during a reduction in work force shall be placed upon a
23 preferred recall list. As to any professional position opening
24 within the area where they had previously been employed or to any

1 lateral area for which they have certification, licensure or both,
2 the employee shall be recalled on the basis of seniority if no
3 regular, full-time professional personnel, or those returning from
4 leaves of absence with greater seniority, are qualified, apply for
5 and accept the position.

6 ~~(n)~~ (m) Before position openings that are known or expected to
7 extend for twenty consecutive employment days or longer for
8 professional personnel may be filled by the board, the board shall
9 be required to notify all qualified professional personnel on the
10 preferred list and give them an opportunity to apply, but failure
11 to apply shall not cause the employee to forfeit any right to
12 recall. The notice shall be sent by certified mail to the last
13 known address of the employee, and it shall be the duty of each
14 professional personnel to notify the board of continued availability
15 annually, of any change in address or of any change in
16 certification, licensure or both.

17 ~~(o)~~ (n) Openings in established, existing or newly created
18 positions shall be processed as follows:

19 (1) Boards shall be required to post and date notices which
20 shall be subject to the following:

21 (A) The notices shall be posted in conspicuous working places
22 for all professional personnel to observe for at least five working
23 days;

1 (B) The notice shall be posted within twenty working days of
2 the position openings and shall include the job description;

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

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

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

12 (2) No vacancy shall be filled until after the five-day minimum
13 posting period;

14 (3) If one or more applicants meets the qualifications listed
15 in the job posting, the successful applicant to fill the vacancy
16 shall be selected by the board within thirty working days of the end
17 of the posting period;

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

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

1 ~~(p)~~ (o) Notwithstanding any other provision of the code to the
2 contrary, where the total number of classroom teaching positions in
3 an elementary school does not increase from one school year to the
4 next, but there exists in that school a need to realign the number
5 of teachers in one or more grade levels, kindergarten through six,
6 teachers at the school may be reassigned to grade levels for which
7 they are certified without that position being posted: *Provided,*
8 That the employee and the county board of education mutually agree
9 to the reassignment.

10 ~~(q)~~ (p) Reductions in classroom teaching positions in
11 elementary schools shall be processed as follows:

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

16 (2) When a specified grade level needs to be reduced and the
17 least senior employee in the school is not in that grade level, the
18 least senior classroom teacher in the grade level that needs to be
19 reduced shall be reassigned to the position made vacant by the
20 transfer of the least senior classroom teacher in the school without
21 that position being posted: *Provided,* That the employee is
22 certified, licensed or both and agrees to the reassignment.

23 ~~(r)~~ (q) Any board failing to comply with the provisions of this
24 article may be compelled to do so by mandamus and shall be liable

1 to any party prevailing against the board for court costs and
2 reasonable attorney fees as determined and established by the court.
3 Further, employees denied promotion or employment in violation of
4 this section shall be awarded the job, pay and any applicable
5 benefits retroactive to the date of the violation and payable
6 entirely from local funds. Further, the board shall be liable to
7 any party prevailing against the board for any court reporter costs
8 including copies of transcripts.

9 ~~(s)~~ (r) The county board shall compile, update annually on July
10 1 and make available by electronic or other means to all employees
11 a list of all professional personnel employed by the county, their
12 areas of certification and their seniority.

NOTE: The purpose of this bill is to improve schools and school districts. The bill requires electronic county and school strategic improvement plans to plan for early warnings and interventions, The bill requires electronic county and school strategic improvement plans to report on the level of performance as relates to the high quality education standards and efficiency standards. The bill revises high quality education standards. The bill revises graduation standards used to determine adequate yearly progress under the No Child Left Behind Act. The bill requires state annual performance measures to account for growth over the previous year. The bill revises extraordinary circumstances that may warrant a school being given a low-performing accreditation status. The bill narrowing deadlines for improvement of low performance in schools. The bill authorizes the district-wide transfer of principals in school systems on nonapproved status. The bill revises school system approval criteria for schools given temporary and conditional status. The bill requires the revision of electronic county strategic improvement plans to reach full approval status. The bill establishes the Education Opportunity Zone 180 program. The bill requires comprehensive health screening for students entering public school for the first time in this state, students entering third grade, students entering sixth grade and students entering ninth

grade. The bill defines terms. The bill limits developmental screening. The bill selects faculty senate members of the hiring committee. The bill empowers faculty senates to establish a process for faculty members to interview new paraprofessional employees at the school. The bill creates Charter Innovation Zone 2.0 Schools. The bill defines terms. The bill establishes legislative findings and purpose. The bill provides that Charter Innovation Zone 2.0 Schools are part of the public education system. The bill precludes the state board from capping the number of schools. The bill provides that provisions should be liberally construed. The bill establishes autonomy factors. The bill provides application contents, submission, review and approval process. The bill authorizes memorandums of agreement and charters. The bill provides for the renewal, revocation and termination of schools. The bill creates the Charter Innovation Zone 2.0 Schools Commission. The bill establishes powers and duties. The bill requires reports. The bill establishes review factors. The bill provides for site-based governance councils and membership. The bill requires county board to serve as fiscal agent for school. The bill allows site-based governance council to establish staff selection committee in collaboration with county board. The bill provides for admissions and enrollment criteria for schools. The bill establishes lottery requirements for admission to school. The bill provides for credit transfers. The bill requires school district to provide information regarding schools. The bill requires monitoring of schools. The bill establishes funding requirements. The bill authorizes the receipt of grants and other moneys. The bill requires the reporting of grants and other moneys. The bill requires a study of funding of schools. The bill establishes transportation requirements. The bill provides for facilities. The bill requires notice to the county board upon move or termination of the school. The bill requires a facilities plan. The bill provides for maintenance agreements. The bill authorizes rules and emergency rules. The bill authorizes virtual Charter Innovation Zone 2.0 Schools. The bill permits students to participate in extracurricular activities. The bill establishes purpose. The bill authorizes waiver of statutes and rules requires certain committees. The bill authorizes the creation of collaborative teams in place of certain committees. The bill creates application and approval process for waiver. The bill provides for certain votes. The bill authorizes rulemaking. The bill establishes additional compensation for professional school personnel. The bill provides the opportunity for hiring committees to interview school personnel candidates. The bill evaluation of professional personnel in the public schools. The bill requires annual evaluations. The bill establishes effective dates. The bill provides for alternative principal and teacher certification. The bill authorizes alternative principal and teacher certification programs. The bill provides for alternative instructional

requirements. The bill provides eligibility standards for principals. The bill authorizes alternative programs by approved education providers. The bill sets forth certain requirements for training and induction. The bill authorizes rules. The bill authorizes additional compensation for professional school personnel. The bill establishes findings. The bill requires a salary supplement for teachers, principals and assistant principals employed in a school with a student population that is high poverty or high minority. The bill requires a salary supplement for classroom teachers employed in a school with a student population that is high poverty or high minority and who teach in a documented area of shortage. The bill defines terms. The bill requires a monetary incentive for meeting goals for student growth during the previous school year. The bill requires uniformity. The bill authorizes additional monetary payments paid from local funds. The bill excludes certain monetary compensation created by this legislation from inclusion for purposes of calculating retirement benefits. The bill authorizes rules. The bill revises criteria when hiring a professional personnel. The bill requires the consideration of criteria according to equal weighting in certain circumstances. The bill provides for hiring committees. The bill provides for the selection of hiring committee members by the faculty senate. The bill and provides for the opportunity for hiring committees to interview candidates.

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

§18-5D-1, §18-5D-2, §18-5D-3, §18-5D-4, §18-5D-5, §18-5D-6, §18-5D-7, §18-5D-8, §18-5D-9, §18-5D-10, §18-5D-11, §18-5D-12, §18-5D-13, §18-5D-14, §18-5D-15, §18-5D-16, §18-5D-17, §18-5E-1, §18-5E-2, §18-5E-3, §18A-4-2c, §18A-4-3a and §18A-4-3b are new; therefore, strike-throughs and underscoring have been omitted.