

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 359**

4 (By Senators Kessler (Mr. President) and M. Hall,

5 By Request of the Executive)

6 \_\_\_\_\_  
7 [Originating in the Committee on Education;

8 reported March 13, 2013.]  
9 \_\_\_\_\_

10

11

12 A BILL to repeal §18-2-23a and §18-2-32 of the Code of West  
13 Virginia, 1931, as amended; to repeal §18-2E-5c of said code;  
14 to repeal §18-2I-6 and §18-2I-7 of said code; to repeal  
15 §18A-3A-2a and §18A-3A-6 of said code; to amend and reenact  
16 §18-1-4 of said code; to amend and reenact §18-2-24 of said  
17 code; to amend said code by adding thereto a new section,  
18 designated §18-2-39; to amend and reenact §18-2E-5 of said  
19 code; to amend and reenact §18-2I-1, §18-2I-2, §18-2I-3,  
20 §18-2I-4 and §18-2I-5 of said code; to amend and reenact  
21 §18-3-1 and §18-3-12 of said code; to amend said code by  
22 adding thereto a new section, designated §18-3-9b; to amend  
23 and reenact §18-5-18, §18-5-44 and §18-5-45 of said code; to  
24 amend and reenact §18-5A-5 of said code; to amend and reenact  
25 §18A-2-1 and §18A-2-7 of said code; to amend said code by  
26 adding thereto two new sections, designated §18A-3-1d and

1 §18A-3-1e; to amend and reenact §18A-3-2a of said code; to  
2 amend and reenact §18A-3A-1, §18A-3A-2 and §18A-3A-3 of said  
3 code; to amend and reenact §18A-4-2a, §18A-4-7a, §18A-4-8,  
4 §18A-4-8a and §18A-4-14 of said code; to amend and reenact  
5 §18A-5-2 of said code; to amend and reenact §18C-1-2 of said  
6 code; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3 and  
7 §18C-4-4 of said code; and to amend said code by adding  
8 thereto three new sections, designated §18C-4A-1, §18C-4A-2  
9 and §18C-4A-3, all relating to transforming and improving  
10 public education; removing outdated language; requiring the  
11 State Board of Education, the Higher Education Policy  
12 Commission and the Council for Community and Technical College  
13 Education to collaborate in formally adopting uniform and  
14 specific college- and career-readiness standards for  
15 English/language arts and math; providing methods for  
16 determining whether students have met the college- and career-  
17 readiness standards; requiring that an explicit focus be  
18 embedded in each course on the development of English/language  
19 arts and math skills; requiring a twelfth-grade transitional  
20 course for both English/language arts and math for students  
21 not on track to be college ready; requiring professional  
22 development on teaching the college- and career-readiness  
23 standards to be included in the State Board's Master Plan for  
24 Professional Staff Development; requiring the state board to  
25 require all teacher preparation programs to include  
26 appropriate training for teaching adopted standards in at

1 least grades eight through twelve; requiring the use of  
2 certain assessments, exams or tests for determining whether a  
3 student is eligible for a remedial course; requiring  
4 accountability for increasing the percentage of students who  
5 meet the standards and for increasing the percentage of  
6 students who are making adequate progress toward meeting the  
7 standards; removing requirement applicable to annual county  
8 and school strategic improvement plans; modifying requirements  
9 for high-quality education standards for student, school and  
10 school system performance and processes; modifying  
11 requirements pertaining to a comprehensive statewide student  
12 assessment program; removing provisions relating to No Child  
13 Left Behind annual measures; modifying provisions pertaining  
14 to the state annual performance measures for school and school  
15 system accreditation; removing provisions pertaining to  
16 requiring the standards to include indicators of exemplary  
17 student, school and school system performance and progress;  
18 eliminating the Process for Improving Education Council;  
19 modifying component of system of education performance audits;  
20 expanding state board authority pertaining to the Office of  
21 Education Performance Audit's reporting formats; eliminating  
22 condition for on-site review; removing prohibition of certain  
23 duplicate reviews or inspections; removing provisions  
24 pertaining to persons who are to conduct an on-site review;  
25 removing list of areas for which the office may not review;  
26 modifying provisions pertaining to school accreditation;

1 removing provision allowing a student to transfer from a low-  
2 performing school under certain conditions; professional  
3 development; establishing clear state-level leadership of  
4 professional development; providing findings on the importance  
5 of professional development; requiring State Board of  
6 Education to develop a master plan for professional  
7 development; requiring submission of plan to certain entities;  
8 requiring goals to be established and included in the master  
9 plan; requiring state board rules; setting forth minimum  
10 components of the rule; requiring annual report on the  
11 statewide professional development plan; modifying language  
12 pertaining to the Strategic Staff Development Fund; modifying  
13 State Superintendent of Schools qualifications and removing  
14 his or her salary limit; requiring State Superintendent to  
15 reduce the amount budgeted for personal services, related  
16 employee benefits and contractual expenditures related to  
17 employment in fiscal years 2014 and 2015; increasing the  
18 number of schools to be included in a special community  
19 development pilot program; modifying other provisions  
20 pertaining to the pilot program; requiring kindergarten and  
21 early childhood aides to transition to one of three new  
22 assistant teacher positions after date certain; exempting  
23 those eligible for retirement before July 1, 2020; requiring  
24 early childhood education programs to be made available five  
25 days a week for the full day; allowing program to be for fewer  
26 than five days per week and less than full day under certain

1 circumstances; allowing parent to withdraw child for good  
2 cause; providing for local control of the school calendar;  
3 defining terms and establishing findings about the school  
4 calendar; requiring a 200-day employment term; requiring one  
5 hundred eighty separate days of actual instruction are to be  
6 provided for students; requiring school term to include out-  
7 of-calendar days that are to be used for instructional days in  
8 the event school is canceled; requiring county policy for  
9 adding minutes or days to school calendar for certain purpose;  
10 requiring that one hundred eighty days be within a 365-day  
11 period set by the county board; limiting noninstructional  
12 interruptions to instructional day; requiring state board or  
13 State Superintendent approval of proposed county calendar;  
14 requiring public meetings for discussions of a school system's  
15 calendar; allowing the state board to grant a waiver to  
16 certain code sections that prevent a school system from  
17 meeting one hundred eighty instructional days; requiring state  
18 board rule to implement the calendar section provisions;  
19 removing language about faculty senates on instructional  
20 support and enhancement days; requiring the local board to  
21 provide at least four additional two-hour blocks of time  
22 during noninstructional days, with each block scheduled once  
23 at least every forty-five instructional days; prohibiting  
24 principals from recommending for employment certain  
25 individuals that are related to him or her; allowing  
26 reassignment of teachers when a vacancy was not foreseen

1 before March 1 based on pupil-teacher ratio; requiring state  
2 board to determine whether a group qualifies as a national  
3 teaching corps; allowing participants in a national teaching  
4 corps to become classroom teachers; creating a critical need  
5 alternative teacher certificate; providing that the  
6 certificate is only valid for teaching in subject areas,  
7 public schools or geographic areas in which the state board  
8 determines that critical teacher shortages exist; providing  
9 that the certificate is a two-year certificate that can be  
10 renewed for one year; setting forth minimum requirements to  
11 receive a critical need alternative teacher certificate;  
12 creating a professional support team for these new teachers;  
13 recommendation for certification of teachers on the critical  
14 need alternative teaching certificate by support team;  
15 requiring state board rules that must at least include  
16 additional requirements for a person with a critical need  
17 alternative teaching certificate to obtain a professional  
18 certificate; amending requirements for professional teaching  
19 certificates through alternative certifications; further  
20 defining "critical need alternative teaching certificates";  
21 providing for salary bonus for classroom teachers with a  
22 National Board for Professional Teaching Standards renewal  
23 certificate; providing for reimbursement of the renewal  
24 certification fee; removing language that limits the number of  
25 board-certified teachers who can receive reimbursement per  
26 year; adding seniority to the list of factors to be considered

1 when filling vacancies in professional positions of  
2 employment; eliminating restrictive hiring language for  
3 classroom teaching positions; allowing county boards to give  
4 consideration to recommendations made by the principal and the  
5 faculty senate; allowing released employees to be hired for  
6 certain vacancies prior to the job being posted; limiting  
7 bumping to within a school with county seniority; allowing for  
8 multiple postings within a thirty-day period under certain  
9 conditions; removing language that limits internal school  
10 bumping to elementary school; allowing reassignment of a  
11 teacher within his or her school upon consent of teacher and  
12 county board; eliminating the 43-week limit on the employment  
13 term for service personnel; creating three new types of early  
14 childhood classroom assistant teacher positions; assigning a  
15 pay grade to the new positions; requiring state board study on  
16 planning periods; clarifying that not all holidays will be  
17 counted as a day of the employment term and that pay per pay  
18 period cannot change as a result; providing that snow days are  
19 not counted as days of employment or days of instruction;  
20 providing definitions; scholarships and loan assistance for  
21 teachers in critical need areas; creating loan assistance  
22 program; determining subject and geographic areas of critical  
23 need; requiring legislative rules for program administration;  
24 revising eligibility criteria and specifying effective date;  
25 determining eligibility and awarding loan assistance;  
26 establishing criteria for inclusion in scholarship and loan

1 assistance agreements; requiring payments to be made directly  
2 to a lending entity; requiring model contract agreements;  
3 specifying loan amount, limits and duration of loan  
4 assistance; requiring repayment under certain conditions;  
5 specifying excusal from repayment under certain conditions;  
6 and making technical corrections and deleting obsolete  
7 language.

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

9 That §18-2-23a and §18-2-32 of the Code of West Virginia,  
10 1931, as amended, be repealed; that §18-2E-5c of said code be  
11 repealed; that §18-2I-6 and §18-2I-7 of said code be repealed; that  
12 §18A-3A-2a and §18A-3A-6 of said code be repealed; that §18-1-4 of  
13 said code be amended and reenacted; that §18-2-24 of said code be  
14 amended and reenacted; that said code be amended by adding thereto  
15 a new section, designated §18-2-39; that §18-2E-5 of said code be  
16 amended and reenacted; that §18-2I-1, §18-2I-2, §18-2I-3, §18-2I-4  
17 and §18-2I-5 of said code be amended and reenacted; that §18-3-1  
18 and §18-3-12 of said code be amended and reenacted; that said code  
19 be amended by adding thereto a new section, designated §18-3-9b;  
20 that §18-5-18, §18-5-44 and §18-5-45 of said code be amended and  
21 reenacted; that §18-5A-5 of said code be amended and reenacted;  
22 that §18A-2-1 and §18A-2-7 of said code be amended and reenacted;  
23 that said code be amended by adding thereto two new sections,  
24 designated §18A-3-1d and §18A-3-1e; that §18A-3-2a of said code be  
25 amended and reenacted; that §18A-3A-1, §18A-3A-2 and §18A-3A-3 of  
26 said code be amended and reenacted; that §18A-4-2a, §18A-4-7a,

1 §18A-4-8, §18A-4-8a and §18A-4-14 of said code be amended and  
2 reenacted; that §18A-5-2 of said code be amended and reenacted;  
3 that §18C-1-2 of said code be amended and reenacted; that §18C-4-1,  
4 §18C-4-2, §18C-4-3 and §18C-4-4 of said code be amended and  
5 reenacted; and that said code be amended by adding thereto three  
6 new sections, designated §18C-4A-1, §18C-4A-2 and §18C-4A-3, all to  
7 read as follows:

8 **CHAPTER 18. EDUCATION.**

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

11 **§18-1-4. Vision 2020: An Education Blueprint for Two Thousand**  
12 **Twenty.**

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

17 (b) For the purposes of this section:

18 (1) "Goals" means those long-term public purposes which are  
19 the desired end result and only may include those items listed in  
20 subsection (e) of this section;

21 (2) "Objectives" means the ends to be accomplished or attained  
22 within a specified period of time for the purpose of meeting the  
23 established goals; and

24 (3) "Strategies" means specific activities carried out by the  
25 public education system which are directed toward accomplishing  
26 specific objectives.

1 (c) The Legislature finds that:

2 (1) The measure of a thorough and efficient system of  
3 education is whether students graduate prepared to meet the  
4 challenges of the future as contributing members of society and  
5 that these challenges change, becoming ever more complex and  
6 involving a global context more than at any other time in the  
7 history of our nation;

8 (2) The state recently has embraced and is implementing the  
9 Partnership for 21st Century Skills model for teaching and learning  
10 including six key elements (core subjects, 21st Century content,  
11 learning and thinking skills, information and communications  
12 technology literacy, life skills and 21st Century assessments) to  
13 help better prepare students for the challenges of the 21st  
14 Century;

15 (3) Published national studies by several organizations  
16 routinely examine various elements of state education systems and  
17 selected underlying socioeconomic variables and rate and rank West  
18 Virginia and the other states, the District of Columbia and the  
19 territories based on the measurement systems and priorities  
20 established by the organizations, and these measurement systems and  
21 priorities change;

22 (4) While the state should take pride in studies that show  
23 West Virginia is among the leaders in several of its efforts and is  
24 making progress, its students often outperforming expectations  
25 based on typical indicators of the likelihood for student success,  
26 such as the income and education levels of their parents, it should

1 also recognize that the state must do even more to ensure that high  
2 school graduates are fully prepared for post-secondary education or  
3 gainful employment;

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

9 (d) As part of Vision 2020: An Education Blueprint for Two  
10 Thousand Twenty, the state board shall establish a plan in  
11 accordance with the provisions of this section for submission to  
12 and consideration by the ~~Process for Improving Education Council~~  
13 ~~pursuant to section five-c, article two-e of this chapter~~  
14 Legislative Oversight Commission on Education Accountability. The  
15 plan shall include only the goals, objectives, strategies,  
16 indicators and benchmarks for public education set forth in this  
17 section and that meet the requirements of this section. To add  
18 clarity and avoid confusion, the goals for public education set  
19 forth in the plan pursuant to this section are the exclusive goals  
20 for public education. The plan shall include:

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

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

25 (3) Strategies for achieving the specific objectives;

26 (4) Indicators for measuring progress toward the goals and

1 objectives established in this section; and

2 (5) Benchmarks for determining when the goals and objectives  
3 have been achieved.

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

6 (1) Academic achievement according to national and  
7 international measures will exceed national and international  
8 averages. These national and international measures should include  
9 scores on assessments such as the National Assessment of  
10 Educational Progress (NAEP), the ACT, the SAT and the Programme for  
11 International Assessment (PISA);

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

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

15 (4) The public education system will maintain and promote the  
16 health and safety of all students and will develop and promote  
17 responsibility, citizenship and strong character in all students;  
18 and

19 (5) The public education system will provide equitable  
20 education opportunity to all students.

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

23 (1) *Rigorous 21st Century curriculum and engaging instruction*  
24 *for all students.* - All students in West Virginia public schools  
25 should have access to and benefit from a rigorous 21st Century  
26 curriculum that develops proficiency in core subjects, 21st Century

1 content, learning skills and technology tools. These students also  
2 should have that curriculum delivered through engaging, research-  
3 based instructional strategies that develop deep understanding and  
4 the ability to apply content to real-world situations;

5       (2) *A 21st Century accountability and accreditation system.* -  
6 The prekindergarten through twelve education system should have a  
7 public accrediting system that: (i) Holds local school districts  
8 accountable for the student outcomes the state values; and (ii)  
9 provides the public with understandable accountability data for  
10 judging the quality of local schools. The outcomes on which the  
11 system is based should be rigorous and should align with national  
12 and international standards such as the National Assessment of  
13 Educational Progress (NAEP), the ACT, the SAT and the Programme for  
14 International Assessment (PISA). The broad standards established  
15 for these outcomes should include a focus on: (A) Mastery of basic  
16 skills by all students; (B) closing the achievement gap among  
17 student subgroups; and (C) high levels of proficiency in a wide  
18 range of desired 21st Century measures and processes. The system  
19 for determining school and district accreditation should include  
20 school and district self analysis and generate appropriate  
21 research-based strategies for improvement. It also should allow  
22 opportunities to create innovative approaches to instructional  
23 delivery and design. Thus, the system will incorporate processes  
24 for encouraging innovation, including streamlined applications for  
25 waivers to state board policy, financial support for successful  
26 initiatives and recognition of those practices that can be brought

1 to a district or statewide scale. The primary goal of the  
2 accreditation system is to drive school improvement. This 21st  
3 Century accountability and accreditation system also should include  
4 the methods of addressing capacity set forth in section five,  
5 article two-e of this chapter;

6 (3) *A statewide balanced assessment process.* - State,  
7 district, school and classroom decisionmaking should be grounded in  
8 21st Century balanced assessment processes that reflect national  
9 and international rigorous performance standards and examine  
10 student proficiency in 21st Century content, skills and technology  
11 tools. A balanced assessment system includes statewide summative  
12 assessments, local benchmark assessments and classroom assessments  
13 for learning;

14 (4) *A personnel allocation, licensure and funding process that*  
15 *aligns with the needs of 21st Century school systems and is*  
16 *supported by a quality coordinated professional development*  
17 *delivery system.* - Increased accountability demands, as well as the  
18 focus on 21st Century learning, require a reexamination of  
19 traditional approaches to personnel allocation, licensure and  
20 funding. Creating schools of the 21st Century requires new  
21 staffing roles and staffing patterns. It also requires ongoing  
22 professional development activities focused on enhancing student  
23 achievement and achieving specific goals of the school and district  
24 strategic plans. Thus, schools should have the ability to access,  
25 organize and deliver high quality embedded professional development  
26 that provides staff with in-depth sustained and supported learning.

1 Effective school improvement should allow opportunity for staff to  
2 collectively learn, plan and implement curricular and instructional  
3 improvements on behalf of the students they serve;

4       (5) *School environments that promote safe, healthy and*  
5 *responsible behavior and provide an integrated system of student*  
6 *support services.* - Each school should create an environment  
7 focused on student learning and one where students know they are  
8 valued, respected and safe. Furthermore, the school should  
9 incorporate programs and processes that instill healthy, safe and  
10 responsible behaviors and prepare students for interactions with  
11 individuals of diverse racial, ethnic and social backgrounds.  
12 School and district processes should include a focus on developing  
13 ethical and responsible character, personal dispositions that  
14 promote personal wellness through planned daily physical activity  
15 and healthy eating habits consistent with high nutritional  
16 guidelines and multicultural experiences that develop an  
17 appreciation of and respect for diversity;

18       (6) *A leadership recruitment, development and support*  
19 *continuum.* - Quality schools and school systems of the 21st Century  
20 cannot be created without high-quality leaders. Thus, West  
21 Virginia should have an aligned leadership professional development  
22 continuum that attracts, develops and supports educational  
23 leadership at the classroom, school and district level. This  
24 leadership development continuum should focus on creating: (i)  
25 Learning-centered schools and school systems; (ii) collaborative  
26 processes for staff learning and continuous improvement; and (iii)

1 accountability measures for student achievement;

2       (7) *Equitable access to 21st Century technology and education*  
3 *resources and school facilities conducive to 21st Century teaching*  
4 *and learning.* - A quality educational system of the 21st Century  
5 should have access to technology tools and processes that enhance  
6 effective and efficient operation. Administrators should have the  
7 digital resources to monitor student performance, manage a variety  
8 of data and communicate effectively. In the classroom, every  
9 teacher in every school should be provided with the instructional  
10 resources and educational technology necessary to deliver the West  
11 Virginia content standards and objectives. Schools of the 21st  
12 Century require facilities that accommodate changing technologies,  
13 21st Century instructional processes and 21st Century staffing  
14 needs and patterns. These school facilities should mirror the best  
15 in green construction and be environmentally and educationally  
16 responsive to the communities in which they are located;

17       (8) *Aligned public school with post-secondary and workplace*  
18 *readiness programs and standards.* - An educational system in the  
19 21st Century should be seen as a continuum from the public school  
20 (prekindergarten through twelve) program through post-secondary  
21 education. In order to be successful in a global competitive  
22 marketplace, learning should be an ongoing, life-long experience.  
23 Thus, the public schools and the institutions of post-secondary  
24 education in West Virginia should create a system of common  
25 standards, expectations and accountability. Creating such an  
26 aligned system will enhance opportunities for success and assure a

1 seamless educational process for West Virginia students; and

2       (9) *A universal prekindergarten system.* - A high-quality,  
3 universal prekindergarten system should be readily available to  
4 every eligible student. The system should promote oral language  
5 and preliteracy skills and reduce the deficit of these foundational  
6 skills through proactive, early intervention. Research indicates  
7 that universal prekindergarten systems improve graduation rates,  
8 reduce grade level retentions and reduce the number of special  
9 education placements. Therefore, local school systems should  
10 create the supports and provide the resources to assure a quality  
11 prekindergarten foundation is available to all eligible students.

12       (g) In addition to the policy-oriented objectives set forth in  
13 subsection (f) of this section, the plan established pursuant to  
14 this section also shall include at least the following performance-  
15 oriented objectives:

16       (1) All children entering the first grade will be ready for  
17 the first grade;

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

21       (3) Ninety percent of ninth graders will graduate from high  
22 school;

23       (4) By 2012, the gap between the county with the lowest  
24 college-going rate and the state average as of the effective date  
25 of this act will decrease by fifty percent and the college-going  
26 rate of the state will equal the college-going rate of the member

1 states of the Southern Regional Education Board; and

2 (5) By 2012, the gap between the county with the lowest  
3 college-going rate and the state average for school year 2012 will  
4 decrease by fifty percent and the college-going rate of the state  
5 will exceed the college-going rate of the member states of the  
6 Southern Regional Education Board by five percentage points.

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

8 **§18-2-24. Collaboration of state institutions of higher education**  
9 **having a teacher preparation program with the Center**  
10 **for Professional Development, state board and the**  
11 **regional education service agencies.**

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

15 (b) The intent of this section is to establish a structure to  
16 enhance collaboration between the teacher preparation institutions,  
17 the Center for Professional Development, state board and the  
18 regional education service agencies in providing professional  
19 development.

20 (c) The Legislature finds that:

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

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

1 (3) Creating a structure and assigning responsibility would  
2 promote more effective collaboration;

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

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

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

14 (7) The coordination by West Virginia University and Marshall  
15 University of the efforts of other teacher preparation institutions  
16 to collaborate with the Center for Professional Development, state  
17 board and each of the regional education service agencies will  
18 provide points of accountability for the collaboration efforts of  
19 the other institutions; and

20 (8) The state board's authority over the regional education  
21 service agencies can be used to motivate the agencies to  
22 collaborate with the teacher preparation institutions in providing  
23 professional development and will serve as a point of  
24 accountability for the collaboration efforts of the agencies.

25 (d) West Virginia University and Marshall University shall  
26 collaborate with the Center for Professional Development in

1 performing the center's duties. This collaboration shall include  
2 at least the following:

3 (1) Including the teacher preparation institutions in the  
4 proposed professional staff development program ~~plan goals~~ required  
5 by section three, article two-i of this chapter to be ~~submitted to~~  
6 ~~the state board by section twenty-three a of this article~~ included  
7 in the master plan for professional development;

8 (2) Providing any available research-based expertise that  
9 would be helpful in the design of the proposed professional staff  
10 development program ~~plan goals~~;

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

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

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

20 (1) Prevent unnecessary duplication of services;

21 (2) Assist in the implementation of the professional  
22 development programs of the regional education service agency; and

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

26 (f) Since no teacher preparation institution exists in the

1 service area of Regional Education Service Agency IV, Marshall  
2 University shall collaborate with that agency for the purposes set  
3 forth in subdivision (e) of this section.

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

8 (1) Coordinate the collaboration of each of the other teacher  
9 preparation institutions in their designated coordination area with  
10 the appropriate regional education service agency. This  
11 coordination at least includes ensuring that each of the other  
12 institutions are collaborating with the appropriate regional  
13 education service agency; and

14 (2) Collaborate with each of the other teacher preparation  
15 institutions in their designated coordination area. This  
16 collaboration at least includes providing assistance to the other  
17 institutions in providing professional development and in their  
18 collaboration with the appropriate regional education service  
19 agency.

20 (h) The designated coordination area of West Virginia  
21 University includes the service areas of Regional Education Service  
22 Agencies V, VI, VII and VIII. The designated coordination area of  
23 Marshall University includes the service areas of Regional  
24 Education Service Agencies I, II, III and IV.

25 (i) The state board shall ensure that each of the regional  
26 education service agencies is collaborating with the teacher

1 preparation institution or institutions in its service area for the  
2 purposes set forth in subsection (e) of this section. Since  
3 Regional Education Service Agency IV does not have a teacher  
4 preparation institution in its service area, the state board shall  
5 ensure that it is collaborating with Marshall University for the  
6 purposes set forth in subsection (e) of this section.

7 (j) Before a regional education service agency, except for  
8 Regional Education Service Agency IV, obtains professional  
9 development related services or expertise from any teacher  
10 preparation institution outside of that agency's service area, the  
11 agency shall inform the ~~Center for Professional Development Board~~  
12 state board. Before Regional Education Service Agency IV obtains  
13 professional development related services or expertise from any  
14 teacher preparation institution other than Marshall University, the  
15 agency shall inform the ~~Center Board~~ state board.

16 (k) The collaboration and coordination requirements of this  
17 section include collaborating and coordinating to provide  
18 professional development for at least teachers, principals and  
19 paraprofessionals.

20 **§18-2-39. College and career readiness initiative.**

21 (a) The Legislature finds that:

22 (1) According to ACT, only twenty-five percent of ACT-tested  
23 high school graduates in the nation met college readiness  
24 benchmarks in English, reading, mathematics and science and only  
25 seventeen percent in West Virginia met the benchmarks in all four  
26 subjects;

1 (2) The post-secondary remediation rates of students entering  
2 post-secondary institutions directly out of high school indicate  
3 that a large percentage of students are not being adequately  
4 prepared at the elementary and secondary levels;

5 (3) This high level of post-secondary remediation is causing  
6 both students and the state to expend extra resources that would  
7 not have to be expended if the students were adequately prepared at  
8 the elementary and secondary levels;

9 (4) A strong foundation in English/language arts and math  
10 provides a basis for learning in all other subject areas and for  
11 on-the-job training; and

12 (5) A comparison of the percentages of students considered  
13 proficient in eighth grade reading and math by the state assessment  
14 and the National Assessment of Educational Progress indicate that  
15 the state assessment currently does not accurately reflect national  
16 standards.

17 (b) Before the 2014-2015 school year, the state board, the  
18 Higher Education Policy Commission and the Council for Community  
19 and Technical College Education shall collaborate in formally  
20 adopting uniform and specific college- and career-readiness  
21 standards for English/language arts and math. The standards shall  
22 be clearly linked to state content standards and based on skills  
23 and competencies rather than high school course titles. The  
24 standards shall allow for a determination of whether a student  
25 needs to enroll in a post-secondary remedial course. The state  
26 board shall develop a plan for gradually bringing the standards for

1 a high school diploma and college and career readiness into  
2 uniformity, and report this plan to the Legislative Oversight  
3 Commission on Education Accountability not later than December 31,  
4 2013.

5 (c) The results on the comprehensive statewide student  
6 assessment program in grade eleven in English/language arts and  
7 mathematics shall be used to determine whether a student has met  
8 the college- and career-readiness standards adopted pursuant to  
9 subsection (b) of this section. Beginning with the 2015-2016  
10 school year, instead of using the comprehensive statewide student  
11 assessment program, the state board may develop and implement  
12 end-of-course exams in English/language arts and math courses it  
13 determines appropriate. These exams are designed for determining  
14 whether a student has met the college- and career-readiness  
15 standards. In order to allow for the enrollment in transitional  
16 courses in the twelfth grade if necessary pursuant to subsection  
17 (e) of this section, the courses, assessments and exams, as  
18 applicable, shall be administered before the twelfth grade.

19 (d) Under its authority granted in section one, article three,  
20 chapter eighteen-a of this code, the state board shall require all  
21 teacher preparation programs in the state to include appropriate  
22 training for teachers seeking to teach in at least any of grades  
23 eight through twelve with respect to teaching the adopted college-  
24 and career-readiness standards. This training shall focus on  
25 teaching the standards directly, through embedding the standards in  
26 other courses or both, as appropriate.

1 (e) The state board shall develop a twelfth-grade transitional  
2 course for both English/language arts and math for those students  
3 who are not on track to be college and career ready based on the  
4 assessment or exam, as applicable, required pursuant to subsection  
5 (c) of this section. The transitional courses shall be aligned  
6 with the standards adopted pursuant to subsection (b) of this  
7 section. The state board in collaboration with the West Virginia  
8 Higher Education Policy Commission and the Council for Community  
9 and Technical College Education shall use the American College  
10 Testing Program's Computerized Adaptive Placement Assessment and  
11 Support System (COMPASS) or other mutually agreed-upon assessment  
12 to determine whether a student has met the college- and career-  
13 readiness standards after completion of the transitional course.

14 (f) For all West Virginia public high school graduates who  
15 graduate during or after the 2016-2017 school year, all state  
16 institutions of higher education may use no factor other than the  
17 assessment, exam or test, as applicable, required pursuant to  
18 subsections (c) and (e) of this section to determine whether a  
19 student is to enroll in a remedial course or is to be placed in a  
20 college-level introductory course. Nothing in this subsection  
21 prohibits an institution from administering a diagnostic test to  
22 determine specific areas of weakness so that the specific  
23 weaknesses can be remediated rather than requiring a student to  
24 take an entire remedial course.

25 (g) The state board shall:

26 (1) Hold high schools and districts accountable for increasing

1 the percentages of students who meet the college- and career-  
2 readiness standards as indicated by the assessments, exams or  
3 tests, as applicable, required pursuant to subsections (c) and (e)  
4 of this section. This accountability shall be achieved through the  
5 school and school system accreditation provisions set forth in  
6 section five, article two-e of this chapter;

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

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

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

22 (i) On or before December 31, 2013, the state board shall  
23 promulgate a legislative rule in accordance with article three-b,  
24 chapter twenty-nine-a of this code to implement the provisions of  
25 this section.

26 **ARTICLE 2E. HIGH-QUALITY EDUCATIONAL PROGRAMS.**

1 §18-2E-5. **Process for improving education; education standards;**  
2 **statewide assessment program; accountability**  
3 **measures; Office of Education Performance Audits;**  
4 **school accreditation and school system approval;**  
5 **intervention to correct low performance.**

6 (a) *Legislative findings, purpose and intent.* - The  
7 Legislature makes the following findings with respect to the  
8 process for improving education and its purpose and intent in the  
9 enactment of this section:

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

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

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

19 (C) A system of accountability for continuous improvement  
20 defined by high-quality standards for schools and school systems  
21 articulated by a rule promulgated by the state board and outlined  
22 in subsection (c) of this section that will build capacity in  
23 schools and districts to meet rigorous outcomes that assure student  
24 performance and progress toward obtaining the knowledge and skills  
25 intrinsic to a high-quality education rather than monitoring for  
26 compliance with specific laws and regulations; and

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

4 (2) As the constitutional body charged with the general  
5 supervision of schools as provided by general law, the state board  
6 has the authority and the responsibility to establish the  
7 standards, assess the performance and progress of students against  
8 the standards, hold schools and school systems accountable and  
9 assist schools and school systems to build capacity and improve  
10 efficiency so that the standards are met, including, when  
11 necessary, seeking additional resources in consultation with the  
12 Legislature and the Governor;

13 (3) As the constitutional body charged with providing for a  
14 thorough and efficient system of schools, the Legislature has the  
15 authority and the responsibility to establish and be engaged  
16 constructively in the determination of the knowledge and skills  
17 that students should know and be able to do as the result of a  
18 thorough and efficient education. This determination is made by  
19 using the process for improving education to determine when school  
20 improvement is needed, by evaluating the results and the efficiency  
21 of the system of schools, by ensuring accountability and by  
22 providing for the necessary capacity and its efficient use;

23 (4) In consideration of these findings, the purpose of this  
24 section is to establish a process for improving education that  
25 includes the four primary elements as set forth in subdivision (1)  
26 of this subsection to provide assurances that the high-quality

1 standards are, at a minimum, being met and that a thorough and  
2 efficient system of schools is being provided for all West Virginia  
3 public school students on an equal education opportunity basis; and

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

14 (b) *Electronic county and school strategic improvement plans.*  
15 - The state board shall promulgate a rule consistent with the  
16 provisions of this section and in accordance with article three-b,  
17 chapter twenty-nine-a of this code establishing an electronic  
18 county strategic improvement plan for each county board and an  
19 electronic school strategic improvement plan for each public school  
20 in this state. Each respective plan shall be a five-year plan that  
21 includes the mission and goals of the school or school system to  
22 improve student, school or school system performance and progress,  
23 as applicable. The strategic plan shall be revised annually in  
24 each area in which the school or system is below the standard on  
25 the annual performance measures. ~~The revised annual plan also~~  
26 ~~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 plan shall be revised when required pursuant  
4 to this section to include each annual performance measure upon  
5 which the school or school system fails to meet the standard for  
6 performance and progress, the action to be taken to meet each  
7 measure, a separate time line and a date certain for meeting each  
8 measure, a cost estimate and, when applicable, the assistance to be  
9 provided by the department and other education agencies to improve  
10 student, school or school system performance and progress to meet  
11 the annual performance measure.

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

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

- 25 (1) Curriculum;
- 26 (2) Workplace readiness skills;

- 1 (3) Finance;
- 2 (4) Transportation;
- 3 (5) Special education;
- 4 (6) Facilities;
- 5 (7) Administrative practices;
- 6 (8) Training of county board members and administrators;
- 7 (9) Personnel qualifications;
- 8 (10) Professional development and evaluation;
- 9 (11) Student performance, ~~and progress~~ and attendance;
- 10 (12) Professional personnel, including principals and central
- 11 office administrators, and service personnel attendance;
- 12 ~~(12)~~ (13) School and school system performance and progress;
- 13 ~~(13)~~ (14) A code of conduct for students and employees;
- 14 ~~(14)~~ (15) Indicators of efficiency; and
- 15 ~~(15)~~ (16) Any other areas determined by the state board.

16 ~~The standards, as applicable, shall incorporate the state's~~  
17 ~~21st Century Skills Initiative and shall assure that graduates are~~  
18 ~~prepared for continuing post-secondary education, training and work~~  
19 ~~and that schools and school systems are making progress toward~~  
20 ~~achieving the education goals of the state.~~

21 (d) *Comprehensive statewide student assessment program.* - The  
22 state board shall ~~promulgate a rule in accordance with the~~  
23 ~~provisions of article three-b, chapter twenty-nine-a of this code~~  
24 ~~establishing~~ establish a comprehensive statewide student assessment  
25 program to assess student performance and progress in grades three  
26 through twelve. The assessment program is subject to the

1 following:

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

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

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

17 (4) The state board may require that student proficiencies be  
18 measured through the West Virginia writing assessment at any of the  
19 grade levels ~~four, seven and ten~~ determined by the state board to  
20 be appropriate; ~~Provided, That, effective July 1, 2008, the state~~  
21 board may require that student proficiencies be measured through  
22 the West Virginia writing assessment at any of the grade levels  
23 four, seven and eleven determined by the state board to be  
24 appropriate. and

25 (5) The state board may provide through the statewide  
26 assessment program other optional testing or assessment instruments

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

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

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

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

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

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

13       ~~(c) Annual performance measures for Public Law 107-110, the~~  
14 ~~Elementary and Secondary Education Act of 1965, as amended (No~~  
15 ~~Child Left Behind Act of 2001). -- The standards shall include~~  
16 ~~annual measures of student, school and school system performance~~  
17 ~~and progress for the grade levels and the content areas defined by~~  
18 ~~the act. The following annual measures of student, school and~~  
19 ~~school system performance and progress shall be the only measures~~  
20 ~~for determining whether adequately yearly progress under the No~~  
21 ~~Child Left Behind Act has been achieved:~~

22       ~~(1) The acquisition of student proficiencies as indicated by~~  
23 ~~student performance and progress on the required accountability~~  
24 ~~assessments at the grade levels and content areas as required by~~  
25 ~~the act subject to the limitations set forth in subsection (d) of~~  
26 ~~this section.~~

1       ~~(2) The student participation rate in the uniform statewide~~  
2 ~~assessment must be at least ninety five percent or the average of~~  
3 ~~the participation rate for the current and the preceding two years~~  
4 ~~is ninety five percent for the school, county and state;~~

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

9       ~~(A) Student absences excused in accordance with the state~~  
10 ~~board rule promulgated pursuant to section four, article eight of~~  
11 ~~this chapter;~~

12       ~~(B) Students not in attendance due to disciplinary measures;~~  
13 ~~and~~

14       ~~(C) Absent students for whom the attendance director has~~  
15 ~~pursued judicial remedies compelling attendance to the extent of~~  
16 ~~his or her authority; and~~

17       ~~(4) The high school graduation rate which shall be no less~~  
18 ~~than eighty percent for the school, county and state; or if the~~  
19 ~~high school graduation rate is less than eighty percent, the high~~  
20 ~~school graduation rate shall be higher than the high school~~  
21 ~~graduation rate of the preceding year as determined from~~  
22 ~~information on the West Virginia Education Information System on~~  
23 ~~August 15.~~

24       ~~(f) (e) State annual performance measures for school and~~  
25 ~~school system accreditation. - The state board shall establish a~~  
26 ~~system to assess and weigh annual performance measures for state~~

1 ~~accreditation of schools and school systems in a manner that gives~~  
2 ~~credit or points such as an index to prevent any one measure alone~~  
3 ~~from causing a school to achieve less than full accreditation~~  
4 ~~status or a school system from achieving less than full approval~~  
5 ~~status: *Provided, That a school or school system that achieves*~~  
6 ~~adequate yearly progress is eligible for no less than full~~  
7 ~~accreditation or approval status, as applicable, and the system~~  
8 ~~established pursuant to this subsection applies only to schools and~~  
9 ~~school systems that do not achieve adequate yearly progress.~~

10 ~~The following types of measures, as may be appropriate at the~~  
11 ~~various programmatic levels, may be approved by the state board for~~  
12 ~~the school and school system accreditation:~~

13 ~~(1) The acquisition of student proficiencies as indicated by~~  
14 ~~student performance and progress on the uniform statewide~~  
15 ~~assessment program at the grade levels as provided in subsection~~  
16 ~~(d) of this section. The state board may approve providing bonus~~  
17 ~~points or credits for students scoring at or above mastery and~~  
18 ~~distinguished levels;~~

19 ~~(2) Writing assessment results in grades tested;~~

20 ~~(3) School attendance rates;~~

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

22 ~~(5) Percentage of students scoring at benchmarks on the~~  
23 ~~currently tested ACT EXPLORE and ACT PLAN assessments or other~~  
24 ~~comparable assessments, which are approved by the state board and~~  
25 ~~provided by future vendors;~~

26 ~~(6) Graduation rates;~~

- 1       ~~(7) Job placement rates for vocational programs;~~  
2       ~~(8) Percent of students passing end-of-course career/technical~~  
3 ~~tests;~~  
4       ~~(9) Percent of students not requiring college remediation~~  
5 ~~classes; and~~  
6       ~~(10) Bonus points or credits for subgroup improvement,~~  
7 ~~advanced placement percentages, dual credit completers and~~  
8 ~~international baccalaureate completers.~~

9       The state board shall promulgate a rule in accordance with the  
10 provisions of article three-b, chapter twenty-nine-a of this code  
11 that establishes a system to assess and weigh annual performance  
12 measures for state accreditation of schools and school systems. The  
13 state board also may establish performance incentives for schools  
14 and school systems as part of the state accreditation system. On or  
15 before December 1, 2013, the state board shall report to the  
16 Governor and to the Legislative Oversight Commission on Education  
17 Accountability the proposed rule for establishing the measures and  
18 incentives of accreditation and the estimated cost therefore, if  
19 any. Thereafter, the state board shall provide an annual report to  
20 the Governor and to the Legislative Oversight Commission on  
21 Education Accountability on the impact and effectiveness of the  
22 accreditation system. The rule for school and school system  
23 accreditation proposed by the board may include, but is not limited  
24 to, the following measures:

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

- 1        (2) Graduation and attendance rate;  
2        (3) Students taking and passing AP tests;  
3        (4) Students completing a career and technical education  
4 class;  
5        (5) Closing achievement gaps within subgroups of a school's  
6 student population; and  
7        (6) Students scoring at or above average attainment on SAT or  
8 ACT tests.

9        ~~(g) Indicators of exemplary performance and progress. -- The~~  
10 ~~standards shall include indicators of exemplary student, school and~~  
11 ~~school system performance and progress. The indicators of~~  
12 ~~exemplary student, school and school system performance and~~  
13 ~~progress shall be used only as indicators for determining whether~~  
14 ~~accredited and approved schools and school systems should be~~  
15 ~~granted exemplary status. These indicators shall include, but are~~  
16 ~~not limited to, the following:~~

17        ~~(1) The percentage of graduates who declare their intent to~~  
18 ~~enroll in college and other post-secondary education and training~~  
19 ~~following high school graduation;~~

20        ~~(2) The percentage of graduates who receive additional~~  
21 ~~certification of their skills, competence and readiness for~~  
22 ~~college, other post-secondary education or employment above the~~  
23 ~~level required for graduation; and~~

24        ~~(3) The percentage of students who successfully complete~~  
25 ~~advanced placement, dual credit and honors classes.~~

26        ~~(h) (f) Indicators of efficiency. -- In accordance with the~~

1 provisions of article three-b, chapter twenty-nine-a of this code,  
2 the state board shall adopt by rule and periodically review and  
3 update indicators of efficiency for use by the appropriate  
4 divisions within the department to ensure efficient management and  
5 use of resources in the public schools in the following areas:

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

8 (2) Transportation;

9 (3) Facilities;

10 (4) Administrative practices;

11 (5) Personnel;

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

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

18 ~~(i)~~ (g) *Assessment and accountability of school and school*  
19 *system performance and processes.* - In accordance with the

20 provisions of article three-b, chapter twenty-nine-a of this code,  
21 the state board shall establish by rule a system of education  
22 performance audits which measures the quality of education and the  
23 preparation of students based on the annual measures of student,  
24 school and school system performance and progress. The system of  
25 education performance audits shall provide information to the state  
26 board, the Legislature and the Governor, ~~individually~~ and

1 ~~collectively as the Process for Improving Education Council,~~ upon  
2 which they may determine whether a thorough and efficient system of  
3 schools is being provided. The system of education performance  
4 audits shall include:

5 (1) The assessment of student, school and school system  
6 performance and progress based on the annual measures ~~set forth in~~  
7 ~~subsection (d)~~ established pursuant to subsection (e) of this  
8 section;

9 (2) The evaluation of records, reports and other information  
10 collected by the ~~department~~ Office of Education Performance Audits  
11 upon which the quality of education and compliance with statutes,  
12 policies and standards may be determined;

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

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

18 ~~(j)~~ (h) *Uses of school and school system assessment*  
19 *information.* - The state board ~~and the Process for Improving~~  
20 ~~Education Council established pursuant to section five c of this~~  
21 ~~article~~ shall use information from the system of education  
22 performance audits to assist ~~them~~ it in ensuring that a thorough  
23 and efficient system of schools is being provided and to improve  
24 student, school and school system performance and progress.  
25 Information from the system of education performance audits further  
26 shall be used by the state board for these purposes, including, but

1 not limited to, the following:

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

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

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

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

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

1        ~~(i)~~ (j) *Office of Education Performance Audits.* -

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

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

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

25        (4) Under the direction of the state board, the Office of  
26 Education Performance Audits shall receive from the West Virginia

1 education information system staff research and analysis data on  
2 the performance and progress of students, schools and school  
3 systems, and shall receive assistance, as determined by the state  
4 board, from staff at the State Department of Education, the  
5 regional education service agencies, the Center for Professional  
6 Development, the Principals Academy and the School Building  
7 Authority to carry out the duties assigned to the office.

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

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

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

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

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

20 (C) Determine, in conjunction with the assessment and  
21 accountability processes, what capacity may be needed by schools  
22 and school systems to meet the standards established by the state  
23 board and recommend to the state board ~~and the Process for~~  
24 ~~Improving Education Council~~ plans to establish those needed  
25 capacities;

26 (D) Determine, in conjunction with the assessment and

1 accountability processes, whether statewide system deficiencies  
2 exist in the capacity of schools and school systems to meet the  
3 standards established by the state board, including the  
4 identification of trends and the need for continuing improvements  
5 in education, and report those deficiencies and trends to the state  
6 board; ~~and the Process for Improving Education Council~~

7 (E) Determine, in conjunction with the assessment and  
8 accountability processes, staff development needs of schools and  
9 school systems to meet the standards established by the state board  
10 and make recommendations to the state board, ~~the Process for~~  
11 ~~Improving Education Council,~~ the Center for Professional  
12 Development, the regional educational service agencies, the Higher  
13 Education Policy Commission and the county boards;

14 (F) Identify, in conjunction with the assessment and  
15 accountability processes, ~~exemplary schools and school systems and~~  
16 best practices that improve student, school and school system  
17 performance and ~~make recommendations~~ communicate those to the state  
18 board ~~and the Process for Improving Education Council for~~  
19 ~~recognizing and rewarding exemplary schools and school systems and~~  
20 promoting the use of best practices. The state board shall provide  
21 information on best practices to county school systems; ~~and shall~~  
22 ~~use information identified through the assessment and~~  
23 ~~accountability processes to select schools of excellence and~~

24 (G) Develop reporting formats, such as check lists, which  
25 shall be used by the appropriate administrative personnel in  
26 schools and school systems to document compliance with ~~various of~~

1 ~~the~~ applicable laws, policies and process standards as considered  
2 appropriate and approved by the state board, ~~including~~ which may  
3 include, but is not limited to, the following:

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

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

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

11 (iv) The ~~school provides~~ appropriate provision of  
12 multicultural activities.

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

18 ~~(m)~~ (k) *On-site reviews.* -

19 (1) The system of education performance audits shall include  
20 on-site reviews of schools and school systems which shall be  
21 conducted only at the specific direction of the state board upon  
22 its determination that ~~the performance and progress of the school~~  
23 ~~or school system are persistently below standard or that other~~  
24 circumstances exist that warrant an on-site review. Any discussion  
25 by the state board of schools to be subject to an on-site review or  
26 dates for which on-site reviews will be conducted may be held in

1 executive session and is not subject to the provisions of article  
2 nine-a, chapter six of this code relating to open governmental  
3 proceedings. An on-site review shall be conducted by the Office of  
4 Education Performance Audits of a school or school system for the  
5 purpose of ~~investigating the reasons for performance and progress~~  
6 ~~that are persistently below standard and~~ making recommendations to  
7 the school and school system, as appropriate, and to the state  
8 board on such measures as it considers necessary. ~~to improve~~  
9 ~~performance and progress to meet the standard~~ The investigation  
10 may include, but is not limited to, the following:

- 11 (A) Verifying data reported by the school or county board;
- 12 (B) Examining compliance with the laws and policies affecting  
13 student, school and school system performance and progress;
- 14 (C) Evaluating the effectiveness and implementation status of  
15 school and school system electronic strategic improvement plans;
- 16 (D) Investigating official complaints submitted to the state  
17 board that allege serious impairments in the quality of education  
18 in schools or school systems;
- 19 (E) Investigating official complaints submitted to the state  
20 board that allege that a school or county board is in violation of  
21 policies or laws under which schools and county boards operate; and
- 22 (F) Determining and reporting whether required reviews and  
23 inspections have been conducted by the appropriate agencies,  
24 including, but not limited to, the State Fire Marshal, the Health  
25 Department, the School Building Authority and the responsible  
26 divisions within the Department of Education, and whether noted

1 deficiencies have been or are in the process of being corrected.  
2 ~~The Office of Education Performance Audits may not conduct a~~  
3 ~~duplicate review or inspection of any compliance reviews or~~  
4 ~~inspections conducted by the department or its agents or other duly~~  
5 ~~authorized agencies of the state, nor may it mandate more stringent~~  
6 ~~compliance measures.~~

7 (2) The Director of the Office of Education Performance Audits  
8 shall notify the county superintendent of schools five school days  
9 prior to commencing an on-site review of the county school system  
10 and shall notify both the county superintendent and the principal  
11 five school days before commencing an on-site review of an  
12 individual school: *Provided*, That the state board may direct the  
13 Office of Education Performance Audits to conduct an unannounced  
14 on-site review of a school or school system if the state board  
15 believes circumstances warrant an unannounced on-site review.

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

21 ~~(4) An on-site review of a school or school system shall~~  
22 ~~include a person or persons from the Department of Education or a~~  
23 ~~public education agency in the state who has expert knowledge and~~  
24 ~~experience in the area or areas to be reviewed and who has been~~  
25 ~~trained and designated by the state board to perform such~~  
26 ~~functions. If the size of the school or school system and issues~~

1 ~~being reviewed necessitate the use of an on-site review team or~~  
2 ~~teams, the person or persons designated by the state board shall~~  
3 ~~advise and assist the director to appoint the team or teams. The~~  
4 ~~person or persons designated by the state board shall be the team~~  
5 ~~leaders.~~

6 ~~The persons designated by the state board shall be responsible~~  
7 ~~for completing the report on the findings and recommendations of~~  
8 ~~the on-site review in their area of expertise. It is the intent of~~  
9 ~~the Legislature that the persons designated by the state board~~  
10 ~~participate in all on-site reviews that involve their area of~~  
11 ~~expertise, to the extent practicable, so that the on-site review~~  
12 ~~process will evaluate compliance with the standards in a uniform,~~  
13 ~~consistent and expert manner.~~

14 ~~(5)~~ (4) The Office of Education Performance Audits shall  
15 reimburse a county board for the costs of substitutes required to  
16 replace county board employees ~~while they are serving~~ who serve on  
17 a review team.

18 ~~(6)~~ (5) At the conclusion of an on-site review of a school  
19 system, the director and team leaders shall hold an exit conference  
20 with the superintendent and shall provide an opportunity for  
21 principals to be present for at least the portion of the conference  
22 pertaining to their respective schools. In the case of an on-site  
23 review of a school, the exit conference shall be held with the  
24 principal and curriculum team of the school and the superintendent  
25 shall be provided the opportunity to be present. The purpose of  
26 the exit conference is to review the initial findings of the

1 on-site review, clarify and correct any inaccuracies and allow the  
2 opportunity for dialogue between the reviewers and the school or  
3 school system to promote a better understanding of the findings.

4 ~~(7)~~ (6) The Office of Education Performance Audits shall  
5 report the findings of an on-site review to the county  
6 superintendent and the principals whose schools were reviewed  
7 within thirty days following the conclusion of the on-site review.  
8 The Office of Education Performance Audits shall report the  
9 findings of the on-site review to the state board within forty-five  
10 days after the conclusion of the on-site review. ~~A copy of the~~  
11 ~~report shall be provided to the Process for Improving Education~~  
12 ~~Council at its request.~~ A school or county that believes one or  
13 more findings of a review are clearly inaccurate, incomplete or  
14 misleading, misrepresent or fail to reflect the true quality of  
15 education in the school or county or address issues unrelated to  
16 the health, safety and welfare of students and the quality of  
17 education, may appeal to the state board for removal of the  
18 findings. The state board shall establish a process for it to  
19 receive, review and act upon the appeals. The state board shall  
20 report to the Legislative Oversight Commission on Education  
21 Accountability during its July interim meetings, or as soon  
22 thereafter as practical, on each appeal during the preceding school  
23 year.

24 ~~(8)~~ (7) The Legislature finds that the accountability and  
25 oversight of ~~the following~~ some activities and programmatic areas  
26 in the public schools ~~is~~ are controlled through other mechanisms

1 and agencies and that additional accountability and oversight ~~are~~  
2 ~~not only~~ may be unnecessary, ~~but~~ counterproductive in ~~distracting~~  
3 and impair necessary resources ~~from~~ for teaching and learning.  
4 Therefore, ~~notwithstanding any other provision of this section to~~  
5 ~~the contrary,~~ the following activities and programmatic areas are  
6 ~~not subject to review by~~ the Office of Education Performance Audits  
7 may rely on other agencies and mechanisms in its review of schools  
8 and school systems.

- 9 ~~(A) Work-based learning;~~
- 10 ~~(B) Use of advisory councils;~~
- 11 ~~(C) Program accreditation and student credentials;~~
- 12 ~~(D) Student transition plans;~~
- 13 ~~(E) Graduate assessment form;~~
- 14 ~~(F) Casual deficit;~~
- 15 ~~(G) Accounting practices;~~
- 16 ~~(H) Transportation services;~~
- 17 ~~(I) Special education services;~~
- 18 ~~(J) Safe, healthy and accessible facilities;~~
- 19 ~~(K) Health services;~~
- 20 ~~(L) Attendance director;~~
- 21 ~~(M) Business/community partnerships;~~
- 22 ~~(N) Pupil teacher ratio/split grade classes;~~
- 23 ~~(O) Local school improvement council, faculty senate, student~~  
24 ~~assistance team and curriculum team;~~
- 25 ~~(P) Planning and lunch periods;~~
- 26 ~~(Q) Skill improvement program;~~

1       ~~(R) Certificate of proficiency;~~  
2       ~~(S) Training of county board members;~~  
3       ~~(T) Excellence in job performance;~~  
4       ~~(U) Staff development; and~~  
5       ~~(V) Preventive discipline, character education and student and~~  
6 ~~parental involvement.~~

7       ~~(n) (1) School accreditation. - The state board annually shall~~  
8 ~~review the information from the system of education performance~~  
9 ~~audits submitted for each school and shall issue to every school~~  
10 ~~one of the following approval levels: Exemplary accreditation~~  
11 ~~status, distinction accreditation status, full accreditation~~  
12 ~~status, temporary accreditation status, conditional accreditation~~  
13 ~~status or low performing accreditation status.~~

14       ~~(1) Full accreditation status shall be given to a school when~~  
15 ~~the school's performance and progress meet or exceed the standards~~  
16 ~~adopted by the state board pursuant to subsection (e) or (f), as~~  
17 ~~applicable, of this section and it does not have any deficiencies~~  
18 ~~which would endanger student health or safety or other~~  
19 ~~extraordinary circumstances as defined by the state board. A~~  
20 ~~school that meets or exceeds the performance and progress standards~~  
21 ~~but has the other deficiencies shall remain on full accreditation~~  
22 ~~status for the remainder of the accreditation period and shall have~~  
23 ~~an opportunity to correct those deficiencies, notwithstanding other~~  
24 ~~provisions of this subsection.~~

25       ~~(2) Temporary accreditation status shall be given to a school~~  
26 ~~when the school's performance and progress are below the level~~

1 required for full accreditation status. Whenever a school is given  
2 temporary accreditation status, the county board shall ensure that  
3 the school's electronic strategic improvement plan is revised in  
4 accordance with subsection (b) of this section to increase the  
5 performance and progress of the school to a full accreditation  
6 status level. The revised plan shall be submitted to the state  
7 board for approval.

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

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

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

15       ~~(C) The school is meeting the objectives and time line~~  
16 ~~specified in the revised plan.~~

17       ~~(4) Exemplary accreditation status shall be given to a school~~  
18 ~~when the school's performance and progress substantially exceed the~~  
19 ~~standards adopted by the state board pursuant to subsections (f)~~  
20 ~~and (g) of this section. The state board shall promulgate~~  
21 ~~legislative rules in accordance with the provisions of article~~  
22 ~~three b, chapter twenty nine a of this code designated to establish~~  
23 ~~standards of performance and progress to identify exemplary~~  
24 ~~schools.~~

25       ~~(5) Distinction accreditation status shall be given to a~~  
26 ~~school when the school's performance and progress exceed the~~

1 ~~standards adopted by the state board. The state board shall~~  
2 ~~promulgate legislative rules in accordance with the provisions of~~  
3 ~~article three b, chapter twenty nine a of this code establishing~~  
4 ~~standards of performance and progress to identify schools of~~  
5 ~~distinction.~~

6 ~~(6) Low performing accreditation status shall be given to a~~  
7 ~~school whenever extraordinary circumstances exist as defined by the~~  
8 ~~state board.~~

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

11 ~~(i) The failure of a school on temporary accreditation status~~  
12 ~~to obtain approval of its revised electronic school strategic~~  
13 ~~improvement plan within a reasonable time period as defined by the~~  
14 ~~state board;~~

15 ~~(ii) The failure of a school on conditional accreditation~~  
16 ~~status to meet the objectives and time line of its revised~~  
17 ~~electronic school strategic improvement plan;~~

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

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

24 ~~(B) Whenever the state board determines that the quality of~~  
25 ~~education in a school is low performing, the state board shall~~  
26 ~~appoint a team of improvement consultants from the West Virginia~~

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

~~13 (i) Improving personnel management;~~

~~14 (ii) Establishing more efficient financial management  
15 practices;~~

~~16 (iii) Improving instructional programs and rules; or~~

~~17 (iv) Making any other improvements that are necessary to  
18 correct the low performance.~~

~~19 (C) If the low performance is not corrected by a date certain  
20 as set by the state board:~~

~~21 (i) The state board shall appoint a monitor who shall be paid  
22 at county expense to cause improvements to be made at the school to  
23 bring it to full accreditation status within a reasonable time  
24 period as determined by the state board. The monitor's work  
25 location shall be at the school and the monitor shall work  
26 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 low performance is not corrected within one year~~  
19 ~~after the appointment of a monitor, the state board may make a~~  
20 ~~determination, in its sole judgment, that continuing a monitor~~  
21 ~~arrangement is not sufficient to correct the low performance and~~  
22 ~~may intervene in the operation of the school to cause improvements~~  
23 ~~to be made that will provide assurances that a thorough and~~  
24 ~~efficient system of schools will be provided. This intervention~~  
25 ~~may include, but is not limited to, establishing instructional~~  
26 ~~programs, taking such direct action as may be necessary to correct~~

1 ~~the low performance, declaring the position of principal is vacant~~  
2 ~~and assigning a principal for the school who shall serve at the~~  
3 ~~will and pleasure of and, under the sole supervision of, the state~~  
4 ~~board: *Provided*, That prior to declaring that the position of the~~  
5 ~~principal is vacant, the state board must make a determination that~~  
6 ~~all other resources needed to correct the low performance are~~  
7 ~~present at the school.~~

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

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

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

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

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

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

4       (A) To require a school to revise its electronic strategic  
5 plan;

6       (B) To define extraordinary circumstances under which the  
7 state board may intervene directly or indirectly in the operation  
8 of a school;

9       (C) To appoint monitors to work with the principal and staff  
10 of a school where extraordinary circumstances are found to exist,  
11 and to appoint monitors to assist the school principal after  
12 intervention in the operation of a school is completed;

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

15       (E) To intervene directly in the operation of a school and  
16 declare the position of principal vacant and assign a principal for  
17 the school who will serve at the will and pleasure of the state  
18 board. If the principal who was removed elects not to remain an  
19 employee of the county board, then the principal assigned by the  
20 state board shall be paid by the county board. If the principal  
21 who was removed elects to remain an employee of the county board,  
22 then the following procedure applies:

23       ~~(F)~~ (i) The principal assigned by the state board shall be  
24 paid by the state board until the next school term, at which time  
25 the principal assigned by the state board shall be paid by the  
26 county board;

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

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

12       (F) Such other powers and actions the state board determines  
13 necessary to fulfill its duties of general supervision of the  
14 schools and school systems of West Virginia.

15       ~~(4)~~ (4) The county board ~~shall~~ may take no action nor refuse  
16 any action if the effect would be to impair further the school in  
17 which the state board has intervened.

18       ~~(7) The state board may appoint a monitor pursuant to the~~  
19 ~~provisions of this subsection to assist the school principal after~~  
20 ~~intervention in the operation of a school is completed.~~

21       ~~(e) Transfers from low-performing schools. -- Whenever a~~  
22 ~~school is determined to be low performing and fails to improve its~~  
23 ~~status within one year, following state intervention in the~~  
24 ~~operation of the school to correct the low performance, any student~~  
25 ~~attending the school may transfer once to the nearest fully~~  
26 ~~accredited school in the county, subject to approval of the fully~~

1 ~~accredited school and at the expense of the school from which the~~  
2 ~~student transferred.~~

3 ~~(p)~~ (m) *School system approval.* - The state board annually  
4 shall review the information submitted for each school system from  
5 the system of education performance audits and issue one of the  
6 following approval levels to each county board: Full approval,  
7 temporary approval, conditional approval or nonapproval.

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

17 (2) Temporary approval shall be given to a county board whose  
18 education system is below the level required for full approval.  
19 Whenever a county board is given temporary approval status, the  
20 county board 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 revised plan shall be submitted to  
24 the state board for approval.

25 (3) Conditional approval shall be given to a county board  
26 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)~~ (A) The plan has been revised in accordance with  
4 subsection (b) of this section;

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

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

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

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

20       (B) Whenever a county board has more than a casual deficit, as  
21 defined in section one, article one of this chapter, the county  
22 board shall submit a plan to the state board specifying the county  
23 board's strategy for eliminating the casual deficit. The state  
24 board either shall approve or reject the plan. If the plan is  
25 rejected, the state board shall communicate to the county board the  
26 reason or reasons for the rejection of the plan. The county board

1 may resubmit the plan any number of times. However, any county  
2 board that fails to submit a plan and gain approval for the plan  
3 from the state board before the end of the fiscal year after a  
4 deficit greater than a casual deficit occurred or any county board  
5 which, in the opinion of the state board, fails to comply with an  
6 approved plan may be designated as having nonapproval status.

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

20 (i) Limiting the authority of the county superintendent and  
21 county board as to the expenditure of funds, the employment and  
22 dismissal of personnel, the establishment and operation of the  
23 school calendar, the establishment of instructional programs and  
24 rules and any other areas designated by the state board by rule,  
25 which may include delegating decision-making authority regarding  
26 these matters to the state superintendent;

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

3 (iii) Delegating to the state superintendent both the  
4 authority to conduct hearings on personnel matters and school  
5 closure or consolidation matters and, subsequently, to render the  
6 resulting decisions and the authority to appoint a designee for the  
7 limited purpose of conducting hearings while reserving to the state  
8 superintendent the authority to render the resulting decisions;

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

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

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

18 (II) Delegating to the state superintendent the authority to  
19 fill positions of administrators and principals with individuals  
20 determined by the state superintendent to be the most qualified for  
21 the positions. Any authority related to intervention in the  
22 operation of a county board granted under this paragraph is not  
23 subject to the provisions of article four, chapter eighteen-a of  
24 this code;

25 ~~(g)~~ (n) Notwithstanding any other provision of this section,  
26 the state board may intervene immediately in the operation of the

1 county school system with all the powers, duties and  
2 responsibilities contained in subsection ~~(p)~~ (m) of this section,  
3 if the state board finds the following:

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

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

12 ~~(r)~~ (o) *Capacity*. - The process for improving education  
13 includes a process for targeting resources strategically to improve  
14 the teaching and learning process. Development of electronic  
15 school and school system strategic improvement plans, pursuant to  
16 subsection (b) of this section, is intended, in part, to provide  
17 mechanisms to target resources strategically to the teaching and  
18 learning process to improve student, school and school system  
19 performance. When deficiencies are detected through the assessment  
20 and accountability processes, the revision and approval of school  
21 and school system electronic strategic improvement plans shall  
22 ensure that schools and school systems are efficiently using  
23 existing resources to correct the deficiencies. When the state  
24 board determines that schools and school systems do not have the  
25 capacity to correct deficiencies, the state board shall work with  
26 the county board to develop or secure the resources necessary to

1 increase the capacity of schools and school systems to meet the  
2 standards and, when necessary, seek additional resources in  
3 consultation with the Legislature and the Governor.

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

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

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

22 (3) Determining the areas of strength that appear to have  
23 contributed to exceptional student, school and school system  
24 performance and progress and promoting their emulation throughout  
25 the system;

26 (4) Requesting technical assistance from the School Building

1 Authority in assessing or designing comprehensive educational  
2 facilities plans;

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

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

9 (7) Submitting requests to the Legislature for appropriations  
10 to meet the identified needs for improving education;

11 (8) Directing county boards to target their funds  
12 strategically toward alleviating deficiencies;

13 (9) Ensuring that the need for facilities in counties with  
14 increased enrollment are appropriately reflected and recommended  
15 for funding;

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

18 (11) Ensuring that the needed capacity is available from the  
19 state and local level to assist the school or school system in  
20 achieving the standards and alleviating the deficiencies.

21 **ARTICLE 2I. PROFESSIONAL DEVELOPMENT.**

22 **§18-2I-1. Legislative purpose.**

23 The purpose of this article is to establish clear state-level  
24 leadership for professional development for all West Virginia  
25 public school educators and administrators. As the state  
26 institution charged with the general supervision of the state

1 school system, the state board shall institute a system for the  
2 coordination and delivery of high-quality professional development.  
3 The system shall clearly define the goals for professional  
4 development and delineate roles and responsibilities among the  
5 various state and regional professional development providers.

6 **§18-2I-2. Legislative findings.**

7 The Legislature finds:

8 (1) That high-quality professional development is critical in  
9 supporting improved practice, assuring teacher quality and raising  
10 student achievement;

11 (2) That professional development is vital in the state's  
12 overall school improvement efforts;

13 (3) That the state board should assure the efficient delivery  
14 of high-quality professional development programs and assure that  
15 duplication of efforts be minimized and that all stakeholders are  
16 appropriately involved in the planning and implementing of programs  
17 to meet requisite needs and that high-quality professional  
18 development programs be provided to public school educators of West  
19 Virginia in the most efficient and cost effective manner; and

20 (4) It should be the goal that professional development occur  
21 outside of scheduled instructional time so student learning is not  
22 interrupted by the absence of their classroom teacher.

23 **§18-2I-3. Annual professional development master plan established**  
24 **by state board.**

25 (a) The state board annually shall establish a master plan for  
26 professional development in the public schools of the state. As a

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

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

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

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

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

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

9 **§18-2I-4. Coordination, development and evaluation of professional**  
10 **development programs.**

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

18 (1) Standards for quality professional development that all  
19 professional development providers shall use in designing,  
20 implementing and evaluating professional development that shall  
21 become part of the statewide professional development plan;

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

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

26 (4) Processes for evaluating the effectiveness, efficiency,

1 and impact of the professional development;

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

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

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

12 (b) The state board approval of the proposed professional  
13 development plans/offerings shall establish a Master Plan for  
14 Professional Development which shall be submitted by the state  
15 board to the affected agencies and to the Legislative Oversight  
16 Commission on Education Accountability. The Master Plan shall  
17 include the state board-approved plans for professional development  
18 by the State Department of Education, the Center for Professional  
19 Development, the state institutions of higher education and the  
20 regional educational service agencies to meet the professional  
21 development goals of the state board.

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

26 **§18-2I-5. Strategic Staff Development Fund.**

1 (a) There is created an account within the state board titled  
2 the Strategic Staff Development Fund. The allocation of balances  
3 which accrue in the General School Fund shall be transferred to the  
4 Strategic Staff Development Fund each year when the balances become  
5 available. Any remaining funds transferred to the Strategic Staff  
6 Development Fund during the fiscal year shall be carried over for  
7 use in the same manner the next fiscal year and shall be separate  
8 and apart from, and in addition to, the transfer of funds from the  
9 General School Fund for the next fiscal year.

10 (b) The money in the Strategic Staff Development Fund shall be  
11 used by the state board to provide staff development in schools,  
12 counties or both that the state board determines need additional  
13 resources. The state board is required to report to the Legislative  
14 Oversight Commission on Education Accountability before December 1,  
15 annually, on the effectiveness of the staff development resulting  
16 from expenditures in this fund.

17 **ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.**

18 **§18-3-1. Appointment; qualifications; compensation; traveling**  
19 **expenses; office and residence; evaluation.**

20 There shall be appointed by the state board a State  
21 Superintendent of Schools who ~~shall serve~~ serves at the will and  
22 pleasure of the state board. He or she shall be a person of good  
23 moral character, shall be able to perform the duties listed in this  
24 article and possess such other educational, administrative,  
25 experiential and other qualifications as determined by the State  
26 Board of Education. ~~of recognized ability as a school~~

1 ~~administrator, holding~~ He or she shall hold at least a master's  
2 degree from a regionally accredited institution of higher education  
3 or equivalent degree as determined by the state board. ~~in~~  
4 ~~educational administration, and shall have had not less than five~~  
5 ~~years of experience in public school work.~~ He or she shall receive  
6 an annual salary set by the state board, to be paid monthly:—  
7 ~~Provided, That the annual salary may not exceed \$146,100:~~  
8 ~~Provided, however, That after June 30, 2006, the annual salary may~~  
9 ~~not exceed \$175,000.~~ The state superintendent also shall receive  
10 necessary traveling expenses incident to the performance of his or  
11 her duties to be paid out of the General School Fund upon warrants  
12 of the State Auditor. The state superintendent shall have his or  
13 her office at the state Capitol. The state board shall report to  
14 the Legislative Oversight Commission on Education Accountability  
15 upon request concerning its progress during any hiring process for  
16 a state superintendent.

17 The state board annually shall evaluate the performance of the  
18 state superintendent and publicly announce the results of the  
19 evaluation.

20 **§18-3-9b. Reduction in amount budgeted for personal services.**

21 The state superintendent shall reduce the budgeted amount for  
22 personal services, related employee benefits and contractual  
23 expenditures related to employment by five percent in fiscal years  
24 2014 and 2015. The reductions shall be taken department wide,  
25 excluding the school aid formula and institutionalized services to  
26 juveniles and adults, and other direct-service education

1 expenditures.

2 **§18-3-12. Special Community Development School Pilot Program.**

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

21 (b) Beginning in January, ~~2011~~ 2014, on or before the first  
22 day of the regular session of the Legislature, and each year  
23 thereafter, the state superintendent, county superintendent for the  
24 county in which the schools are located and lead community-based  
25 organizations shall make a status report to the Legislative  
26 Oversight Commission on Education Accountability and to the state

1 board. The report may include any recommendations based on the  
2 progress of the demonstration project that he or she considers  
3 either necessary for improving the operations of the demonstration  
4 project or prudent for improving student achievement in other  
5 public schools through replication of successful demonstration  
6 school programs.

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

8 **§18-5-18. Kindergarten programs.**

9 (a) County boards shall provide kindergarten programs for all  
10 children who have attained the age of five prior to September 1, of  
11 the school year in which the pupil enters the kindergarten program  
12 and may, pursuant to the provisions of section forty-four, article  
13 five, chapter eighteen of this code, establish kindergarten  
14 programs designed for children below the age of five. The programs  
15 for children who shall have attained the age of five shall be  
16 full-day everyday programs.

17 (b) Persons employed as kindergarten teachers, as  
18 distinguished from paraprofessional personnel, shall be required to  
19 hold a certificate valid for teaching at the assigned level as  
20 prescribed by ~~regulations~~ rules established by the state board.  
21 The state board shall establish ~~and prescribe guidelines and~~  
22 ~~criteria setting forth~~ the minimum requirements for all  
23 paraprofessional personnel employed in kindergarten programs  
24 established pursuant to the provisions of this section and no such  
25 paraprofessional personnel ~~shall~~ may be employed in any  
26 kindergarten program unless he or she meets ~~such~~ the minimum

1 requirements. Beginning July 1, 2014, any person previously  
2 employed as an aide in a kindergarten program and who is employed  
3 in the same capacity on and after that date and any new person  
4 employed in that capacity in a kindergarten program on and after  
5 that date shall hold the position of either Early Childhood  
6 Classroom Assistant Teacher - Temporary Authorization, Early  
7 Childhood Classroom Assistant Teacher - Permanent Authorization or  
8 Early Childhood Classroom Assistant Teacher - Paraprofessional  
9 Certificate. Any person employed as an aide in a kindergarten  
10 program that is eligible for full retirement benefits before July  
11 1, 2020, may remain employed as an aide in that position and may  
12 not be required to acquire licensure pursuant to this section.

13 (c) The state board with the advice of the state  
14 superintendent shall establish and prescribe guidelines and  
15 criteria relating to the establishment, operation and successful  
16 completion of kindergarten programs in accordance with the other  
17 provisions of this section. Guidelines and criteria so established  
18 and prescribed also are intended to serve for the establishment and  
19 operation of nonpublic kindergarten programs and shall be used for  
20 the evaluation and approval of ~~such~~ those programs by the state  
21 superintendent, provided application for ~~such~~ the evaluation and  
22 approval is made in writing by proper authorities in control of  
23 ~~such~~ the programs. The state superintendent, annually, shall  
24 publish a list of nonpublic kindergarten programs, including  
25 Montessori kindergartens that have been approved in accordance with  
26 the provisions of this section. Montessori kindergartens

1 established and operated in accordance with usual and customary  
2 practices for the use of the Montessori method which have teachers  
3 who have training or experience, regardless of additional  
4 certification, in the use of the Montessori method of instruction  
5 for kindergartens shall be considered to be approved.

6 (d) Pursuant to ~~such~~ the guidelines and criteria, and only  
7 pursuant to ~~such~~ the guidelines and criteria, the county boards may  
8 establish programs taking kindergarten to the homes of the children  
9 involved, using educational television, paraprofessional personnel  
10 in addition to and to supplement regularly certified teachers,  
11 mobile or permanent classrooms and other means developed to best  
12 carry kindergarten to the child in its home and enlist the aid and  
13 involvement of its parent or parents in presenting the program to  
14 the child; or may develop programs of a more formal kindergarten  
15 type, in existing school buildings, or both, as ~~such~~ the county  
16 board may determine, taking into consideration the cost, the  
17 terrain, the existing available facilities, the distances each  
18 child may be required to travel, the time each child may be  
19 required to be away from home, the child's health, the involvement  
20 of parents and ~~such~~ other factors as each county board may find  
21 pertinent. ~~Such~~ The determinations by any county board ~~shall be~~  
22 are final and conclusive.

23 **§18-5-44. Early childhood education programs.**

24 (a) For the purposes of this section, "early childhood  
25 education" means programs for children who have attained the age of  
26 four prior to September 1 of the school year in which the pupil

1 enters the program created in this section.

2 (b) *Findings.* -

3 (1) Among other positive outcomes, early childhood education  
4 programs have been determined to:

5 (A) Improve overall readiness when children enter school;

6 (B) Decrease behavioral problems;

7 (C) Improve student attendance;

8 (D) Increase scores on achievement tests;

9 (E) Decrease the percentage of students repeating a grade; and

10 (F) Decrease the number of students placed in special  
11 education programs;

12 (2) Quality early childhood education programs improve school  
13 performance and low-quality early childhood education programs may  
14 have negative effects, especially for at-risk children;

15 (3) West Virginia has the lowest percentage of its adult  
16 population twenty-five years of age or older with a bachelor's  
17 degree and the education level of parents is a strong indicator of  
18 how their children will perform in school;

19 (4) During the 2006-2007 school year, West Virginia ranked  
20 thirty-ninth among the fifty states in the percentage of school  
21 children eligible for free and reduced lunches and this percentage  
22 is a strong indicator of how the children will perform in school;

23 (5) For the school year 2008-2009, 13,135 students were  
24 enrolled in prekindergarten, a number equal to approximately  
25 sixty-three percent of the number of students enrolled in  
26 kindergarten;

1 (6) Excluding projected increases due to increases in  
2 enrollment in the early childhood education program, projections  
3 indicate that total student enrollment in West Virginia will  
4 decline by one percent, or by approximately 2704 students, by the  
5 school year 2012-2013;

6 (7) In part, because of the dynamics of the state aid formula,  
7 county boards will continue to enroll four-year old students to  
8 offset the declining enrollments;

9 (8) West Virginia has a comprehensive kindergarten program for  
10 five-year olds, but the program was established in a manner that  
11 resulted in unequal implementation among the counties which helped  
12 create deficit financial situations for several county boards;

13 (9) Expansion of current efforts to implement a comprehensive  
14 early childhood education program should avoid the problems  
15 encountered in kindergarten implementation;

16 (10) Because of the dynamics of the state aid formula,  
17 counties experiencing growth are at a disadvantage in implementing  
18 comprehensive early childhood education programs; and

19 (11) West Virginia citizens will benefit from the  
20 establishment of quality comprehensive early childhood education  
21 programs.

22 (c) Beginning no later than the school year 2012-2013, and  
23 continuing thereafter, county boards shall provide early childhood  
24 education programs for all children who have attained the age of  
25 four prior to September 1 of the school year in which the pupil  
26 enters the early childhood education program. Beginning no later

1 than the school year 2016-2017, and continuing thereafter, early  
2 childhood education programs that are full day and five days per  
3 week shall be available to all children meeting the age requirement  
4 set forth in the subsection.

5 (d) The program shall meet the following criteria:

6 (1) It shall be voluntary, except, upon enrollment, the  
7 provisions of section one, article eight of this chapter apply to  
8 an enrolled student, ~~and~~ subject to subdivision (3) of this  
9 subsection;

10 (2) ~~It may be for fewer than five days per week and may be~~  
11 ~~less than full day~~ All children meeting the age requirement set  
12 forth in this section shall have the opportunity to enroll in a  
13 program that is full day and five days per week. The program may  
14 be for fewer than five days per week and may be less than full day  
15 based on family need if a sufficient number of families request  
16 such programs and the county board finds that such programs are in  
17 the best interest of the requesting families and students:

18 Provided, That the ability of families to request programs that are  
19 fewer than five days a week or less than a full day does not  
20 relieve the county of the obligation to provide all resident  
21 children with the opportunity to enroll in a full-day program; and

22 (3) A parent of a child enrolled in an early education program  
23 may withdraw a child from that program for good cause by notifying  
24 the district. Good cause includes, but is not limited to,  
25 enrollment of the child in another program or the immaturity of the  
26 child. A child withdrawn under this section is not subject to the

1 attendance provisions of this chapter until that child again  
2 enrolls in a public school in this state.

3 (e) Enrollment of students in Head Start, in any other program  
4 approved by the state superintendent as provided in subsection (k)  
5 of this section ~~shall~~ may be counted toward satisfying the  
6 requirement of subsection (c) of this section.

7 (f) For the purposes of implementation financing, all counties  
8 are encouraged to make use of funds from existing sources,  
9 including:

10 (1) Federal funds provided under the Elementary and Secondary  
11 Education Act pursuant to 20 U. S. C. §6301, *et seq.*;

12 (2) Federal funds provided for Head Start pursuant to 42 U. S.  
13 C. §9831, *et seq.*;

14 (3) Federal funds for temporary assistance to needy families  
15 pursuant to 42 U. S. C. §601, *et seq.*;

16 (4) Funds provided by the School Building Authority pursuant  
17 to article nine-d of this chapter;

18 (5) In the case of counties with declining enrollments, funds  
19 from the state aid formula above the amount indicated for the  
20 number of students actually enrolled in any school year; and

21 (6) Any other public or private funds.

22 (g) Each county board shall develop a plan for implementing  
23 the program required by this section. The plan shall include the  
24 following elements:

25 (1) An analysis of the demographics of the county related to  
26 early childhood education program implementation;

1 (2) An analysis of facility and personnel needs;

2 (3) Financial requirements for implementation and potential  
3 sources of funding to assist implementation;

4 (4) Details of how the county board will cooperate and  
5 collaborate with other early childhood education programs  
6 including, but not limited to, Head Start, to maximize federal and  
7 other sources of revenue;

8 (5) Specific time lines for implementation; and

9 (6) Any other items the state board may require by policy.

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

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

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

19 (3) If the Secretary of the Department of Health and Human  
20 Resources finds that the county board has not met one or more of  
21 the requirements of this subsection, but that the county board has  
22 acted in good faith and the failure to comply was not the primary  
23 fault of the county board, then the secretary shall approve the  
24 plan. Any denial by the secretary may be appealed to the circuit  
25 court of the county in which the county board is located.

26 (i) The county board shall submit its plan for approval to the

1 state board. The state board shall approve the plan if the county  
2 board has complied substantially with the requirements of  
3 subsection (g) of this section and has obtained the approval  
4 required in subsection (h) of this section.

5 (j) Every county board shall submit its plan for reapproval by  
6 the Secretary of the Department of Health and Human Resources and  
7 by the state board at least every two years after the initial  
8 approval of the plan and until full implementation of the early  
9 childhood education program in the county. As part of the  
10 submission, the county board shall provide a detailed statement of  
11 the progress made in implementing its plan. The standards and  
12 procedures provided for the original approval of the plan apply to  
13 any reapproval.

14 (k) A county board may not increase the total number of  
15 students enrolled in the county in an early childhood program until  
16 its program is approved by the Secretary of the Department of  
17 Health and Human Resources and the state board.

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

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

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

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

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

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

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

8           (m) The provisions of subsections (b), (c) and (d), section  
9 eighteen of this article relating to kindergarten apply to early  
10 childhood education programs in the same manner in which they apply  
11 to kindergarten programs.

12           (n) Annually, the state board shall report to the Legislative  
13 Oversight Commission on Education Accountability on the progress of  
14 implementation of this section.

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

18           (p) Neither the state board nor the state department may  
19 provide any funds to any county board for the purpose of  
20 implementing this section unless the county board has a plan  
21 approved pursuant to subsections (h), (i) and (j) of this section.

22           (q) The state board shall promulgate a rule in accordance with  
23 the provisions of article three-b, chapter twenty-nine-a of this  
24 code for the purposes of implementing the provisions of this  
25 section. The state board shall consult with the Secretary of the  
26 Department of Health and Human Resources in the preparation of the

1 rule. The rule shall contain the following:

- 2 (1) Standards for curriculum;
- 3 (2) Standards for preparing students;
- 4 (3) Attendance requirements;
- 5 (4) Standards for personnel; and
- 6 (5) Any other terms necessary to implement the provisions of
- 7 this section.

8 (r) The rule shall include the following elements relating to  
9 curriculum standards:

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

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

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

18 (4) A requirement that the curriculum incorporate a wide  
19 variety of learning experiences, materials and equipment, and  
20 instructional strategies to respond to differences in prior  
21 experience, maturation rates and learning styles that young  
22 children bring to the classroom;

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

26 (6) A requirement that the curriculum meet the recognized

1 standards of the relevant subject matter disciplines;

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

5 (8) A requirement that the curriculum emphasize the  
6 development of thinking, reasoning, decisionmaking and  
7 problem-solving skills;

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

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

14 (s) The secretary and the state superintendent shall submit a  
15 report to the Legislative Oversight Commission on Education  
16 Accountability and the Joint Committee on Government and Finance  
17 which addresses, at a minimum, the following issues:

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

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

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

24 (4) An analysis of the effect of the programs on the  
25 maximization of the use of federal funds for early childhood  
26 programs.

1           The intent of this subsection is to enable the Legislature to  
2 proceed in a fiscally responsible manner, make any necessary  
3 program improvements based on reported information prior to  
4 implementation of the early childhood education programs.

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

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

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

19 **§18-5-45. School calendar.**

20           (a) As used in this section:

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

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

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

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

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

6 (b) *Findings.* -

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

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

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

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

16 (1) An employment term that excludes Saturdays and Sundays and  
17 consists of at least two hundred days, which need not be  
18 successive;

19 (2) Within the employment term, an instructional term for  
20 students of no less than one hundred eighty separate instructional  
21 days, which includes an inclement weather and emergencies plan  
22 designed to guarantee an instructional term for students of no less  
23 than one hundred eighty separate instructional days;

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

26 (A) Seven paid holidays;

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

3 (C) The remaining days to be designated by the county board  
4 for purposes to include, but not be limited to:

5 (i) Curriculum development;

6 (ii) Preparation for opening and closing school;

7 (iii) Professional development;

8 (iv) Teacher-pupil-parent conferences;

9 (v) Professional meetings;

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

12 (vii) At least four two-hour blocks of time for faculty senate  
13 meetings with each two-hour block of time scheduled once at least  
14 every forty-five instructional days.

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

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

21 (e) If it is not possible to complete one hundred eighty  
22 separate instructional days with the current school calendar, the  
23 county board shall schedule instruction on any available  
24 noninstructional day, regardless of the purpose for which the day  
25 originally was scheduled, and the day will be used for instruction  
26 of students: *Provided*, That the provisions of this subsection do

1 not apply to:

2 (1) Holidays; and

3 (2) Election day.

4 (f) The instructional term shall commence and terminate on a  
5 date selected by the county board. Calculation of the required one  
6 hundred eighty separate instructional days must fall within a 365-  
7 day period to be established by the county board.

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

12 (h) The following applies to cocurricular activities:

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

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

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

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

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

24 (k) Prior to implementing the school calendar, the county  
25 board shall secure approval of its proposed calendar from the state  
26 board or, if so designated by the state board, from the state

1 superintendent.

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

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

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

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

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

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

1     **§18-5A-5. Public school faculty senates established; election of**  
2                     **officers; powers and duties.**

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

1 to the full faculty senate, but the acts of the faculty senate  
2 shall be voted upon by the full body.

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

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

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

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

21 (3) A faculty senate may nominate teachers for recognition as  
22 outstanding teachers under state and local teacher recognition  
23 programs and other personnel at the school, including parents, for  
24 recognition under other appropriate recognition programs and may  
25 establish such programs for operation at the school.

26 (4) A faculty senate may submit recommendations to the

1 principal regarding the assignment scheduling of secretaries,  
2 clerks, aides and paraprofessionals at the school.

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

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

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

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

15 (9) Each faculty senate shall have an opportunity to make  
16 recommendations on the selection of faculty to serve as mentors for  
17 beginning teachers under beginning teacher internship programs at  
18 the school.

19 (10) A faculty senate may solicit, accept and expend any  
20 grants, gifts, bequests, donations and any other funds made  
21 available to the faculty senate: *Provided*, That the faculty senate  
22 shall select a member who has the duty of maintaining a record of  
23 all funds received and expended by the faculty senate, which record  
24 shall be kept in the school office and is subject to normal  
25 auditing procedures.

26 (11) Any faculty senate may review the evaluation procedure as

1 conducted in their school to ascertain whether the evaluations were  
2 conducted in accordance with the written system required pursuant  
3 to section twelve, article two, chapter eighteen-a of this code or  
4 pursuant to section two, article three-c, chapter eighteen-a of  
5 this code, as applicable, and the general intent of this  
6 Legislature regarding meaningful performance evaluations of school  
7 personnel. If a majority of members of the faculty senate  
8 determine that such evaluations were not so conducted, they shall  
9 submit a report in writing to the State Board of Education:  
10 *Provided,* That nothing herein creates any new right of access to or  
11 review of any individual's evaluations.

12 (12) A local board shall provide to each faculty senate a  
13 two-hour block of time for a faculty senate meeting on a day  
14 scheduled for the opening of school prior to the beginning of the  
15 instructional term and ~~a two-hour block of time on each~~  
16 ~~instructional support and enhancement day scheduled by the board~~  
17 ~~for instructional activities for students and professional~~  
18 ~~activities for teachers pursuant to section forty five, article~~  
19 ~~five of this chapter~~ at least four additional two-hour blocks of  
20 time during noninstructional days, with each two-hour block of time  
21 scheduled once at least every forty-five instructional days. A  
22 faculty senate may meet for an unlimited block of time ~~per month~~  
23 during noninstructional days to discuss and plan strategies to  
24 improve student instruction and to conduct other faculty senate  
25 business. A faculty senate meeting scheduled on a noninstructional  
26 day shall be considered as part of the purpose for which the

1 noninstructional day is scheduled. This time may be ~~utilized~~ used  
2 and determined at the local school level and includes, but is not  
3 limited to, faculty senate meetings.

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

12 Each strategic plan developed by the faculty senate shall  
13 include at least: (A) A mission statement; (B) goals; (C) needs;  
14 (D) objectives and activities to implement plans relating to each  
15 goal; (E) work in progress to implement the strategic plan; (F)  
16 guidelines for placing additional staff into integrated classrooms  
17 to meet the needs of exceptional needs students without diminishing  
18 the services rendered to the other students in integrated  
19 classrooms; (G) guidelines for implementation of collaborative  
20 planning and instruction; and (H) training for all regular  
21 classroom teachers who serve students with exceptional needs in  
22 integrated classrooms.

23 **CHAPTER 18A. SCHOOL PERSONNEL.**

24 **ARTICLE 2. SCHOOL PERSONNEL.**

25 **§18A-2-1. Employment in general.**

26 (a) The employment of professional personnel shall be made by

1 the board only upon nomination and recommendation of the  
2 superintendent, subject to the following: ~~Provided, That~~

3 (1) The superintendent shall provide the principal at the  
4 school at which the professional educator or paraprofessional  
5 employee is to be employed an opportunity to interview all  
6 qualified applicants and make recommendations to the county  
7 superintendent regarding their employment; ~~Provided, however, That~~

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

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

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

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

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

9           **§18A-2-7. Assignment, transfer, promotion, demotion, suspension**  
10           **and recommendation of dismissal of school personnel by**  
11           **superintendent; preliminary notice of transfer; hearing on the**  
12           **transfer; proof required.**

13           (a) The superintendent, subject only to approval of the board,  
14 may assign, transfer, promote, demote or suspend school personnel  
15 and recommend their dismissal pursuant to provisions of this  
16 chapter. However, an employee shall be notified in writing by the  
17 superintendent on or before March 1 if he or she is being  
18 considered for transfer or to be transferred. Only those employees  
19 whose consideration for transfer or intended transfer is based upon  
20 known or expected circumstances which will require the transfer of  
21 employees shall be considered for transfer or intended for transfer  
22 and the notification shall be limited to only those employees. Any  
23 teacher or employee who desires to protest the proposed transfer  
24 may request in writing a statement of the reasons for the proposed  
25 transfer. The statement of reasons shall be delivered to the  
26 teacher or employee within ten days of the receipt of the request.

1 Within ten days of the receipt of the statement of the reasons, the  
2 teacher or employee may make written demand upon the superintendent  
3 for a hearing on the proposed transfer before the county board of  
4 education. The hearing on the proposed transfer shall be held on  
5 or before April 15. At the hearing, the reasons for the proposed  
6 transfer must be shown.

7 (b) The superintendent at a meeting of the board on or before  
8 April 15 shall furnish in writing to the board a list of teachers  
9 and other employees to be considered for transfer and subsequent  
10 assignment for the next ensuing school year. An employee who was  
11 not provided notice and an opportunity for a hearing pursuant to  
12 subsection (a) of this section may not be included on the list.  
13 All other teachers and employees not so listed shall be considered  
14 as reassigned to the positions or jobs held at the time of this  
15 meeting. The list of those recommended for transfer shall be  
16 included in the minute record of the meeting and all those so  
17 listed shall be notified in writing, which notice shall be  
18 delivered in writing, by certified mail, return receipt requested,  
19 to the persons' last known addresses within ten days following the  
20 board meeting, of their having been so recommended for transfer and  
21 subsequent assignment and the reasons therefor.

22 (c) The superintendent's authority to suspend school personnel  
23 shall be temporary only pending a hearing upon charges filed by the  
24 superintendent with the county board of ~~education~~ and the period of  
25 suspension may not exceed thirty days unless extended by order of  
26 the board.

1 (d) The provisions of this section respecting hearing upon  
2 notice of transfer is not applicable in emergency situations where  
3 the school building becomes damaged or destroyed through an  
4 unforeseeable act and which act necessitates a transfer of the  
5 school personnel because of the aforementioned condition of the  
6 building.

7 (e) Notwithstanding this section or any provision of this  
8 code, when actual student enrollment in a grade level or program,  
9 unforeseen before March 1 of the preceding school year, permits the  
10 assignment of fewer teachers or service personnel to or within a  
11 school under any pupil-teacher ratio, class size or caseload  
12 standard established in section eighteen-a, article five, chapter  
13 eighteen of this code or any policy of the state board, the  
14 superintendent, with board approval, may reassign the surplus  
15 personnel to another school or to another grade level or program  
16 within the school if needed there to comply with any such  
17 pupil-teacher ratio, class size or caseload standard.

18 (1) Before any reassignment may occur pursuant to this  
19 subsection, notice shall be provided to the employee and the  
20 employee shall be provided an opportunity to appear before the  
21 county board to state the reasons for his or her objections, if  
22 any, prior to the board voting on the reassignment.

23 (2) Except as otherwise provided in subdivision (1) of this  
24 subsection, the reassignment may be made without following the  
25 notice and hearing provisions of this section, and at any time  
26 during the school year when the conditions of this subsection are

1 met: Provided, That the reassignment may not occur after the last  
2 day of the second school month.

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

7 (4) A service employee reassigned under this subsection shall  
8 be the least senior of the surplus personnel who holds the same  
9 classification or multiclassification needed to perform the duties  
10 at the other school or at the grade level or program within the  
11 same school.

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

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

17 **§18A-3-1d. National teaching corps.**

18 (a) *Definitions.* - For the purposes of this section:

19 (1) "Critical need alternative teaching certificate" means a  
20 certificate issued to a candidate who has been admitted to a  
21 program designated as a national teaching corps pursuant to this  
22 section, is assigned to teach in West Virginia, and who does not  
23 meet the standard educational requirements for teacher  
24 certification.

25 (2) "National teacher corps" means a program that:

26 (A) Includes a group of college graduates who commit to teach

1 for at least two years in underserved communities in the United  
2 States;

3 (B) Is designed to increase the supply of effective teachers  
4 in low-income communities and have the capacity to provide teachers  
5 for high-need fields;

6 (C) Is designed to meet the specific teacher needs of a  
7 district or districts and the needs of high-need areas, including  
8 rural areas;

9 (D) Recruits college graduates from across the United States  
10 to teach in high-need, urban and rural schools;

11 (E) Provides high-quality professional development that is  
12 sustained, intensive and classroom focused both prior to and while  
13 teaching and intensive supervision that consists of structured  
14 guidance and regular ongoing support;

15 (F) Serves multiple states; and

16 (G) That includes a summer training institute, requires  
17 ongoing two-year professional development and employs a staff  
18 member who can be a member of the professional support team  
19 required by this section.

20 (3) "National teacher corps member" means an individual who  
21 has been admitted to a national teacher corps to be a teacher, and  
22 who is in the process of completing a two-year commitment as part  
23 of the corps.

24 (b) *Designation of national teacher corps.* - Upon written  
25 request to the state board, the state board shall determine whether  
26 a group qualifies as a national teacher corps under the definition

1 set forth in subsection (a) of this section and whether a group is  
2 otherwise compatible with the requirements of this section. If the  
3 state board determines that the group qualifies under the  
4 definition and is otherwise compatible with the requirements of  
5 this section, the board shall designate the group as a national  
6 teacher corps for the purposes of this section.

7 (c) *Critical need alternative teaching certificate.* -

8 (1) To serve as teacher of record under this section, the  
9 candidate must hold a critical need alternative teaching  
10 certificate issued by the state superintendent and endorsed for the  
11 instructional field in which the candidate seeks certification.

12 (2) The certificate only is valid for the purposes of allowing  
13 the certificate holder to teach in subject areas, public schools or  
14 geographic areas of the state in which the state board determines  
15 that critical teacher shortages exist. The state board shall  
16 establish criteria and procedures for identifying critical teacher  
17 shortages in subject areas, public schools and geographic areas of  
18 the state. In establishing the criteria and procedures, the state  
19 board shall coordinate with the Higher Education Policy Commission  
20 as it establishes its criteria and procedures for identifying  
21 critical teacher shortages for the purposes of the Underwood-Smith  
22 Teacher Scholarship and Loan Assistance Fund pursuant to section  
23 one, article four, chapter eighteen-c of this code.

24 (3) The certificate is issued for two years and may be renewed  
25 for one additional year, and no individual may hold a critical need  
26 alternative teacher certificate for a period exceeding three years.

1 The critical need alternative teacher certificate is equivalent to  
2 a professional teaching certificate for the purpose of issuing a  
3 continuing contract, and for the purposes of being designated a  
4 highly qualified teacher under the No Child Left Behind Act.

5 (4) To be eligible for a critical need alternative teacher  
6 certificate, an applicant shall meet the following criteria:

7 (A) Have been admitted into a national teacher corps and be  
8 part of a national teacher corps serving West Virginia;

9 (B) Possess at least a bachelor's degree with a minimum of a  
10 2.5 grade point average from a regionally accredited institution of  
11 higher education in any discipline;

12 (C) Pass the same basic skills and subject matter test or  
13 tests required by the state board for traditional program  
14 candidates to become certified in the area for which licensure is  
15 being sought, and passage of the subject matter test or tests shall  
16 be sufficient to earn endorsement in the instructional field,  
17 provided that all other requirements set forth in this subsection  
18 are met;

19 (D) Have completed the summer training institute offered by  
20 the national teacher corps;

21 (E) Hold United States citizenship, be of good moral character  
22 and be physically, mentally and emotionally qualified to perform  
23 the duties of a teacher;

24 (F) Attain the age of eighteen years on or before October 1 of  
25 the year in which the critical need alternative teacher certificate  
26 is issued; and

1 (G) Qualify for employment following a criminal history check  
2 pursuant to section ten of this article.

3 (5) Notwithstanding any law or rule to the contrary, a person  
4 who satisfies the requirements set forth in subdivision (4) of this  
5 subsection shall be granted a formal document authorizing him or  
6 her to work in a public school in West Virginia.

7 (6) Participants certified under this section shall complete  
8 the summer training institute and ongoing two-year professional  
9 development required by the national teacher corps.

10 (7) In addition to receiving any support provided by staff of  
11 a national teacher corps, candidates certified under this section  
12 shall successfully complete a Beginning Teacher Internship program  
13 under section two-b of this article or participate in a  
14 comprehensive system of support pursuant to section three, article  
15 three-c of this chapter during the time the candidate is certified  
16 pursuant to this section.

17 (8) *Professional support team.* -

18 (A) Training and support of teachers certified under this  
19 section are provided by a professional support team including:

20 (i) The school principal, or his or her designee;

21 (ii) An experienced classroom teacher who is serving as a  
22 mentor under the Beginning Teacher Internship program pursuant to  
23 section two-b of this article, or if the employing county has  
24 adopted a plan for implementation of a comprehensive system of  
25 support pursuant to section three, article three-c, chapter  
26 eighteen-a of this code, a master teacher, mentor, academic coach,

1 other individual employee used to provide support, supervision or  
2 other professional development or training to other employees or  
3 any other appropriate professional person; and

4 (iii) A staff member of the national teacher corps.

5 (B) The school principal, or his or her designee, serves as  
6 chairperson of the team.

7 (C) The professional support team shall submit a written  
8 evaluation of the teacher certified under this section to the  
9 county superintendent at the conclusion of the teacher's second  
10 year of teaching. The written evaluation shall be in a form  
11 specified by the county superintendent and submitted on a date  
12 specified by the county superintendent. The evaluation shall report  
13 the progress of the teacher toward meeting the requirements of the  
14 training and support program, and all final decisions on the  
15 progress of the teacher and recommendations shall rest with the  
16 principal.

17 (D) Notwithstanding any law to the contrary, upon program  
18 completion and at least three years of successful teaching  
19 experience, the teacher is eligible for a professional certificate,  
20 subject to the requirements established in section one-e of this  
21 article and any requirements set forth in the state board rule  
22 required by this section.

23 (d) On or before June 1, 2013, the state board shall  
24 promulgate an emergency rule in accordance with article three-b,  
25 chapter twenty-nine-a of this code to implement the provisions of  
26 this section and section one-e of this article. On or before

1 November 1, 2013, the state board shall promulgate a legislative  
2 rule for the same purpose. The rules shall include, but are not  
3 limited to, additional requirements for a person with a critical  
4 need alternative teaching certificate to obtain a professional  
5 certificate. The additional requirements shall be the same as or  
6 similar to the requirements set forth in code and policy for other  
7 alternative education program participants to obtain a professional  
8 certificate, and shall include the requirement that the person with  
9 the critical need alternative teaching certificate meet the  
10 requirements of paragraph (A), subdivision (5), subsection (c),  
11 section one-a of this article, relating to the requirement for  
12 eighteen semester hours of instruction.

13 **§18A-3-1e. Recommendation for certification of national teacher**  
14 **corps teachers.**

15 (a) At the conclusion of the program administered pursuant to  
16 section one-d of this article, the support team defined in section  
17 one-d of this article shall prepare a comprehensive evaluation  
18 report on the teacher's performance. This report shall be  
19 submitted directly to the state superintendent and shall contain a  
20 recommendation as to whether or not a professional certificate  
21 should be issued to the teacher. The report shall be made on  
22 standard forms developed by the state superintendent.

23 The comprehensive evaluation report shall include one of the  
24 following recommendations:

25 (1) Approved: Recommends issuance of a professional  
26 certificate;

1 (2) Insufficient: Recommends that a professional certificate  
2 not be issued but that the candidate be allowed to seek reentry on  
3 one or more occasions in the future into an approved alternative  
4 teacher education program or national teacher corps program; or

5 (3) Disapproved: Recommends that a professional certificate  
6 not be issued and that the candidate not be allowed to enter into  
7 another approved alternative teacher education program or a  
8 national corps program in this state, but may not be prohibited  
9 from pursuing teacher certification through other approved programs  
10 for the education of teachers in this state.

11 (b) The support team shall provide the teacher with a copy of  
12 the teacher's written evaluation report and certification  
13 recommendation before submitting it to the state superintendent. If  
14 the teacher disagrees with the provider's recommendation, the  
15 teacher may, within fifteen days of receipt, request an appeal in  
16 accordance with the certification appeals process established by  
17 the state board.

18 **§18A-3-2a. Certificates valid in the public schools that may be**  
19 **issued by the state superintendent.**

20 In accordance with state board rules for the education of  
21 professional educators adopted pursuant to section one of this  
22 article and subject to the limitations and conditions of that  
23 section, the state superintendent may issue the following  
24 certificates valid in the public schools of the state:

25 (a) *Professional teaching certificates.* -

26 (1) A professional teaching certificate for teaching in the

1 public schools may be issued to a person who meets the following  
2 conditions:

3 (A) Holds at least a bachelor's degree from an accredited  
4 institution of higher education in this state; and

5 (i) Has completed a program for the education of teachers  
6 which meets the requirements approved by the state board; or

7 (ii) Has met equivalent standards at institutions in other  
8 states and has passed appropriate state board-approved basic skills  
9 and subject matter tests or has completed three years of successful  
10 experience within the last seven years in the area for which  
11 licensure is being sought; or

12 (B) Holds at least a bachelor's degree in a discipline taught  
13 in the public schools from an accredited institution of higher  
14 education; and

15 (i) Has passed appropriate state board-approved basic skills  
16 and subject matter tests; or

17 (ii) Has completed three years of successful experience within  
18 the last seven years in the area for which licensure is being  
19 sought; and

20 (I) Has completed an alternative program for teacher education  
21 approved by the state board or a national teacher corps program in  
22 accordance with section one-d of this article;

23 (II) Is recommended for a certificate in accordance with the  
24 provisions of sections one-a, ~~and one-b~~ and one-e of this article  
25 relating to the program; or

26 (III) Is recommended by the state superintendent based on

1 documentation submitted.

2 (2) The certificate shall be endorsed to indicate the grade  
3 level or levels or areas of specialization in which the person is  
4 certified to teach or to serve in the public schools.

5 (3) The initial professional certificate is issued  
6 provisionally for a period of three years from the date of  
7 issuance:

8 (A) The certificate may be converted to a professional  
9 certificate valid for five years subject to successful completion  
10 of a beginning teacher internship or induction program, if  
11 applicable; or

12 (B) The certificate may be renewed subject to rules adopted by  
13 the state board.

14 (b) *Alternative program teacher certificate.* - An alternative  
15 program teacher certificate may be issued to a candidate who is  
16 enrolled in an alternative program for the education of teachers in  
17 accordance with the provisions of section one-a of this article.

18 (1) The certificate is valid only for the alternative program  
19 position in which the candidate is employed and is subject to  
20 enrollment in the program.

21 (2) The certificate is valid for one year and may be renewed  
22 for each of the following two consecutive years only.

23 (c) Critical need alternative teaching certificate. - - A  
24 critical need alternative teaching certificate may be issued to a  
25 candidate in accordance with provisions of section one-d of this  
26 article.

1       (1) The certificate is valid subject to the provisions of  
2 section one-d of this article.

3       (2) The certificate is valid for two years and may be renewed  
4 for one additional year only.

5       (3) The certificate is valid only at the middle and high  
6 school level.

7       ~~(c)~~ (d) Professional administrative certificate. - -

8       (1) A professional administrative certificate, endorsed for  
9 serving in the public schools, with specific endorsement as a  
10 principal, vocational administrator, supervisor of instructions or  
11 superintendent, may be issued to a person who has completed  
12 requirements all to be approved by the state board as follows:

13       (A) Holds at least a master's degree from an institution of  
14 higher education accredited to offer a master's degree; and

15       (i) Has successfully completed an approved program for  
16 administrative certification developed by the state board in  
17 cooperation with the chancellor for higher education; and

18       (ii) Has successfully completed education and training in  
19 evaluation skills through the center for professional development,  
20 or equivalent education and training in evaluation skills approved  
21 by the state board; and

22       (iii) Possesses three years of management level experience.

23       (2) Any person serving in the position of dean of students on  
24 June 4, 1992, is not required to hold a professional administrative  
25 certificate.

26       (3) The initial professional administrative certificate is

1 issued provisionally for a period of five years. This certificate  
2 may be converted to a professional administrative certificate valid  
3 for five years or renewed, subject to the regulations of the state  
4 board.

5 ~~(d)~~ (e) Paraprofessional certificate. - - A paraprofessional  
6 certificate may be issued to a person who meets the following  
7 conditions:

8 (1) Has completed thirty-six semester hours of post-secondary  
9 education or its equivalent in subjects directly related to  
10 performance of the job, all approved by the state board; and

11 (2) Demonstrates the proficiencies to perform duties as  
12 required of a paraprofessional as defined in section eight, article  
13 four of this chapter.

14 ~~(e)~~ (f) Other certificates; permits. - -

15 (1) Other certificates and permits may be issued, subject to  
16 the approval of the state board, to persons who do not qualify for  
17 the professional or paraprofessional certificate.

18 (2) A certificate or permit may not be given permanent status  
19 and a person holding one of these credentials shall meet renewal  
20 requirements provided by law and by regulation, unless the state  
21 board declares certain of these certificates to be the equivalent  
22 of the professional certificate.

23 (3) Within the category of other certificates and permits, the  
24 state superintendent may issue certificates for persons to serve in  
25 the public schools as athletic coaches or coaches of other  
26 extracurricular activities, whose duties may include the

1 supervision of students, subject to the following limitations:

2 (A) The person is employed under a contract with the county  
3 board of education.

4 (i) The contract specifies the duties to be performed,  
5 specifies a rate of pay that is equivalent to the rate of pay for  
6 professional educators in the district who accept similar duties as  
7 extra duty assignments, and provides for liability insurance  
8 associated with the activity; and

9 (ii) The person holding this certificate is not considered an  
10 employee of the board for salary and benefit purposes other than as  
11 specified in the contract.

12 (B) A currently employed certified professional educator has  
13 not applied for the position; and

14 (C) The person completes an orientation program designed and  
15 approved in accordance with state board rules.

16 ~~(f)~~ (g) *Teacher-In-Residence Permit.* -

17 (1) A teacher-in-residence permit may be issued to a candidate  
18 who is enrolled in a teacher-in-residence program in accordance  
19 with an agreement between an institution of higher education and a  
20 county board. The agreement is developed pursuant to subsection  
21 (f), section one of this article and requires approval by the state  
22 board.

23 (2) The permit is valid only for the teacher-in-residence  
24 program position in which the candidate is enrolled and is subject  
25 to enrollment in the program. The permit is valid for no more than  
26 one school year and may not be renewed.

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

2 **§18A-3A-1. Center for Professional Development; intent and**  
3 **mission; Principals Academy curriculum and**  
4 **expenses; authorization to charge fees.**

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

15 (b) The general mission of the center is to advance the  
16 quality of teaching and management in the schools of West Virginia  
17 through: (1) The implementation primarily of statewide training,  
18 professional staff development, including professional staff  
19 development for at least teachers, principals and paraprofessionals  
20 and technical assistance programs and practices as recommended by  
21 the state board to assure the highest quality of teaching and  
22 management; and (2) the provision of technical and other assistance  
23 and support to regional and local education agencies in identifying  
24 and providing high-quality professional staff development,  
25 including professional staff development for at least teachers,  
26 principals and paraprofessionals, and training programs and

1 implementing best practices to meet their locally identified needs.  
2 The center also may implement local programs if the state board, in  
3 its Master Plan for Professional Staff Development established  
4 pursuant to ~~section twenty-three-a, article two, chapter eighteen~~  
5 article two-i, chapter eighteen-a of this code, determines that  
6 there is a specific local need for the programs. Additionally, the  
7 center shall perform other duties assigned to it by law.

8 Nothing in this article ~~shall be construed to require~~ requires  
9 any specific level of funding by the Legislature.

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

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

16 (A) Entitled to vote; and

17 (B) A cochair of the board.

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

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

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

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

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

1 (4) One regional education service agency executive director,  
2 elected by all of the regional education service agency executive  
3 directors;

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

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

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

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

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

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

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

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

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

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

26 (2) The regional education service agency executive directors

1 shall elect an executive director to fill the unexpired term of any  
2 executive director who ceases to be employed in that capacity.

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

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

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

17 (f) The position of executive director is abolished. The  
18 Governor shall appoint, by and with the advice and consent of the  
19 Senate, a chief executive officer with knowledge and experience in  
20 professional development and management principles. Any reference  
21 in this code to the Executive Director of the Center for  
22 Professional Development means the Chief Executive Officer. From  
23 appropriations to the Center for Professional Development, the  
24 center board sets the salary of the chief executive officer. The  
25 center board, upon the recommendation of the chief executive  
26 officer, may employ other staff necessary to carry out the mission

1 and duties of the center. The chief executive officer serves at  
2 the will and pleasure of the Governor. Annually, the center board  
3 shall evaluate the chief executive officer, and shall report the  
4 results to the Governor. The duties of the chief executive officer  
5 include:

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

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

8 (3) Ensuring collaboration of the center with other  
9 professional development providers;

10 (4) Requesting from the Governor and the Legislature any  
11 resources or statutory changes that would help in enhancing the  
12 collaboration of all professional development providers in the  
13 state, in advancing the quality of professional development through  
14 any other means or both;

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

19 (6) Other duties as assigned by the Governor or the center  
20 board.

21 (g) When practicable, personnel employed by state higher  
22 education agencies and state, regional and county public education  
23 agencies shall be made available to the center to assist in the  
24 operation of projects of limited duration, subject to the  
25 provisions of section twenty-four, article two, chapter eighteen of  
26 this code.

1 (h) The center shall assist in the delivery of programs and  
2 activities pursuant to this article to meet statewide, and if  
3 needed as determined by the goals and Master Plan for Professional  
4 Staff Development established by the state board pursuant to  
5 ~~section twenty-three-a, article two, chapter eighteen~~ article  
6 two-i, chapter eighteen-a of this code, the local professional  
7 development needs of paraprofessionals, teachers, principals and  
8 administrators and may contract with existing agencies or agencies  
9 created after the effective date of this section or others to  
10 provide training programs in the most efficient manner. Existing  
11 programs currently based in agencies of the state shall be  
12 continued in the agency of their origin unless the center  
13 establishes a compelling need to transfer or cancel the existing  
14 program. The center shall recommend to the Governor the transfer  
15 of funds to the providing agency, if needed, to provide programs  
16 approved by the center.

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

23 (j) In accordance with section two-c, article three of this  
24 chapter, the center ~~shall be~~ is responsible for paying reasonable  
25 and necessary expenses for persons attending the Principals  
26 Academy: *Provided*, That nothing in this section ~~shall be construed~~

1 ~~to require~~ requires any specific level of funding by the  
2 Legislature.

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

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

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

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

23 **§18A-3A-2. Professional development project.**

24 Subject to the provisions of ~~section twenty-three a, article~~  
25 ~~two, chapter eighteen~~ article two-i, chapter eighteen-a of this  
26 code, through this project the Center for Professional Development

1 shall:

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

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

1           (3) Serve in a coordinating capacity to assure that the  
2 knowledge, skills, attitude and other pertinent complements of  
3 appropriate professional performance which evolve over time in the  
4 public school environment are appropriately reflected in the  
5 programs approved for the education of professional personnel,  
6 including, but not limited to, advising the teacher education  
7 programs of major statutory and policy changes in the public  
8 schools which affect the job performance requirements of  
9 professional educators, including principals and administrators;

10           (4) Provide for the routine updating of professional skills of  
11 professional educators, including principals and administrators,  
12 through in-service and other programs. The routine updating may be  
13 provided by the center through statewide or regional institutes  
14 which may require a registration fee;

15           (5) Provide for the routine education of all professional  
16 educators, including principals and administrators, and those  
17 service personnel having direct contact with students on warning  
18 signs and resources to assist in suicide prevention under  
19 guidelines established by the state board. The education may be  
20 accomplished through self review of suicide prevention materials  
21 and resources approved by the state board. The provisions of this  
22 paragraph may be known and cited as the Jason Flatt Act of 2012;

23           (6) Provide consultation and assistance to county staff  
24 development councils established under the provisions of section  
25 eight, article three of this chapter in planning, designing,

1 coordinating, arranging for and delivering professional development  
2 programs to meet the needs of the professional educators of their  
3 district. From legislative appropriations to the center, exclusive  
4 of the amounts required for the expenses of the principals academy,  
5 the center shall, unless otherwise directed by the Legislature,  
6 provide assistance in the delivery of programs and activities to  
7 meet the expressed needs of the school districts for professional  
8 development to help teachers, principals and administrators  
9 demonstrate appropriate performance based on the laws, policies and  
10 regulations adopted for the public schools of West Virginia; and

11 (7) Cooperate and coordinate with the institutions of higher  
12 education to provide professional staff development programs that  
13 satisfy some or all of the criteria necessary for currently  
14 certified professional educators to meet the requirements for an  
15 additional endorsement in an area of certification and for  
16 certification to teach in the middle school grades.

17 If the center is not able to reach agreement with the  
18 representatives of the institutions providing teacher education  
19 programs on which courses will be approved for credit toward  
20 additional endorsements, the state board may certify certain  
21 professional staff development courses to meet criteria required by  
22 the state board. This certification shall be done on a course-by-  
23 course basis.

24 **§18A-3A-3. Professional personnel evaluation project.**

25 Subject to the provisions of ~~section twenty-three a,~~ article

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

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

7 (2) Establish programs that provide instruction to classroom  
8 teachers who will serve as beginning teacher mentors in accordance  
9 with the provisions of section two-b, article three of this  
10 chapter.

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

12 **§18A-4-2a. State minimum salary bonus for classroom teachers with**  
13 **national board certification.**

14 (a) The Legislature hereby finds and declares that the  
15 rigorous standards and processes for certification by the National  
16 Board for Professional Teaching Standards (NBPTS) helps to promote  
17 the quality of teaching and learning. Therefore, classroom  
18 teachers in the public schools of West Virginia should be  
19 encouraged to achieve national board certification through a  
20 reimbursement of expenses and an additional salary bonus which  
21 reflects their additional certification, to be paid in accordance  
22 with the provisions of this section.

23 (b) (1) \$3,500 shall be paid annually to each classroom  
24 teacher who holds a valid certificate issued by the National Board  
25 of Professional Teaching Standards for the life of the

1 certification, but in no event more than ten years for any one  
2 certification.

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

8 (c) The payments:

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

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

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

14 (d) For initial certification, one half the certification fee  
15 shall be paid for reimbursement once to each teacher who enrolls in  
16 the program for the National Board for Professional Teaching  
17 Standards certification and one half the certification fee shall be  
18 paid for reimbursement once to each teacher who completes the  
19 National Board for Professional Teaching Standards certification.  
20 Completion shall be defined as the completion of ten scorable  
21 entries, as verified by the National Board for Professional  
22 Teaching Standards. Teachers who achieve National Board for  
23 Professional Teaching Standards certification may be reimbursed a  
24 maximum of \$600 for expenses actually incurred while obtaining the  
25 National Board for Professional Teaching Standards certification.

1       (e) For renewal certification, each teacher who completes the  
2 National Board for Professional Teaching Standards certification  
3 renewal process shall be reimbursed for the renewal certification  
4 fee. Completion of the certification renewal process means the  
5 successful renewal of the ten-year certification as verified by the  
6 National Board for Professional Teaching Standards.

7       ~~(e) The state board shall limit the number of teachers who~~  
8 ~~receive the initial reimbursements of the certification fees set~~  
9 ~~forth in subsection (d) to two hundred teachers annually.~~ (f) The  
10 state board shall establish selection criteria for the teachers by  
11 the legislative rule required pursuant to subsection ~~(g)~~ (h) of  
12 this section.

13       ~~(f) Subject to the provisions of subsection (e) of this~~  
14 ~~section,~~ (g) Funding for reimbursement of the initial certification  
15 fee and expenses actually incurred while obtaining the National  
16 Board for Professional Teaching Standards certifications and  
17 funding for reimbursement of the renewal certification fee shall be  
18 administered by the State Department of Education from an  
19 appropriation established for that purpose by the Legislature. If  
20 funds appropriated by the Legislature to accomplish the purposes of  
21 this subsection are insufficient, the state department shall  
22 prorate the reimbursements for expenses and shall request of the  
23 Legislature, at its next regular session, funds sufficient to  
24 accomplish the purposes of this subsection, including needed  
25 retroactive payments.

1           ~~(g)~~ (h) The state board shall promulgate legislative rules  
2 pursuant to article three-b, chapter twenty-nine-a of this code to  
3 implement the provisions of this section.

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

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

9           (b) The county board shall ~~make decisions affecting the hiring~~  
10 ~~of new classroom teachers~~ fill vacancies in professional positions  
11 of employment on the basis of the applicant with the highest  
12 qualifications. The county superintendent shall be hired under  
13 separate criteria pursuant to section two, article four, chapter  
14 eighteen of this code.

15           (c) In judging qualifications for ~~hiring employees pursuant to~~  
16 ~~subsections (a) and (b) of this section~~ filling vacancies in  
17 professional positions of employment, consideration shall be given  
18 to each of the following:

19                   (1) Appropriate certification, licensure or both;

20                   (2) Amount of experience relevant to the position; or, in the  
21 case of a classroom teaching position, the amount of teaching  
22 experience in the subject area;

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

25                   (4) Academic achievement;

1 (5) Relevant specialized training;

2 (6) Past performance evaluations conducted pursuant to section  
3 twelve, article two of this chapter;

4 (7) Seniority; and

5 ~~(7)~~ (8) Other measures or indicators upon which the relative  
6 qualifications of the applicant may fairly be judged.

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

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

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

14 ~~(3) The existence of teaching experience in the required  
15 certification area;~~

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

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

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

22 ~~(7) Seniority.~~

23 ~~(e) In filling positions pursuant to subsection (d) of this  
24 section, consideration shall be given to each criterion with each  
25 criterion being given equal weight. If the applicant with the most~~

1 ~~seniority is not selected for the position, upon the request of the~~  
2 ~~applicant a written statement of reasons shall be given to the~~  
3 ~~applicant with suggestions for improving the applicant's~~  
4 ~~qualifications. In judging qualifications for filling a classroom~~  
5 ~~teacher vacancy at a school, the county board also shall consider~~  
6 ~~any recommendations made by the principal and by the process, if~~  
7 ~~any, established by the faculty senate pursuant to section five,~~  
8 ~~article five-a, chapter eighteen of this code to interview~~  
9 ~~prospective professional educators.~~

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

17 ~~(g)~~ (f) Upon completion of one hundred thirty-three days of  
18 employment in any one school year, substitute teachers, except  
19 retired teachers and other retired professional educators employed  
20 as substitutes, shall accrue seniority exclusively for the purpose  
21 of applying for employment as a permanent, full-time professional  
22 employee. One hundred thirty-three days or more of said employment  
23 shall be prorated and shall vest as a fraction of the school year  
24 worked by the permanent, full-time teacher.

25 ~~(h)~~ (g) Guidance counselors and all other professional

1 employees, as defined in section one, article one of this chapter,  
2 except classroom teachers, shall gain seniority in their  
3 nonteaching area of professional employment on the basis of the  
4 length of time the employee has been employed by the county board  
5 of education in that area: *Provided*, That if an employee is  
6 certified as a classroom teacher, the employee accrues classroom  
7 teaching seniority for the time that that employee is employed in  
8 another professional area. For the purposes of accruing seniority  
9 under this paragraph, employment as principal, supervisor or  
10 central office administrator, as defined in section one, article  
11 one of this chapter, shall be considered one area of employment.

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

21 ~~(j)~~ (i) Whenever a county board is required to reduce the  
22 number of professional personnel in its employment, or within a  
23 school, the employee holding a position to be reduced with the  
24 least amount of seniority or the least amount of seniority within  
25 the school shall be properly notified and released from employment

1 pursuant to the provisions of section two, article two of this  
2 chapter. The provisions of this subsection are subject to the  
3 following:

4 (1) Any comparison of seniority within a school in accordance  
5 with this subsection shall be performed using seniority within the  
6 entire county school district. Nothing in this subsection is  
7 intended to create a system of seniority within an individual  
8 school.

9 ~~(1)~~ (2) All persons employed in a certification area to be  
10 reduced within a school who are employed under a temporary permit  
11 shall be properly notified and released before a fully certified  
12 employee in such a position within a school is subject to release;

13 (3) Notwithstanding any provision of this code to the  
14 contrary, all employees subject to release shall be considered  
15 applicants for any vacancy in an established, existing or newly  
16 created position that, on or before February 15, is known to exist  
17 for the ensuing school year, and for which they are qualified, and,  
18 upon recommendation of the superintendent, the board shall appoint  
19 the successful applicant from among them before posting such  
20 vacancies for application by other persons.

21 ~~(2)~~ (4) An employee subject to release shall be employed in  
22 any other professional position where the employee is certified and  
23 was previously employed or to any lateral area for which the  
24 employee is certified, licensed or both, if the employee's  
25 seniority is greater than the seniority of any other employee in

1 that area of certification, licensure or both: Provided, That the  
2 position is either at the same school or not assigned to a school;

3 ~~(3)~~ (5) If an employee subject to release holds certification,  
4 licensure or both in more than one lateral area and if the  
5 employee's seniority is greater than the seniority of any other  
6 employee in one or more of those areas of certification, licensure  
7 or both, the employee subject to release shall be employed in the  
8 professional position held by the employee with the least seniority  
9 in any of those areas of certification, licensure or both, whose  
10 position is either at the same school or not assigned to a school;

11 and

12 ~~(4)~~ (6) If, prior to August 1 of the year a reduction in force  
13 is approved, the reason for any particular reduction in force no  
14 longer exists as determined by the county board in its sole and  
15 exclusive judgment, the board shall rescind the reduction in force  
16 or transfer and shall notify the released employee in writing of  
17 his or her right to be restored to his or her position of  
18 employment. Within five days of being so notified, the released  
19 employee shall notify the board, in writing, of his or her intent  
20 to resume his or her position of employment or the right to be  
21 restored shall terminate. Notwithstanding any other provision of  
22 this subdivision, if there is another employee on the preferred  
23 recall list with proper certification and higher seniority, that  
24 person shall be placed in the position restored as a result of the  
25 reduction in force being rescinded.

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

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

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

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

4 (3) The county board, upon recommendation of the  
5 superintendent may fill a position before the next instructional  
6 term when it is determined to be in the best interest of the  
7 students. The county superintendent shall notify the state board  
8 of each transfer of a person employed in a professional position to  
9 another professional position after the twentieth day prior to the  
10 beginning of the instructional term;

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

16 (5) The Legislature finds that it is not in the best interest  
17 of the students particularly in the elementary grades to have  
18 multiple teachers for any one grade level or course during the  
19 instructional term. It is the intent of the Legislature that the  
20 filling of positions through transfers of personnel from one  
21 professional position to another after the twentieth day prior to  
22 the beginning of the instructional term should be kept to a  
23 minimum.

24 ~~(m)~~ (1) All professional personnel whose seniority with the  
25 county board is insufficient to allow their retention by the county

1 board during a reduction in work force shall be placed upon a  
2 preferred recall list. As to any professional position opening  
3 within the area where they had previously been employed or to any  
4 lateral area for which they have certification, licensure or both,  
5 the employee shall be recalled on the basis of seniority if no  
6 regular, full-time professional personnel, or those returning from  
7 leaves of absence with greater seniority, are qualified, apply for  
8 and accept the position.

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

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

22 (1) Boards shall be required to post and date notices ~~which~~  
23 shall be of each opening at least once. At their discretion,  
24 boards may post an opening for a position other than classroom  
25 teacher more than once in order to attract more qualified

1 applicants. At their discretion, boards may post an opening for a  
2 classroom teacher one additional time after the first posting in  
3 order to attract more qualified applicants only if fewer than three  
4 individuals apply during the first posting subject to the  
5 following:

6 (A) ~~The notices~~ Each notice shall be posted in conspicuous  
7 working places for all professional personnel to observe for at  
8 least five working days;

9 (B) ~~The~~ At least one notice shall be posted within twenty  
10 working days of the position openings and shall include the job  
11 description;

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

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

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

21 (2) No vacancy shall be filled until after the five-day  
22 minimum posting period of the most recent posted notice of the  
23 vacancy;

24 (3) If one or more applicants under all the postings for a  
25 vacancy meets the qualifications listed in the job posting, the

1 successful applicant to fill the vacancy shall be selected by the  
2 board within thirty working days of the end of the first posting  
3 period;

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

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

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

20 ~~(q) Reductions in classroom teaching positions in elementary~~  
21 ~~schools shall be processed as follows:~~

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

1       ~~(2) When a specified grade level needs to be reduced and the~~  
2 ~~least senior employee in the school is not in that grade level, the~~  
3 ~~least senior classroom teacher in the grade level that needs to be~~  
4 ~~reduced shall be reassigned to the position made vacant by the~~  
5 ~~transfer of the least senior classroom teacher in the school~~  
6 ~~without that position being posted: *Provided*, That the employee is~~  
7 ~~certified, licensed or both and agrees to the reassignment.~~

8       ~~(r)~~ (p) Any board failing to comply with the provisions of  
9 this article may be compelled to do so by mandamus and shall be  
10 liable to any party prevailing against the board for court costs  
11 and reasonable attorney fees as determined and established by the  
12 court. Further, employees denied promotion or employment in  
13 violation of this section shall be awarded the job, pay and any  
14 applicable benefits retroactive to the date of the violation and  
15 payable entirely from local funds. Further, the board shall be  
16 liable to any party prevailing against the board for any court  
17 reporter costs including copies of transcripts.

18       ~~(s)~~ (q) The county board shall compile, update annually on  
19 July 1 and make available by electronic or other means to all  
20 employees a list of all professional personnel employed by the  
21 county, their areas of certification and their seniority.

22       (r) Notwithstanding any other provision of this code to the  
23 contrary, upon recommendation of the principal and approval by the  
24 classroom teacher and county board, a classroom teacher assigned to  
25 the school may at any time be assigned to a new or existing

1 classroom teacher position at the school without the position being  
2 posted.

3 **§18A-4-8. Employment term and class titles of service personnel;**  
4 **definitions.**

5 (a) The purpose of this section is to establish an employment  
6 term and class titles for service personnel. The employment term  
7 for service personnel may not be less than ten months. A month is  
8 defined as twenty employment days. The county board may contract  
9 with all or part of these service personnel for a longer term. ~~The~~  
10 ~~beginning and closing dates of the ten-month employment term may~~  
11 ~~not exceed forty-three weeks.~~

12 (b) Service personnel employed on a yearly or twelve-month  
13 basis may be employed by calendar months. Whenever there is a  
14 change in job assignment during the school year, the minimum pay  
15 scale and any county supplement are applicable.

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

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

24 (e) If a service person whose regular work week is scheduled  
25 from Monday through Friday agrees to perform any work assignments

1 on a Saturday or Sunday, the service person shall be paid for at  
2 least one-half day of work for each day he or she reports for work.  
3 If the service person works more than three and one-half hours on  
4 any Saturday or Sunday, he or she shall be paid for at least a full  
5 day of work for each day.

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

10 (1) A "maintenance person" means a person who holds a  
11 classification title other than in a custodial, aide, school lunch,  
12 office or transportation category as provided in section one,  
13 article one of this chapter.

14 (2) A service person's schedule is considered to be  
15 interrupted if he or she does not work a continuous period in one  
16 day. Aides are not regarded as working an interrupted schedule  
17 when engaged exclusively in the duties of transporting students;

18 (3) The additional compensation provided ~~for~~ in this  
19 subsection:

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

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

24 (g) When there is a change in classification or when a service  
25 person meets the requirements of an advanced classification, his or

1 her salary shall be made to comply with the requirements of this  
2 article and any county salary schedule in excess of the minimum  
3 requirements of this article, based upon the service person's  
4 advanced classification and allowable years of employment.

5 (h) A service person's contract, as provided in section five,  
6 article two of this chapter, shall state the appropriate monthly  
7 salary the employee is to be paid, based on the class title as  
8 provided in this article and on any county salary schedule in  
9 excess of the minimum requirements of this article.

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

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

15 (2) "Years of employment" means the number of years which an  
16 employee classified as a service person has been employed by a  
17 county board in any position prior to or subsequent to the  
18 effective date of this section and includes service in the Armed  
19 Forces of the United States, if the employee was employed at the  
20 time of his or her induction. For the purpose of section eight-a  
21 of this article, years of employment is limited to the number of  
22 years shown and allowed under the state minimum pay scale as set  
23 forth in section eight-a of this article;

24 (3) "Class title" means the name of the position or job held  
25 by a service person;

1 (4) "Accountant I" means a person employed to maintain payroll  
2 records and reports and perform one or more operations relating to  
3 a phase of the total payroll;

4 (5) "Accountant II" means a person employed to maintain  
5 accounting records and to be responsible for the accounting process  
6 associated with billing, budgets, purchasing and related  
7 operations;

8 (6) "Accountant III" means a person employed in the county  
9 board office to manage and supervise accounts payable, payroll  
10 procedures, or both;

11 (7) "Accounts payable supervisor" means a person employed in  
12 the county board office who has primary responsibility for the  
13 accounts payable function and who either has completed twelve  
14 college hours of accounting courses from an accredited institution  
15 of higher education or has at least eight years of experience  
16 performing progressively difficult accounting tasks.  
17 Responsibilities of this class title may include supervision of  
18 other personnel;

19 (8) "Aide I" means a person selected and trained for a  
20 teacher-aide classification such as monitor aide, clerical aide,  
21 classroom aide or general aide;

22 (9) "Aide II" means a service person referred to in the "Aide  
23 I" classification who has completed a training program approved by  
24 the state board, or who holds a high school diploma or has received  
25 a general educational development certificate. Only a person

1 classified in an Aide II class title may be employed as an aide in  
2 any special education program;

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

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

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

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

13 (A) Has completed eighteen hours of state board-approved  
14 college credit at a regionally accredited institution of higher  
15 education, or

16 (B) Has completed fifteen hours of state board-approved  
17 college credit at a regionally accredited institution of higher  
18 education; and has successfully completed an in-service training  
19 program determined by the state board to be the equivalent of three  
20 hours of college credit;

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

24 (13) "Auditor" means a person employed to examine and verify  
25 accounts of individual schools and to assist schools and school

1 personnel in maintaining complete and accurate records of their  
2 accounts;

3 (14) "Autism mentor" means a person who works with autistic  
4 students and who meets standards and experience to be determined by  
5 the state board. A person who has held or holds an aide title and  
6 becomes employed as an autism mentor shall hold a  
7 multiclassification status that includes both aide and autism  
8 mentor titles, in accordance with section eight-b of this article;

9 (15) "Braille or sign language specialist" means a person  
10 employed to provide braille and/or sign language assistance to  
11 students. A service person who has held or holds an aide title and  
12 becomes employed as a braille or sign language specialist shall  
13 hold a multiclassification status that includes both aide and  
14 braille or sign language specialist title, in accordance with  
15 section eight-b of this article;

16 (16) "Bus operator" means a person employed to operate school  
17 buses and other school transportation vehicles as provided by the  
18 state board;

19 (17) "Buyer" means a person employed to review and write  
20 specifications, negotiate purchase bids and recommend purchase  
21 agreements for materials and services that meet predetermined  
22 specifications at the lowest available costs;

23 (18) "Cabinetmaker" means a person employed to construct  
24 cabinets, tables, bookcases and other furniture;

25 (19) "Cafeteria manager" means a person employed to direct the

1 operation of a food services program in a school, including  
2 assigning duties to employees, approving requisitions for supplies  
3 and repairs, keeping inventories, inspecting areas to maintain high  
4 standards of sanitation, preparing financial reports and keeping  
5 records pertinent to food services of a school;

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

8 (21) "Carpenter II" means a person classified as a journeyman  
9 carpenter;

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

14 (23) "Clerk I" means a person employed to perform clerical  
15 tasks;

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

19 (25) "Computer operator" means a qualified person employed to  
20 operate computers;

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

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

1           (28) "Cook III" means a person employed to prepare and serve  
2 meals, make reports, prepare requisitions for supplies, order  
3 equipment and repairs for a food service program of a school  
4 system;

5           (29) "Crew leader" means a person employed to organize the  
6 work for a crew of maintenance employees to carry out assigned  
7 projects;

8           (30) "Custodian I" means a person employed to keep buildings  
9 clean and free of refuse;

10          (31) "Custodian II" means a person employed as a watchman or  
11 groundsman;

12          (32) "Custodian III" means a person employed to keep buildings  
13 clean and free of refuse, to operate the heating or cooling systems  
14 and to make minor repairs;

15          (33) "Custodian IV" means a person employed as head  
16 custodians. In addition to providing services as defined in  
17 "custodian III," duties may include supervising other custodian  
18 personnel;

19          (34) "Director or coordinator of services" means an employee  
20 of a county board who is assigned to direct a department or  
21 division.

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

24          (B) Professional personnel holding this class title may not be  
25 defined or classified as service personnel unless the professional

1 person held a service personnel title under this section prior to  
2 holding the class title of "director or coordinator of services."

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

6 (D) Funding for the position of director or coordinator of  
7 services is based upon the employment status of the director or  
8 coordinator either as a professional person or a service person;  
9 and

10 (E) A person employed under the class title "director or  
11 coordinator of services" may not be exclusively assigned to perform  
12 the duties ascribed to any other class title as defined in this  
13 subsection: *Provided*, That nothing in this paragraph prohibits a  
14 person in this position from being multiclassified;

15 (35) "Draftsman" means a person employed to plan, design and  
16 produce detailed architectural/engineering drawings;

17 (36) "Electrician I" means a person employed as an apprentice  
18 electrician helper or one who holds an electrician helper license  
19 issued by the State Fire Marshal;

20 (37) "Electrician II" means a person employed as an  
21 electrician journeyman or one who holds a journeyman electrician  
22 license issued by the State Fire Marshal;

23 (38) "Electronic technician I" means a person employed at the  
24 apprentice level to repair and maintain electronic equipment;

25 (39) "Electronic technician II" means a person employed at the

1 journeyman level to repair and maintain electronic equipment;

2 (40) "Executive secretary" means a person employed as  
3 secretary to the county school superintendent or as a secretary who  
4 is assigned to a position characterized by significant  
5 administrative duties;

6 (41) "Food services supervisor" means a qualified person who  
7 is not a professional person or professional educator as defined in  
8 section one, article one of this chapter. The food services  
9 supervisor is employed to manage and supervise a county school  
10 system's food service program. The duties include preparing  
11 in-service training programs for cooks and food service employees,  
12 instructing personnel in the areas of quantity cooking with economy  
13 and efficiency and keeping aggregate records and reports;

14 (42) "Foreman" means a skilled person employed to supervise  
15 personnel who work in the areas of repair and maintenance of school  
16 property and equipment;

17 (43) "General maintenance" means a person employed as a helper  
18 to skilled maintenance employees and to perform minor repairs to  
19 equipment and buildings of a county school system;

20 (44) "Glazier" means a person employed to replace glass or  
21 other materials in windows and doors and to do minor carpentry  
22 tasks;

23 (45) "Graphic artist" means a person employed to prepare  
24 graphic illustrations;

25 (46) "Groundsman" means a person employed to perform duties

1 that relate to the appearance, repair and general care of school  
2 grounds in a county school system. Additional assignments may  
3 include the operation of a small heating plant and routine cleaning  
4 duties in buildings;

5 (47) "Handyman" means a person employed to perform routine  
6 manual tasks in any operation of the county school system;

7 (48) "Heating and air conditioning mechanic I" means a person  
8 employed at the apprentice level to install, repair and maintain  
9 heating and air conditioning plants and related electrical  
10 equipment;

11 (49) "Heating and air conditioning mechanic II" means a person  
12 employed at the journeyman level to install, repair and maintain  
13 heating and air conditioning plants and related electrical  
14 equipment;

15 (50) "Heavy equipment operator" means a person employed to  
16 operate heavy equipment;

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

20 (52) "Key punch operator" means a qualified person employed to  
21 operate key punch machines or verifying machines;

22 (53) "Licensed practical nurse" means a nurse, licensed by the  
23 West Virginia Board of Examiners for Licensed Practical Nurses,  
24 employed to work in a public school under the supervision of a  
25 school nurse;

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

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

6           (56) "Machinist" means a person employed to perform machinist  
7 tasks which include the ability to operate a lathe, planer, shaper,  
8 threading machine and wheel press. A person holding this class  
9 title also should have the ability to work from blueprints and  
10 drawings;

11          (57) "Mail clerk" means a person employed to receive, sort,  
12 dispatch, deliver or otherwise handle letters, parcels and other  
13 mail;

14          (58) "Maintenance clerk" means a person employed to maintain  
15 and control a stocking facility to keep adequate tools and supplies  
16 on hand for daily withdrawal for all school maintenance crafts;

17          (59) "Mason" means a person employed to perform tasks  
18 connected with brick and block laying and carpentry tasks related  
19 to these activities;

20          (60) "Mechanic" means a person employed to perform skilled  
21 duties independently in the maintenance and repair of automobiles,  
22 school buses and other mechanical and mobile equipment to use in a  
23 county school system;

24          (61) "Mechanic assistant" means a person employed as a  
25 mechanic apprentice and helper;

1           (62) "Multiclassification" means a person employed to perform  
2 tasks that involve the combination of two or more class titles in  
3 this section. In these instances the minimum salary scale shall be  
4 the higher pay grade of the class titles involved;

5           (63) "Office equipment repairman I" means a person employed as  
6 an office equipment repairman apprentice or helper;

7           (64) "Office equipment repairman II" means a person  
8 responsible for servicing and repairing all office machines and  
9 equipment. A person holding this class title is responsible for  
10 the purchase of parts necessary for the proper operation of a  
11 program of continuous maintenance and repair;

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

16           (66) "Paraprofessional" means a person certified pursuant to  
17 section two-a, article three of this chapter to perform duties in  
18 a support capacity including, but not limited to, facilitating in  
19 the instruction and direct or indirect supervision of students  
20 under the direction of a principal, a teacher or another designated  
21 professional educator.

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

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

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

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

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

19 (69) "Plumber II" means a person employed as a journeyman  
20 plumber;

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

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

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

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

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

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

11           (A) Employed to assist in selecting school bus operators and  
12 routing and scheduling school buses, operate a bus when needed,  
13 relay instructions to bus operators, plan emergency routing of  
14 buses and promote good relationships with parents, students, bus  
15 operators and other employees; and

16           (B) Certified to operate a bus or previously certified to  
17 operate a bus;

18          (76) "Secretary I" means a person employed to transcribe from  
19 notes or mechanical equipment, receive callers, perform clerical  
20 tasks, prepare reports and operate office machines;

21          (77) "Secretary II" means a person employed in any elementary,  
22 secondary, kindergarten, nursery, special education, vocational or  
23 any other school as a secretary. The duties may include performing  
24 general clerical tasks; transcribing from notes, stenotype,  
25 mechanical equipment or a sound-producing machine; preparing

1 reports; receiving callers and referring them to proper persons;  
2 operating office machines; keeping records and handling routine  
3 correspondence. Nothing in this subdivision prevents a service  
4 person from holding or being elevated to a higher classification;

5 (78) "Secretary III" means a person assigned to the county  
6 board office administrators in charge of various instructional,  
7 maintenance, transportation, food services, operations and health  
8 departments, federal programs or departments with particular  
9 responsibilities in purchasing and financial control or any person  
10 who has served for eight years in a position which meets the  
11 definition of "secretary II" or "secretary III";

12 (79) "Supervisor of maintenance" means a skilled person who is  
13 not a professional person or professional educator as defined in  
14 section one, article one of this chapter. The responsibilities  
15 include directing the upkeep of buildings and shops, and issuing  
16 instructions to subordinates relating to cleaning, repairs and  
17 maintenance of all structures and mechanical and electrical  
18 equipment of a county board;

19 (80) "Supervisor of transportation" means a qualified person  
20 employed to direct school transportation activities properly and  
21 safely, and to supervise the maintenance and repair of vehicles,  
22 buses and other mechanical and mobile equipment used by the county  
23 school system. After July 1, 2010, all persons employed for the  
24 first time in a position with this classification title or in a  
25 multi-classification position that includes this title shall have

1 five years of experience working in the transportation department  
2 of a county board. Experience working in the transportation  
3 department shall consist of serving as a bus operator, bus aide,  
4 assistant mechanic, mechanic, chief mechanic or in a clerical  
5 position within the transportation department;

6 (81) "Switchboard operator-receptionist" means a person  
7 employed to refer incoming calls, to assume contact with the  
8 public, to direct and to give instructions as necessary, to operate  
9 switchboard equipment and to provide clerical assistance;

10 (82) "Truck driver" means a person employed to operate light  
11 or heavy duty gasoline and diesel-powered vehicles;

12 (83) "Warehouse clerk" means a person employed to be  
13 responsible for receiving, storing, packing and shipping goods;

14 (84) "Watchman" means a person employed to protect school  
15 property against damage or theft. Additional assignments may  
16 include operation of a small heating plant and routine cleaning  
17 duties;

18 (85) "Welder" means a person employed to provide acetylene or  
19 electric welding services for a school system; ~~and~~

20 (86) "WVEIS data entry and administrative clerk" means a  
21 person employed to work under the direction of a school principal  
22 to assist the school counselor or counselors in the performance of  
23 administrative duties, to perform data entry tasks on the West  
24 Virginia Education Information System, and to perform other  
25 administrative duties assigned by the principal;

1           (87) "Early Childhood Classroom Assistant Teacher - Temporary  
2 Authorization" means a person who does not possess minimum  
3 requirements for the permanent authorization requirements, but is  
4 enrolled in and pursuing requirements;

5           (88) "Early Childhood Classroom Assistant Teacher - Permanent  
6 Authorization" means a person who has completed the minimum  
7 requirements for a state-awarded certificate for early childhood  
8 classroom assistant teachers that meet or exceed the requirements  
9 for a child development associate. Equivalency for the West  
10 Virginia Department of Education will be determined as the child  
11 development associate or the West Virginia Apprenticeship for Child  
12 Development Specialists; and

13           (89) "Early Childhood Classroom Assistant Teacher -  
14 Paraprofessional Certificate" means a person who has completed  
15 permanent authorization requirements, as well as additional  
16 requirements comparable to current paraprofessional certificate.

17           (j) Notwithstanding any provision in this code to the  
18 contrary, and in addition to the compensation provided for service  
19 personnel in section eight-a of this article, each service person  
20 is entitled to all service personnel employee rights, privileges  
21 and benefits provided under this or any other chapter of this code  
22 without regard to the employee's hours of employment or the methods  
23 or sources of compensation.

24           (k) A service person whose years of employment exceeds the  
25 number of years shown and provided ~~for~~ under the state minimum pay

1 scale set forth in section eight-a of this article may not be paid  
2 less than the amount shown for the maximum years of employment  
3 shown and provided ~~for~~ in the classification in which he or she is  
4 employed.

5 (1) Each county board shall review each service person's job  
6 classification annually and shall reclassify all service persons as  
7 required by the job classifications. The state superintendent may  
8 withhold state funds appropriated pursuant to this article for  
9 salaries for service personnel who are improperly classified by the  
10 county boards. Further, the state superintendent shall order a  
11 county board to correct immediately any improper classification  
12 matter and, with the assistance of the Attorney General, shall take  
13 any legal action necessary against any county board to enforce the  
14 order.

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

17 (1) Reclassified by class title; or

18 (2) Relegated to any condition of employment which would  
19 result in a reduction of his or her salary, rate of pay,  
20 compensation or benefits earned during the current fiscal year; or  
21 for which he or she would qualify by continuing in the same job  
22 position and classification held during that fiscal year and  
23 subsequent years.

24 (n) Any county board failing to comply with the provisions of  
25 this article may be compelled to do so by mandamus and is liable to

1 any party prevailing against the board for court costs and the  
2 prevailing party's reasonable attorney fee, as determined and  
3 established by the court.

4 (o) Notwithstanding any provision of this code to the  
5 contrary, a service person who holds a continuing contract in a  
6 specific job classification and who is physically unable to perform  
7 the job's duties as confirmed by a physician chosen by the employee  
8 shall be given priority status over any employee not holding a  
9 continuing contract in filling other service personnel job  
10 vacancies if the service person is qualified as provided in section  
11 eight-e of this article.

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

16 (q) Without the written consent of the service person, a  
17 county board may not establish the beginning work station for a bus  
18 operator or transportation aide at any site other than a county  
19 board-owned facility with available parking. The workday of the  
20 bus operator or transportation aide commences at the bus at the  
21 designated beginning work station and ends when the employee is  
22 able to leave the bus at the designated beginning work station,  
23 unless he or she agrees otherwise in writing. The application or  
24 acceptance of a posted position may not be construed as the written  
25 consent referred to in this subsection.

1 (r) "Itinerant status" means a service person who does not  
2 have a fixed work site and may be involuntarily reassigned to  
3 another work site. A service person is considered to hold  
4 itinerant status if he or she has bid upon a position posted as  
5 itinerant or has agreed to accept this status. A county board may  
6 establish positions with itinerant status only within the aide and  
7 autism mentor classification categories and only when the job  
8 duties involve exceptional students. A service person with  
9 itinerant status may be assigned to a different work site upon  
10 written notice ten days prior to the reassignment without the  
11 consent of the employee and without posting the vacancy. A service  
12 person with itinerant status may be involuntarily reassigned no  
13 more than twice during the school year. At the conclusion of each  
14 school year, the county board shall post and fill, pursuant to  
15 section eight-b of this article, all positions that have been  
16 filled without posting by a service person with itinerant status.  
17 A service person who is assigned to a beginning and ending work  
18 site and travels at the expense of the county board to other work  
19 sites during the daily schedule, shall not be considered to hold  
20 itinerant status.

21 **§18A-4-8a. Service personnel minimum monthly salaries.**

22 (a) The minimum monthly pay for each service employee shall be  
23 as follows:

24 (1) Beginning July 1, 2011, and continuing thereafter, the  
25 minimum monthly pay for each service employee whose employment is

1 for a period of more than three and one-half hours a day shall be  
 2 at least the amounts indicated in the State Minimum Pay Scale Pay  
 3 Grade and the minimum monthly pay for each service employee whose  
 4 employment is for a period of three and one-half hours or less a  
 5 day shall be at least one half the amount indicated in the State  
 6 Minimum Pay Scale Pay Grade set forth in this subdivision.

7 STATE MINIMUM PAY SCALE PAY GRADE

8 Years

9 Exp. Pay Grade

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

1	21	2,301	2,321	2,363	2,415	2,466	2,528	2,559	2,634
2	22	2,333	2,354	2,395	2,447	2,498	2,561	2,593	2,666
3	23	2,365	2,386	2,427	2,479	2,531	2,594	2,625	2,699
4	24	2,397	2,418	2,459	2,511	2,563	2,627	2,658	2,732
5	25	2,429	2,450	2,491	2,543	2,596	2,659	2,691	2,764
6	26	2,461	2,482	2,523	2,576	2,629	2,692	2,723	2,797
7	27	2,493	2,514	2,555	2,608	2,661	2,724	2,756	2,829
8	28	2,525	2,546	2,588	2,641	2,694	2,757	2,789	2,863
9	29	2,557	2,579	2,621	2,673	2,726	2,790	2,821	2,896
10	30	2,591	2,611	2,654	2,706	2,759	2,822	2,854	2,928
11	31	2,623	2,644	2,687	2,739	2,792	2,855	2,887	2,961
12	32	2,656	2,676	2,719	2,772	2,824	2,888	2,919	2,994
13	33	2,689	2,709	2,752	2,805	2,857	2,920	2,953	3,026
14	34	2,721	2,743	2,785	2,838	2,890	2,954	2,986	3,059
15	35	2,754	2,775	2,817	2,870	2,923	2,987	3,018	3,092
16	36	2,787	2,808	2,850	2,903	2,956	3,019	3,051	3,124
17	37	2,819	2,841	2,883	2,936	2,989	3,052	3,083	3,157
18	38	2,852	2,873	2,915	2,968	3,021	3,084	3,116	3,190
19	39	2,885	2,906	2,948	3,001	3,054	3,117	3,149	3,222
20	40	2,917	2,939	2,980	3,033	3,087	3,150	3,181	3,256

21

22 (2) Each service employee shall receive the amount prescribed  
 23 in the Minimum Pay Scale in accordance with the provisions of this  
 24 subsection according to their class title and pay grade as set  
 25 forth in this subdivision:

26	CLASS TITLE	PAY GRADE
27	Accountant I. . . . .	D
28	Accountant II.. . . .	E
29	Accountant III. . . . .	F
30	Accounts Payable Supervisor.. . . .	G

1	Aide I. . . . .	A
2	Aide II.. . . .	B
3	Aide III. . . . .	C
4	Aide IV.. . . .	D
5	Audiovisual Technician. . . . .	C
6	Auditor.. . . .	G
7	Autism Mentor.. . . .	F
8	Braille or Sign Language Specialist.. . . .	E
9	Bus Operator. . . . .	D
10	Buyer.. . . .	F
11	Cabinetmaker. . . . .	G
12	Cafeteria Manager.. . . .	D
13	Carpenter I.. . . . .	E
14	Carpenter II. . . . .	F
15	Chief Mechanic. . . . .	G
16	Clerk I.. . . . .	B
17	Clerk II. . . . .	C
18	Computer Operator.. . . .	E
19	Cook I. . . . .	A
20	Cook II.. . . .	B
21	Cook III. . . . .	C
22	Crew Leader.. . . .	F
23	Custodian I.. . . . .	A
24	Custodian II. . . . .	B
25	Custodian III.. . . .	C

1	Custodian IV. . . . .	D
2	Director or Coordinator of Services.. . . .	H
3	Draftsman.. . . .	D
4	<u>Early Childhood Classroom Assistant Teacher - Temporary</u>	
5	<u>Authorization.. . . .</u>	<u>E</u>
6	<u>Early Childhood Classroom Assistant Teacher - Permanent</u>	
7	<u>Authorization.. . . .</u>	<u>E</u>
8	<u>Early Childhood Classroom Assistant Teacher - Paraprofessional</u>	
9	<u>Certificate.. . . .</u>	<u>E</u>
10	Electrician I.. . . .	F
11	Electrician II. . . . .	G
12	Electronic Technician I.. . . .	F
13	Electronic Technician II. . . . .	G
14	Executive Secretary.. . . .	G
15	Food Services Supervisor. . . . .	G
16	Foreman.. . . .	G
17	General Maintenance.. . . .	C
18	Glazier.. . . .	D
19	Graphic Artist. . . . .	D
20	Groundsman. . . . .	B
21	Handyman. . . . .	B
22	Heating and Air Conditioning Mechanic I.. . . .	E
23	Heating and Air Conditioning Mechanic II. . . . .	G
24	Heavy Equipment Operator. . . . .	E
25	Inventory Supervisor. . . . .	D

1	Key Punch Operator. . . . .	B
2	Licensed Practical Nurse. . . . .	F
3	Locksmith.. . . .	G
4	Lubrication Man.. . . .	C
5	Machinist.. . . .	F
6	Mail Clerk. . . . .	D
7	Maintenance Clerk.. . . .	C
8	Mason.. . . .	G
9	Mechanic. . . . .	F
10	Mechanic Assistant. . . . .	E
11	Office Equipment Repairman I. . . . .	F
12	Office Equipment Repairman II.. . . .	G
13	Painter.. . . .	E
14	Paraprofessional. . . . .	F
15	Payroll Supervisor. . . . .	G
16	Plumber I.. . . .	E
17	Plumber II. . . . .	G
18	Printing Operator.. . . .	B
19	Printing Supervisor.. . . .	D
20	Programmer. . . . .	H
21	Roofing/Sheet Metal Mechanic. . . . .	F
22	Sanitation Plant Operator.. . . .	G
23	School Bus Supervisor.. . . .	E
24	Secretary I.. . . .	D
25	Secretary II. . . . .	E

1	Secretary III.. . . . .	F
2	Supervisor of Maintenance.. . . . .	H
3	Supervisor of Transportation. . . . .	H
4	Switchboard Operator-Receptionist.. . . . .	D
5	Truck Driver. . . . .	D
6	Warehouse Clerk.. . . . .	C
7	Watchman. . . . .	B
8	Welder. . . . .	F
9	WVEIS Data Entry and Administrative Clerk.. . . . .	B

10           (b) An additional \$12 per month shall be added to the minimum  
11 monthly pay of each service employee who holds a high school  
12 diploma or its equivalent.

13           (c) An additional \$11 per month also shall be added to the  
14 minimum monthly pay of each service employee for each of the  
15 following:

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

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

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

25           (4) A service employee who holds forty-eight college hours or

1 comparable credit obtained in a trade or vocational school as  
2 approved by the state board;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (f) To meet the objective of salary equity among the counties,  
16 each service employee shall be paid an equity supplement, as set  
17 forth in section five of this article, of \$152 per month, subject  
18 to the provisions of that section. These payments: (i) Shall be in  
19 addition to any amounts prescribed in the applicable State Minimum  
20 Pay Scale Pay Grade, any specific additional amounts prescribed in  
21 this section and article and any county supplement in effect in a  
22 county pursuant to section five-b of this article; (ii) shall be  
23 paid in equal monthly installments; and (iii) shall be considered  
24 a part of the state minimum salaries for service personnel.

25 (g) When any part of a school service employee's daily shift

1 of work is performed between the hours of six o'clock p. m. and  
2 five o'clock a. m. the following day, the employee shall be paid no  
3 less than an additional \$10 per month and one half of the pay shall  
4 be paid with local funds.

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

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

14 (j) No service employee may have his or her daily work  
15 schedule changed during the school year without the employee's  
16 written consent and the employee's required daily work hours may  
17 not be changed to prevent the payment of time and one-half wages or  
18 the employment of another employee.

19 (k) The minimum hourly rate of pay for extra duty assignments  
20 as defined in section eight-b of this article shall be no less than  
21 one seventh of the employee's daily total salary for each hour the  
22 employee is involved in performing the assignment and paid entirely  
23 from local funds: *Provided*, That an alternative minimum hourly  
24 rate of pay for performing extra duty assignments within a  
25 particular category of employment may be used if the alternate

1 hourly rate of pay is approved both by the county board and by the  
2 affirmative vote of a two-thirds majority of the regular full-time  
3 employees within that classification category of employment within  
4 that county: *Provided, however,* That the vote shall be by secret  
5 ballot if requested by a service person within that classification  
6 category within that county. The salary for any fraction of an  
7 hour the employee is involved in performing the assignment shall be  
8 prorated accordingly. When performing extra duty assignments,  
9 employees who are regularly employed on a one-half day salary basis  
10 shall receive the same hourly extra duty assignment pay computed as  
11 though the employee were employed on a full-day salary basis.

12 (1) The minimum pay for any service personnel employees  
13 engaged in the removal of asbestos material or related duties  
14 required for asbestos removal shall be their regular total daily  
15 rate of pay and no less than an additional \$3 per hour or no less  
16 than \$5 per hour for service personnel supervising asbestos removal  
17 responsibilities for each hour these employees are involved in  
18 asbestos-related duties. Related duties required for asbestos  
19 removal include, but are not limited to, travel, preparation of the  
20 work site, removal of asbestos decontamination of the work site,  
21 placing and removal of equipment and removal of structures from the  
22 site. If any member of an asbestos crew is engaged in asbestos  
23 related duties outside of the employee's regular employment county,  
24 the daily rate of pay shall be no less than the minimum amount as  
25 established in the employee's regular employment county for

1 asbestos removal and an additional \$30 per each day the employee is  
2 engaged in asbestos removal and related duties. The additional pay  
3 for asbestos removal and related duties shall be payable entirely  
4 from county funds. Before service personnel employees may be used  
5 in the removal of asbestos material or related duties, they shall  
6 have completed a federal Environmental Protection Act approved  
7 training program and be licensed. The employer shall provide all  
8 necessary protective equipment and maintain all records required by  
9 the Environmental Protection Act.

10 (m) For the purpose of qualifying for additional pay as  
11 provided in section eight, article five of this chapter, an aide  
12 shall be considered to be exercising the authority of a supervisory  
13 aide and control over pupils if the aide is required to supervise,  
14 control, direct, monitor, escort or render service to a child or  
15 children when not under the direct supervision of a certified  
16 professional person within the classroom, library, hallway,  
17 lunchroom, gymnasium, school building, school grounds or wherever  
18 supervision is required. For purposes of this section, "under the  
19 direct supervision of a certified professional person" means that  
20 certified professional person is present, with and accompanying the  
21 aide.

22 **§18A-4-14. Duty-free lunch and daily planning period for certain**  
23 **employees.**

24 (1) Notwithstanding the provisions of section seven, article  
25 two of this chapter, every teacher who is employed for a period of

1 time more than one-half the class periods of the regular school day  
2 and every service ~~personnel~~ person whose employment is for a period  
3 of more than three and one-half hours per day and whose pay is at  
4 least the amount indicated in the state minimum pay scale as set  
5 forth in section eight-a of this article shall be provided a daily  
6 lunch recess of not less than thirty consecutive minutes, and ~~such~~  
7 the employee shall not be assigned any responsibilities during this  
8 recess. ~~Such~~ The recess shall be included in the number of hours  
9 worked, and no county shall increase the number of hours to be  
10 worked by an employee as a result of ~~such~~ the employee being  
11 granted a recess under the provisions of this section.

12 (2) Every teacher who is regularly employed for a period of  
13 time more than one-half the class periods of the regular school day  
14 shall be provided at least one planning period within each school  
15 instructional day to be used to complete necessary preparations for  
16 the instruction of pupils. ~~Such~~ The planning period shall be the  
17 length of the usual class period in the school to which such  
18 teacher is assigned, and shall be not less than thirty minutes. No  
19 teacher ~~shall~~ may be assigned any responsibilities during this  
20 period, and no county shall increase the number of hours to be  
21 worked by a teacher as a result of such teacher being granted a  
22 planning period subsequent to the adoption of this section (March  
23 13, 1982).

24 Principals, and assistant principals, where applicable, shall  
25 cooperate in carrying out the provisions of this subsection,

1 including, but not limited to, assuming control of the class period  
2 or supervision of students during the time the teacher is engaged  
3 in the planning period. Substitute teachers may also be utilized  
4 to assist with classroom responsibilities under this subsection:  
5 *Provided*, That any substitute teacher who is employed to teach a  
6 minimum of two consecutive days in the same position shall be  
7 granted a planning period pursuant to this section.

8 (3) Nothing in this section ~~shall be construed to prevent~~  
9 prevents any teacher from exchanging his or her lunch recess or a  
10 planning period or any service ~~personnel~~ person from exchanging his  
11 or her lunch recess for any compensation or benefit mutually agreed  
12 upon by the employee and the county superintendent ~~of schools~~ or  
13 his or her agent: *Provided*, That a teacher and the superintendent  
14 or his or her agent may not agree to terms which are different from  
15 those available to any other teacher granted rights under this  
16 section within the individual school or to terms which in any way  
17 discriminate among ~~such~~ those teachers within the individual  
18 school, and ~~that service personnel~~ a service person granted rights  
19 under this section and the superintendent or his or her agent may  
20 not agree to terms which are different from those available to any  
21 other service personnel within the same classification category  
22 granted rights under this section within the individual school or  
23 to terms which in any way discriminate among ~~such~~ those service  
24 personnel within the same classification category within the  
25 individual school.

1       (4) The state board shall conduct a study on planning periods.  
2       The study shall include, but not be limited to, the appropriate  
3       length for planning periods at the various grade levels and for the  
4       different types of class schedules. The board shall report its  
5       findings and recommendations to the Legislative Oversight  
6       Commission on Education Accountability no later than December 31,  
7       2013.

8       **ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

9       **§18A-5-2. Holidays; closing of schools; time lost because of such;**  
10       **special Saturday classes.**

11       (a) Schools shall not be kept open closed on any Saturday  
12       Saturdays ~~nor~~ and on the following days which are designated as  
13       legal school holidays: ~~namely:~~ Independence Day, Labor Day,  
14       Veterans Day, Thanksgiving Day, Christmas Day, New Year's Day,  
15       Martin Luther King's birthday, Memorial Day and West Virginia Day.  
16       and Schools also shall be closed on any day on which a primary  
17       election, general election or special election is held throughout  
18       the state or school district and on any day appointed and set apart  
19       by the president or the Governor as a holiday of special observance  
20       by the people of the state.

21       ~~When any such holiday falls within the employment term, it~~  
22       ~~shall be considered as a day of the employment term and the full-~~  
23       ~~time school personnel shall receive his or her pay for same.~~

24       (b) When any of the above designated holidays, except a  
25       special election, falls on Saturday, the schools shall be closed on

1 the preceding Friday. When any ~~such~~ designated holiday falls on  
2 Sunday, the schools shall be closed on the following Monday.

3 (c) Special classes may be conducted on Saturdays ~~provided~~  
4 ~~they are conducted on a voluntary basis,~~ for pupils and by teachers  
5 and service personnel. Saturday classes shall be conducted on a  
6 voluntary basis and ~~that such~~ teachers and service personnel shall  
7 be remunerated in ratio to the regularly contracted pay.

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

12 (1) Under any or all of the above provisions, the time lost by  
13 ~~the closing of schools is~~ school closings may not be counted as  
14 days of employment and may not be counted as meeting a part of the  
15 requirements of the minimum term of one hundred eighty days of  
16 instruction. A school employee's pay per pay period may not change  
17 as a result of a school closing not being counted as a day of  
18 employment, and the employee shall be paid the same amount during  
19 any pay period in which a school closing occurs that the employee  
20 would have been paid during the pay period if a school closing had  
21 not occurred.

22 (2) On ~~such~~ the day or days when a school or schools are  
23 closed, county boards ~~of education~~ may provide appropriate  
24 alternate work schedules for professional and service personnel  
25 affected by the closing of any school or schools under any or all

1 of the ~~above~~ provisions of this subsection. Professional and  
2 service personnel shall receive pay the same as if school were in  
3 session.

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

8 (e) In addition to any other provisions of this chapter, the  
9 board ~~is~~ further is authorized to provide in its annual budget for  
10 meetings, workshops, vacation time or other holidays through  
11 extended employment of personnel at the same rate of pay.

12 **CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.**

13 **ARTICLE 1. FINANCIAL ASSISTANCE GENERALLY.**

14 **§18C-1-2. Definitions.**

15 Definitions for terms used in this chapter have the meanings  
16 ascribed to them in section two, article one, chapter eighteen-b of  
17 this code unless the context clearly indicates a different meaning:

18 (a) "Board" or "governing board" in the singular or plural  
19 means the vice chancellor for administration employed pursuant to  
20 section two, article four, chapter eighteen-b of this code when a  
21 power or duty assigned to a governing board is delegated by it to  
22 the senior administrator. In other instances as used in this  
23 chapter, "board" or "governing board" in the singular or plural  
24 means the Higher Education Policy Commission or the Council for  
25 Community and Technical College Education, as appropriate.

1 (b) "Senior administrator" means the vice chancellor for  
2 administration employed pursuant to section two, article four,  
3 chapter eighteen-b of this code.

4 **ARTICLE 4. UNDERWOOD-SMITH TEACHER SCHOLARSHIP PROGRAM.**

5 **§18C-4-1. Scholarship and loan assistance fund created; purposes;**  
6 **funding.**

7 (a) It is the purpose of this article and article four-a of  
8 this chapter to improve the quality of education in the public  
9 schools of West Virginia by encouraging and enabling individuals  
10 who have demonstrated outstanding academic abilities to pursue  
11 teaching careers at the preschool, elementary, middle or secondary  
12 levels in the public schools of this state. In addition, of those  
13 individuals who have demonstrated outstanding academic abilities to  
14 pursue teaching careers, for scholarships initially awarded for the  
15 fall semester, ~~one thousand nine hundred ninety-eight~~ 2014, and  
16 thereafter, particular efforts ~~will~~ shall be made in the  
17 scholarship selection criteria and procedures to reflect the  
18 state's present and projected ~~teacher needs, including needs~~  
19 ~~statewide and in different geographic areas and for teachers with~~  
20 ~~education and training in specific disciplines~~ subject and  
21 geographic areas of critical need.

22 (b) In consultation with the State Board of Education and the  
23 State Superintendent of Schools the ~~higher education governing~~  
24 ~~boards~~ commission shall ~~in consultation with the State~~  
25 ~~Superintendent of Schools promulgate reasonable~~ propose legislative

1 rules in accordance with the provisions of article three-a, chapter  
2 twenty-nine-a of this code. The rules shall provide for the  
3 administration of the Underwood-Smith Teacher Scholarship and Loan  
4 Assistance program programs by the ~~senior administrator~~ vice  
5 chancellor for administration in furtherance of the purposes of  
6 this article and article four-a of this chapter, including, but not  
7 limited to, ~~scholarship selection criteria and procedures, renewal,~~  
8 ~~compliance, noncompliance and repayment, deferral and excusal.~~ In  
9 accordance with such rules, ~~the senior administrator shall~~  
10 ~~establish appropriate guidelines for program operation~~ the  
11 following:

12 (1) Establishing scholarship selection criteria and  
13 procedures;

14 (2) Establishing criteria and procedures for identifying  
15 subject areas, public schools or geographic areas in critical need  
16 of teachers;

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

20 (4) Determining eligibility for loan assistance renewal;

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

23 (6) Establishing criteria for determining participant  
24 compliance or noncompliance with terms of the agreement and  
25 establishing procedures to address noncompliance including, but not

1 limited to, repayment, deferral and excusal; and

2 (7) Developing model agreements.

3 (c) There is ~~hereby~~ created in the State Treasury a special  
4 revolving fund to be known as the Underwood-Smith Teacher  
5 Scholarship and Loan Assistance Fund to be administered by the  
6 ~~senior administrator~~ vice chancellor for administration solely for  
7 granting scholarships and loan assistance to teachers and  
8 prospective teachers in accordance with this article and article  
9 four-a of this chapter. Any moneys which may be appropriated by  
10 the Legislature, or received by the ~~senior administrator~~ vice  
11 chancellor for administration from other sources, for the purposes  
12 of this article and article four-a of this chapter, shall be  
13 deposited in the fund. Any moneys remaining in the fund at the  
14 close of a fiscal year shall be carried forward for use in the next  
15 fiscal year. Any moneys repaid to the ~~senior administrator~~ vice  
16 chancellor for administration by reason of default of a scholarship  
17 or loan assistance agreement under this article or article four-a  
18 of this chapter also shall ~~also~~ be deposited in the fund. Fund  
19 balances shall be invested with the state's consolidated investment  
20 fund, and any and all interest earnings on these investments shall  
21 be used solely for the purposes for which moneys invested were  
22 appropriated or otherwise received.

23 (d) The ~~senior administrator~~ vice chancellor for  
24 administration may accept and expend any gift, grant, contribution,  
25 bequest, endowment or other money for the purposes of this article

1 and article four-a of this chapter and shall make a reasonable  
2 effort to encourage external support for the scholarship and loan  
3 assistance programs.

4 (e) For the purpose of encouraging support for the scholarship  
5 and loan assistance program programs from private sources, the  
6 ~~senior administrator~~ vice chancellor for administration may set  
7 aside no more than half of the funds appropriated by the  
8 Legislature for Underwood-Smith Teacher Scholarships and Loan  
9 Assistance Awards to be used to match two state dollars to each  
10 private dollar from a nonstate source contributed on behalf of a  
11 specific institution of higher education in this state.

12 **§18C-4-2. Selection criteria and procedures for awarding**  
13 **scholarships.**

14 (a) The Governor shall designate ~~an existing scholarship~~  
15 ~~selection agency or panel~~ the Higher Education Student Financial  
16 Aid Advisory Board created by section five, article one of this  
17 chapter to select the recipients of Underwood-Smith teacher  
18 scholarships who meet the eligibility criteria set forth in  
19 subsection (b) of this section. ~~If no such agency or panel exists,~~  
20 ~~the Governor shall appoint a scholarship selection panel for this~~  
21 ~~purpose which shall consist of seven persons representative of~~  
22 ~~public school administrators, teachers, including preschool~~  
23 ~~teachers, and parents.~~

24 (b) Eligibility for an Underwood-Smith Teacher Scholarship  
25 award shall be limited to ~~West Virginia resident~~ students who meet

1 the following criteria:

2 (1) Have graduated or are graduating from a West Virginia high  
3 school and rank in the top ten percent of their graduating class or  
4 the top ten percent statewide of those West Virginia students  
5 taking the ~~American college~~ ACT test;

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

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

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

19 (c) In accordance with the rules of the commission, the vice  
20 chancellor for administration shall develop criteria and procedures  
21 for the selection of scholarship recipients. ~~that~~ The selection  
22 criteria shall reflect the purposes of this article and shall  
23 specify the areas in which particular efforts will be made in the  
24 selection of scholars as set forth in section one of this article.  
25 ~~and which~~ Selection procedures and criteria also may include, but

1 ~~are not be~~ limited to, the grade point average of the applicant,  
2 involvement in extracurricular activities, financial need, current  
3 academic standing and an expression of interest in teaching as  
4 ~~expressed in~~ demonstrated by an essay written by the applicant.

5 ~~Such~~ These criteria and procedures further may require the  
6 applicant to furnish letters of recommendation from teachers and  
7 others.

8 It is the intent of the Legislature that academic abilities be  
9 the primary criteria for selecting scholarship recipients.  
10 ~~Provided, That~~ However, the qualified applicants with the highest  
11 academic abilities who intend to pursue teaching careers in areas  
12 of critical need and shortage ~~as determined by the State Board of~~  
13 ~~Education~~ pursuant to section one of this article shall be given  
14 priority.

15 (d) In developing the selection criteria and procedures to be  
16 used by the ~~panel~~ Higher Education Student Financial Aid Advisory  
17 Board, the vice chancellor for administration shall solicit the  
18 views of public and private education agencies and institutions and  
19 other interested parties. ~~These views:~~ (1) Input from interested  
20 parties shall be solicited by means of written and published  
21 selection criteria and procedures in final form for implementation  
22 and (2) may be solicited by means of public hearings on the present  
23 and projected teacher needs of the state or any other methods the  
24 vice chancellor for administration may determine to be appropriate  
25 to gather the information.

1 (e) The vice chancellor for administration shall make  
2 application forms for Underwood-Smith Teacher Scholarships  
3 available to public and private high schools in the state and in  
4 other locations convenient to applicants, parents and others, and  
5 shall make an effort to attract students from low-income  
6 backgrounds, ethnic or racial minority students, students with  
7 disabilities, and women or minority students who show interest in  
8 pursuing teaching careers in mathematics and science and who are  
9 underrepresented in those fields.

10 **§18C-4-3. Scholarship agreement.**

11 (a) Each recipient of an Underwood-Smith teacher scholarship  
12 shall enter into an agreement with the ~~senior administrator~~ vice  
13 chancellor for administration under which the recipient shall meet  
14 the following conditions:

15 (1) Provide the ~~board~~ commission with evidence of compliance  
16 with subsection (a), section four of this article;

17 (2) Within a ten-year period after completing the teacher  
18 education for which the scholarship was awarded:

19 (A) Teach full time under contract with a county board of  
20 education in a public education program in the state for a period  
21 of not ~~less~~ fewer than two years for each year for which a  
22 scholarship was received; or

23 (B) Teach full time under contract for not less than one year  
24 for each year for which a scholarship was received with a county  
25 board of education in this state in a teacher shortage area ~~as~~

1 ~~determined by the state Board of Education pursuant to section one~~  
2 ~~of this article,~~ in an exceptional children program in this state,  
3 in a school having less than average academic results or in a  
4 school in an economically disadvantaged area of this state ~~for not~~  
5 ~~less than one year for each year for which a scholarship was~~  
6 ~~received; or~~

7 ~~(B)~~ (C) Within ~~such~~ the ten-year period, while seeking and  
8 unable to secure a full-time teaching position under contract with  
9 a county board of education which satisfies the conditions of  
10 paragraph (A) of this subdivision:

11 (i) Teach full-time in a private school, parochial or other  
12 school approved ~~under exemption (A) or (K)~~ for the instruction of  
13 students of compulsory school age pursuant to section one, article  
14 eight, chapter eighteen of this code; or

15 (ii) Teach in a an institution of higher educational  
16 institution education in this state as defined in section two,  
17 article one, chapter eighteen-b of this code or in a post-secondary  
18 vocational education program in this state as defined in section  
19 two, article one, chapter eighteen-b of this code for a period of  
20 not ~~less~~ fewer than two years for each year for which a scholarship  
21 was received; or

22 ~~(ii)~~ (iii) Perform alternative service or employment in this  
23 state pursuant to ~~guidelines adopted in accordance with the rules~~  
24 ~~of the governing boards promulgated by the commission,~~ in federal,  
25 state, county or local supported programs with an educational

1 component, including mental or physical health care, or with bona  
2 fide tax exempt charitable organizations dedicated to the above,  
3 for a period of not ~~less~~ fewer than two years for each year for  
4 which a scholarship was received.

5 Any teaching time accrued as a substitute teacher for a county  
6 board of education under paragraph (A) or (B) of this subdivision  
7 shall be credited pro rata in accordance with ~~rules of the~~  
8 ~~governing boards~~ rules promulgated by the commission; or

9 (3) Repay all or part of an Underwood-Smith teacher  
10 scholarship received under this article plus interest and, if  
11 applicable, reasonable collection fees in accordance with  
12 subsection ~~(b)~~ (c), section four of this article, except as  
13 provided in ~~subsections (c) and~~ subsection (d) of ~~said~~ section four  
14 of this article.

15 (b) Scholarship agreements shall ~~fully~~ disclose fully the  
16 terms and conditions under which assistance under this article is  
17 provided and under which repayment may be required. ~~including~~ The  
18 agreements shall include the following:

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

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

23 (c) Individuals who were awarded an Underwood-Smith teacher  
24 scholarship prior to the effective date of this section may apply  
25 the provisions of paragraph (A), ~~or~~ (B) or (C), subdivision (2),

1 subsection (a) of this section to teaching or other service  
2 performed by them after July 1, 1997.

3 **§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.**

4 (a) The recipient of an Underwood-Smith Teacher Scholarship is  
5 eligible for scholarship renewal only during ~~such~~ those periods  
6 ~~that~~ when the recipient ~~is~~ meets the following conditions:

7 (1) Is enrolled as a full-time student in an accredited  
8 institution of higher education in this state;

9 (2) Is pursuing a course of study leading to teacher  
10 certification at the preschool, elementary, middle or secondary  
11 level in this state;

12 (3) Is maintaining satisfactory progress as determined by the  
13 institution of higher education the recipient is attending; and

14 (4) Is complying with such other standards as the ~~boards~~  
15 commission may establish by rule.

16 (b) Recipients found to be in noncompliance with the agreement  
17 entered into under section three of this article shall be required  
18 to repay the amount of the scholarship awards received, plus  
19 interest, and, where applicable, reasonable collection fees, on a  
20 schedule and at a rate of interest prescribed in the program  
21 guidelines. ~~Such~~ Guidelines also shall ~~also~~ provide for proration  
22 of the amount to be repaid by a recipient who teaches for part of  
23 the period required under subsection (a), section three of this  
24 article and for appeal procedures under which a recipient may  
25 appeal any determination of noncompliance.

1 (c) A recipient ~~shall~~ is not ~~be considered~~ in violation of the  
2 agreement entered into under section three of this article during  
3 any period in which the recipient is meeting any of the following  
4 conditions:

5 (1) Pursuing a full-time course of study at an accredited  
6 institution of higher education;

7 (2) Serving, not in excess of four years, as a member of the  
8 armed services of the United States;

9 (3) Seeking and unable to find full-time employment in  
10 accordance with paragraph (A), subdivision (2), subsection (a),  
11 section three of this article and is fulfilling any of the  
12 alternatives specified in paragraph (B) or (C) of ~~said~~ that  
13 subdivision; ~~or~~

14 (4) Satisfying the provisions of additional repayment  
15 exemptions that may be prescribed by the ~~boards~~ commission by rule;  
16 or

17 (5) Failing to comply with the terms of the agreement due to  
18 death or permanent or temporary disability as established by sworn  
19 affidavit of a qualified physician.

20 ~~(d) A recipient shall be excused from repayment of a teacher~~  
21 ~~scholarship received under this article if the recipient dies or~~  
22 ~~becomes permanently and totally disabled as established by sworn~~  
23 ~~affidavit of a qualified physician.~~

24 ~~(e)~~ (d) The rules adopted by the ~~governing boards~~ commission  
25 may provide guidelines under which the ~~senior administrator~~ vice

1 chancellor for administration may ~~if extenuating circumstances~~  
2 ~~exist,~~ extend the period for fulfilling the obligation to fifteen  
3 years, if extenuating circumstances exist.

4 **ARTICLE 4A. UNDERWOOD-SMITH TEACHER LOAN ASSISTANCE PROGRAM.**

5 **§18C-4A-1. Selection criteria and procedures for loan assistance.**

6 (a) The Governor shall designate the Higher Education Student  
7 Financial Aid Advisory Board created by section five, article one  
8 of this chapter to select recipients to receive Underwood-Smith  
9 Teacher Loan Assistance Awards.

10 (b) The advisory board shall make decisions regarding loan  
11 assistance pursuant to section one, article four of this chapter  
12 and the following criteria:

13 (A) Eligibility for an award is limited to a teacher who has  
14 earned a teaching degree and is certified to teach a subject area  
15 of critical need in the public schools of West Virginia. A  
16 certified teacher in a subject area of critical need who is  
17 enrolled in an advanced in-field degree course or who has earned an  
18 advanced in-field degree may apply for an award to be paid toward  
19 current education loans;

20 (B) To be eligible for a loan award, a teacher shall agree to  
21 teach, or shall currently be teaching, a subject area of critical  
22 need in a state school or geographic area of the state identified  
23 as an area of critical need pursuant to section one, article four  
24 of this chapter.

25 (c) In accordance with the rule promulgated pursuant to

1 section one, article four of this chapter, the vice chancellor for  
2 administration shall develop criteria and procedures for the  
3 administration of the loan program.

4 (d) The vice chancellor for administration shall make  
5 available program application forms to public and private schools  
6 in the state via the commission and the State Department of  
7 Education's websites and in other locations convenient to potential  
8 applicants.

9 **§18C-4A-2. Loan assistance agreement.**

10 (a) Before receiving an award, each eligible teacher shall  
11 enter into an agreement with the vice chancellor for administration  
12 and shall meet the following criteria:

13 (1) Provide the commission with evidence of compliance with  
14 subsection (b), section four, article four of this chapter;

15 (2) Teach in a subject area or geographic area of critical  
16 need full time under contract with a county board for a period of  
17 two school years for each year for which loan assistance is  
18 received pursuant to this article. The vice chancellor for  
19 administration may grant a partial award to an eligible recipient  
20 whose contract term is for less than a full school year pursuant to  
21 criteria established by commission rule.

22 (3) Acknowledge that an award is to be paid to the recipient's  
23 educational loan institution, not directly to the recipient, only  
24 after the commission determines that the recipient has complied  
25 with all terms of the agreement; and

1           (4) Repay all or part of an award received pursuant to this  
2 article if the award is not paid to the educational loan  
3 institution or if the recipient does not comply with the other  
4 terms of the agreement.

5           (b) Each loan agreement shall disclose fully the terms and  
6 conditions under which an award may be granted pursuant to this  
7 article and under which repayment may be required. The agreement  
8 also is subject to and shall include the terms and conditions  
9 established by section five, article four of this chapter.

10 **§18C-4A-3. Amount and duration of loan assistance; limits.**

11           (a) Each award recipient is eligible to receive loan  
12 assistance of up to \$2,000 annually subject to limits set forth in  
13 subsection (b) of this section:

14           (1) If the recipient has taught math or science for a full  
15 school year under contract with a county board in a school or  
16 geographic area of critical need; and

17           (2) If the recipient otherwise has complied with the terms of  
18 the agreement and with applicable provisions of this article and  
19 article four of this chapter, and any rules promulgated pursuant  
20 thereto.

21           (b) The recipient is eligible for renewal of loan assistance  
22 only during the periods when the recipient is under contract with  
23 a county board to teach in a subject area of critical need in a  
24 school or geographic area of critical need, and complies with other  
25 criteria and conditions established by rule, except that a teacher

1 who is teaching under a contract in a position that no longer meets  
2 the definition of critical need under rules established in  
3 accordance with section one, article four of this chapter is  
4 eligible for renewal of loan assistance until the teacher leaves  
5 his or her current position.

6 (c) No recipient may receive loan assistance pursuant to this  
7 article which accumulates in excess of \$15,000.