

H. B. 2725

(By Mr. Speaker, (Mr. Thompson) and Delegate Armstead)
[By Request of the Executive]
[Introduced February 25, 2013; referred to the
Committee on Education then Finance.]

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

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7 removing outdated language; requiring the State Board of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

1 tests for determining whether a student is eligible for a
2 remedial course; requiring accountability for increasing the
3 percentage of students who meet the standards and for
4 increasing the percentage of students who are making adequate
5 progress toward meeting the standards; deleting requirement
6 that a school or school system that achieves adequate yearly
7 progress is eligible for no less than full accreditation or
8 approval status as applicable; eliminating obsolete Process
9 for Improving Education Council; establishing new criteria for
10 state accreditation of public schools; removing obsolete
11 language; allowing for college and career readiness standards
12 to be included in student assessment measures; removing
13 language that restricts writing assessments to certain grade
14 levels; removing language that restricts appropriate measures
15 of student performance to be used in an assessment of a
16 school; requiring the board to promulgate a new rule for a
17 revised set of annual measures for the accountability and
18 accreditation system to meet the needs of a federal waiver
19 from No Child Left Behind; removing prescriptive language
20 preventing the accreditation system to adequately measure
21 student performance; requiring the state board to promulgate
22 a new rule for state accreditation of schools and school
23 systems; mandating a report due to Governor and Legislative
24 Oversight Committee on Education Accountability on or before

1 December 1, 2013; requiring annual reports; setting forth
2 potential measures for the accreditation system; 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; manner in which coordination, development and
8 evaluation of professional development programs by the state
9 board shall be done; establishing a rule that shall include
10 measurable standards; requiring state board approval of plans
11 from Department of Education, the Center for Professional
12 Development, state institutions of higher education and
13 regional education service agencies; annual report of
14 professional development; requirements for state
15 superintendent of schools; increasing the number of schools to
16 be included in a special community development pilot program;
17 allowing the pilot program to consult the center for
18 professional development for professional development
19 resources; requiring kindergarten and early childhood aides to
20 be licensed; exempting those eligible for retirement before
21 July 1, 2016; requiring early childhood programs to be offered
22 five days a week for the full day; providing for local control
23 of the school calendar; defining terms and establishing
24 findings about a schools calendar; two hundred day employment

1 term for teachers; one hundred eighty separate days of actual
2 instruction are to be provided by students; county policy for
3 adding minutes or days to school calendar for time lost to the
4 instructional term; one hundred eighty days must be within a
5 three hundred sixty-five day calendar set by the county board;
6 limiting noninstructional interruptions to instructional day;
7 requiring state board or state superintendent approval of
8 proposed county calendar; public meetings for discussions of
9 a school system's calendar; waiver from code sections that
10 prevent a school system from meeting one hundred eighty
11 instructional days; board rule to implement the calendar
12 section provisions; faculty senate procedure for making
13 employment recommendations; removing language about faculty
14 senates on instructional support and enhancement days;
15 assignment of teachers when a vacancy was not foreseen before
16 March 1 based on pupil-teacher ratio; allowing participants in
17 Teach for America to become classroom teachers; creating a
18 critical need alternative teacher certificate; two year
19 certificate and a one year renewal of the critical need
20 alternative teacher certificate; minimum requirements to
21 received a critical need alternative teacher certificate;
22 creating a professional support team for these new teachers;
23 recommendation for certification of teachers on the critical
24 need alternative teaching certificate by support team and

1 state superintendent; amending requirements for professional
2 teaching certificates through alternative certifications;
3 further defining critical need alternative teaching
4 certificates; removing language that limits the number of
5 board certified teachers that can receive reimbursement per
6 year; clarifying that teachers can receive reimbursement for
7 re-certification; adding seniority to the list of factors to
8 be considered for hiring of filling vacancies in professional
9 positions of employment; eliminating restrictive hiring
10 language for classroom teaching positions; allowing county
11 boards to give consideration to recommendations made by the
12 principal and the faculty senate; allowing released employees
13 to be hired for specific vacancies prior to the job being
14 posted; limiting bumping to within a school; allow for
15 multiple postings within a thirty day period; removing
16 language that limits internal school bumping to elementary
17 school; re-assigning a teacher within their school upon
18 consent of teacher and county board; eliminating the
19 forty-three week restriction of service personnel contracts;
20 defining the three different types of early childhood
21 classroom assistant teacher certificates; clarifying the
22 length of a teachers duty free planning period; duties of
23 other school employees and substitute teachers during a
24 teacher's planning period; clarifying that not all holidays

1 will be counted toward as a day of the employment term; snow
2 days not counted as days of employment or days of instruction;
3 calculation of pay for professional and service personnel on
4 snow days; loan assistance for teachers in critical need
5 areas; awarding loan assistance; determining eligibility for
6 loan assistance; criteria for teacher compliance with terms of
7 loan assistance agreement; payments made directly to a lending
8 entity; model contract agreements for loan assistance; amount,
9 limits and duration of loan assistance; and repayment if loan
10 assistance conditions are not met by applicant.

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

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

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

10 **CHAPTER 18. EDUCATION.**

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

12 **§18-2-24. Collaboration of state institutions of higher education**
13 **having a teacher preparation program with the Center**
14 **for Professional Development, state board and the**
15 **regional education service agencies.**

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

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

1 (c) The Legislature finds that:

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

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

8 (3) Creating a structure and assigning responsibility would
9 promote more effective collaboration;

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

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

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

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

1 provide points of accountability for the collaboration efforts of
2 the other institutions; and

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

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

12 (1) Including the teacher preparation institutions in the
13 proposed professional staff development program ~~plan~~ goals required
14 to be submitted to the state Board by section twenty-three-a of
15 this article;

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

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

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

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

4 (1) Prevent unnecessary duplication of services;

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

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

10 (f) Since no teacher preparation institution exists in the
11 service area of Regional Education Service Agency IV, Marshall
12 University shall collaborate with that agency for the purposes set
13 forth in subdivision (e) of this section.

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

18 (1) Coordinate the collaboration of each of the other teacher
19 preparation institutions in their designated coordination area with
20 the appropriate regional education service agency. This
21 coordination at least includes ensuring that each of the other
22 institutions are collaborating with the appropriate regional
23 education service agency; and

24 (2) Collaborate with each of the other teacher preparation

1 institutions in their designated coordination area. This
2 collaboration at least includes providing assistance to the other
3 institutions in providing professional development and in their
4 collaboration with the appropriate regional education service
5 agency.

6 (h) The designated coordination area of West Virginia
7 University includes the service areas of Regional Education Service
8 Agencies V, VI, VII and VIII. The designated coordination area of
9 Marshall University includes the service areas of Regional
10 Education Service Agencies I, II, III and IV.

11 (i) The state board shall ensure that each of the regional
12 education service agencies is collaborating with the teacher
13 preparation institution or institutions in its service area for the
14 purposes set forth in subsection (e) of this section. Since
15 Regional Education Service Agency IV does not have a teacher
16 preparation institution in its service area, the state board shall
17 ensure that it is collaborating with Marshall University for the
18 purposes set forth in subsection (e) of this section.

19 (j) Before a regional education service agency, except for
20 Regional Education Service Agency IV, obtains professional
21 development related services or expertise from any teacher
22 preparation institution outside of that agency's service area, the
23 agency shall inform the ~~Center for Professional Development Board~~
24 state board. Before Regional Education Service Agency IV obtains

1 professional development related services or expertise from any
2 teacher preparation institution other than Marshall University, the
3 agency shall inform the ~~Center Board~~ state board.

4 (k) The collaboration and coordination requirements of this
5 section include collaborating and coordinating to provide
6 professional development for at least teachers, principals and
7 paraprofessionals.

8 **§18-2-39. College and career readiness initiative.**

9 (a) The Legislature finds that:

10 (1) According to ACT, only twenty-five percent of ACT-tested
11 high school graduates in the nation met college readiness
12 benchmarks in English, reading, mathematics and science and only
13 seventeen percent in West Virginia met the benchmarks in all four
14 subjects;

15 (2) The postsecondary remediation rates of students entering
16 postsecondary institutions directly out of high school indicate
17 that a large percentage of students are not being adequately
18 prepared at the elementary and secondary levels;

19 (3) This high level of postsecondary remediation is causing
20 both students and the state to expend extra resources that would
21 not have to be expended if the students were adequately prepared at
22 the elementary and secondary levels;

23 (4) A strong foundation in English/language arts and math
24 provides a basis for learning in all other subject areas and for

1 on-the-job training; and

2 (5) A comparison of the percentages of students considered
3 proficient in eighth grade reading and math by the state assessment
4 and the National Assessment of Educational Progress indicate that
5 the state assessment currently does not accurately reflect national
6 standards.

7 (b) Before the 2014-2015 school year, the state board, the
8 Higher Education Policy Commission and the Council for Community
9 and Technical College Education shall collaborate in formally
10 adopting uniform and specific college and career readiness
11 standards for English/language arts and math. The standards shall
12 be clearly linked to state content standards and based on skills
13 and competencies rather than high school course titles. The
14 standards shall allow for a determination of whether a student
15 needs to enroll in a postsecondary remedial course. The state
16 board shall develop a plan for gradually bringing the standards for
17 a high school diploma and college and career readiness into
18 uniformity, and report this plan to the Legislative Oversight
19 Commission on Education Accountability not later than December 31,
20 2013.

21 (c) The results on the comprehensive statewide student
22 assessment program in grade eleven in English/language arts and
23 mathematics shall be used to determine whether a student has met
24 the college and career readiness standards adopted pursuant to

1 subsection (b) of this section. Beginning with the 2015-2016
2 school year, instead of using the comprehensive statewide student
3 assessment program, the state board may develop and implement
4 end-of-course exams in English/language arts and math courses it
5 determines appropriate. These exams are designed for determining
6 whether a student has met the college and career readiness
7 standards. In order to allow for the enrollment in transitional
8 courses in the twelfth grade if necessary pursuant to subsection
9 (e) of this section, the courses, assessments and exams, as
10 applicable, shall be administered before the twelfth grade.

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

19 (e) The state board shall develop a twelfth-grade transitional
20 course for both English/language arts and math for those students
21 who are not on track to be college ready based on the assessment or
22 exam, as applicable, required pursuant to subsection (c) of this
23 section. The transitional courses shall be aligned with the
24 standards adopted pursuant to subsection (b) of this section.

1 (f) For all West Virginia public high school graduates who
2 graduate during or after the 2016-2017 school year, all state
3 institutions of higher education may use no factor other than the
4 assessment, exam or test, as applicable, required pursuant to
5 subsections (c) of this section to determine whether a student is
6 to enroll in a remedial course or is to be placed in a
7 college-level introductory course. Nothing in this subsection
8 prohibits an institution from administering a diagnostic test to
9 determine specific areas of weakness so that the specific
10 weaknesses can be remediated rather than requiring a student to
11 take an entire remedial course.

12 (g) The state board shall:

13 (1) Hold high schools and districts accountable for increasing
14 the percentages of students who meet the college and career
15 readiness standards as indicated by the assessments, exams or
16 tests, as applicable, required pursuant to subsections (c) and (e)
17 of this section. This accountability shall be achieved through the
18 school and school system accreditation provisions set forth in
19 section five, article two-e of this chapter;

20 (2) Align the comprehensive statewide student assessment for
21 all grade levels in which the test is given with the college and
22 career readiness standards adopted pursuant to subsection (b) of
23 this section or develop other aligned tests at each grade level so
24 that progress toward college and career readiness in

1 English/language arts and math can be measured; and

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

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

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

12 **§18-2E-5. Process for improving education; education standards;**
13 **statewide assessment program; accountability**
14 **measures; Office of Education Performance Audits;**
15 **school accreditation and school system approval;**
16 **intervention to correct low performance.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 -- The state board shall promulgate a rule consistent with the
8 provisions of this section and in accordance with article three-b,
9 chapter twenty-nine-a of this code establishing an electronic
10 county strategic improvement plan for each county board and an
11 electronic school strategic improvement plan for each public school
12 in this state. Each respective plan shall be a five-year plan that
13 includes the mission and goals of the school or school system to
14 improve student, school or school system performance and progress,
15 as applicable. The strategic plan shall be revised annually in
16 each area in which the school or system is below the standard on
17 the annual performance measures. ~~The revised annual plan also~~
18 ~~shall identify any deficiency which is reported on the check lists~~
19 ~~identified in paragraph (G), subdivision (5), subsection (1) of~~
20 ~~this section including any deficit more than a casual deficit by~~
21 ~~the county board.~~ The plan shall be revised when required pursuant
22 to this section to include each annual performance measure upon
23 which the school or school system fails to meet the standard for
24 performance and progress, the action to be taken to meet each

1 measure, a separate time line and a date certain for meeting each
2 measure, a cost estimate and, when applicable, the assistance to be
3 provided by the department and other education agencies to improve
4 student, school or school system performance and progress to meet
5 the annual performance measure.

6 The department shall make available to all public schools
7 through its website or the West Virginia Education Information
8 System an electronic school strategic improvement plan boilerplate
9 designed for use by all schools to develop an electronic school
10 strategic improvement plan which incorporates all required aspects
11 and satisfies all improvement plan requirements of the No Child
12 Left Behind Act.

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

- 19 (1) Curriculum;
- 20 (2) Workplace readiness skills;
- 21 (3) Finance;
- 22 (4) Transportation;
- 23 (5) Special education;
- 24 (6) Facilities;

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

10 ~~The standards, as applicable, shall incorporate the state's~~
11 ~~21st Century Skills Initiative and shall assure that graduates are~~
12 ~~prepared for continuing post-secondary education, training and work~~
13 ~~and that schools and school systems are making progress toward~~
14 ~~achieving the education goals of the state.~~

15 (d) *Comprehensive statewide student assessment program.* -- The
16 state board shall promulgate a rule in accordance with the
17 provisions of article three-b, chapter twenty-nine-a of this code
18 establishing a comprehensive statewide student assessment program
19 to assess student performance and progress in grades three through
20 twelve. Prior to the 2014-2015 school year, the state board shall
21 align the comprehensive statewide student assessment for all grade
22 levels in which the test is given with the college readiness
23 standards adopted pursuant to section thirty-nine, article two of
24 this chapter or develop other aligned tests to be required at each

1 grade level so that progress toward college readiness in
2 English/language arts and math can be measured. The state board
3 may require that student proficiencies be measured through the ACT
4 EXPLORE and the ACT PLAN assessments or other comparable
5 assessments, which are approved by the state board and provided by
6 future vendors. The state board may require that student
7 proficiencies be measured through the West Virginia writing
8 assessment at any ~~of the~~ grade levels ~~four, seven and ten~~
9 determined by the state board to be appropriate. ~~Provided, That,~~
10 ~~effective July 1, 2008, the state board may require that student~~
11 ~~proficiencies be measured through the West Virginia writing~~
12 ~~assessment at any of the grade levels four, seven and eleven~~
13 ~~determined by the state board to be appropriate.~~ The state board
14 may provide through the statewide assessment program other optional
15 testing or assessment instruments applicable to grade levels
16 kindergarten through grade twelve which may be used by each school
17 to promote student achievement. ~~upon approval by the school~~
18 ~~curriculum team or the process for teacher collaboration to improve~~
19 ~~instruction and learning established by the faculty senate as~~
20 ~~provided in section six, article five a of this chapter~~ The state
21 board annually shall ~~annually~~ publish and make available,
22 electronically or otherwise, to school curriculum teams and teacher
23 collaborative processes the optional testing and assessment
24 instruments. ~~The failure of a school to use any optional testing~~

~~1 and assessment may not be cited as a deficiency in any
2 accreditation review of the school; nor may the exercise of its
3 discretion, as provided in section six, article five-a of this
4 chapter, in using the assessments and implementing the
5 instructional strategies and programs that it determines best to
6 promote student achievement at the school be cited as a deficiency
7 in any accreditation review of the school or in the personnel
8 evaluation of the principal. The use of assessment results are
9 subject to the following:~~

~~10 (1) The assessment results for grade levels three through
11 eight and eleven are the only assessment results which may be used
12 for determining whether any school or school system has made
13 adequate yearly progress (AYP);~~

~~14 (2) Only the assessment results in the subject areas of
15 reading/language arts and mathematics may be used for determining
16 whether a school or school system has made adequate yearly progress
17 (AYP);~~

~~18 (3) The results of the West Virginia writing assessment, the
19 ACT EXPLORE assessments and the ACT PLAN assessments may not be
20 used for determining whether a school or school system has made
21 adequate yearly progress (AYP);~~

~~22 (4) The results of testing or assessment instruments provided
23 by the state board for optional use by schools and school systems
24 to promote student achievement may not be used for determining~~

1 ~~whether a school or school system has made adequate yearly progress~~
2 ~~(AYP); and~~

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

6 (e) *Annual performance measures for Public Law 107-110, the*
7 *Elementary and Secondary Education Act of 1965, as amended (No*
8 *Child Left Behind Act of 2001)*. -- The state board shall promulgate
9 a rule in accordance with the provisions of article three-b,
10 chapter twenty-nine-a of this code establishing the annual measures
11 of student, school and school system performance in accordance with
12 the state's revised accountability and accreditation system. The
13 standards shall include annual measures of student, school and
14 school system performance and progress for the grade levels and the
15 content areas defined by the act. The following annual measures of
16 student, school and school system performance and progress ~~shall be~~
17 ~~the only measures~~ for determining whether adequately yearly
18 progress under the No Child Left Behind Act has been achieved,
19 shall include, but are not limited to the following:

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

1 (2) The student participation rate in the uniform statewide
2 assessment ~~must~~ shall be at least ninety-five percent or the
3 average of the participation rate for the current and the preceding
4 two years 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~~ may be no less than ninety
7 percent in attendance for the school, county and state. The
8 following 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~~ may 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) *State annual performance measures for school and school*

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

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

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

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

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

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

24 ~~(5) Percentage of students scoring at benchmarks on the~~

1 ~~currently tested ACT EXPLORE and ACT PLAN assessments or other~~
2 ~~comparable assessments, which are approved by the state board and~~
3 ~~provided by future vendors;~~

4 ~~(6) Graduation rates;~~

5 ~~(7) Job placement rates for vocational programs;~~

6 ~~(8) Percent of students passing end-of-course career/technical~~
7 ~~tests;~~

8 ~~(9) Percent of students not requiring college remediation~~
9 ~~classes; and~~

10 ~~(10) Bonus points or credits for subgroup improvement,~~
11 ~~advanced placement percentages, dual credit completers and~~
12 ~~international baccalaureate completers.~~

13 The state board shall promulgate a rule in accordance with the
14 provisions of article three-b, chapter twenty-nine-a of this code
15 that establishes a system to assess and weigh annual performance
16 measures for state accreditation of schools and school systems. The
17 state board shall also establish performance incentives for schools
18 and school systems as part of the state accreditation system. On or
19 before December 1, 2013, the board shall report to the Governor and
20 to the Legislative Oversight Commission on Education Accountability
21 the proposed rule for establishing the measures and incentives of
22 accreditation. Thereafter, the board shall provide an annual report
23 to the Governor and to the Legislative Oversight Commission on
24 Education Accountability on the impact and effectiveness of the

1 accreditation system. The rule for school and school system
2 accreditation proposed by the board may include, but not be limited
3 to the following measures:

4 (1) Percentage of students proficient in English and language
5 arts, math, science and other subjects determined by the board;

6 (2) Graduation or attendance rate;

7 (3) Students taking and passing AP tests;

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

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

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

14 (g) *Indicators of exemplary performance and progress.* -- The
15 standards shall include indicators of exemplary student, school and
16 school system performance and progress. The indicators of
17 exemplary student, school and school system performance and
18 progress ~~shall~~ may be used only as indicators for determining
19 whether accredited and approved schools and school systems should
20 be granted exemplary status. These indicators shall include, but
21 are not limited to, the following:

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

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

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

7 (h) *Indicators of efficiency.* -- In accordance with the
8 provisions of article three-b, chapter twenty-nine-a of this code,
9 the state board shall adopt by rule and periodically review and
10 update indicators of efficiency for use by the appropriate
11 divisions within the department to ensure efficient management and
12 use of resources in the public schools in the following areas:

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

15 (2) Transportation;

16 (3) Facilities;

17 (4) Administrative practices;

18 (5) Personnel;

19 (6) Use of regional educational service agency programs and
20 services, including programs and services that may be established
21 by their assigned regional educational service agency or other
22 regional services that may be initiated between and among
23 participating county boards; and

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

1 (i) *Assessment and accountability of school and school system*
2 *performance and processes.* -- In accordance with the provisions of
3 article three-b, chapter twenty-nine-a of this code, the state
4 board shall establish by rule a system of education performance
5 audits which measures the quality of education and the preparation
6 of students based on the annual measures of student, school and
7 school system performance and progress. The system of education
8 performance audits shall provide information to the state board,
9 the Legislature and the Governor, ~~individually and collectively as~~
10 ~~the Process for Improving Education Council,~~ upon which they may
11 determine whether a thorough and efficient system of schools is
12 being provided. The system of education performance audits shall
13 include:

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

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

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

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

1 (j) *Uses of school and school system assessment information.*
2 -- The state board ~~and the Process for Improving Education Council~~
3 ~~established pursuant to section five c of this article~~ shall use
4 information from the system of education performance audits to
5 assist ~~them~~ it in ensuring that a thorough and efficient system of
6 schools is being provided and to improve student, school and school
7 system performance and progress. Information from the system of
8 education performance audits further shall be used by the state
9 board for these purposes, including, but not limited to, the
10 following:

11 (1) Determining school accreditation and school system
12 approval status;

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

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

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

22 (k) *Early detection and intervention programs.* -- Based on the
23 assessment of student, school and school system performance and
24 progress, the state board shall establish early detection and

1 intervention programs using the available resources of the
2 Department of Education, the regional educational service agencies,
3 the Center for Professional Development and the Principals Academy,
4 as appropriate, to assist underachieving schools and school systems
5 to improve performance before conditions become so grave as to
6 warrant more substantive state intervention. Assistance shall
7 include, but is not limited to, providing additional technical
8 assistance and programmatic, professional staff development,
9 providing monetary, staffing and other resources where appropriate.
10 ~~and, if necessary, making appropriate recommendations to the~~
11 ~~Process for Improving Education Council~~

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

13 (1) To assist the state board ~~and the Process for Improving~~
14 ~~Education Council~~ in the operation of a system of education
15 performance audits, the state board shall establish an Office of
16 Education Performance Audits consistent with the provisions of this
17 section. The Office of Education Performance Audits shall be
18 operated under the direction of the state board independently of
19 the functions and supervision of the State Department of Education
20 and state superintendent. The Office of Education Performance
21 Audits shall report directly to and be responsible to the state
22 board ~~and the Process for Improving Education Council created in~~
23 ~~section five-c of this article~~ in carrying out its duties under the
24 provisions of this section.

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

6 (3) The state board shall organize and sufficiently staff the
7 office to fulfill the duties assigned to it by law and by the state
8 board. Employees of the State Department of Education who are
9 transferred to the Office of Education Performance Audits shall
10 retain their benefits and seniority status with the Department of
11 Education.

12 (4) Under the direction of the state board, the Office of
13 Education Performance Audits shall receive from the West Virginia
14 education information system staff research and analysis data on
15 the performance and progress of students, schools and school
16 systems, and shall receive assistance, as determined by the state
17 board, from staff at the State Department of Education, the
18 regional education service agencies, the Center for Professional
19 Development, the Principals Academy and the School Building
20 Authority to carry out the duties assigned to the office.

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

24 (A) Assure that all statewide assessments of student

1 performance used as annual performance measures are secure as
2 required in section one-a of this article;

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

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

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

9 (C) Determine, in conjunction with the assessment and
10 accountability processes, what capacity may be needed by schools
11 and school systems to meet the standards established by the state
12 board and recommend to the state board ~~and the Process for~~
13 ~~Improving Education Council~~ plans to establish those needed
14 capacities;

15 (D) Determine, in conjunction with the assessment and
16 accountability processes, whether statewide system deficiencies
17 exist in the capacity of schools and school systems to meet the
18 standards established by the state board, including the
19 identification of trends and the need for continuing improvements
20 in education, and report those deficiencies and trends to the state
21 board; ~~and the Process for Improving Education Council~~

22 (E) Determine, in conjunction with the assessment and
23 accountability processes, staff development needs of schools and
24 school systems to meet the standards established by the state board

1 and make recommendations to the state board, ~~the Process for~~
2 ~~Improving Education Council,~~ the Center for Professional
3 Development, the regional educational service agencies, the Higher
4 Education Policy Commission and the county boards;

5 (F) Identify, in conjunction with the assessment and
6 accountability processes, exemplary schools and school systems and
7 best practices that improve student, school and school system
8 performance and make recommendations to the state board ~~and the~~
9 ~~Process for Improving Education Council~~ for recognizing and
10 rewarding exemplary schools and school systems and promoting the
11 use of best practices. The state board shall provide information
12 on best practices to county school systems and shall use
13 information identified through the assessment and accountability
14 processes to select schools of excellence; and

15 (G) Develop reporting formats, such as check lists, which
16 shall be used by the appropriate administrative personnel in
17 schools and school systems to document compliance with various of
18 the applicable laws, policies and process standards as considered
19 appropriate and approved by the state board, including, but not
20 limited to, the following:

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

24 (ii) The participation of students in appropriate physical

1 assessments as determined by the state board, which assessment may
2 not be used as a part of the assessment and accountability system;

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

4 (iv) The school provides multicultural activities.

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

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

10 (1) The system of education performance audits shall include
11 on-site reviews of schools and school systems which shall be
12 conducted only at the specific direction of the state board upon
13 its determination that the performance and progress of the school
14 or school system are persistently below standard or that other
15 circumstances exist that warrant an on-site review. Any discussion
16 by the state board of schools to be subject to an on-site review or
17 dates for which on-site reviews will be conducted may be held in
18 executive session and is not subject to the provisions of article
19 nine-a, chapter six of this code relating to open governmental
20 proceedings. An on-site review shall be conducted by the Office of
21 Education Performance Audits of a school or school system for the
22 purpose of investigating the reasons for performance and progress
23 that are persistently below standard and making recommendations to
24 the school and school system, as appropriate, and to the state

1 board on such measures as it considers necessary to improve
2 performance and progress to meet the standard. The investigation
3 may include, but is not limited to, the following:

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

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

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

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

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

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

21 The Office of Education Performance Audits may not conduct a
22 duplicate review or inspection of any compliance reviews or
23 inspections conducted by the department or its agents or other duly
24 authorized agencies of the state, nor may it mandate more stringent

1 compliance measures.

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

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

16 (4) An on-site review of a school or school system shall
17 include a person or persons from the Department of Education or a
18 public education agency in the state who has expert knowledge and
19 experience in the area or areas to be reviewed and who has been
20 trained and designated by the state board to perform such
21 functions. If the size of the school or school system and issues
22 being reviewed necessitate the use of an on-site review team or
23 teams, the person or persons designated by the state board shall
24 advise and assist the director to appoint the team or teams. The

1 person or persons designated by the state board shall be the team
2 leaders.

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

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

14 (6) At the conclusion of an on-site review of a school system,
15 the director and team leaders shall hold an exit conference with
16 the superintendent and shall provide an opportunity for principals
17 to be present for at least the portion of the conference pertaining
18 to their respective schools. In the case of an on-site review of
19 a school, the exit conference shall be held with the principal and
20 curriculum team of the school and the superintendent shall be
21 provided the opportunity to be present. The purpose of the exit
22 conference is to review the initial findings of the on-site review,
23 clarify and correct any inaccuracies and allow the opportunity for
24 dialogue between the reviewers and the school or school system to

1 promote a better understanding of the findings.

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

21 (8) The Legislature finds that the accountability and
22 oversight of the following activities and programmatic areas in the
23 public schools is controlled through other mechanisms and that
24 additional accountability and oversight are not only unnecessary

1 but counterproductive in distracting necessary resources from
2 teaching and learning. Therefore, notwithstanding any other
3 provision of this section to the contrary, the following activities
4 and programmatic areas are not subject to review by the Office of
5 Education Performance Audits:

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

1 (S) Training of county board members;

2 (T) Excellence in job performance;

3 (U) Staff development; and

4 (V) Preventive discipline, character education and student and
5 parental involvement.

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

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

24 (2) Temporary accreditation status shall be given to a school

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

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

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

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

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

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

1 schools.

2 (5) Distinction accreditation status shall be given to a
3 school when the school's performance and progress exceed the
4 standards adopted by the state board. The state board shall
5 promulgate legislative rules in accordance with the provisions of
6 article three-b, chapter twenty-nine-a of this code establishing
7 standards of performance and progress to identify schools of
8 distinction.

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

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

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

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

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

23 (iv) The results of the most recent statewide assessment in
24 reading and math or other multiple measures as determined by the

1 state board that identify the school as low performing at its
2 programmatic level in three of the last five years.

3 (B) Whenever the state board determines that the quality of
4 education in a school is low performing, the state board shall
5 appoint a team of improvement consultants from the West Virginia
6 Department of Education State System of Support to make
7 recommendations for correction of the low performance. These
8 recommendations shall be communicated to the county board and a
9 process shall be established in conjunction with the State System
10 of Support to correct the identified deficiencies. If progress in
11 correcting the low performance as determined by the state board is
12 not made within one year following the implementation of the
13 measures adopted to correct the identified deficiencies or by a
14 date certain established by the state board after at least one year
15 of implementation, the state board shall place the county board on
16 temporary approval status and provide consultation and assistance
17 to the county board to assist it in the following areas:

18 (i) Improving personnel management;

19 (ii) Establishing more efficient financial management
20 practices;

21 (iii) Improving instructional programs and rules; or

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

24 (C) If the low performance is not corrected by a date certain

1 as set by the state board:

2 (i) The state board shall appoint a monitor who shall be paid
3 at county expense to cause improvements to be made at the school to
4 bring it to full accreditation status within a reasonable time
5 period as determined by the state board. The monitor's work
6 location shall be at the school and the monitor shall work
7 collaboratively with the principal. The monitor shall, at a
8 minimum, report monthly to the state board on the measures being
9 taken to improve the school's performance and the progress being
10 made. The reports may include requests for additional assistance
11 and recommendations required in the judgment of the monitor to
12 improve the school's performance, including, but not limited to,
13 the need for targeting resources strategically to eliminate
14 deficiencies;

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

1 (iii) If the low performance is not corrected within one year
2 after the appointment of a monitor, the state board may make a
3 determination, in its sole judgment, that continuing a monitor
4 arrangement is not sufficient to correct the low performance and
5 may intervene in the operation of the school to cause improvements
6 to be made that will provide assurances that a thorough and
7 efficient system of schools will be provided. This intervention
8 may include, but is not limited to, establishing instructional
9 programs, taking such direct action as may be necessary to correct
10 the low performance, declaring the position of principal is vacant
11 and assigning a principal for the school who shall serve at the
12 will and pleasure of and, under the sole supervision of, the state
13 board: *Provided*, That prior to declaring that the position of the
14 principal is vacant, the state board must make a determination that
15 all other resources needed to correct the low performance are
16 present at the school. If the principal who was removed elects not
17 to remain an employee of the county board, then the principal
18 assigned by the state board shall be paid by the county board. If
19 the principal who was removed elects to remain an employee of the
20 county board, then the following procedure applies:

21 (I) The principal assigned by the state board shall be paid by
22 the state board until the next school term, at which time the
23 principal assigned by the state board shall be paid by the county
24 board;

1 (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) 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.

12 (6) The county board ~~shall~~ may take no action nor refuse any
13 action if the effect would be to impair further the school in which
14 the state board has intervened.

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

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

1 student transferred.

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

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

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

24 (3) Conditional approval shall be given to a county board

1 whose education system is below the level required for full
2 approval, but whose electronic county strategic improvement plan
3 meets the following criteria:

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

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

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

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

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

21 (B) Whenever a county board has more than a casual deficit, as
22 defined in section one, article one of this chapter, the county
23 board shall submit a plan to the state board specifying the county
24 board's strategy for eliminating the casual deficit. The state

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

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

23 (i) Limiting the authority of the county superintendent and
24 county board as to the expenditure of funds, the employment and

1 dismissal of personnel, the establishment and operation of the
2 school calendar, the establishment of instructional programs and
3 rules and any other areas designated by the state board by rule,
4 which may include delegating decision-making authority regarding
5 these matters to the state superintendent;

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

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

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

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

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

23 (II) Delegating to the state superintendent the authority to
24 fill positions of administrators and principals with individuals

1 determined by the state superintendent to be the most qualified for
2 the positions. Any authority related to intervention in the
3 operation of a county board granted under this paragraph is not
4 subject to the provisions of article four, chapter eighteen-a of
5 this code;

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

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

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

19 (r) *Capacity*. -- The process for improving education includes
20 a process for targeting resources strategically to improve the
21 teaching and learning process. Development of electronic school
22 and school system strategic improvement plans, pursuant to
23 subsection (b) of this section, is intended, in part, to provide
24 mechanisms to target resources strategically to the teaching and

1 learning process to improve student, school and school system
2 performance. When deficiencies are detected through the assessment
3 and accountability processes, the revision and approval of school
4 and school system electronic strategic improvement plans shall
5 ensure that schools and school systems are efficiently using
6 existing resources to correct the deficiencies. When the state
7 board determines that schools and school systems do not have the
8 capacity to correct deficiencies, the state board shall work with
9 the county board to develop or secure the resources necessary to
10 increase the capacity of schools and school systems to meet the
11 standards and, when necessary, seek additional resources in
12 consultation with the Legislature and the Governor.

13 The state board shall recommend to the appropriate body
14 including, but not limited to, ~~the Process for Improving Education~~
15 ~~Council~~, the Legislature, county boards, schools and communities
16 methods for targeting resources strategically to eliminate
17 deficiencies identified in the assessment and accountability
18 processes. When making determinations on recommendations, the
19 state board shall include, but is not limited to, the following
20 methods:

21 (1) Examining reports and electronic strategic improvement
22 plans regarding the performance and progress of students, schools
23 and school systems relative to the standards and identifying the
24 areas in which improvement is needed;

1 (2) Determining the areas of weakness and of ineffectiveness
2 that appear to have contributed to the substandard performance and
3 progress of students or the deficiencies of the school or school
4 system and requiring the school or school system to work
5 collaboratively with the West Virginia Department of Education
6 State System of Support to correct the deficiencies;

7 (3) Determining the areas of strength that appear to have
8 contributed to exceptional student, school and school system
9 performance and progress and promoting their emulation throughout
10 the system;

11 (4) Requesting technical assistance from the School Building
12 Authority in assessing or designing comprehensive educational
13 facilities plans;

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

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

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

22 (8) Directing county boards to target their funds
23 strategically toward alleviating deficiencies;

24 (9) Ensuring that the need for facilities in counties with

1 increased enrollment are appropriately reflected and recommended
2 for funding;

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

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

8 **ARTICLE 2I. PROFESSIONAL DEVELOPMENT.**

9 **§18-2I-1. Legislative purpose.**

10 ~~The purpose of this article is to create the West Virginia~~
11 ~~professional staff development advisory council and eight regional~~
12 ~~professional staff development councils to advise and assist the~~
13 ~~state board with ensuring the coordination and quality of~~
14 ~~professional staff development programs that address locally~~
15 ~~identified needs for professional staff development and meet the~~
16 ~~goals for professional staff development established by the state~~
17 ~~board.~~

18 The purpose of this article is to establish clear state-level
19 leadership for professional development for all West Virginia
20 public school educators and administrators. As the state
21 institution charged with the general supervision of the state
22 school system, the state board shall institute a system for the
23 coordination and delivery of high quality professional development.
24 Such system shall clearly define the goals for professional

1 development and delineate roles and responsibilities among the
2 various state and regional professional development providers.

3 **§18-2I-2. Legislative findings.**

4 ~~The Legislature finds that there is presently an inadequate~~
5 ~~and inefficient delivery of staff development programs for~~
6 ~~professional education in West Virginia. The Legislature further~~
7 ~~finds that the creation of a West Virginia staff development~~
8 ~~advisory council and regional staff development councils will~~
9 ~~assure the efficient delivery of high quality staff training~~
10 ~~programs and will further assure that duplication of efforts will~~
11 ~~be minimized. The Legislature further finds that the functions of~~
12 ~~the West Virginia staff development advisory council and regional~~
13 ~~staff development councils will assure that key personnel will be~~
14 ~~fully aware of identified needs and programmatic services, that all~~
15 ~~stakeholders will be appropriately involved in planning and~~
16 ~~implementing programs to meet requisite needs and that high quality~~
17 ~~staff development programs will be provided to public school~~
18 ~~educators of West Virginia in the most efficient manner.~~

19 The Legislature finds:

20 (1) That high quality professional development is critical in
21 supporting improved practice, assuring teacher quality and raising
22 student achievement;

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

1 (3) That the state board should assure the efficient delivery
 2 of high quality professional development programs and assure that
 3 duplication of efforts be minimized and that all stakeholders are
 4 appropriately involved in the planning and implementing of programs
 5 to meet requisite needs and that high quality professional
 6 development programs be provided to public school educators of West
 7 Virginia in the most efficient and cost effective manner; and

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

11 **§18-2I-3. Annual professional development master plan established**
 12 **by state board.**

13 ~~(a) There shall be a West Virginia professional staff~~
 14 ~~development advisory council which shall consist of the following~~
 15 ~~members:~~

16 ~~(1) The chairpersons of each of the eight regional staff~~
 17 ~~development councils established in section five of this article;~~

18 ~~(2) The coordinators of each of the eight regional educational~~
 19 ~~service agency staff development councils;~~

20 ~~(3) The assistant superintendent for the division of~~
 21 ~~instructional and student services of the state Department of~~
 22 ~~Education;~~

23 ~~(4) The secretary of education and the arts or his or her~~
 24 ~~designee, who shall chair the council;~~

1 ~~(5) The chancellor of the Higher Education Policy Commission~~
2 ~~or his or her designee;~~

3 ~~(6) The executive director of the West Virginia center for~~
4 ~~professional development;~~

5 ~~(7) The presidents, or their designees, of each of the two~~
6 ~~professional organizations or associations representing teachers in~~
7 ~~the state with the greatest number of teacher members.~~

8 ~~(b) Any member of the advisory council may be reimbursed by~~
9 ~~the state board for the cost of reasonable and necessary expenses~~
10 ~~actually incurred in the performance of their duties under this~~
11 ~~article.~~

12 (a) The state board shall annually establish a master plan for
13 professional development in the public schools of the state, in
14 accordance with section twenty-three-a, article two of this
15 chapter. As a first priority, the state board shall require
16 adequate and appropriate professional development to ensure high
17 quality teaching that will support improved student achievement,
18 enable students to meet the content standards established for the
19 required curriculum in the public schools and to be prepared for
20 college and careers.

21 (b) The state board shall annually submit the master plan to
22 the State Department of Education, the Center for Professional
23 Development, the regional educational service agencies, the Higher
24 Education Policy Commission and the Legislative Oversight

1 Commission on Education Accountability.

2 (c) In establishing the goals, the state board shall review
3 reports that may indicate a need for professional staff development
4 including, but not limited to, the report of the Center for
5 Professional Development created in article three-a, chapter
6 eighteen-a of this code, student test scores on the statewide
7 student assessment program, the measures of student and school
8 performance for accreditation purposes, school and school district
9 report cards and the state board's plans for the use of funds in
10 the Strategic Staff Development Fund pursuant to section five of
11 this article

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

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

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

23 **§18-2I-4. Coordination, development and evaluation of professional**
24 **development programs.**

1 ~~The council shall advise and assist the state board in all~~
2 ~~phases of developing or amending the goals for professional staff~~
3 ~~development required by subsection (b) of this section. Advice and~~
4 ~~assistance shall include, but is not limited to, the following:~~

5 ~~(a) Reporting to the state board on the professional staff~~
6 ~~development needs identified by the public schools within the~~
7 ~~respective regions;~~

8 ~~(b) Recommending effective professional staff development~~
9 ~~programs to meet identified needs;~~

10 ~~(c) Providing local input on the proposed goals and on the~~
11 ~~professional staff development plan proposed by the center for~~
12 ~~professional development pursuant to subsection (c) of this~~
13 ~~section;~~

14 ~~(d) Communicating professional staff development information~~
15 ~~and findings to the regional and county staff development councils;~~
16 ~~and~~

17 ~~(e) Advancing the coordination and quality of professional~~
18 ~~staff development programs in the public schools of West Virginia.~~

19 (a) The state board shall promulgate a rule to ensure the
20 coordination, development and evaluation of high quality
21 professional development programs. The rule shall include, but is
22 not limited to, the following:

23 (1) Standards for quality professional development that all
24 professional development providers shall use in designing,

1 implementing and evaluating professional development that shall
2 become part of the statewide professional development plan;

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

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

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

9 (5) Processes for ensuring all stakeholders have a voice in
10 the identification of needed professional development and various
11 delivery models;

12 (6) Processes for collaboration among West Virginia Department
13 of Education, Center for Professional Development, RESAs and county
14 boards of education;

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

19 (8) Evaluation of the provided professional development.

20 (b) The state board approval of the proposed professional
21 development programs shall establish a Master Plan for Professional
22 Development which shall be submitted by the state board to the
23 affected agencies and to the Legislative Oversight Commission on
24 Education Accountability. The Master Plan shall include the state

1 board-approved plans for professional development by the State
2 Department of Education, the Center for Professional Development,
3 the state institutions of higher education and the regional
4 educational service agencies to meet the professional development
5 goals of the state board.

6 (c) The state board shall annually submit a report on the
7 effectiveness, efficiency and impact of the statewide professional
8 development plan to the Legislative Oversight Commission on
9 Education Accountability.

10 **§18-2I-5. Strategic Staff Development Fund.**

11 ~~(a) There shall be a regional staff development council in~~
12 ~~each of the eight regional educational service agencies located~~
13 ~~within the state. Each regional staff development council shall~~
14 ~~consist of the following members:~~

15 ~~(1) The chairperson of each of the county professional staff~~
16 ~~development councils located in each county contained in the~~
17 ~~applicable region;~~

18 ~~(2) The county staff development coordinator from each of the~~
19 ~~counties located within the region: *Provided, That if the county*~~
20 ~~does not have a staff development coordinator, then the~~
21 ~~superintendent shall designate a person to serve on the regional~~
22 ~~staff development council;~~

23 ~~(3) The regional educational service agencies staff~~
24 ~~development coordinator who shall serve as an ex officio member;~~

1 ~~(4) The executive director of the regional educational service~~
2 ~~agencies who shall serve as an ex officio member;~~

3 ~~(5) The designee of the chancellor of the university system of~~
4 ~~West Virginia who shall serve as an ex officio member; and~~

5 ~~(6) The designee of the chancellor of the state college system~~
6 ~~of West Virginia who shall serve as an ex officio member.~~

7 ~~(b) Any member of the regional staff development council may~~
8 ~~be reimbursed by his or her employing agency for the cost of~~
9 ~~reasonable and necessary expenses actually incurred in the~~
10 ~~performance of their duties under this article as determined by the~~
11 ~~employing agency.~~

12 (a) There is created an account within the state board titled
13 the Strategic Staff Development Fund. The allocation of balances
14 which accrue in the General School Fund shall be transferred to the
15 Strategic Staff Development Fund each year when the balances become
16 available. Any remaining funds transferred to the Strategic Staff
17 Development Fund during the fiscal year shall be carried over for
18 use in the same manner the next fiscal year and shall be separate
19 and apart from, and in addition to, the transfer of funds from the
20 General School Fund for the next fiscal year.

21 (b) The money in the Strategic Staff Development Fund shall be
22 used by the state board to provide staff development in schools,
23 counties or both that the state board determines need additional
24 resources. The state board is required to report to the Legislative

1 Oversight Commission on Education Accountability before December
2 1, annually on the effectiveness of the staff development resulting
3 from expenditures in this fund.

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

5 **§18-3-1. Appointment; qualifications; compensation; traveling**
6 **expenses; office and residence; evaluation.**

7 There shall be appointed by the state board a State
8 Superintendent of Schools who ~~shall serve~~ serves at the will and
9 pleasure of the state board. He or she shall be a person of good
10 moral character, of recognized ability as a school administrator,
11 holding at least a master's degree ~~in educational administration,~~
12 and ~~shall have~~ who has had not less than five years of experience
13 in public school work. He or she shall receive an annual salary
14 set by the state board, to be paid monthly: *Provided*, That the
15 annual salary may not exceed ~~\$146,100: *Provided, however,* That~~
16 ~~after June 30, 2006, the annual salary may not exceed \$175,000~~
17 \$175,000. The state superintendent also shall receive necessary
18 traveling expenses incident to the performance of his or her duties
19 to be paid out of the General School Fund upon warrants of the
20 State Auditor. The state superintendent shall have his or her
21 office at the State Capitol. The state board shall report to the
22 Legislative Oversight Commission on Education Accountability upon
23 request concerning its progress during any hiring process for a

1 state superintendent.

2 The state board annually shall evaluate the performance of the
3 state superintendent and publicly announce the results of the
4 evaluation.

5 **§18-3-12. Special Community Development School Pilot Program.**

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

23 (b) Beginning in January, ~~2011~~ 2014, on or before the first
24 day of the regular session of the Legislature, and each year

1 thereafter, the state superintendent, county superintendent for the
2 county in which the schools are located and lead community based
3 organizations shall make a status report to the Legislative
4 Oversight Commission on Education Accountability and to the state
5 board. The report may include any recommendations based on the
6 progress of the demonstration project that he or she considers
7 either necessary for improving the operations of the demonstration
8 project or prudent for improving student achievement in other
9 public schools through replication of successful demonstration
10 school programs.

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

12 **§18-5-18. Kindergarten programs.**

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

21 (b) Persons employed as kindergarten teachers, as
22 distinguished from paraprofessional personnel, shall be required to
23 hold a certificate valid for teaching at the assigned level as
24 prescribed by ~~regulations~~ rules established by the state board.

1 The state board shall establish ~~and prescribe guidelines and~~
2 ~~criteria setting forth~~ the minimum requirements for all
3 paraprofessional personnel employed in kindergarten programs
4 established pursuant to the provisions of this section and no such
5 paraprofessional personnel ~~shall~~ may be employed in any
6 kindergarten program unless he or she meets ~~such~~ the minimum
7 requirements. Beginning July 1, 2014, a person employed as an aide
8 in a kindergarten program is required to hold either an early
9 childhood classroom assistant teacher temporary authorization, an
10 early childhood classroom assistant teacher permanent authorization
11 or an early childhood classroom assistant teacher paraprofessional
12 certificate. The state board shall establish the minimum
13 requirements for each of the three early childhood classroom
14 assistant teacher licenses. Any person employed as an aide in a
15 kindergarten program that is eligible for full retirement benefits
16 before July 1, 2016, is not required to acquire licensure in this
17 section.

18 (c) The state board with the advice of the state
19 superintendent shall establish and prescribe guidelines and
20 criteria relating to the establishment, operation and successful
21 completion of kindergarten programs in accordance with the other
22 provisions of this section. Guidelines and criteria so established
23 and prescribed also are intended to serve for the establishment and
24 operation of nonpublic kindergarten programs and shall be used for

1 the evaluation and approval of ~~such~~ those programs by the state
2 superintendent, provided application for ~~such~~ the evaluation and
3 approval is made in writing by proper authorities in control of
4 ~~such~~ the programs. The state superintendent, annually, shall
5 publish a list of nonpublic kindergarten programs, including
6 Montessori kindergartens that have been approved in accordance with
7 the provisions of this section. Montessori kindergartens
8 established and operated in accordance with usual and customary
9 practices for the use of the Montessori method which have teachers
10 who have training or experience, regardless of additional
11 certification, in the use of the Montessori method of instruction
12 for kindergartens shall be considered to be approved.

13 (d) Pursuant to ~~such~~ the guidelines and criteria, and only
14 pursuant to ~~such~~ the guidelines and criteria, the county boards may
15 establish programs taking kindergarten to the homes of the children
16 involved, using educational television, paraprofessional personnel
17 in addition to and to supplement regularly certified teachers,
18 mobile or permanent classrooms and other means developed to best
19 carry kindergarten to the child in its home and enlist the aid and
20 involvement of its parent or parents in presenting the program to
21 the child; or may develop programs of a more formal kindergarten
22 type, in existing school buildings, or both, as ~~such~~ the county
23 board may determine, taking into consideration the cost, the
24 terrain, the existing available facilities, the distances each

1 child may be required to travel, the time each child may be
2 required to be away from home, the child's health, the involvement
3 of parents and ~~such~~ other factors as each county board may find
4 pertinent. ~~Such~~ The determinations by any county board ~~shall be~~
5 are final and conclusive.

6 **§18-5-44. Early childhood education programs.**

7 (a) For the purposes of this section, "early childhood
8 education" means programs for children who have attained the age of
9 four prior to September 1 of the school year in which the pupil
10 enters the program created in this section.

11 (b) *Findings.* --

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

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

15 (B) Decrease behavioral problems;

16 (C) Improve student attendance;

17 (D) Increase scores on achievement tests;

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

19 (F) Decrease the number of students placed in special
20 education programs;

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

24 (3) West Virginia has the lowest percentage of its adult

1 population twenty-five years of age or older with a bachelor's
2 degree and the education level of parents is a strong indicator of
3 how their children will perform in school;

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

8 (5) For the school year 2008-2009, thirteen thousand one
9 hundred thirty-five students were enrolled in prekindergarten, a
10 number equal to approximately sixty-three percent of the number of
11 students enrolled in kindergarten;

12 (6) Excluding projected increases due to increases in
13 enrollment in the early childhood education program, projections
14 indicate that total student enrollment in West Virginia will
15 decline by one percent, or by approximately two thousand seven
16 hundred four students, by the school year 2012-2013;

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

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

24 (9) Expansion of current efforts to implement a comprehensive

1 early childhood education program should avoid the problems
2 encountered in kindergarten implementation;

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

6 (11) West Virginia citizens will benefit from the
7 establishment of quality comprehensive early childhood education
8 programs.

9 (c) Beginning no later than the school year 2012-2013, and
10 continuing thereafter, county boards shall provide early childhood
11 education programs for all children who have attained the age of
12 four prior to September 1 of the school year in which the pupil
13 enters the early childhood education program. Beginning no later
14 than the school year 2016-2017, and continuing thereafter, full day
15 early childhood education programs shall be available to all
16 children.

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

18 (1) It shall be voluntary, except, upon enrollment, the
19 provisions of section one, article eight of this chapter apply to
20 an enrolled student; and

21 ~~(2) It may be for fewer than five days per week and may be~~
22 ~~less than full day~~ All children shall have the opportunity to
23 enroll in a full day program. The program may be for fewer than
24 five days per week and may be less than full day based on family

1 need.

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

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

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

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

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

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

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

20 (6) Any other public or private funds.

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

24 (1) An analysis of the demographics of the county related to

1 early childhood education program implementation;

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

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

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

9 (5) Specific time lines for implementation; and

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

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

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

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

20 (3) If the Secretary of the Department of Health and Human
21 Resources finds that the county board has not met one or more of
22 the requirements of this subsection, but that the county board has
23 acted in good faith and the failure to comply was not the primary
24 fault of the county board, then the secretary shall approve the

1 plan. Any denial by the secretary may be appealed to the circuit
2 court of the county in which the county board is located.

3 (i) The county board shall submit its plan for approval to the
4 state board. The state board shall approve the plan if the county
5 board has complied substantially with the requirements of
6 subsection (g) of this section and has obtained the approval
7 required in subsection (h) of this section.

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

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

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

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

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

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

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

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

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

13 (m) The provisions of subsections (b), (c) and (d), section
14 eighteen of this article relating to kindergarten apply to early
15 childhood education programs in the same manner in which they apply
16 to kindergarten programs.

17 (n) Annually, the state board shall report to the Legislative
18 Oversight Commission on Education Accountability on the progress of
19 implementation of this section.

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

23 (p) Neither the state board nor the state department may
24 provide any funds to any county board for the purpose of

1 implementing this section unless the county board has a plan
2 approved pursuant to subsections (h), (i) and (j) of this section.

3 (q) The state board shall promulgate a rule in accordance with
4 the provisions of article three-b, chapter twenty-nine-a of this
5 code for the purposes of implementing the provisions of this
6 section. The state board shall consult with the Secretary of the
7 Department of Health and Human Resources in the preparation of the
8 rule. The rule shall contain the following:

9 (1) Standards for curriculum;

10 (2) Standards for preparing students;

11 (3) Attendance requirements;

12 (4) Standards for personnel; and

13 (5) Any other terms necessary to implement the provisions of
14 this section.

15 (r) The rule shall include the following elements relating to
16 curriculum standards:

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

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

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

1 (4) A requirement that the curriculum incorporate a wide
2 variety of learning experiences, materials and equipment, and
3 instructional strategies to respond to differences in prior
4 experience, maturation rates and learning styles that young
5 children bring to the classroom;

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

9 (6) A requirement that the curriculum meet the recognized
10 standards of the relevant subject matter disciplines;

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

14 (8) A requirement that the curriculum emphasize the
15 development of thinking, reasoning, decisionmaking and
16 problem-solving skills;

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

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

23 (s) The secretary and the state superintendent shall submit a
24 report to the Legislative Oversight Commission on Education

1 Accountability and the Joint Committee on Government and Finance
2 which addresses, at a minimum, the following issues:

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

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

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

9 (4) An analysis of the effect of the programs on the
10 maximization of the use of federal funds for early childhood
11 programs.

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

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

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

24 (2) For those county boards that are including eligible

1 children attending approved, contracted community-based programs in
2 their net enrollment for the purposes of calculating state aid
3 pursuant to article nine-a of this chapter, documentation that the
4 county board is equitably distributing funding for all children
5 regardless of setting.

6 **§18-5-45. School calendar.**

7 ~~(a) As used in this section, the following terms have the~~
8 ~~following meanings:~~

9 ~~(1) "Instructional day" means a day within the instructional~~
10 ~~term which meets the following criteria:~~

11 ~~(A) Instruction is offered to students for at least the~~
12 ~~minimum amounts of time provided by state board rule;~~

13 ~~(B) Instructional time is used for instruction, cocurricular~~
14 ~~activities and approved extracurricular activities and, pursuant to~~
15 ~~the provisions of subdivision twelve, subsection (b), section five,~~
16 ~~article five-a of this chapter, faculty senates; and~~

17 ~~(C) Such other criteria as the state board determines~~
18 ~~appropriate.~~

19 ~~(2) "Accrued instructional time" means instructional time~~
20 ~~accruing during the instructional term from time added to the~~
21 ~~instructional day beyond the time required by state board rule for~~
22 ~~an instructional day. Accrued instructional time may be~~
23 ~~accumulated and used in larger blocks of time during the school~~
24 ~~year for instructional or noninstructional activities as further~~

1 ~~defined by the state board.~~

2 ~~(3) "Extracurricular activities" are activities under the~~
3 ~~supervision of the school such as athletics, noninstructional~~
4 ~~assemblies, social programs, entertainment and other similar~~
5 ~~activities as further defined by the state board.~~

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

10 ~~(b) Findings. —~~

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

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

16 ~~(3) The school calendar traditionally has provided for one~~
17 ~~hundred eighty actual days of instruction but numerous~~
18 ~~circumstances have combined to cause the actual number of~~
19 ~~instructional days to be less than one hundred eighty.~~

20 ~~(4) The quality and amount of instruction offered during the~~
21 ~~instructional term is affected by the extracurricular and~~
22 ~~cocurricular activities allowed to occur during scheduled~~
23 ~~instructional time.~~

24 ~~(5) Within reasonable guidelines, the school calendar should~~

1 ~~be designed at least to guarantee that one hundred eighty actual~~
2 ~~days of instruction are possible.~~

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

5 ~~(1) An employment term for teachers of no less than two~~
6 ~~hundred days, exclusive of Saturdays and Sundays; and~~

7 ~~(2) Within the employment term, an instructional term for~~
8 ~~students of no less than one hundred eighty separate instructional~~
9 ~~days, which shall include an icy conditions and emergencies plan~~
10 ~~designed to guarantee an instructional term for students of no less~~
11 ~~than one hundred eighty separate instructional days.~~

12 ~~(d) The instructional term for students shall include one~~
13 ~~instructional day in each of the months of October, December,~~
14 ~~February, April and June which is an instructional support and~~
15 ~~enhancement day scheduled by the board to include both~~
16 ~~instructional activities for students and professional activities~~
17 ~~for teachers to improve student instruction. Instructional support~~
18 ~~and enhancement days are subject to the following provisions:~~

19 ~~(1) Two hours of the instructional support and enhancement day~~
20 ~~shall be used for instructional activities for students. The~~
21 ~~instructional activities for students are subject to the following~~
22 ~~provisions:~~

23 ~~(A) The instructional activities for students require the~~
24 ~~direct supervision or involvement by teachers;~~

1 ~~(B) The instructional activities for students shall be limited~~
2 ~~to two hours;~~

3 ~~(C) The instructional activities for students shall be~~
4 ~~determined and scheduled at the local school level;~~

5 ~~(D) The instructional activities for students may include, but~~
6 ~~are not limited to, both in-school and outside of school activities~~
7 ~~such as student mentoring, tutoring, counseling, student research~~
8 ~~and other projects or activities of an instructional nature,~~
9 ~~community service, career exploration, parent and teacher~~
10 ~~conferences, visits to the homes of students, college and financial~~
11 ~~aid workshops and college visits;~~

12 ~~(E) To ensure that the students who attend are properly~~
13 ~~supervised, the instructional activities for students shall be~~
14 ~~arranged by appointment with the individual school through the~~
15 ~~principal, a teacher or other professional personnel at the school;~~
16 and

17 ~~(F) Each school shall establish a policy relating to the use~~
18 ~~of the two-hour block scheduled for instructional activities for~~
19 ~~students;~~

20 ~~(2) The instructional support and enhancement day shall~~
21 ~~include a two-hour block of time for professional activities for~~
22 ~~teachers during which the faculty senate shall have the opportunity~~
23 ~~to meet;~~

24 ~~(3) All time remaining in the school day after meeting the~~

~~1 requirements of subdivisions (1) and (2) of this subsection, not
2 including the duty-free lunch period, shall be used for other
3 professional activities for teachers to improve student instruction
4 which may include, but are not limited to, professional staff
5 development, curriculum team meetings, individualized education
6 plan meetings and other meetings between teachers, principals,
7 aides and paraprofessionals to improve student instruction as
8 determined and scheduled at the local school level;~~

~~9 (4) Notwithstanding any other provision of law or policy to
10 the contrary, the presence of any specific number of students in
11 attendance at the school for any specific period of time shall not
12 be required on instructional support and enhancement days and the
13 transportation of students to the school shall not be required;~~

~~14 (5) Instructional support and enhancement days are also a
15 scheduled work day for all service personnel and shall be used for
16 training or other tasks related to their job classification if
17 their normal duties are not required; and~~

~~18 (6) Nothing in this section may be construed to require that
19 the instructional activities for students, faculty senate meetings
20 and other professional activities for teachers be scheduled in any
21 certain order.~~

~~22 (e) The instructional term shall commence on a date selected
23 by the county board and terminate on a date selected by the county
24 board.~~

1 ~~(f) Noninstructional days shall total twenty and shall be~~
2 ~~comprised of the following:~~

3 ~~(1) Seven holidays as specified in section two, article five,~~
4 ~~chapter eighteen-a of this code;~~

5 ~~(2) Election day as specified in section two, article five,~~
6 ~~chapter eighteen-a of this code;~~

7 ~~(3) Six days to be designated by the county board to be used~~
8 ~~by the employees outside the school environment; and~~

9 ~~(4) Six days to be designated by the county board for any of~~
10 ~~the following purposes:~~

11 ~~(A) Curriculum development;~~

12 ~~(B) Preparation for opening and closing school;~~

13 ~~(C) Professional development;~~

14 ~~(D) Teacher-pupil-parent conferences;~~

15 ~~(E) Professional meetings; and~~

16 ~~(F) Making up days when instruction was scheduled but not~~
17 ~~conducted.~~

18 ~~(g) Three of the days described in subdivision (4), subsection~~
19 ~~(f) of this section shall be scheduled prior to the commencement of~~
20 ~~the instructional term for the purposes of preparing for the~~
21 ~~opening of school and staff development.~~

22 ~~(h) At least one of the days described in subdivision (4),~~
23 ~~subsection (f) of this section shall be scheduled after the~~
24 ~~termination of the instructional term for the purpose of preparing~~

1 ~~for the closing of school.~~

2 ~~(i) At least four of the days described in subdivision (3),~~
3 ~~subsection (f) of this section shall be scheduled after March 1.~~

4 ~~(j) At least two of the days described in subdivision (4),~~
5 ~~subsection (f) of this section will be scheduled for professional~~
6 ~~development. The professional development conducted on these days~~
7 ~~will be consistent with the goals established by the state board~~
8 ~~pursuant to the provisions of section twenty-three-a, article two~~
9 ~~of this chapter.~~

10 ~~(k) Subject to the provisions of subsection (h) of this~~
11 ~~section, all noninstructional days will be scheduled prior to the~~
12 ~~termination of the instructional term.~~

13 ~~(l) The state board may not schedule the primary statewide~~
14 ~~assessment program prior to May 15 of the instructional year unless~~
15 ~~the state board determines that the nature of the test mandates an~~
16 ~~earlier testing date.~~

17 ~~(m) If, on or after March 1, the county board determines that~~
18 ~~it is not possible to complete one hundred eighty separate days of~~
19 ~~instruction, the county board shall schedule instruction on any~~
20 ~~available noninstructional day, regardless of the purpose for which~~
21 ~~the day originally was scheduled, and the day will be used for~~
22 ~~instruction, subject to the following:~~

23 ~~(1) The noninstructional days scheduled for professional~~
24 ~~development shall be the last available noninstructional days to be~~

1 ~~rescheduled as instructional days;~~

2 ~~(2) On or after March 1, the county board also may require~~
3 ~~additional minutes of instruction in the school day to make up for~~
4 ~~lost instructional days in excess of the days available through~~
5 ~~rescheduling and, if in its judgment it is reasonable and necessary~~
6 ~~to improve student performance, to avoid scheduling instruction on~~
7 ~~noninstructional days previously scheduled for professional~~
8 ~~development; and~~

9 ~~(3) The provisions of this subsection do not apply to:~~

10 ~~(1) Holidays; and~~

11 ~~(2) Election day.~~

12 ~~(n) The following applies to accrued instructional time:~~

13 ~~(1) Except as provided in subsection (m) of this section,~~
14 ~~accrued instructional time may not be used to avoid one hundred~~
15 ~~eighty separate days of instruction;~~

16 ~~(2) Accrued instructional time may not be used to lengthen the~~
17 ~~time provided in law for faculty senates;~~

18 ~~(3) The use of accrued instructional time for extracurricular~~
19 ~~activities will be limited by the state board;~~

20 ~~(4) Accrued instructional time may be used by schools and~~
21 ~~counties to provide additional time for professional staff~~
22 ~~development and continuing education as may be needed to improve~~
23 ~~student performance and meet the requirements of the federal~~
24 ~~mandates affecting elementary and secondary education. The amount~~

1 ~~of accrued instructional time used for this purpose may not exceed~~
2 ~~three instructional days; and~~

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

5 ~~(o) The following applies to cocurricular activities:~~

6 ~~(1) The state board shall determine what activities may be~~
7 ~~considered cocurricular;~~

8 ~~(2) The state board shall determine the amount of~~
9 ~~instructional time that may be consumed by cocurricular activities;~~
10 ~~and~~

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

13 ~~(p) The following applies to extracurricular activities:~~

14 ~~(1) Except as provided by subdivision (3) of this subsection,~~
15 ~~extracurricular activities may not be scheduled during~~
16 ~~instructional time;~~

17 ~~(2) The use of accrued instructional time for extracurricular~~
18 ~~activities will be limited by the state board; and~~

19 ~~(3) The state board shall provide for the attendance by~~
20 ~~students of certain activities sanctioned by the Secondary School~~
21 ~~Activities Commission when those activities are related to~~
22 ~~statewide tournaments or playoffs or are programs required for~~
23 ~~Secondary School Activities Commission approval.~~

24 ~~(q) Noninstructional interruptions to the instructional day~~

1 ~~shall be minimized to allow the classroom teacher to teach.~~

2 ~~(r) Nothing in this section prohibits establishing year-round~~
3 ~~schools in accordance with rules to be established by the state~~
4 ~~board.~~

5 ~~(s) Prior to implementing the school calendar, the county~~
6 ~~board shall secure approval of its proposed calendar from the state~~
7 ~~board or, if so designated by the state board, from the state~~
8 ~~superintendent.~~

9 ~~(t) The county board may contract with all or part of the~~
10 ~~personnel for a longer term.~~

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

15 ~~(v) Where the employment term overlaps a teacher's or service~~
16 ~~personnel's participation in a summer institute or institution of~~
17 ~~higher education for the purpose of advancement or professional~~
18 ~~growth, the teacher or service personnel may substitute, with the~~
19 ~~approval of the county superintendent, the participation for up to~~
20 ~~five of the noninstructional days of the employment term.~~

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

1 (a) As used in this section:

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

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

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

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

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

13 (b) Findings. --

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

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

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

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

23 (1) An employment term that excludes Saturdays and Sundays and
24 consists of at least two hundred days, which need not be

1 successive;

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

7 (3) A policy that requires additional minutes of instruction
8 in the school day or additional days of instruction to recover time
9 lost due to late arrivals and early dismissals; and

10 (4) A policy that determines that if it is not possible to
11 complete one hundred eighty separate instructional days with the
12 current school calendar, the county board shall schedule
13 instruction on any available noninstructional day, regardless of
14 the purpose for which the day originally was scheduled, and the day
15 will be used for instruction of students: *Provided, That the*
16 provisions of this subsection do not apply to:

17 (1) Holidays; and

18 (2) Election day.

19 (d) The instructional term shall commence and terminate on a
20 date selected by the county board. Calculation of the required one
21 hundred eighty separate instructional days must fall within a three
22 hundred sixty-five day period to be established by the county
23 board.

24 (e) Noninstructional days shall total twenty and shall be

1 comprised of the following:

2 (1) Seven holidays;

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

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

7 (A) Curriculum development;

8 (B) Preparation for opening and closing school;

9 (C) Professional development;

10 (D) Teacher-pupil-parent conferences;

11 (E) Professional meetings; and

12 (F) Making up days when instruction was scheduled but not
13 conducted.

14 (f) The state board may not schedule the primary statewide
15 assessment program thirty days prior to the end of the
16 instructional year unless the state board determines that the
17 nature of the test mandates an earlier testing date.

18 (g) The following applies to cocurricular activities:

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

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

24 (3) Other requirements or restrictions the state board may

1 provide in the rule required to be promulgated by this section.

2 (h) Extracurricular activities may not be used for
3 instructional time: *Provided*, That the state board may provide for
4 the attendance by students of certain activities sanctioned by the
5 Secondary School Activities Commission when those activities are
6 related to statewide tournaments or playoffs or are programs
7 required for Secondary School Activities Commission approval.

8 (i) Noninstructional interruptions to the instructional day
9 shall be minimized to allow the classroom teacher to teach.

10 (j) Prior to implementing the school calendar, the county
11 board shall secure approval of its proposed calendar from the state
12 board or, if so designated by the state board, from the state
13 superintendent.

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

22 (l) The county board may contract with all or part of the
23 personnel for a longer term.

24 (m) The minimum instructional term may be decreased by order

1 of the state superintendent in any county declared a federal
2 disaster area and where the event causing the declaration is
3 substantially related to a reduction of instructional days.

4 (n) Notwithstanding any provision of this code to the
5 contrary, the state board may grant a waiver to a county board for
6 its noncompliance with provisions of chapter eighteen, eighteen-a,
7 eighteen-b and eighteen-c of this code to maintain compliance in
8 reaching the mandatory one hundred eighty separate instructional
9 days established in this section.

10 (o) The state board shall promulgate a rule in accordance with
11 the provisions of article three-b, chapter twenty-nine-a of this
12 code for the purpose of implementing the provisions of this
13 section.

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

15 **§18-5A-5. Public school faculty senates established; election of**
16 **officers; powers and duties.**

17 (a) There is established at every public school in this state
18 a faculty senate which is comprised of all permanent, full-time
19 professional educators employed at the school who shall all be
20 voting members. Professional educators, as used in this section,
21 means professional educators as defined in chapter eighteen-a of
22 this code. A quorum of more than one half of the voting members of
23 the faculty shall be present at any meeting of the faculty senate
24 at which official business is conducted. Prior to the beginning of

1 the instructional term each year, but within the employment term,
2 the principal shall convene a meeting of the faculty senate to
3 elect a chair, vice chair and secretary and discuss matters
4 relevant to the beginning of the school year. The vice chair shall
5 preside at meetings when the chair is absent. Meetings of the
6 faculty senate shall be held during the times provided in
7 accordance with subdivision (12), subsection (b) of this section as
8 determined by the faculty senate. Emergency meetings may be held
9 during noninstructional time at the call of the chair or a majority
10 of the voting members by petition submitted to the chair and vice
11 chair. An agenda of matters to be considered at a scheduled
12 meeting of the faculty senate shall be available to the members at
13 least two employment days prior to the meeting. For emergency
14 meetings the agenda shall be available as soon as possible prior to
15 the meeting. The chair of the faculty senate may appoint such
16 committees as may be desirable to study and submit recommendations
17 to the full faculty senate, but the acts of the faculty senate
18 shall be voted upon by the full body.

19 (b) In addition to any other powers and duties conferred by
20 law, or authorized by policies adopted by the state or county board
21 of education or bylaws which may be adopted by the faculty senate
22 not inconsistent with law, the powers and duties listed in this
23 subsection are specifically reserved for the faculty senate. The
24 intent of these provisions is neither to restrict nor to require

1 the activities of every faculty senate to the enumerated items
2 except as otherwise stated. Each faculty senate shall organize its
3 activities as it deems most effective and efficient based on school
4 size, departmental structure and other relevant factors.

5 (1) Each faculty senate shall control funds allocated to the
6 school from legislative appropriations pursuant to section nine,
7 article nine-a of this chapter. From such funds, each classroom
8 teacher and librarian shall be allotted \$100 for expenditure during
9 the instructional year for academic materials, supplies or
10 equipment which, in the judgment of the teacher or librarian, will
11 assist him or her in providing instruction in his or her assigned
12 academic subjects or shall be returned to the faculty senate:
13 *Provided*, That nothing contained herein prohibits the funds from
14 being used for programs and materials that, in the opinion of the
15 teacher, enhance student behavior, increase academic achievement,
16 improve self-esteem and address the problems of students at-risk.
17 The remainder of funds shall be expended for academic materials,
18 supplies or equipment in accordance with a budget approved by the
19 faculty senate. Notwithstanding any other provisions of the law to
20 the contrary, funds not expended in one school year are available
21 for expenditure in the next school year: *Provided, however*, That
22 the amount of county funds budgeted in a fiscal year may not be
23 reduced throughout the year as a result of the faculty
24 appropriations in the same fiscal year for such materials, supplies

1 and equipment. Accounts shall be maintained of the allocations and
2 expenditures of such funds for the purpose of financial audit.
3 Academic materials, supplies or equipment shall be interpreted
4 broadly, but does not include materials, supplies or equipment
5 which will be used in or connected with interscholastic athletic
6 events.

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

16 (3) A faculty senate may nominate teachers for recognition as
17 outstanding teachers under state and local teacher recognition
18 programs and other personnel at the school, including parents, for
19 recognition under other appropriate recognition programs and may
20 establish such programs for operation at the school.

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

24 (5) A faculty senate may submit recommendations to the

1 principal regarding establishment of the master curriculum schedule
2 for the next ensuing school year.

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

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

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

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

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

23 (11) Any faculty senate may review the evaluation procedure as
24 conducted in their school to ascertain whether the evaluations were

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

10 (12) A local board shall provide to each faculty senate a
11 two-hour block of time for a faculty senate meeting on a day
12 scheduled for the opening of school prior to the beginning of the
13 instructional term. ~~and a two-hour block of time on each~~
14 ~~instructional support and enhancement day scheduled by the board~~
15 ~~for instructional activities for students and professional~~
16 ~~activities for teachers pursuant to section forty five, article~~
17 ~~five of this chapter~~ A faculty senate may meet for an unlimited
18 block of time ~~per month~~ during noninstructional days to discuss and
19 plan strategies to improve student instruction and to conduct other
20 faculty senate business. A faculty senate meeting scheduled on a
21 noninstructional day shall be considered as part of the purpose for
22 which the noninstructional day is scheduled. This time may be
23 utilized and determined at the local school level and includes, but
24 is not limited to, faculty senate meetings.

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

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

20 **CHAPTER 18A. SCHOOL PERSONNEL.**

21 **ARTICLE 2. SCHOOL PERSONNEL.**

22 **§18A-2-7. Assignment, transfer, promotion, demotion, suspension**
23 **and recommendation of dismissal of school personnel**

1 **by superintendent; preliminary notice of transfer;**
2 **hearing on the transfer; proof required.**

3 (a) The superintendent, subject only to approval of the board,
4 may assign, transfer, promote, demote or suspend school personnel
5 and recommend their dismissal pursuant to provisions of this
6 chapter. However, an employee shall be notified in writing by the
7 superintendent on or before March 1 if he or she is being
8 considered for transfer or to be transferred. Only those employees
9 whose consideration for transfer or intended transfer is based upon
10 known or expected circumstances which will require the transfer of
11 employees shall be considered for transfer or intended for transfer
12 and the notification shall be limited to only those employees. Any
13 teacher or employee who desires to protest the proposed transfer
14 may request in writing a statement of the reasons for the proposed
15 transfer. The statement of reasons shall be delivered to the
16 teacher or employee within ten days of the receipt of the request.
17 Within ten days of the receipt of the statement of the reasons, the
18 teacher or employee may make written demand upon the superintendent
19 for a hearing on the proposed transfer before the county board of
20 education. The hearing on the proposed transfer shall be held on
21 or before April 15. At the hearing, the reasons for the proposed
22 transfer must be shown.

23 (b) The superintendent at a meeting of the board on or before
24 April 15 shall furnish in writing to the board a list of teachers

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

14 (c) The superintendent's authority to suspend school personnel
15 shall be temporary only pending a hearing upon charges filed by the
16 superintendent with the board of education and the period of
17 suspension may not exceed thirty days unless extended by order of
18 the board.

19 (d) The provisions of this section respecting hearing upon
20 notice of transfer is not applicable in emergency situations where
21 the school building becomes damaged or destroyed through an
22 unforeseeable act and which act necessitates a transfer of the
23 school personnel because of the aforementioned condition of the
24 building.

1 (e) Notwithstanding any provision of this code to the
2 contrary, when actual student enrollment in a grade level or
3 program, unforeseen before March 1 of the preceding school year,
4 permits the assignment of fewer teachers or service employees to or
5 within a school under any pupil-teacher ratio, class size or
6 caseload standard established in section eighteen-a, article five,
7 chapter eighteen of this code or any policy of the state board, the
8 superintendent, with board approval, may reassign the surplus
9 personnel to another school or to another grade level or program
10 within the school if needed there to comply with any such
11 pupil-teacher ratio, class size or caseload standard. The
12 reassignment may be made without following the notice and hearing
13 provisions of this section, and at any time during the school year
14 when the conditions of this subsection are met. The employee
15 reassigned under this subsection shall be the least senior teacher
16 or service employee working at the school, or in the grade level or
17 program, in the requisite certification or classification area(s).
18 If the classroom teacher is reassigned there shall be no diminution
19 of pay or benefits as a result of the reassignment.

20 **ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL**
21 **DEVELOPMENT.**

22 **§18A-3-1d. Teach For America.**

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

1 (1) "Critical need alternative teaching certificate" means a
2 certificate issued to a candidate who has been admitted to the
3 Teach For America Corps, is assigned to teach in West Virginia, and
4 who does not meet the standard educational requirements for teacher
5 certification.

6 (2) "Teach For America" means the national nonprofit
7 organization focused on eliminating educational inequity by
8 recruiting, selecting, training and supporting high-achieving
9 recent college graduates and professionals to teach for at least
10 two years in low-income communities throughout the United States,
11 as part of the Teach For America corps.

12 (3) "Teach For America corps member" means an individual who
13 has been admitted to the Teach For America corps to be a teacher,
14 and who is in the process of completing a two-year commitment as
15 part of the corps.

16 (b) Critical need alternative teaching certificate -

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

21 (2) The certificate is issued for two years and may be renewed
22 for one additional year, and no individual may hold a critical need
23 alternative teacher certificate for a period exceeding three years.
24 The critical need alternative teacher certificate is equivalent to

1 a professional teaching certificate for the purpose of issuing a
2 continuing contract, and for the purposes of being designated a
3 highly qualified teacher under the No Child Left Behind Act.

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

6 (A) Have been admitted into the Teach For America corps and be
7 part of the Teach For America corps serving West Virginia;

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

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

18 (D) Have completed Teach For America's summer training
19 institute;

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

23 (F) Attain the age of eighteen years on or before October 1 of
24 the year in which the critical need alternative teacher certificate

1 is issued; and

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

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

8 (5) Teach For America provides essential knowledge and skills,
9 and participants in the West Virginia corps certified under this
10 section shall complete the summer training institute and ongoing
11 two-year professional development required by Teach for America.

12 (6) In addition to receiving support provided by Teach For
13 America staff, candidates certified under this section shall
14 successfully complete a Beginning Teacher Internship program under
15 section two-b of this article.

16 (7) Professional support team. --

17 (A) Training and support of teachers certified under this
18 section are provided by a professional support team including the
19 school principal, or his or her designee, an experienced classroom
20 teacher who is serving as a mentor under the Beginning Teacher
21 Internship program pursuant to section two-b of this article, and
22 a staff member of Teach For America.

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

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

11 (D) Notwithstanding any law to the contrary, upon program
12 completion and at least three years of successful teaching
13 experience, the teacher is eligible for a professional certificate,
14 as per the requirements established in section one-e of this
15 article.

16 **§18A-3-1e. Recommendation for certification of teachers on the**
17 **critical need alternative teaching certificate.**

18 (a) At the conclusion of the program administered pursuant to
19 section one-d of this article, the support team defined in section
20 one-d of this article shall prepare a comprehensive evaluation
21 report on the teacher's performance. This report shall be submitted
22 directly to the State Superintendent of Schools and shall contain
23 a recommendation as to whether or not a professional certificate
24 should be issued to the teacher. The report shall be made on

1 standard forms developed by the state superintendent.

2 The comprehensive evaluation report shall include one of the
3 following recommendations:

4 (1) Approved: Recommends issuance of a professional
5 certificate;

6 (2) Insufficient: Recommends that a professional certificate
7 not be issued but that the candidate be allowed to seek reentry on
8 one or more occasions in the future into an approved alternative
9 teacher education program or the Teach For America program; or

10 (3) Disapproved: Recommends that a professional certificate
11 not be issued and that the candidate not be allowed to enter into
12 another approved alternative teacher education program or the Teach
13 For America program in this state, but may not be prohibited from
14 pursuing teacher certification through other approved programs for
15 the education of teachers in this state.

16 (b) The support team shall provide the teacher with a copy of
17 the teacher's written evaluation report and certification
18 recommendation before submitting it to the state superintendent. If
19 the teacher disagrees with the provider's recommendation, the
20 teacher may, within fifteen days of receipt, request an appeal in
21 accordance with the certification appeals process established by
22 the State Board of Education.

23 **§18A-3-2a. Certificates valid in the public schools that may be**
24 **issued by the state superintendent.**

1 In accordance with state board rules for the education of
2 professional educators adopted pursuant to section one of this
3 article and subject to the limitations and conditions of that
4 section, the state superintendent may issue the following
5 certificates valid in the public schools of the state:

6 (a) *Professional teaching certificates.* --

7 (1) A professional teaching certificate for teaching in the
8 public schools may be issued to a person who meets the following
9 conditions:

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

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

14 (ii) Has met equivalent standards at institutions in other
15 states and has passed appropriate state board approved basic skills
16 and subject matter tests or has completed three years of successful
17 experience within the last seven years in the area for which
18 licensure is being sought; or

19 (B) Holds at least a bachelor's degree ~~in a discipline taught~~
20 ~~in the public schools~~ from an accredited institution of higher
21 education; and

22 (i) Has passed appropriate state board approved basic skills
23 and subject matter tests; or

24 (ii) Has completed three years of successful experience within

1 the last seven years in the area for which licensure is being
2 sought; and

3 (I) Has completed an alternative program for teacher education
4 approved by the state board or the Teach For America program in
5 accordance with section one-d of this article;

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

9 (III) Is recommended by the state superintendent based on
10 documentation submitted.

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

14 (3) The initial professional certificate is issued
15 provisionally for a period of three years from the date of
16 issuance:

17 (A) The certificate may be converted to a professional
18 certificate valid for five years subject to successful completion
19 of a beginning teacher internship or induction program, if
20 applicable; or

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

23 (b) *Alternative program teacher certificate.* -- An alternative
24 program teacher certificate may be issued to a candidate who is

1 enrolled in an alternative program for the education of teachers in
2 accordance with the provisions of section one-a of this article.

3 (1) The certificate is valid only for the alternative program
4 position in which the candidate is employed and is subject to
5 enrollment in the program.

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

8 (c) Critical need alternative teaching certificate. -- A
9 critical need alternative teaching certificate may be issued to a
10 candidate in accordance with provisions of section one-d of this
11 article.

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

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

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

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

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

24 (i) Has successfully completed an approved program for

1 administrative certification developed by the state board in
2 cooperation with the chancellor for higher education; and

3 (ii) Has successfully completed education and training in
4 evaluation skills through the center for professional development,
5 or equivalent education and training in evaluation skills approved
6 by the state board; and

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

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

11 (3) The initial professional administrative certificate is
12 issued provisionally for a period of five years. This certificate
13 may be converted to a professional administrative certificate valid
14 for five years or renewed, subject to the regulations of the state
15 board.

16 ~~(d)~~ (e) *Paraprofessional certificate.* -- A paraprofessional
17 certificate may be issued to a person who meets the following
18 conditions:

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

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

1 ~~(e)~~ (f) *Other certificates; permits.* --

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

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

10 (3) Within the category of other certificates and permits, the
11 state superintendent may issue certificates for persons to serve in
12 the public schools as athletic coaches or coaches of other
13 extracurricular activities, whose duties may include the
14 supervision of students, subject to the following limitations:

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

17 (i) The contract specifies the duties to be performed,
18 specifies a rate of pay that is equivalent to the rate of pay for
19 professional educators in the district who accept similar duties as
20 extra duty assignments, and provides for liability insurance
21 associated with the activity; and

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

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

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

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

6 (1) A teacher-in-residence permit may be issued to a candidate
7 who is enrolled in a teacher-in-residence program in accordance
8 with an agreement between an institution of higher education and a
9 county board. The agreement is developed pursuant to subsection
10 (f), section one of this article and requires approval by the state
11 board.

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

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

17 **§18A-3A-1. Center for Professional Development; intent and**
18 **mission; Principals Academy curriculum and**
19 **expenses; authorization to charge fees.**

20 (a) Teaching is a profession that directly correlates to the
21 social and economic well-being of a society and its citizens.
22 Superior teaching is essential to a well-educated and productive
23 populace. Strong academic leadership provided by principals and

1 administrators skilled in modern management principles is also
2 essential. The intent of this article is to recognize the value of
3 professional involvement by experienced educators, principals and
4 administrators in building and maintaining a superior force of
5 professional educators and to establish avenues for applying this
6 involvement.

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

1 programs. Additionally, the center shall perform other duties
2 assigned to it by law.

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

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

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

11 (A) Entitled to vote; and

12 (B) A Cochair of the board.

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

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

17 (A) Appointed by the President of the employing institution;

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

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

22 (4) One regional education service agency executive director,
23 elected by all of the regional education service agency executive
24 directors;

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

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

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

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

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

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

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

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

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

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

23 (2) The regional education service agency executive directors
24 shall elect an executive director to fill the unexpired term of any

1 executive director who ceases to be employed in that capacity.

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

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

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

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

1 Officer, may employ other staff necessary to carry out the mission
2 and duties of the center. The Chief Executive Officer serves at
3 the will and pleasure of the Governor. Annually, the center board
4 shall evaluate the Chief Executive Officer, and shall report the
5 results to the Governor. The duties of the Chief Executive Officer
6 include:

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

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

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

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

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

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

22 (g) When practicable, personnel employed by state higher
23 education agencies and state, regional and county public education
24 agencies shall be made available to the center to assist in the

1 operation of projects of limited duration, subject to the
2 provisions of section twenty-four, article two, chapter eighteen of
3 this code.

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

20 (i) The Center for Professional Development shall implement
21 training and professional development programs for the Principals
22 Academy based upon the minimum qualities, proficiencies and skills
23 necessary for principals in accordance with the standards
24 established by the state board pursuant to the terms of section

1 two-c, article three of this chapter.

2 (j) In accordance with section two-c, article three of this
3 chapter, the center ~~shall be~~ is responsible for paying reasonable
4 and necessary expenses for persons attending the Principals
5 Academy: *Provided*, That nothing in this section ~~shall be construed~~
6 ~~to require~~ requires any specific level of funding by the
7 Legislature.

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

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

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

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

4 **§18A-3A-2. Professional development project.**

5 Subject to the provisions of ~~section twenty-three-a, article~~
6 ~~two, chapter eighteen~~ article two-i, chapter eighteen-a of this
7 code, through this project the Center for Professional Development
8 shall:

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

23 (2) Identify, coordinate, arrange and otherwise assist in the
24 delivery of professional development programs and activities that

1 help principals and administrators acquire knowledge, skills,
2 attitudes and practices in academic leadership and management
3 principles for principals and administrators and such other
4 pertinent complements considered essential for principals and
5 administrators to demonstrate appropriate performance in the public
6 schools of West Virginia. The basis for the performance shall be
7 the laws, policies and regulations adopted for the public schools
8 of West Virginia, and amendments thereto;

9 (3) Serve in a coordinating capacity to assure that the
10 knowledge, skills, attitude and other pertinent complements of
11 appropriate professional performance which evolve over time in the
12 public school environment are appropriately reflected in the
13 programs approved for the education of professional personnel,
14 including, but not limited to, advising the teacher education
15 programs of major statutory and policy changes in the public
16 schools which affect the job performance requirements of
17 professional educators, including principals and administrators;

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

23 (5) Provide for the routine education of all professional
24 educators, including principals and administrators, and those

1 service personnel having direct contact with students on warning
2 signs and resources to assist in suicide prevention under
3 guidelines established by the state board. The education may be
4 accomplished through self review of suicide prevention materials
5 and resources approved by the state board. The provisions of this
6 paragraph may be known and cited as the "Jason Flatt Act of 2012";

7 (6) Provide consultation and assistance to county staff
8 development councils established under the provisions of section
9 eight, article three of this chapter in planning, designing,
10 coordinating, arranging for and delivering professional development
11 programs to meet the needs of the professional educators of their
12 district. From legislative appropriations to the center, exclusive
13 of the amounts required for the expenses of the principals academy,
14 the center shall, unless otherwise directed by the Legislature,
15 provide assistance in the delivery of programs and activities to
16 meet the expressed needs of the school districts for professional
17 development to help teachers, principals and administrators
18 demonstrate appropriate performance based on the laws, policies and
19 regulations adopted for the public schools of West Virginia; and

20 (7) Cooperate and coordinate with the institutions of higher
21 education to provide professional staff development programs that
22 satisfy some or all of the criteria necessary for currently
23 certified professional educators to meet the requirements for an
24 additional endorsement in an area of certification and for

1 certification to teach in the middle school grades.

2 If the center is not able to reach agreement with the
3 representatives of the institutions providing teacher education
4 programs on which courses will be approved for credit toward
5 additional endorsements, the state board may certify certain
6 professional staff development courses to meet criteria required by
7 the state board. This certification shall be done on a course by
8 course basis.

9 **§18A-3A-3. Professional personnel evaluation project.**

10 Subject to the provisions of ~~section twenty-three a, article~~
11 ~~two, chapter eighteen~~ article two-i, chapter eighteen-a of this
12 code, through this project the center shall:

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

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

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

22 **§18A-4-2a. State minimum salary bonus for classroom teachers with**
23 **national board certification.**

1 (a) The Legislature ~~hereby~~ finds and declares that the
2 rigorous standards and processes for certification by the National
3 Board for Professional Teaching Standards (NBPTS) helps to promote
4 the quality of teaching and learning. Therefore, classroom
5 teachers in the public schools of West Virginia should be
6 encouraged to achieve national board certification through a
7 reimbursement of expenses and an additional salary bonus which
8 reflects their additional certification, to be paid in accordance
9 with the provisions of this section.

10 (b) Three thousand five hundred dollars shall be paid annually
11 to each classroom teacher who holds a valid certificate issued by
12 the National Board of Professional Teaching Standards for the life
13 of the certification, but in no event more than ten years for any
14 one certification.

15 (c) The payments:

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

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

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

21 (d) One-half the certification fee shall be paid for
22 reimbursement once to each teacher who enrolls in the program for
23 the National Board for Professional Teaching Standards
24 certification and one-half the certification fee shall be paid for

1 reimbursement once to each teacher who completes the National Board
2 for Professional Teaching Standards certification. Completion
3 shall be defined as the completion of ten scorable entries, as
4 verified by the National Board for Professional Teaching Standards.
5 Teachers who achieve National Board for Professional Teaching
6 Standards certification may be reimbursed a maximum of \$600 for
7 expenses actually incurred while obtaining the National Board for
8 Professional Teaching Standards certification.

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

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

1 funds sufficient to accomplish the purposes of this subsection,
2 including needed retroactive payments.

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

6 (h) Nothing in this section prevents the state board from
7 reimbursing classroom teachers that seek national board
8 re-certification.

9 **§18A-4-7a. Employment, promotion and transfer of professional**
10 **personnel; seniority.**

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

14 (b) The county board shall ~~make decisions affecting the hiring~~
15 ~~of new classroom teachers~~ fill vacancies in professional positions
16 of employment on the basis of the applicant with the highest
17 qualifications. The county superintendent shall be hired under
18 separate criteria established by the county board.

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

23 (1) Appropriate certification, licensure or both;

24 (2) Amount of experience relevant to the position; or, in the

1 case of a classroom teaching position, the amount of teaching
2 experience in the subject area;

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

5 (4) Academic achievement;

6 (5) Relevant specialized training;

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

9 (7) Seniority; and

10 ~~(7)~~ (8) Other measures or indicators upon which the relative
11 qualifications of the applicant may fairly be judged.

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

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

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

19 ~~(3) The existence of teaching experience in the required~~
20 ~~certification area;~~

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

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

24 ~~(6) Receiving an overall rating of satisfactory in the~~

1 ~~previous two evaluations conducted pursuant to section twelve,~~
2 ~~article two of this chapter; and~~

3 ~~(7) Seniority.~~

4 ~~(e) In filling positions pursuant to subsection (d) of this~~
5 ~~section, consideration shall be given to each criterion with each~~
6 ~~criterion being given equal weight. If the applicant with the most~~
7 ~~seniority is not selected for the position, upon the request of the~~
8 ~~applicant a written statement of reasons shall be given to the~~
9 ~~applicant with suggestions for improving the applicant's~~
10 ~~qualifications. In judging qualifications for filling a classroom~~
11 ~~teacher vacancy at a school, the county board shall also give~~
12 ~~consideration to any recommendations made by the principal and by~~
13 ~~the process, if any, established by the faculty senate pursuant to~~
14 ~~section five, article five-a, chapter eighteen of this code to~~
15 ~~interview prospective professional educators.~~

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

23 ~~(g)~~ (f) Upon completion of one hundred thirty-three days of
24 employment in any one school year, substitute teachers, except

1 retired teachers and other retired professional educators employed
2 as substitutes, shall accrue seniority exclusively for the purpose
3 of applying for employment as a permanent, full-time professional
4 employee. One hundred thirty-three days or more of said employment
5 shall be prorated and shall vest as a fraction of the school year
6 worked by the permanent, full-time teacher.

7 ~~(h)~~ (g) Guidance counselors and all other professional
8 employees, as defined in section one, article one of this chapter,
9 except classroom teachers, shall gain seniority in their
10 nonteaching area of professional employment on the basis of the
11 length of time the employee has been employed by the county board
12 of education in that area: *Provided*, That if an employee is
13 certified as a classroom teacher, the employee accrues classroom
14 teaching seniority for the time that that employee is employed in
15 another professional area. For the purposes of accruing seniority
16 under this paragraph, employment as principal, supervisor or
17 central office administrator, as defined in section one, article
18 one of this chapter, shall be considered one area of employment.

19 ~~(i)~~ (h) Employment for a full employment term shall equal one
20 year of seniority, but no employee may accrue more than one year of
21 seniority during any given fiscal year. Employment for less than
22 the full employment term shall be prorated. A random selection
23 system established by the employees and approved by the board shall
24 be used to determine the priority if two or more employees

1 accumulate identical seniority: *Provided*, That when two or more
2 principals have accumulated identical seniority, decisions on
3 reductions in force shall be based on qualifications.

4 ~~(j)~~ (i) Whenever a county board is required to reduce the
5 number of professional personnel in its employment, or within a
6 school, the employee holding a position to be reduced with the
7 least amount of seniority or the least amount of seniority within
8 the school, in defined circumstances, shall be properly notified
9 and released from employment pursuant to the provisions of section
10 two, article two of this chapter. The provisions of this
11 subsection are subject to the following:

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

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

24 ~~(2)~~ (3) An employee subject to release shall be employed in

1 any other professional position where the employee is certified and
2 was previously employed or to any lateral area for which the
3 employee is certified, licensed or both, if the employee's
4 seniority is greater than the seniority of any other employee in
5 that area of certification, licensure or both: Provided, That the
6 position is not at a school to which the employee is not currently
7 assigned;

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

17 ~~(4)~~ (5) If, prior to August 1, of the year a reduction in
18 force is approved, the reason for any particular reduction in force
19 no longer exists as determined by the county board in its sole and
20 exclusive judgment, the board shall rescind the reduction in force
21 or transfer and shall notify the released employee in writing of
22 his or her right to be restored to his or her position of
23 employment. Within five days of being so notified, the released
24 employee shall notify the board, in writing, of his or her intent

1 to resume his or her position of employment or the right to be
2 restored shall terminate. Notwithstanding any other provision of
3 this subdivision, if there is another employee on the preferred
4 recall list with proper certification and higher seniority, that
5 person shall be placed in the position restored as a result of the
6 reduction in force being rescinded.

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

23 ~~(l)~~ (k) After the twentieth day prior to the beginning of the
24 instructional term, no person employed and assigned to a

1 professional position may transfer to another professional position
2 in the county during that instructional term unless the person
3 holding that position does not have valid certification. The
4 provisions of this subsection are subject to the following:

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

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

11 (3) The county board, upon recommendation of the
12 superintendent may fill a position before the next instructional
13 term when it is determined to be in the best interest of the
14 students. The county superintendent shall notify the state board
15 of each transfer of a person employed in a professional position to
16 another professional position after the twentieth day prior to the
17 beginning of the instructional term;

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

23 (5) The Legislature finds that it is not in the best interest
24 of the students particularly in the elementary grades to have

1 multiple teachers for any one grade level or course during the
2 instructional term. It is the intent of the Legislature that the
3 filling of positions through transfers of personnel from one
4 professional position to another after the twentieth day prior to
5 the beginning of the instructional term should be kept to a
6 minimum.

7 ~~(m)~~ (l) All professional personnel whose seniority with the
8 county board is insufficient to allow their retention by the county
9 board during a reduction in work force shall be placed upon a
10 preferred recall list. As to any professional position opening
11 within the area where they had previously been employed or to any
12 lateral area for which they have certification, licensure or both,
13 the employee shall be recalled on the basis of seniority if no
14 regular, full-time professional personnel, or those returning from
15 leaves of absence with greater seniority, are qualified, apply for
16 and accept the position.

17 ~~(n)~~ (m) Before position openings that are known or expected to
18 extend for twenty consecutive employment days or longer for
19 professional personnel may be filled by the board, the board shall
20 be required to notify all qualified professional personnel on the
21 preferred list and give them an opportunity to apply, but failure
22 to apply shall not cause the employee to forfeit any right to
23 recall. The notice shall be sent by certified mail to the last
24 known address of the employee, and it shall be the duty of each

1 professional personnel to notify the board of continued
2 availability annually, of any change in address or of any change in
3 certification, licensure or both.

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

6 (1) Boards shall be required to post and date notices ~~which of~~
7 each opening at least once and may at their discretion post an
8 opening more than once in order to attract more qualified
9 applicants. The posting or postings for an opening are subject to
10 the following:

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

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

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

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

23 (E) Job postings may not require criteria which are not
24 necessary for the successful performance of the job and may not be

1 written with the intent to favor a specific applicant;

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

5 (3) If one or more applicants under all the postings for a
6 vacancy meets the qualifications listed in the job posting, the
7 successful applicant to fill the vacancy shall be selected by the
8 board within thirty working days of the end of the first posting
9 period;

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

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

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

1 to the reassignment.

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

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

8 ~~(2) When a specified grade level needs to be reduced and the~~
9 ~~least senior employee in the school is not in that grade level, the~~
10 ~~least senior classroom teacher in the grade level that needs to be~~
11 ~~reduced shall be reassigned to the position made vacant by the~~
12 ~~transfer of the least senior classroom teacher in the school~~
13 ~~without that position being posted: *Provided, That the employee is*~~
14 ~~certified, licensed or both and agrees to the reassignment.~~

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

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

5 (r) Notwithstanding any other provision of this code to the
6 contrary, upon recommendation of the principal and approval by the
7 classroom teacher and county board, a classroom teacher assigned to
8 the school may at any time be assigned to a new or existing
9 classroom teacher position at the school without the position being
10 posted.

11 **§18A-4-8. Employment term and class titles of service personnel;**
12 **definitions.**

13 (a) The purpose of this section is to establish an employment
14 term and class titles for service personnel. The employment term
15 for service personnel may not be less than ten months. A month is
16 defined as twenty employment days. The county board may contract
17 with all or part of these service personnel for a longer term. ~~The~~
18 ~~beginning and closing dates of the ten-month employment term may~~
19 ~~not exceed forty-three weeks.~~

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

24 (c) Service personnel employed in the same classification for

1 more than the two hundred-day minimum employment term shall be paid
2 for additional employment at a daily rate of not less than the
3 daily rate paid for the two hundred-day minimum employment term.

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

8 (e) If a service person whose regular work week is scheduled
9 from Monday through Friday agrees to perform any work assignments
10 on a Saturday or Sunday, the service person shall be paid for at
11 least one-half day of work for each day he or she reports for work.
12 If the service person works more than three and one-half hours on
13 any Saturday or Sunday, he or she shall be paid for at least a full
14 day of work for each day.

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

19 (1) A maintenance person means a person who holds a
20 classification title other than in a custodial, aide, school lunch,
21 office or transportation category as provided in section one,
22 article one of this chapter.

23 (2) A service person's schedule is considered to be
24 interrupted if he or she does not work a continuous period in one

1 day. Aides are not regarded as working an interrupted schedule
2 when engaged exclusively in the duties of transporting students;

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

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

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

9 (g) When there is a change in classification or when a service
10 person meets the requirements of an advanced classification, his or
11 her salary shall be made to comply with the requirements of this
12 article and any county salary schedule in excess of the minimum
13 requirements of this article, based upon the service person's
14 advanced classification and allowable years of employment.

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

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

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

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

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

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

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

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

22 (7) "Accounts payable supervisor" means a person employed in
23 the county board office who has primary responsibility for the
24 accounts payable function and who either has completed twelve

1 college hours of accounting courses from an accredited institution
2 of higher education or has at least eight years of experience
3 performing progressively difficult accounting tasks.
4 Responsibilities of this class title may include supervision of
5 other personnel;

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

9 (9) "Aide II" means a service person referred to in the "Aide
10 I" classification who has completed a training program approved by
11 the state board, or who holds a high school diploma or has received
12 a general educational development certificate. Only a person
13 classified in an Aide II class title may be employed as an aide in
14 any special education program;

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

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

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

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

1 (A) Has completed eighteen hours of state board-approved
2 college credit at a regionally accredited institution of higher
3 education, or

4 (B) Has completed fifteen hours of state board-approved
5 college credit at a regionally accredited institution of higher
6 education; and has successfully completed an in-service training
7 program determined by the state board to be the equivalent of three
8 hours of college credit;

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

12 (13) "Auditor" means a person employed to examine and verify
13 accounts of individual schools and to assist schools and school
14 personnel in maintaining complete and accurate records of their
15 accounts;

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

22 (15) "Braille or sign language specialist" means a person
23 employed to provide braille and/or sign language assistance to
24 students. A service person who has held or holds an aide title and

1 becomes employed as a braille or sign language specialist shall
2 hold a multiclassification status that includes both aide and
3 braille or sign language specialist title, in accordance with
4 section eight-b of this article;

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

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

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

14 (19) "Cafeteria manager" means a person employed to direct the
15 operation of a food services program in a school, including
16 assigning duties to employees, approving requisitions for supplies
17 and repairs, keeping inventories, inspecting areas to maintain high
18 standards of sanitation, preparing financial reports and keeping
19 records pertinent to food services of a school;

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

22 (21) "Carpenter II" means a person classified as a journeyman
23 carpenter;

24 (22) "Chief mechanic" means a person employed to be

1 responsible for directing activities which ensure that student
2 transportation or other county board-owned vehicles are properly
3 and safely maintained;

4 (23) "Clerk I" means a person employed to perform clerical
5 tasks;

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

9 (25) "Computer operator" means a qualified person employed to
10 operate computers;

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

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

16 (28) "Cook III" means a person employed to prepare and serve
17 meals, make reports, prepare requisitions for supplies, order
18 equipment and repairs for a food service program of a school
19 system;

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

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

1 (31) "Custodian II" means a person employed as a watchman or
2 groundsman;

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

6 (33) "Custodian IV" means a person employed as head
7 custodians. In addition to providing services as defined in
8 "custodian III," duties may include supervising other custodian
9 personnel;

10 (34) "Director or coordinator of services" means an employee
11 of a county board who is assigned to direct a department or
12 division.

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

15 (B) Professional personnel holding this class title may not be
16 defined or classified as service personnel unless the professional
17 person held a service personnel title under this section prior to
18 holding the class title of "director or coordinator of services."

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

22 (D) Funding for the position of director or coordinator of
23 services is based upon the employment status of the director or
24 coordinator either as a professional person or a service person;

1 and

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

7 (35) "Draftsman" means a person employed to plan, design and
8 produce detailed architectural/engineering drawings;

9 (36) "Electrician I" means a person employed as an apprentice
10 electrician helper or one who holds an electrician helper license
11 issued by the State Fire Marshal;

12 (37) "Electrician II" means a person employed as an
13 electrician journeyman or one who holds a journeyman electrician
14 license issued by the State Fire Marshal;

15 (38) "Electronic technician I" means a person employed at the
16 apprentice level to repair and maintain electronic equipment;

17 (39) "Electronic technician II" means a person employed at the
18 journeyman level to repair and maintain electronic equipment;

19 (40) "Executive secretary" means a person employed as
20 secretary to the county school superintendent or as a secretary who
21 is assigned to a position characterized by significant
22 administrative duties;

23 (41) "Food services supervisor" means a qualified person who
24 is not a professional person or professional educator as defined in

1 section one, article one of this chapter. The food services
2 supervisor is employed to manage and supervise a county school
3 system's food service program. The duties include preparing
4 in-service training programs for cooks and food service employees,
5 instructing personnel in the areas of quantity cooking with economy
6 and efficiency and keeping aggregate records and reports;

7 (42) "Foreman" means a skilled person employed to supervise
8 personnel who work in the areas of repair and maintenance of school
9 property and equipment;

10 (43) "General maintenance" means a person employed as a helper
11 to skilled maintenance employees and to perform minor repairs to
12 equipment and buildings of a county school system;

13 (44) "Glazier" means a person employed to replace glass or
14 other materials in windows and doors and to do minor carpentry
15 tasks;

16 (45) "Graphic artist" means a person employed to prepare
17 graphic illustrations;

18 (46) "Groundsman" means a person employed to perform duties
19 that relate to the appearance, repair and general care of school
20 grounds in a county school system. Additional assignments may
21 include the operation of a small heating plant and routine cleaning
22 duties in buildings;

23 (47) "Handyman" means a person employed to perform routine
24 manual tasks in any operation of the county school system;

1 (48) "Heating and air conditioning mechanic I" means a person
2 employed at the apprentice level to install, repair and maintain
3 heating and air conditioning plants and related electrical
4 equipment;

5 (49) "Heating and air conditioning mechanic II" means a person
6 employed at the journeyman level to install, repair and maintain
7 heating and air conditioning plants and related electrical
8 equipment;

9 (50) "Heavy equipment operator" means a person employed to
10 operate heavy equipment;

11 (51) "Inventory supervisor" means a person employed to
12 supervise or maintain operations in the receipt, storage, inventory
13 and issuance of materials and supplies;

14 (52) "Key punch operator" means a qualified person employed to
15 operate key punch machines or verifying machines;

16 (53) "Licensed practical nurse" means a nurse, licensed by the
17 West Virginia Board of Examiners for Licensed Practical Nurses,
18 employed to work in a public school under the supervision of a
19 school nurse;

20 (54) "Locksmith" means a person employed to repair and
21 maintain locks and safes;

22 (55) "Lubrication man" means a person employed to lubricate
23 and service gasoline or diesel-powered equipment of a county school
24 system;

1 (56) "Machinist" means a person employed to perform machinist
2 tasks which include the ability to operate a lathe, planer, shaper,
3 threading machine and wheel press. A person holding this class
4 title also should have the ability to work from blueprints and
5 drawings;

6 (57) "Mail clerk" means a person employed to receive, sort,
7 dispatch, deliver or otherwise handle letters, parcels and other
8 mail;

9 (58) "Maintenance clerk" means a person employed to maintain
10 and control a stocking facility to keep adequate tools and supplies
11 on hand for daily withdrawal for all school maintenance crafts;

12 (59) "Mason" means a person employed to perform tasks
13 connected with brick and block laying and carpentry tasks related
14 to these activities;

15 (60) "Mechanic" means a person employed to perform skilled
16 duties independently in the maintenance and repair of automobiles,
17 school buses and other mechanical and mobile equipment to use in a
18 county school system;

19 (61) "Mechanic assistant" means a person employed as a
20 mechanic apprentice and helper;

21 (62) "Multiclassification" means a person employed to perform
22 tasks that involve the combination of two or more class titles in
23 this section. In these instances the minimum salary scale shall be
24 the higher pay grade of the class titles involved;

1 (63) "Office equipment repairman I" means a person employed as
2 an office equipment repairman apprentice or helper;

3 (64) "Office equipment repairman II" means a person
4 responsible for servicing and repairing all office machines and
5 equipment. A person holding this class title is responsible for
6 the purchase of parts necessary for the proper operation of a
7 program of continuous maintenance and repair;

8 (65) "Painter" means a person employed to perform duties
9 painting, finishing and decorating wood, metal and concrete
10 surfaces of buildings, other structures, equipment, machinery and
11 furnishings of a county school system;

12 (66) "Paraprofessional" means a person certified pursuant to
13 section two-a, article three of this chapter to perform duties in
14 a support capacity including, but not limited to, facilitating in
15 the instruction and direct or indirect supervision of students
16 under the direction of a principal, a teacher or another designated
17 professional educator.

18 (A) A person employed on the effective date of this section in
19 the position of an aide may not be subject to a reduction in force
20 or transferred to create a vacancy for the employment of a
21 paraprofessional;

22 (B) A person who has held or holds an aide title and becomes
23 employed as a paraprofessional shall hold a multiclassification
24 status that includes both aide and paraprofessional titles in

1 accordance with section eight-b of this article; and

2 (C) When a service person who holds an aide title becomes
3 certified as a paraprofessional and is required to perform duties
4 that may not be performed by an aide without paraprofessional
5 certification, he or she shall receive the paraprofessional title
6 pay grade;

7 (67) "Payroll supervisor" means a person employed in the
8 county board office who has primary responsibility for the payroll
9 function and who either has completed twelve college hours of
10 accounting from an accredited institution of higher education or
11 has at least eight years of experience performing progressively
12 difficult accounting tasks. Responsibilities of this class title
13 may include supervision of other personnel;

14 (68) "Plumber I" means a person employed as an apprentice
15 plumber and helper;

16 (69) "Plumber II" means a person employed as a journeyman
17 plumber;

18 (70) "Printing operator" means a person employed to operate
19 duplication equipment, and to cut, collate, staple, bind and shelve
20 materials as required;

21 (71) "Printing supervisor" means a person employed to
22 supervise the operation of a print shop;

23 (72) "Programmer" means a person employed to design and
24 prepare programs for computer operation;

1 (73) "Roofing/sheet metal mechanic" means a person employed to
2 install, repair, fabricate and maintain roofs, gutters, flashing
3 and duct work for heating and ventilation;

4 (74) "Sanitation plant operator" means a person employed to
5 operate and maintain a water or sewage treatment plant to ensure
6 the safety of the plant's effluent for human consumption or
7 environmental protection;

8 (75) "School bus supervisor" means a qualified person:

9 (A) Employed to assist in selecting school bus operators and
10 routing and scheduling school buses, operate a bus when needed,
11 relay instructions to bus operators, plan emergency routing of
12 buses and promote good relationships with parents, students, bus
13 operators and other employees; and

14 (B) Certified to operate a bus or previously certified to
15 operate a bus;

16 (76) "Secretary I" means a person employed to transcribe from
17 notes or mechanical equipment, receive callers, perform clerical
18 tasks, prepare reports and operate office machines;

19 (77) "Secretary II" means a person employed in any elementary,
20 secondary, kindergarden, nursery, special education, vocational or
21 any other school as a secretary. The duties may include performing
22 general clerical tasks; transcribing from notes, stenotype,
23 mechanical equipment or a sound-producing machine; preparing
24 reports; receiving callers and referring them to proper persons;

1 operating office machines; keeping records and handling routine
2 correspondence. Nothing in this subdivision prevents a service
3 person from holding or being elevated to a higher classification;

4 (78) "Secretary III" means a person assigned to the county
5 board office administrators in charge of various instructional,
6 maintenance, transportation, food services, operations and health
7 departments, federal programs or departments with particular
8 responsibilities in purchasing and financial control or any person
9 who has served for eight years in a position which meets the
10 definition of "secretary II" or "secretary III";

11 (79) "Supervisor of maintenance" means a skilled person who is
12 not a professional person or professional educator as defined in
13 section one, article one of this chapter. The responsibilities
14 include directing the upkeep of buildings and shops, and issuing
15 instructions to subordinates relating to cleaning, repairs and
16 maintenance of all structures and mechanical and electrical
17 equipment of a county board;

18 (80) "Supervisor of transportation" means a qualified person
19 employed to direct school transportation activities properly and
20 safely, and to supervise the maintenance and repair of vehicles,
21 buses and other mechanical and mobile equipment used by the county
22 school system. After July 1, 2010, all persons employed for the
23 first time in a position with this classification title or in a
24 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

1 administrative duties assigned by the principal;

2 (87) "Early Childhood Classroom Assistant Teacher - Temporary
3 Authorization" means a person who does not possess minimum
4 requirements for the Permanent Authorization requirements, but are
5 enrolled in and pursuing requirements;

6 (88) "Early Childhood Classroom Assistant Teacher - Permanent
7 Authorization" means a person who has completed the minimum
8 requirements for a state-awarded certificate for early childhood
9 classroom assistant teachers that meet or exceed the requirements
10 for a Child Development Associate. Equivalency for the West
11 Virginia Department of Education will be determined as the Child
12 Development Associate or the West Virginia Apprenticeship for Child
13 Development Specialists; and

14 (89) "Early Childhood Classroom Assistant Teacher -
15 Paraprofessional Certificate" means a person who has completed
16 permanent authorization requirements, as well as additional
17 requirements comparable to current paraprofessional certificate.

18 (j) Notwithstanding any provision in this code to the
19 contrary, and in addition to the compensation provided for service
20 personnel in section eight-a of this article, each service person
21 is entitled to all service personnel employee rights, privileges
22 and benefits provided under this or any other chapter of this code
23 without regard to the employee's hours of employment or the methods
24 or sources of compensation.

1 (k) A service person whose years of employment exceeds the
2 number of years shown and provided ~~for~~ under the state minimum pay
3 scale set forth in section eight-a of this article may not be paid
4 less than the amount shown for the maximum years of employment
5 shown and provided ~~for~~ in the classification in which he or she is
6 employed.

7 (1) Each county board shall review each service person's job
8 classification annually and shall reclassify all service persons as
9 required by the job classifications. The state superintendent may
10 withhold state funds appropriated pursuant to this article for
11 salaries for service personnel who are improperly classified by the
12 county boards. Further, the state superintendent shall order a
13 county board to correct immediately any improper classification
14 matter and, with the assistance of the Attorney General, shall take
15 any legal action necessary against any county board to enforce the
16 order.

17 (m) Without his or her written consent, a service person may
18 not be:

19 (1) Reclassified by class title; or

20 (2) Relegated to any condition of employment which would
21 result in a reduction of his or her salary, rate of pay,
22 compensation or benefits earned during the current fiscal year; or
23 for which he or she would qualify by continuing in the same job
24 position and classification held during that fiscal year and

1 subsequent years.

2 (n) Any county board failing to comply with the provisions of
3 this article may be compelled to do so by mandamus and is liable to
4 any party prevailing against the board for court costs and the
5 prevailing party's reasonable attorney fee, as determined and
6 established by the court.

7 (o) Notwithstanding any provision of this code to the
8 contrary, a service person who holds a continuing contract in a
9 specific job classification and who is physically unable to perform
10 the job's duties as confirmed by a physician chosen by the
11 employee, shall be given priority status over any employee not
12 holding a continuing contract in filling other service personnel
13 job vacancies if the service person is qualified as provided in
14 section eight-e of this article.

15 (p) Any person employed in an aide position on the effective
16 date of this section may not be transferred or subject to a
17 reduction in force for the purpose of creating a vacancy for the
18 employment of a licensed practical nurse.

19 (q) Without the written consent of the service person, a
20 county board may not establish the beginning work station for a bus
21 operator or transportation aide at any site other than a county
22 board-owned facility with available parking. The workday of the
23 bus operator or transportation aide commences at the bus at the
24 designated beginning work station and ends when the employee is

1 able to leave the bus at the designated beginning work station,
2 unless he or she agrees otherwise in writing. The application or
3 acceptance of a posted position may not be construed as the written
4 consent referred to in this subsection.

5 (r) Itinerant status means a service person who does not have
6 a fixed work site and may be involuntarily reassigned to another
7 work site. A service person is considered to hold itinerant status
8 if he or she has bid upon a position posted as itinerant or has
9 agreed to accept this status. A county board may establish
10 positions with itinerant status only within the aide and autism
11 mentor classification categories and only when the job duties
12 involve exceptional students. A service person with itinerant
13 status may be assigned to a different work site upon written notice
14 ten days prior to the reassignment without the consent of the
15 employee and without posting the vacancy. A service person with
16 itinerant status may be involuntarily reassigned no more than twice
17 during the school year. At the conclusion of each school year, the
18 county board shall post and fill, pursuant to section eight-b of
19 this article, all positions that have been filled without posting
20 by a service person with itinerant status. A service person who is
21 assigned to a beginning and ending work site and travels at the
22 expense of the county board to other work sites during the daily
23 schedule, shall not be considered to hold itinerant status.

24 **§18A-4-14. Duty-free lunch and daily planning period for certain**

1 **employees.**

2 (1) Notwithstanding the provisions of section seven, article
3 two of this chapter, every teacher who is employed for a period of
4 time more than one-half the class periods of the regular school day
5 and every service personnel whose employment is for a period of
6 more than three and one-half hours per day and whose pay is at
7 least the amount indicated in the "state minimum pay scale" as set
8 forth in section eight-a of this article shall be provided a daily
9 lunch recess of not less than thirty consecutive minutes, and such
10 employee shall not be assigned any responsibilities during this
11 recess. Such recess shall be included in the number of hours
12 worked, and no county shall increase the number of hours to be
13 worked by an employee as a result of such employee being granted a
14 recess under the provisions of this section.

15 (2) Every teacher who is regularly employed for a period of
16 time more than one-half the class periods of the regular school day
17 shall be provided at least one planning period within each school
18 instructional day to be used to complete necessary preparations for
19 the instruction of pupils. Such planning period shall be the
20 length of the ~~usual class period in the school to which such~~
21 ~~teacher is assigned, and shall be~~ shortest class taught by the
22 classroom teacher and may not be less than thirty minutes. No
23 teacher ~~shall~~ may be assigned any responsibilities during this
24 period. ~~and no county shall increase the number of hours to be~~

1 worked by a teacher as a result of such teacher being granted a
2 planning period subsequent to the adoption of this section (March
3 13, 1982).

4 ~~Principals, and assistant principals, where applicable, shall~~
5 ~~cooperate in carrying out the provisions of this subsection,~~
6 ~~including, but not limited to, assuming control of the class period~~
7 ~~or supervision of students during the time the teacher is engaged~~
8 ~~in the planning period. Substitute teachers may also be utilized~~
9 ~~to assist with classroom responsibilities under this subsection:~~
10 ~~Provided, That any substitute teacher who is employed to teach a~~
11 ~~minimum of two consecutive days in the same position shall be~~
12 ~~granted a planning period pursuant to this section.~~

13 (3) Nothing in this section shall be construed to prevent
14 prevents any teacher from exchanging his or her lunch recess or a
15 planning period or any service personnel from exchanging his or her
16 lunch recess for any compensation or benefit mutually agreed upon
17 by the employee and the county superintendent of schools or his or
18 her agent: *Provided, That a teacher and the superintendent or his*
19 *or her* agent may not agree to terms which are different from those
20 available to any other teacher granted rights under this section
21 within the individual school or to terms which in any way
22 discriminate among such teachers within the individual school, and
23 that service personnel granted rights under this section and the
24 superintendent or his or her agent may not agree to terms which are

1 different from those available to any other service personnel
2 within the same classification category granted rights under this
3 section within the individual school or to terms which in any way
4 discriminate among such service personnel within the same
5 classification category within the individual school.

6 **ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

7 **§18A-5-2. Holidays; closing of schools; time lost because of such;**
8 **special Saturday classes.**

9 (a) Schools ~~shall~~ may not be kept open on any Saturday nor on
10 the following days which are designated as legal school holidays,
11 namely: Independence Day, Labor Day, Veterans Day, Thanksgiving
12 Day, Christmas Day, New Year's Day, Martin Luther King's birthday,
13 Memorial Day, West Virginia Day, and any day on which a primary
14 election, general election or special election is held throughout
15 the state or school district and any day appointed and set apart by
16 the president or the Governor as a holiday of special observance by
17 the people of the state.

18 ~~When any such holiday falls within the employment term, it~~
19 ~~shall be considered as a day of the employment term and the~~
20 ~~full-time school personnel shall receive his or her pay for same.~~

21 (b) When any of the above designated holidays, except a
22 special election, falls on Saturday, the schools shall be closed on
23 the preceding Friday; when any such falls on Sunday, the schools
24 shall be closed on the following Monday.

1 (c) Special classes may be conducted on Saturdays, provided
2 they are conducted on a voluntary basis, for pupils and by teachers
3 and service personnel, and that such teachers and service personnel
4 shall be remunerated in ratio to the regularly contracted pay.

5 (d) Any school or schools may be closed by proper authorities
6 on account of the prevalence of contagious disease, conditions of
7 weather or any other calamitous cause over which the board has no
8 control. Under any or all of the above provisions, the time lost
9 by the closing of schools ~~is~~ may not be counted as days of
10 employment and may not be counted as meeting a part of the
11 requirements of the minimum term of one hundred eighty days of
12 instruction. On ~~such~~ those day or days, county boards of education
13 may provide appropriate alternate work schedules for professional
14 and service personnel affected by the closing of any school or
15 schools under any or all of the above provisions. Professional and
16 service personnel shall receive pay. Insofar as funds are
17 available or can be made available during the school year, the
18 board may extend the employment term for the purpose of making up
19 time that might affect the instructional term.

20 In addition to any other provisions of this chapter, the board
21 is further authorized to provide in its annual budget for meetings,
22 workshops, vacation time or other holidays through extended
23 employment of personnel at the same rate of pay.

24 **CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.**

1 **ARTICLE 4. UNDERWOOD-SMITH TEACHER SCHOLARSHIP AND LOAN**
2 **ASSISTANCE PROGRAM.**

3 **§18C-4-1. Scholarship and loan assistance fund created; purposes;**
4 **funding.**

5 (a) It is the purpose of this article to improve the quality
6 of education in the public schools of West Virginia by encouraging
7 and individuals who have demonstrated outstanding academic
8 abilities to pursue teaching careers at the preschool, elementary,
9 middle or secondary levels in the public schools of this state. In
10 addition, of those individuals who have demonstrated outstanding
11 academic abilities to pursue teaching careers, for scholarships
12 initially awarded for the fall semester, ~~one thousand nine hundred~~
13 ~~ninety-eight~~ 2013, and thereafter, particular efforts will be made
14 in the scholarship selection and loan assistance criteria and
15 procedures to reflect the state's present and projected ~~teacher~~
16 ~~needs, including needs statewide and in different geographic areas~~
17 ~~and for teachers with education and training in specific~~
18 ~~disciplines~~ subject and geographic areas of critical need.

19 (b) The higher education governing boards shall, in
20 consultation with the State Board of Education and the State
21 Superintendent of Schools, promulgate reasonable legislative rules
22 in accordance with the provisions of article three-a, chapter
23 twenty-nine-a of this code, for the administration of the

1 Underwood-Smith Teacher Scholarship and Loan Assistance program by
2 the senior administrator in furtherance of the purposes of this
3 article, including, but not limited to, ~~scholarship selection~~
4 ~~criteria and procedures, renewal, compliance, noncompliance and~~
5 ~~repayment, deferral and excusal.~~ In accordance with such rules,
6 the senior administrator shall establish appropriate guidelines for
7 program operation the following:

8 (1) Establishing scholarship selection criteria and
9 procedures;

10 (2) Establishing criteria and procedures for identifying
11 subject areas, public schools or geographic areas in critical need
12 of teachers;

13 (3) Awarding loan assistance, including establishing
14 conditions under which partial awards may be granted for less than
15 a full year of teaching in an area of critical need;

16 (4) Determining eligibility for loan assistance renewal;

17 (5) Establishing criteria for determining participant
18 compliance or noncompliance with terms of the agreement and
19 establishing procedures to address noncompliance including, but not
20 limited to, repayment, deferral and excusal;

21 (6) Establishing procedures ensuring that loan assistance
22 funds are paid directly to the proper lending entity; and

23 (7) Developing model agreements.

24 (c) There is hereby created in the State Treasury a special

1 revolving fund to be known as the "Underwood-Smith Teacher
2 Scholarship and Loan Assistance Fund" to be administered by the
3 senior administrator solely for granting scholarships and loan
4 assistance to prospective teachers in accordance with this article.
5 Any moneys which may be appropriated by the Legislature, or
6 received by the senior administrator from other sources, for the
7 purposes of this article shall be deposited in the fund. Any
8 moneys remaining in the fund at the close of a fiscal year shall be
9 carried forward for use in the next fiscal year. Any moneys repaid
10 to the senior administrator by reason of default of a scholarship
11 agreement under this article shall also be deposited in the fund.
12 Fund balances shall be invested with the state's consolidated
13 investment fund, and any and all interest earnings on these
14 investments shall be used solely for the purposes for which moneys
15 invested were appropriated or otherwise received.

16 (d) The senior administrator may accept and expend any gift,
17 grant, contribution, bequest, endowment or other money for the
18 purposes of this article and shall make a reasonable effort to
19 encourage external support for the scholarship program.

20 (e) For the purpose of encouraging support for the scholarship
21 program from private sources, the senior administrator may set
22 aside no more than half of the funds appropriated by the
23 Legislature for Underwood-smith Teacher Scholarships and Loan
24 Assistance to be used to match two state dollars to each private

1 dollar from a nonstate source contributed on behalf of a specific
2 institution of higher education in this state.

3 **§18C-4-2. Selection criteria and procedures for awarding**
4 **scholarships.**

5 (a) The Governor shall designate an existing scholarship
6 selection agency or panel to select the recipients of
7 Underwood-Smith teacher scholarships who meet the eligibility
8 criteria set forth in subsection (b) of this section. If no such
9 agency or panel exists, the Governor shall appoint a scholarship
10 selection panel for this purpose which shall consist of seven
11 persons representative of public school administrators, teachers,
12 including preschool teachers, and parents.

13 (b) Eligibility for an Underwood-Smith Teacher Scholarship
14 award shall be limited to ~~West Virginia resident~~ students who:

15 (1) Have graduated or are graduating from a West Virginia high
16 school and rank in the top ten percent of their graduating class or
17 the top ten percent statewide of those West Virginia students
18 taking the American college test;

19 (2) Have a cumulative grade point average of at least three
20 and twenty-five one hundredths on a possible scale of four after
21 successfully completing two years of course work at an approved
22 institution of higher education in West Virginia;

23 (3) Are public school aides or paraprofessionals as defined in
24 section eight, article four, chapter eighteen-a of this code and

1 who have a cumulative grade point average of at least three and
2 twenty-five one hundredths on a possible scale of four after
3 successfully completing two years of course work at an approved
4 institution of higher education in West Virginia; or

5 (4) Are graduate students at the master's degree level who
6 have graduated or are graduating in the top ten percent of their
7 college graduating class.

8 (c) In accordance with the rules of the commission, the vice
9 chancellor for administration shall develop criteria and procedures
10 for the selection of scholarship recipients that reflect the
11 purposes of this article and the areas in which particular efforts
12 will be made in the selection of scholars as set forth in section
13 one of this article and which also may include, but not be limited
14 to, the grade point average of the applicant, involvement in
15 extracurricular activities, financial need, current academic
16 standing and an expression of interest in teaching as expressed in
17 an essay written by the applicant. Such criteria and procedures
18 further may require the applicant to furnish letters of
19 recommendation from teachers and others. It is the intent of the
20 Legislature that academic abilities be the primary criteria for
21 selecting scholarship recipients: *Provided*, That the qualified
22 applicants with the highest academic abilities who intend to pursue
23 teaching careers in areas of critical need and shortage as
24 determined by the State Board of Education shall be given priority.

1 (d) In developing the selection criteria and procedures to be
2 used by the panel, the vice chancellor for administration shall
3 solicit the views of public and private education agencies and
4 institutions and other interested parties. These views: (1) Shall
5 be solicited by means of written and published selection criteria
6 and procedures in final form for implementation; and (2) may be
7 solicited by means of public hearings on the present and projected
8 teacher needs of the state or any other methods the vice chancellor
9 for administration may determine to be appropriate to gather the
10 information.

11 (e) The Vice Chancellor for Administration shall make
12 application forms for Underwood-Smith Teacher Scholarships available
13 to public and private high schools in the state and in other
14 locations convenient to applicants, parents and others, and shall
15 make an effort to attract students from low-income backgrounds,
16 ethnic or racial minority students, students with disabilities, and
17 women or minority students who show interest in pursuing teaching
18 careers in mathematics and science and who are underrepresented in
19 those fields.

20 **§18C-4-2a. Selection criteria and procedures for loan assistance.**

21 (a) Eligibility for an award is limited to a teacher who meets
22 the following requirements:

23 (1) Has earned a teaching degree and is certified to teach a
24 subject area of critical need in the public schools of West

1 Virginia. A certified teacher in a subject area of critical need
2 who is enrolled in an advanced in-field degree course or who has
3 earned an advanced in-field degree may apply for an award to be
4 paid toward current or future education loans;

5 (2) Has agreed to teach, or currently is teaching, a subject
6 area of critical need in a state school or geographic area of the
7 state identified as an area of critical need.

8 (b) In accordance with the rule promulgated pursuant to
9 section one of this article, the administrator shall develop
10 criteria and procedures for the administration of the program.
11 These shall include, but are not limited to, ensuring that awards
12 are given only on the condition that the recipient adheres to an
13 agreement to teach a subject area of critical need in the
14 identified school or geographic area of critical need.

15 (c) The vice chancellor for administration shall make
16 available program application forms to public and private schools
17 in the state via the department's website and in other locations
18 convenient to potential applicants.

19 **§18C-4-3a. Loan assistance agreement.**

20 (a) Before receiving an award, each eligible teacher shall
21 enter into an agreement with the department and shall meet the
22 following criteria:

23 (1) Provide the department with evidence of compliance with
24 subsection (b), section four of this article;

1 (2) Teach in a subject area or geographic area of critical
2 need full-time under contract with a county board for a period of
3 two school years for each year for which loan assistance is
4 received pursuant to this article. The senior administrator may
5 grant a partial award to an eligible recipient whose contract term
6 is for less than a full school year pursuant to criteria
7 established by rule.

8 (3) Acknowledge that an award is to be paid to the recipient's
9 educational loan institution, not directly to the recipient, only
10 after the department determines that the recipient has complied
11 with all terms of the agreement; and

12 (4) Repay all or part of an award received pursuant to this
13 article if the award is not paid to the educational loan
14 institution or if the recipient does not comply with the other
15 terms of the agreement.

16 (b) Each agreement shall fully disclose the terms and
17 conditions under which an award may be granted pursuant to this
18 article and under which repayment may be required. The agreement
19 also shall include the conditions and procedures established by
20 section five of this article.

21 **§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.**

22 (a) The recipient of an Underwood-Smith Teacher Scholarship is
23 eligible for scholarship renewal only during such periods that the
24 recipient is:

1 (1) Enrolled as a full-time student in an accredited
2 institution of higher education in this state;

3 (2) Pursuing a course of study leading to teacher
4 certification at the preschool, elementary, middle or secondary
5 level in this state;

6 (3) Maintaining satisfactory progress as determined by the
7 institution of higher education the recipient is attending; and

8 (4) Complying with such other standards as the boards may
9 establish by rule.

10 (b) The recipient is eligible for renewal of loan assistance
11 only during the periods when the recipient is under contract with
12 a county board to teach in a subject area of critical need in a
13 school or geographic area of critical need, and complies with other
14 criteria and conditions established by rule.

15 ~~(b)~~ (c) Recipients found to be in noncompliance with the
16 agreement entered into under section three of this article shall be
17 required to repay the amount of the scholarship awards received,
18 plus interest, and, where applicable, reasonable collection fees,
19 on a schedule and at a rate of interest prescribed in the program
20 guidelines. Such guidelines shall also provide for proration of
21 the amount to be repaid by a recipient who teaches for part of the
22 period required under subsection (a), section three of this article
23 and for appeal procedures under which a recipient may appeal any
24 determination of noncompliance.

1 ~~(c)~~ (d) A recipient shall not be considered in violation of
2 the agreement entered into under ~~section~~ sections three and three-a
3 of this article during any period in which the recipient is:

4 (1) Pursuing a full-time course of study at an accredited
5 institution of higher education;

6 (2) Serving, not in excess of four years, as a member of the
7 armed services of the United States;

8 (3) Seeking and unable to find full-time employment in
9 accordance with paragraph (A), subdivision (2), subsection (a),
10 section three of this article and is fulfilling any of the
11 alternatives specified in paragraph (B) of said subdivision; ~~or~~

12 (4) Satisfying the provisions of additional repayment
13 exemptions that may be prescribed by the boards by rule;

14 ~~(d) A recipient shall be excused from repayment of a teacher~~
15 ~~scholarship received under this article if the recipient dies or~~
16 ~~becomes permanently and totally disabled as established by sworn~~
17 ~~affidavit of a qualified physician.~~

18 (5) Unable to fulfill the agreement due to death, permanent or
19 temporary disability as established by sworn affidavit of a
20 qualified physician or a condition covered under the Family and
21 Medical Leave Act of 1993.

22 (e) The rules adopted by the governing boards may provide
23 guidelines under which the senior administrator may, if extenuating
24 circumstances exist, extend the period for fulfilling the

1 obligation to fifteen years for scholarships.

2 (f) For purposes of loan assistance, if a teacher is teaching
3 under a contract in a position that no longer meets the definition
4 of critical need under rules established in accordance with this
5 article, the teacher is eligible for renewal of loan assistance
6 until the teacher leaves his or her current position.

7 **§18C-4-6. Amount and duration of loan assistance; limits.**

8 (a) Each award recipient is eligible to receive loan
9 assistance of up to \$2,000 annually subject to limits set forth in
10 subsection (b) of this section:

11 (1) If the recipient has taught math or science for a full
12 school year under contract with a county board in a school or
13 geographic area of critical need; and

14 (2) If the recipient otherwise has complied with the terms of
15 the agreement and with provisions of this article and any rules
16 promulgated pursuant thereto.

17 (b) No recipient may receive loan assistance pursuant to this
18 article which accumulates in excess of \$15,000.

NOTE: The purpose of this bill is to improve public education by revising outdated provisions of the code to implement initiatives that will better prepare students for the college and work realities of the 21st Century.

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

§18-2-39, §18A-3-1d, §18A-3-1e, §18C-4-2a, §18C-4-3a and §18C-4-6 are new; therefore, it has been completely underscored.

§18-5-45, §18-2I-1, §18-2I-2, §18-2I-3, §18-2I-4 and §18-2I-5 are completely rewritten; therefore, they have been completely underscored.