

WEST VIRGINIA LEGISLATURE
2016 FIRST EXTRAORDINARY SESSION

Introduced
House Bill 112

BY DELEGATE LANE

[Introduced May 24, 2016; Referred
to Committee on Education then Finance.]

1 A BILL to repeal §18-9A-8a of the Code of West Virginia, 1931 as amended; to amend and reenact
2 §5B-3-5 of said code; to amend and reenact §16-4C-6c of said code; to amend and
3 reenact §18-2-5b, §18-2-26 and §18-2-26a of said code; to amend and reenact §18-2A-3
4 of said code; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-
5 3 and §18-2I-4 of said code; to amend and reenact §18-9D-3 of said code; to amend and
6 reenact §18-9E-4 of said code; to amend and reenact §18A-3-1b of said code; to amend
7 and reenact §18A-3A-1 of said code; to amend and reenact §30-21-2 of said code; and to
8 amend and reenact §30-31-11 of said code, all relating to abolishing the regional
9 educational service agencies (RESAs) generally, transferring all powers and duties of the
10 same to the county boards of education; providing for the transfer and disposition of
11 assets, property and records of the agencies; authorizing legislative and emergency
12 rulemaking; amending provisions relating to the Joint Commission on Economic
13 Development Studies, certification requirements for emergency medical technician-
14 industrial, Medicaid eligible children and school health services advisory committees;
15 amending provisions relating to meetings on shared services and functions; amending
16 provisions relating to disposition of and requests for textbook samples; removing use of
17 RESAs as an indicator of efficiency; removing requirement that the state board provide
18 RESA with annual professional development master plan established by state board;
19 removing requirement that state board promulgate legislative rules regarding processes
20 for collaboration by RESAs; removing requirement that state board promulgate legislative
21 rules regarding processes for collaboration by RESAs; removing power of School Building
22 authority to contract for architectural, engineering or other professional services for
23 RESAs; removing power of State Board to assign HVAC technicians to be employed by
24 RESAs; removing RESA from section regarding formation of partnerships to provide an
25 alternative program; removing reference to RESA in definitions relating to psychologists

26 and school psychologists; and removing reference to RESAs in persons exempted from
27 licensure as licensed professional counselors.

Be it enacted by the Legislature of West Virginia:

1 That §18-9A-8a of the Code of West Virginia, 1931 as amended, be repealed; that §5B-
2 3-5 of said code be amended and reenacted; that §16-4C-6c of said code be amended and
3 reenacted; that §18-2-5b, §18-2-26 and §18-2-26a of said code be amended and reenacted; that
4 §18-2A-3 of said code be amended and reenacted; that §18-2E-5 of said code be amended and
5 reenacted; that §18-2I-3 and §18-2I-4 of said code be amended and reenacted; that of said code
6 be amended and reenacted; that §18-9D-3 of said code be amended and reenacted; that §18-
7 9E-4 of said code be amended and reenacted; that §18A-3-1b of said code be amended and
8 reenacted; that §18A-3A-1 of said code be amended and reenacted; that §30-21-2 of said code
9 be amended and reenacted; and that §30-31-11 of said code be amended and reenacted, all to
10 read as follows:

CHAPTER 5B. ECONOMIC DEVELOPMENT ACT OF 1985.

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

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

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

2 (1) The feasibility of establishing common regional configurations for local workforce
3 investment areas ~~regional educational service agencies~~ and for all other purposes the
4 commission considers feasible. The study should review the existing levels of cooperation
5 between state and local economic developers, complete an analysis of possible regional
6 configurations and outline examples of other successful regional systems or networks found
7 throughout the world. If the study determines that the common regional configurations are
8 feasible, the commission shall recommend legislation establishing common regional designations

9 for all feasible purposes. In making the designation of regional areas, the study shall take into
10 consideration, but not be limited to, the following:

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

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

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

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

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

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

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

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

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

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

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

CHAPTER 16. PUBLIC HEALTH.

ARTICLE 4C. EMERGENCY MEDICAL SERVICES ACT.

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

1 (a) Commencing July 1, 2014, an applicant for certification as an emergency medical
2 technician-industrial shall:

3 (1) Be at least eighteen years old;

4 (2) Apply on a form prescribed by the commissioner;

5 (3) Pay the application fee;

6 (4) Possess a valid cardiopulmonary resuscitation (CPR) certification;

7 (5) Successfully complete an emergency medical technician-industrial education program
8 authorized by the commissioner in consultation with the Board of Miner Training, Education and

9 Certification; and

10 (6) Successfully complete emergency medical technician-industrial cognitive and skills
11 examinations authorized by the commissioner in consultation with the Board of Miner Training,
12 Education and Certification.

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

14 (c) A certified emergency medical technician-industrial is only authorized to practice during
15 his or her regular employment on industrial property. For the purposes of this section, "industrial
16 property" means property being used for production, extraction or manufacturing activities.

17 (d) To be recertified as an emergency medical technician-industrial, a certificate holder
18 shall:

19 (1) Apply on a form prescribed by the commissioner;

20 (2) Pay the application fee;

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

22 (4) Successfully complete one of the following:

23 (A) A one-time thirty-two hour emergency medical technician-industrial recertification
24 course authorized by the commissioner in consultation with the Board of Miner Training,
25 Education and Certification; or

26 (B) Three annual eight-hour retraining and testing programs authorized by the
27 commissioner in consultation with the Board of Miner Training, Education and Certification; and

28 (5) Successfully complete emergency medical technician-industrial cognitive and skills
29 recertification examinations authorized by the commissioner in consultation with the Board of
30 Miner Training, Education and Certification.

31 (e) Commencing July 1, 2014, the certification for emergency medical technician-miner,
32 also known as emergency medical technician-mining, shall be known as the certification for
33 emergency medical technician-industrial, and the certification is valid until the original expiration

34 date, at which time the person may recertify as an emergency medical technician-industrial
35 pursuant to this section.

36 (f) The education program, training, courses, and cognitive and skills examinations
37 required for certification and recertification as an emergency medical technician-miner, also
38 known as emergency medical technician-mining, in existence on January 1, 2014, shall remain in
39 effect for the certification and recertification of emergency medical technician-industrial until they
40 are changed by legislative rule by the commissioner in consultation with the Board of Miner
41 Training, Education and Certification.

42 (g) The administration of the emergency medical technician-industrial certification and
43 recertification program by the commissioner shall be done in consultation with the Board of Miner
44 Training, Education and Certification.

45 (h) The commissioner shall propose rules for legislative approval, pursuant to the
46 provisions of article three, chapter twenty-nine-a of this code, in consultation with the Board of
47 Miner Training, Education and Certification, and may propose emergency rules, to:

48 (1) Establish emergency medical technician-industrial certification and recertification
49 courses and examinations;

50 (2) Authorize providers to administer the certification and recertification courses and
51 examinations, including mine training personnel, independent trainers, and community and
52 technical colleges: ~~and Regional Educational Service Agencies (RESA)~~ *Provided*, That the mine
53 training personnel and independent trainers must have a valid cardiopulmonary resuscitation
54 (CPR) certification and must be an approved MSHA or OSHA certified instructor;

55 (3) Establish a fee schedule: *Provided*, That the application fee may not exceed ten dollars
56 and there shall be no fee for a certificate; and

57 (4) Implement the provisions of this section.

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

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

1 (a) The state board shall become a Medicaid provider and seek out Medicaid eligible
2 students for the purpose of providing Medicaid and related services to students eligible under the
3 Medicaid program and to maximize federal reimbursement for all services available under the
4 Omnibus Budget Reconciliation Act of 1989, as it relates to Medicaid expansion and any future
5 expansions in the Medicaid program for Medicaid and related services for which state dollars are
6 or will be expended: *Provided*, That the state board may delegate this provider status and
7 subsequent reimbursement to ~~regional educational service agencies (RESA) and/or~~ county
8 boards: *Provided, however*, That annually the state board shall report to the Legislature the
9 number and age of children eligible for Medicaid, the number and age of children with Medicaid
10 coverage, the types of Medicaid eligible services provided, the frequency of services provided,
11 the Medicaid dollars reimbursed; and the problems encountered in the implementation of this
12 system and that this report shall be on a county by county basis and made available no later than
13 January 1,1992, and annually thereafter.

14 (b) The state board shall appoint and convene a school health services advisory
15 committee to advise the secretary of health and human resources and the state superintendent
16 on ways to improve the ability of ~~regional education service agencies~~ local school boards, and
17 Department of Health and Human Resources employees to provide Medicaid eligible children
18 with all the school-based Medicaid services for which they are eligible and to ensure that the
19 school-based Medicaid service providers bill for and receive all the Medicaid reimbursement to
20 which they are entitled. The committee shall consist of at least the following individuals: The
21 person within the Department of Education responsible for coordinating the provision of and billing

22 for school-based Medicaid services in schools throughout the state, who shall provide secretarial,
23 administrative and technical support to the advisory committee; the person within the Department
24 of Health and Human Resources responsible for coordinating the enrollment of Medicaid eligible
25 school children throughout the state; two ~~representatives of regional education services agencies~~
26 persons who are experienced with the process of billing Medicaid for school-based health
27 services; two Department of Health and Human Resources employees responsible for
28 supervising employees, two persons jointly appointed by the secretary of health and human
29 resources and the state superintendent; and one representative of the Governor's task force on
30 school health.

31 The school health services advisory committee shall meet in the first instance at the
32 direction of the state superintendent, select a chairperson from among its members, and meet
33 thereafter at the direction of the chairperson. The committee shall report its findings and
34 recommendations to the state board and Department of Health and Human Resources, which
35 findings shall then be included in the report to the Legislature by the state board and Department
36 of Health and Human Resources provided for in subsection (a) of this section.

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

**~~§18-2-26. Establishment of multicounty regional educational service agencies; purpose;
authority of state board; governance; annual performance standards~~ Regional
Education Service Agencies abolished; transfer of powers and duties.**

1 ~~(a) Legislative intent. -- The intent of the Legislature in providing for establishment of~~
2 ~~regional education service agencies, hereinafter referred to in this section as agency or agencies,~~

3 ~~is to provide for high quality, cost effective education programs and services to students, schools~~
4 ~~and school systems.~~

5 ~~Since the first enactment of this section in 1972, the focus of public education has shifted~~
6 ~~from a reliance on input models to determine if education programs and services are providing to~~
7 ~~students a thorough and efficient education to a performance based accountability model which~~
8 ~~relies on the following:~~

9 ~~(1) Development and implementation of standards which set forth the things that students~~
10 ~~should know and be able to do as the result of a thorough and efficient education including~~
11 ~~measurable criteria to evaluate student performance and progress;~~

12 ~~(2) Development and implementation of assessments to measure student performance~~
13 ~~and progress toward meeting the standards;~~

14 ~~(3) Development and implementation of a system for holding schools and school systems~~
15 ~~accountable for student performance and progress toward obtaining a high quality education~~
16 ~~which is delivered in an efficient manner; and~~

17 ~~(4) Development and implementation of a method for building the capacity and improving~~
18 ~~the efficiency of schools and school systems to improve student performance and progress All~~
19 ~~Regional Education Service Agencies are hereby abolished, effective July 1, 2016.~~

20 ~~(b) Purpose. -- In establishing the agencies the Legislature envisions certain areas of~~
21 ~~service in which the agencies can best assist the state board in implementing the standards based~~
22 ~~accountability model pursuant to subsection (a) of this section and, thereby, in providing high~~
23 ~~quality education programs. These areas of service include the following:~~

24 ~~(1) Providing technical assistance to low performing schools and school systems;~~

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

27 ~~(3) Facilitating coordination and cooperation among the county boards within their~~

28 ~~respective regions in such areas as cooperative purchasing; sharing of specialized personnel,~~
29 ~~communications and technology; curriculum development; and operation of specialized programs~~
30 ~~for exceptional children;~~

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

34 ~~(5) Receiving and administering grants under the provisions of federal and/or state law;~~
35 ~~and~~

36 ~~(6) Developing and/or implementing any other programs or services as directed by law,~~
37 ~~the state board or the regional council All powers and duties of the Regional Education Service~~
38 ~~Agencies shall be transferred to the several county boards of education.~~

39 ~~(c) *State board rule.* -- The state board shall reexamine the powers and duties of the~~
40 ~~agencies in light of the changes in state level education policy that have occurred and shall~~
41 ~~establish multicounty regional education service agencies by rule, promulgated in accordance~~
42 ~~with the provisions of article three b, chapter twenty-nine a of this code.~~

43 ~~The rule shall contain all information necessary for the effective administration and~~
44 ~~operation of the agencies. In developing the rule, the state board may not delegate its~~
45 ~~Constitutional authority for the general supervision of schools to the agencies, however, it may~~
46 ~~allow the agencies greater latitude in the development and implementation of programs in the~~
47 ~~service areas outlined in subsection (b) of this section with the exceptions of providing technical~~
48 ~~assistance to low performing schools and school systems and providing high quality, targeted~~
49 ~~staff development designed to enhance the performance and progress of students in state public~~
50 ~~education. These two areas constitute the most important responsibilities for the agencies.~~

51 ~~The rule establishing the agencies shall be promulgated before November 1, 2015, and~~
52 ~~shall be consistent with the provisions of this section. It shall include, but is not limited to, the~~

53 following procedures:

54 (1) ~~Providing for a uniform governance structure for the agencies containing at least these~~
55 ~~elements:~~

56 (A) ~~Selection by the state board of an executive director who shall be responsible for the~~
57 ~~administration of his or her respective agency. The rule shall provide for the state board to select~~
58 ~~the executive director only upon the nomination of one or more candidates by the regional council~~
59 ~~of the agency. In case the board refuses to select any of the candidates nominated, the regional~~
60 ~~council shall nominate others and submit them to the board. All candidates nominated must meet~~
61 ~~the qualifications for the position established by the state board. Nothing shall prohibit the timely~~
62 ~~employment of persons to perform necessary duties;~~

63 (B) ~~Development of a job description and qualifications for the position of executive~~
64 ~~director, together with procedures for informing the public of position openings, for taking and~~
65 ~~evaluating applications, for making nominations for these positions, and for annually evaluating~~
66 ~~the performance of persons employed as executive director. The state board shall consult with~~
67 ~~the regional councils on the development of the job description, qualifications and procedures;~~

68 (C) ~~Provisions for the annual performance evaluation of the executive director that provide~~
69 ~~for one half of the evaluation rating to be determined by the regional council;~~

70 (D) ~~Provisions for the agencies to employ other staff, as necessary, with the approval of~~
71 ~~the state board and upon the recommendation of the executive director: *Provided*, That prior to~~
72 ~~July 1, 2003, no person who is an employee of an agency on the effective date of this section~~
73 ~~may be terminated or have his or her salary and benefit levels reduced as the sole result of the~~
74 ~~changes made to this section or by state board rule;~~

75 (E) ~~Appointment by the county boards of a regional council in each agency area consisting~~
76 ~~of representatives of county boards and county superintendents from within that area for the~~
77 ~~purpose of advising, assisting and informing the executive director in carrying out his or her duties~~

78 ~~to achieve the purposes of this section and provide educational services to the county school~~
79 ~~systems within the region. The state board may provide for membership on the regional council~~
80 ~~for representatives from other agencies and institutions who have interest or expertise in the~~
81 ~~development or implementation of regional education programs; and~~

82 ~~(F) Selection by the state superintendent of a representative from the state Department of~~
83 ~~Education to serve on each regional council. These representatives shall meet with their~~
84 ~~respective regional councils at least quarterly;~~

85 ~~(2) Establishing statewide standards by the state board for service delivery by the~~
86 ~~agencies. These standards may be revised annually and shall include, but are not limited to,~~
87 ~~programs and services to fulfill the purposes set forth in subsection (b) of this section;~~

88 ~~(3) Establishing procedures for developing and adopting an annual basic operating budget~~
89 ~~for each agency and for other budgeting and accounting procedures as the state board may~~
90 ~~require;~~

91 ~~(4) Establishing procedures clarifying that agencies may acquire and hold real property;~~

92 ~~(5) Dividing the state into appropriate, contiguous geographical areas and designating an~~
93 ~~agency to serve each area. The rule shall provide that each of the state's counties is contained~~
94 ~~within a single service area and that all counties located within the boundaries of each agency,~~
95 ~~as determined by the state board, shall be members of that agency; and~~

96 ~~(6) Such other standards or procedures as the state board finds necessary or convenient~~

97 All monetary assets of the Regional Education Service Agencies shall be transferred into the
98 state's General Revenue Fund. All other property of the Regional Education Service Agencies
99 shall be disposed of or transferred in accordance with the requirements of section twelve, article
100 ten, chapter four of this code.

101 ~~(d) *Regional services.* --- In furtherance of the purposes provided for in this section, the~~
102 ~~state board and the regional council of each agency shall continually explore possibilities for the~~

103 ~~delivery of services on a regional basis which will facilitate equality in the education offerings~~
104 ~~among counties in its service area, permit the delivery of high quality education programs at a~~
105 ~~lower per student cost, strengthen the cost effectiveness of education funding resources, reduce~~
106 ~~administrative and/or operational costs, including the consolidation of administrative, coordinating~~
107 ~~and other county level functions into region level functions, and promote the efficient~~
108 ~~administration and operation of the public school systems generally.~~

109 ~~Technical, operational, programmatic or professional services are among the types of~~
110 ~~services appropriate for delivery on a regional basis. Nothing in this section prohibits regional~~
111 ~~education service agencies from cooperating, sharing or combining services or programs with~~
112 ~~each other, at their discretion, to further the purposes of this section The West Virginia Cabinet~~
113 ~~Secretary for the Department of Education and the Arts may promulgate rules to implement the~~
114 ~~requirements of this section, including emergency rules promulgated pursuant to the provisions~~
115 ~~of article three, chapter twenty-nine-a of this code.~~

116 ~~(e) *Virtual education.* -- The state board, in conjunction with the various agencies, shall~~
117 ~~develop an effective model for the regional delivery of instruction in subjects where there exists~~
118 ~~low student enrollment or a shortage of certified teachers or where the delivery method~~
119 ~~substantially improves the quality of an instructional program. The model shall incorporate an~~
120 ~~interactive electronic classroom approach to instruction. To the extent funds are appropriated or~~
121 ~~otherwise available, county boards or regional education service agencies may adopt and utilize~~
122 ~~the model for the delivery of the instruction.~~

123 ~~(f) *Computer information system.* -- Each county board of education shall use the~~
124 ~~statewide electronic information system established by the state board for data collection and~~
125 ~~reporting to the state Department of Education.~~

126 ~~(g) *Reports and evaluations.* -- Each agency shall submit to the state superintendent on~~
127 ~~such date and in such form as specified in the rules adopted by the state board a report and~~

128 ~~evaluation of the technical assistance and other services provided and utilized by the schools~~
129 ~~within each respective region and their effectiveness. Additionally, any school may submit an~~
130 ~~evaluation of the services provided by the agency to the state superintendent at any time. This~~
131 ~~report shall include an evaluation of the agency program, suggestions on methods to improve~~
132 ~~utilization and suggestions on the development of new programs and the enhancement of existing~~
133 ~~programs. The reports and evaluations submitted pursuant to this subsection shall be submitted~~
134 ~~to the state board and shall be made available upon request to the standing committees on~~
135 ~~education of the West Virginia Senate and House of Delegates and to the secretary of education~~
136 ~~and the arts.~~

137 ~~(h) *Funding sources.* -- An agency may receive and disburse funds from the state and~~
138 ~~federal governments, from member counties, or from gifts and grants.~~

139 ~~(i) *Employee expenses.* -- Notwithstanding any other provision of this code to the contrary,~~
140 ~~employees of agencies shall be reimbursed for travel, meals and lodging at the same rate as state~~
141 ~~employees under the travel management office of the Department of Administration.~~

142 ~~A county board member may not be an employee of an agency.~~

143 ~~(j) *Meetings and compensation.* --~~

144 ~~(1) Agencies shall hold at least one half of their regular meetings during hours other than~~
145 ~~those of a regular school day. The executive director of each agency shall attend at least one~~
146 ~~meeting of each of the member county boards of education each year to explain the agency's~~
147 ~~services, garner suggestions for program improvement and provide any other information as may~~
148 ~~be requested by the county board.~~

149 ~~(2) Notwithstanding any other provision of this code to the contrary, county board~~
150 ~~members serving on regional councils may receive compensation at a rate not to exceed \$100~~
151 ~~per meeting attended, not to exceed fifteen meetings per year. County board members serving~~
152 ~~on regional councils may be reimbursed for travel at the same rate as state employees under the~~

153 ~~rules of the travel management office of the Department of Administration~~

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

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

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

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

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

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

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

27 (3) A process for implementing recommended changes.

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

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

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

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

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

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

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

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

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

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

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

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

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

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

9 (C) A system of accountability for continuous improvement defined by high-quality

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

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

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

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

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

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

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

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

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

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

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

83 (d) *Comprehensive statewide student assessment program.* -- The state board shall
84 establish a comprehensive statewide student assessment program to assess student

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

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

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

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

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

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

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

107 The state board shall promulgate a rule in accordance with the provisions of article three-
108 b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual
109 performance measures for state accreditation of schools and school systems. The state board

110 also may establish performance incentives for schools and school systems as part of the state
111 accreditation system. On or before December 1, 2013, the state board shall report to the Governor
112 and to the Legislative Oversight Commission on Education Accountability the proposed rule for
113 establishing the measures and incentives of accreditation and the estimated cost therefore, if any.
114 Thereafter, the state board shall provide an annual report to the Governor and to the Legislative
115 Oversight Commission on Education Accountability on the impact and effectiveness of the
116 accreditation system. The rule for school and school system accreditation proposed by the board
117 may include, but is not limited to, the following measures:

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

120 (2) Graduation and attendance rate;

121 (3) Students taking and passing AP tests;

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

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

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

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

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

130 (2) Transportation;

131 (3) Facilities;

132 (4) Administrative practices;

133 (5) Personnel; and

134 ~~(6) Use of regional educational service agency programs and services, including programs~~

135 ~~and services that may be established by their assigned regional educational service agency or~~
136 ~~other regional services that may be initiated between and among participating county boards; and~~

137 ~~(7)~~ (6) Any other indicators as determined by the state board.

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

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

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

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

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

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

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

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

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

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

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

176 (j) *Office of Education Performance Audits.* --

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

184 (2) The office shall be headed by a director who shall be appointed by the state board and

185 who serves at the will and pleasure of the state board. The annual salary of the director shall be
186 set by the state board and may not exceed eighty percent of the salary of the State Superintendent
187 of Schools.

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

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

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

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

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

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

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

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

210 (D) Determine, in conjunction with the assessment and accountability processes, whether
211 statewide system deficiencies exist in the capacity of schools and school systems to meet the
212 standards established by the state board, including the identification of trends and the need for
213 continuing improvements in education, and report those deficiencies and trends to the state
214 board;

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

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

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

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

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

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

234 (iv) The appropriate provision of multicultural activities.

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

238 (k) *On-site reviews.* --

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

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

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

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

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

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

259 (F) Determining and reporting whether required reviews and inspections have been

260 conducted by the appropriate agencies, including, but not limited to, the State Fire Marshal, the
261 Health Department, the School Building Authority and the responsible divisions within the
262 Department of Education, and whether noted deficiencies have been or are in the process of
263 being corrected.

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

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

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

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

285 (6) The Office of Education Performance Audits shall report the findings of an on-site
286 review to the county superintendent and the principals whose schools were reviewed within thirty
287 days following the conclusion of the on-site review. The Office of Education Performance Audits
288 shall report the findings of the on-site review to the state board within forty-five days after the
289 conclusion of the on-site review. A school or county that believes one or more findings of a review
290 are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of
291 education in the school or county or address issues unrelated to the health, safety and welfare of
292 students and the quality of education, may appeal to the state board for removal of the findings.
293 The state board shall establish a process for it to receive, review and act upon the appeals. The
294 state board shall report to the Legislative Oversight Commission on Education Accountability
295 during its July interim meetings, or as soon thereafter as practical, on each appeal during the
296 preceding school year.

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

303 (l) *School accreditation.* --

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

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

308 (B) The state board shall promulgate legislative rules in accordance with the provisions of
309 article three-b, chapter twenty-nine-a of this code to establish the performance and standards

310 required for a school to be assigned a particular level of accreditation; and

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

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

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

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

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

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

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

327 (E) To intervene directly in the operation of a school and declare the position of principal
328 vacant and assign a principal for the school who will serve at the will and pleasure of the state
329 board. If the principal who was removed elects not to remain an employee of the county board,
330 then the principal assigned by the state board shall be paid by the county board. If the principal
331 who was removed elects to remain an employee of the county board, then the following procedure
332 applies:

333 (i) The principal assigned by the state board shall be paid by the state board until the next
334 school term, at which time the principal assigned by the state board shall be paid by the county

335 board;

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

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

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

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

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

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

358 (2) Temporary approval shall be given to a county board whose education system is below
359 the level required for full approval. Whenever a county board is given temporary approval status,

360 the county board shall revise its electronic county strategic improvement plan in accordance with
361 subsection (b) of this section to increase the performance and progress of the school system to
362 a full approval status level. The revised plan shall be submitted to the state board for approval.

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

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

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

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

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

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

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

385 an approved plan may be designated as having nonapproval status.

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

395 (i) Limiting the authority of the county superintendent and county board as to the
396 expenditure of funds, the employment and dismissal of personnel, the establishment and
397 operation of the school calendar, the establishment of instructional programs and rules and any
398 other areas designated by the state board by rule, which may include delegating decision-making
399 authority regarding these matters to the State Superintendent;

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

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

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

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

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

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

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

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

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

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

429 (o) *Capacity*. -- The process for improving education includes a process for targeting
430 resources strategically to improve the teaching and learning process. Development of electronic
431 school and school system strategic improvement plans, pursuant to subsection (b) of this section,
432 is intended, in part, to provide mechanisms to target resources strategically to the teaching and
433 learning process to improve student, school and school system performance. When deficiencies
434 are detected through the assessment and accountability processes, the revision and approval of

435 school and school system electronic strategic improvement plans shall ensure that schools and
436 school systems are efficiently using existing resources to correct the deficiencies. When the state
437 board determines that schools and school systems do not have the capacity to correct
438 deficiencies, the state board shall take one or more of the following actions:

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

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

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

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

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

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

459 (E) Recommending priority funding from the School Building Authority based on identified

460 needs;

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

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

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

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

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

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

474 (p) *Building leadership capacity* – To help build the governance and leadership capacity
475 of a county board during an intervention in the operation of its school system by the state board,
476 and to help assure sustained success following return of control to the county board, the state
477 board shall require the county board to establish goals and action plans, subject to approval of
478 the state board, to improve performance sufficiently to end the intervention within a period of not
479 more than five years. The State Superintendent shall maintain oversight and provide assistance
480 and feedback to the county board on development and implementation of the goals and action
481 plans. At a minimum, the goals and action plans shall include:

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

484 (B) Support for the training and development activities identified which may include those

485 made available through the state superintendent, ~~regional education service agencies~~ Center for
486 Professional Development, West Virginia School Board Association, Office of Education
487 Performance Audits, West Virginia Education Information System and other sources identified in
488 the goals and action plans. Attendance at these activities included in the goals and action plans
489 is mandatory as specified in the goals and action plans; and

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

496 At least once each year during the period of intervention, the Office of Education
497 Performance Audits shall assess the readiness of the county board to accept the return of control
498 of the system or school from the state board and sustain the improvements, and shall make a
499 report and recommendations to the state board supported by documented evidence of the
500 progress made on the goals and action plans. The state board may end the intervention or return
501 any portion of control of the operations of the school system or school that was previously
502 removed at its sole determination. If the state board determines at the fifth annual assessment
503 that the county board is still not ready to accept return of control by the state board and sustain
504 the improvements, the state board shall hold a public hearing in the affected county at which the
505 attendance by all members of the county board is requested so that the reasons for continued
506 intervention and the concerns of the citizens of the county may be heard. The state board may
507 continue the intervention only after it holds the public hearing and may require revision of the
508 goals and action plans.

509 Following the termination of an intervention in the operation of a school system and return

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

ARTICLE 2I. STAFF DEVELOPMENT COUNCILS.

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

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

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

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

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

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

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

§18-21-4. Coordination, development and evaluation of professional development programs.

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

6 (1) Standards for quality professional development that all professional development
7 providers shall use in designing, implementing and evaluating professional development that shall
8 become part of the statewide professional development plan;

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

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

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

14 (5) Processes for ensuring all stakeholders, including affected classroom teachers, have

15 a voice in the identification of needed professional development and various delivery models;

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

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

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

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

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-3. Powers of authority.

1 The School Building Authority has the power:

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

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

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

7 eminent domain to accomplish those purposes;

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

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

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

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

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

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

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

32 authority funds are expended;

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

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

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

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

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

57 designs, models or documents; advice or oversight on any plan or project; or any other service
58 that may be efficiently provided to ~~regional educational service agencies or~~ county boards by the
59 authority;

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

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

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

73 (19) To encourage any project or part thereof to provide opportunities for students to
74 participate in supervised, unpaid work-based learning experiences related to the student's
75 program of study approved by the county board. The work-based learning experience must be
76 conducted in accordance with a formal training plan approved by the instructor, the employer and
77 the student and which sets forth at a minimum the specific skills to be learned, the required
78 documentation of work-based learning experiences, the conditions of the placement, including
79 duration and safety provisions, and provisions for supervision and liability insurance coverage as
80 applicable. Projects involving the new construction and renovation of vocational-technical and
81 adult education facilities should provide opportunities for students to participate in supervised

82 work-based learning experiences, to the extent practical, which meet the requirements of this
83 subdivision. Nothing in this subdivision may be construed to affect registered youth apprenticeship
84 programs or the provisions governing those programs; and

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

ARTICLE 9E. AIR QUALITY IN NEW SCHOOLS ACT.

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

1 (a) Subject to appropriation by the Legislature therefor, the state board, in consultation
2 with the division of health, shall promulgate rules pursuant to article three-b, chapter twenty-nine-
3 a of this code that will address servicing public school buildings by heating, ventilation and air-
4 conditioning (HVAC) technicians. The rules shall set forth a job description for the HVAC
5 technician. At the discretion of the state board, HVAC technicians may be employed by the county
6 board of education, ~~by the regional educational service agency servicing the county~~ or by the
7 Department of Education using the funds allocated pursuant to this section. The hiring entity shall
8 set a salary for the HVAC technician that is competitive with other employers of HVAC technicians
9 in the region after accounting for annual leave, sick leave, insurance benefits, retirement benefits
10 and any other benefits provided. Existing employees who have advanced HVAC skills or existing
11 employees who receive appropriate HVAC training may be utilized as HVAC technicians. The
12 rules also shall provide for sufficient continuing education training for HVAC technicians to
13 maintain proficiency in the changing technologies in the field. The rules shall be submitted to the
14 Legislative Oversight Commission on Educational Accountability prior to September 1, 1999.

15 (b) County boards ~~regional educational service agencies~~ and the Department of Education
16 shall have the option to contract for HVAC services from prequalified vendors if this option is more
17 cost effective than using existing employees or creating a new position: *Provided*, That an existing
18 employee may not be displaced by contracting for HVAC technician services: *Provided, however*,

19 That HVAC services that have been performed in the past or which require knowledge and
 20 experience the employer does not have access to, may be contracted out to a prequalified vendor.

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

CHAPTER 18A. SCHOOL PERSONNEL.

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

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

1 (a) *Formation.* – One or more schools or school districts, or any combination of these, may
 2 form a partnership with one or more institutions of higher education, one or more entities affiliated
 3 with an institution of higher education, the West Virginia Department of Education, ~~a regional~~
 4 ~~education service agency,~~ or any combination of these, to provide an alternative program.

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

7 (1) An institution of higher education with an accredited program for the education of
 8 professional educators that has been approved by the State Board;

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

11 or

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

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

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

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

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

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

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

27 (5) A detailed description of the phases of on-the-job training and supervision that the
28 alternative program will provide;

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

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

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

36 (9) A requirement, subject to the provisions of subsection (e), subsection one-f of this
37 article, that the hiring authority for any school or school district that hires an alternative program
38 teacher will renew the alternative program teacher's contract from year to year as long as he or

39 she makes satisfactory progress in the alternative education program and until he or she
40 completes the alternative program; and

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

ARTICLE 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.

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

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

8 (b) The general mission of the center is to advance the quality of teaching and
9 management in the schools of West Virginia through: (1) The implementation primarily of
10 statewide training, professional staff development, including professional staff development for at
11 least teachers, principals and paraprofessionals and technical assistance programs and practices
12 as recommended by the state board to assure the highest quality of teaching and management;
13 and (2) the provision of technical and other assistance and support to ~~regional~~ and local education
14 agencies in identifying and providing high-quality professional staff development, including
15 professional staff development for at least teachers, principals and paraprofessionals, and training
16 programs and implementing best practices to meet their locally identified needs. The center also
17 may implement local programs if the state board, in its Master Plan for Professional Staff

18 Development established pursuant to article two-i, chapter eighteen-a of this code, determines
19 that there is a specific local need for the programs. Additionally, the center shall perform other
20 duties assigned to it by law.

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

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

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

27 (A) Entitled to vote; and

28 (B) A cochair of the board.

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

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

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

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

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

35 ~~(4) One regional education service agency executive director, elected by all of the regional~~
36 ~~education service agency executive directors;~~

37 ~~(5) (4)~~ Three experienced educators, of whom one is a working classroom teacher, one is
38 a school principal and one is a county administrator. All such educators are:

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

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

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

43 ~~(6)~~ (5) Three citizens of the state who are:

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

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

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

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

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

53 ~~(2) The regional education service agency executive directors shall elect an executive
54 director to fill the unexpired term of any executive director who ceases to be employed in that
55 capacity.~~

56 ~~(3)~~ (2) Of the initial members appointed by the Governor, three are appointed for one-year
57 terms and three are appointed for two-year terms. Each successive appointment by the Governor
58 is for a two-year term. The Governor shall appoint a new member to fill the unexpired term of any
59 vacancy in the appointed membership.

60 ~~(4)~~ (3) The President of West Virginia University and Marshall University each appoints an
61 employee to fill the unexpired term of any member who ceases to be employed by that institution.

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

66 (f) The position of executive director is abolished. The Governor shall appoint, by and with
67 the advice and consent of the Senate, a chief executive officer with knowledge and experience in

68 professional development and management principles. Any reference in this code to the
69 Executive Director of the Center for Professional Development means the Chief Executive Officer.
70 From appropriations to the Center for Professional Development, the center board sets the salary
71 of the chief executive officer. The center board, upon the recommendation of the chief executive
72 officer, may employ other staff necessary to carry out the mission and duties of the center. The
73 chief executive officer serves at the will and pleasure of the Governor. Annually, the center board
74 shall evaluate the chief executive officer, and shall report the results to the Governor. The duties
75 of the chief executive officer include:

- 76 (1) Managing the daily operations of the center;
- 77 (2) Ensuring the implementation of the center's mission;
- 78 (3) Ensuring collaboration of the center with other professional development providers;
- 79 (4) Requesting from the Governor and the Legislature any resources or statutory changes
80 that would help in enhancing the collaboration of all professional development providers in the
81 state, in advancing the quality of professional development through any other means or both;
- 82 (5) Serving as the Chair of the Principals Standards Advisory Council created in section
83 two-c, article three of this chapter and convening regular meetings of this council to effectuate its
84 purposes; and
- 85 (6) Other duties as assigned by the Governor or the center board.
- 86 (g) When practicable, personnel employed by state higher education agencies and state,
87 ~~regional~~ and county public education agencies shall be made available to the center to assist in
88 the operation of projects of limited duration, subject to the provisions of section twenty-four, article
89 two, chapter eighteen of this code.
- 90 (h) The center shall assist in the delivery of programs and activities pursuant to this article
91 to meet statewide, and if needed as determined by the goals and Master Plan for Professional
92 Staff Development established by the state board pursuant to article two-i, chapter eighteen-a of

93 this code, the local professional development needs of paraprofessionals, teachers, principals
94 and administrators and may contract with existing agencies or agencies created after the effective
95 date of this section or others to provide training programs in the most efficient manner. Existing
96 programs currently based in agencies of the state shall be continued in the agency of their origin
97 unless the center establishes a compelling need to transfer or cancel the existing program. The
98 center shall recommend to the Governor the transfer of funds to the providing agency, if needed,
99 to provide programs approved by the center.

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

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

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

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

116 (1) Services to those public schools selected by the State Superintendent pursuant to
117 section three-g, article two-e, chapter eighteen of this code; and

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

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

§30-21-2. Definitions.

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

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

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

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

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

19 (e) "Practice of psychology" means the rendering or offering to render for a fee, salary or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

69 (E) Facilitation, which includes assisting in developing useful communication between

70 diverse groups of people separated by institutional, bureaucratic, educational or other barriers;

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

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

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

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

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

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

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

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

91 (5) The official duties of a school psychologist working under the direct and regular
92 supervision of a licensee for the purpose of gaining the experience required for a license
93 hereunder by the provisions of subdivision (4), subsection (a), section seven of this article, which
94 experience is of a type approved by the board;

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

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

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

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

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

112 (j) "School board" means a West Virginia county school board and also means the West
113 Virginia Department of Education, or a regional educational service agency;

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

119 (l) "School board contractee" means any person who provides services for one or more

120 school boards and is reimbursed on a per evaluation, per unit of service, or some other contract
121 basis;

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

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

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

ARTICLE 31. LICENSED PROFESSIONAL COUNSELORS.

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

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

2 (1) Teaching, lecturing or engaging in research in professional counseling or marriage and
3 family therapy so long as such activities do not otherwise involve the practice of professional
4 counseling or marriage and family therapy directly affecting the welfare of the person counseled;

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

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

12 (4) The official duties of persons serving as professional counselors or marriage and family

13 therapists, whether as volunteers or for compensation or other personal gain, in any public or
14 private nonprofit corporations, organizations, associations or charities;

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

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

26 (7) The activities and services of qualified members of other recognized professions such
27 as physicians, psychologists, psychoanalysts, social workers, lawyers, clergy, nurses or teachers
28 performing counseling or marriage and family therapy consistent with the laws of this state, their
29 training and any code of ethics of their professions so long as such persons do not represent
30 themselves as licensed professional counselors or licensed marriage and family therapists as
31 defined by section three of this article.

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

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

37 (2) A nonresident professional counselor or marriage and family therapist who holds a

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

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

NOTE: The purpose of this bill is to abolish the regional educational service agencies (RESAs) generally, transfer all powers and duties of the same to the county boards of education; provide for the transfer and disposition of assets, property and records of the agencies; authorize legislative and emergency rulemaking; amend provisions relating to the Joint Commission on Economic Development Studies, certification requirements for emergency medical technician-industrial, Medicaid eligible children and school health services advisory committees; amend provisions relating to meetings on shared services and functions; amend provisions relating to disposition of and requests for textbook samples; remove use of RESAs as an indicator of efficiency; remove requirement that the state board provide RESA with annual professional development master plan established by state board; remove requirement that state board promulgate legislative rules regarding processes for collaboration by RESAs; remove requirement that state board promulgate legislative rules regarding processes for collaboration by RESAs; remove power of School Building authority to contract for architectural, engineering or other professional services for RESAs; remove power of State Board to assign HVAC technicians to be employed by RESAs; remove RESA from section regarding formation of partnerships to provide an alternative program; remove reference to RESA in definitions relating to psychologists and school psychologists; and remove reference to RESAs in persons exempted from licensure as licensed professional counselors

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