WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
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ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 359
(By Senators Kessler (Mr. President) and M. Hall
By Request of the Executive)

[Passed March 22, 2013; in effect ninety days from passage.]
AN ACT to repeal §18-2-23a and §18-2-32 of the Code of West Virginia, 1931, as amended; to repeal §18-2E-5c of said code; to repeal §18-2I-6 and §18-2I-7 of said code; to repeal §18A-3A-2a and §18A-3A-6 of said code; to amend and reenact §18-1-4 of said code; to amend and reenact §18-2-24 of said code; to amend said code by adding thereto a new section, designated §18-2-39; to amend and reenact §18-2E-5 of said code; to amend and reenact §18-2I-1, §18-2I-2, §18-2I-3, §18-2I-4 and §18-2I-5 of said code; to amend and reenact §18-3-1 and §18-3-12 of said code; to amend said code by adding thereto a new section, designated §18-3-9b; to amend and reenact §18-5-18, §18-5-44 and §18-5-45 of said code; to amend and reenact §18-5A-5 of said code; to amend and reenact §18A-2-1 and §18A-2-7 of said code; to amend said code by adding thereto a new section, designated §18A-3-1d; to amend and reenact §18A-3A-1, §18A-3A-2 and §18A-3A-3 of said code; to amend and reenact §18A-4-2a, §18A-4-7a, §18A-4-8, §18A-4-8a and §18A-4-14 of said code; to amend and reenact §18A-5-2 of said code; to amend and reenact §18C-1-2 of said code; to amend and reenact §18C-4-1, §18C-4-2, §18C-4-3 and §18C-4-4 of said code; and to amend said code by adding thereto three new sections, designated §18C-4A-1,
§18C-4A-2 and §18C-4A-3, all relating to transforming and improving public education; removing outdated language; requiring the State Board of Education, the Higher Education Policy Commission and the Council for Community and Technical College Education to collaborate in formally adopting uniform and specific college- and career-readiness standards for English/language arts and math; providing methods for determining whether students have met the college- and career-readiness standards; requiring that an explicit focus be embedded in each course on the development of English/language arts and math skills; requiring a twelfth-grade transitional course for both English/language arts and math for students not on track to be college ready; requiring professional development on teaching the college- and career-readiness standards to be included in the State Board’s Master Plan for Professional Staff Development; requiring the state board to require all teacher preparation programs to include appropriate training for teaching adopted standards in at least grades eight through twelve; requiring the use of certain assessments, exams or tests for determining whether a student is to enroll in a remedial course; requiring accountability for increasing the percentage of students who meet the standards and for increasing the percentage of students who are making adequate progress toward meeting the standards; removing requirement applicable to annual county and school strategic improvement plans; modifying requirements for high-quality education standards for student, school and school system performance and processes; modifying requirements pertaining to a comprehensive statewide student assessment program; removing provisions relating to No Child Left Behind annual measures; modifying provisions pertaining to the state annual performance measures for school and school system accreditation; removing provisions pertaining to requiring the standards to include indicators of exemplary student, school and school system performance and progress; eliminating the Process for Improving Education Council; modifying component of system
of education performance audits; expanding state board authority pertaining to the Office of Education Performance Audit’s reporting formats; eliminating condition for on-site review; removing prohibition of certain duplicate reviews or inspections; removing provisions pertaining to persons who are to conduct an on-site review; removing list of areas for which the office may not review; modifying provisions pertaining to school accreditation; removing provision allowing a student to transfer from a low-performing school under certain conditions; professional development; establishing clear state-level leadership of professional development; providing findings on the importance of professional development; requiring State Board of Education to develop a master plan for professional development; requiring submission of plan to certain entities; requiring goals to be established and included in the master plan; requiring state board rules; setting forth minimum components of the rule; requiring annual report on the statewide professional development plan; modifying language pertaining to the Strategic Staff Development Fund; modifying State Superintendent of Schools qualifications and removing his or her salary limit; requiring state superintendent to reduce the amount budgeted for personal services, related employee benefits and contractual expenditures related to employment in fiscal years 2014 and 2015; increasing the number of schools to be included in a special community development pilot program; modifying other provisions pertaining to the pilot program; requiring kindergarten and early childhood aides to transition to one of three new assistant teacher positions beginning July 1, 2014; exempting those eligible for retirement before July 1, 2020; requiring early childhood education programs to be made available five days a week for the full day; allowing program to be for fewer than five days per week and less than full day under certain circumstances; allowing parent to withdraw child for good cause; providing for local control of the school calendar; defining terms and establishing findings about the school calendar; requiring a 200-day employment term; limiting beginning and closing dates to
forty-eight weeks; requiring one hundred eighty separate days of actual instruction are to be provided for students; requiring twenty noninstructional days; requiring school term to include out-of-calendar days that are to be used for instructional days in the event school is canceled; requiring county policy for adding minutes or days to school calendar for certain purpose; limiting noninstructional interruptions to instructional day; requiring state board or state superintendent approval of proposed county calendar; requiring public meetings for discussions of a school system's calendar; allowing the state board to grant a waiver to certain code sections that prevent a school system from meeting one hundred eighty instructional days; requiring state board rule to implement the calendar section provisions; modifying provisions pertaining to a process for a faculty senate to submit recommendations regarding employment to the principal; requiring state board to promulgate rule to implement the provisions relating to the process; removing language about faculty senates on instructional support and enhancement days; requiring the local board to provide at least four additional two-hour blocks of time during noninstructional days, with each block scheduled once at least every forty-five instructional days; prohibiting principals from recommending for employment certain individuals that are related to him or her; allowing reassignment of teachers when a vacancy was not foreseen before March 1 based on pupil-teacher ratio; requiring state board to conduct a study on alternative certification programs; providing for salary bonus for classroom teachers with a National Board for Professional Teaching Standards renewal certificate; providing for reimbursement of the renewal certification fee; removing language that limits the number of board-certified teachers who can receive reimbursement per year; modifying process for filling vacancies in professional positions of employment including the criteria to be considered; allowing a county board to determine the appropriate weight to apply to each criterion except when one or more permanently employed instructional personnel apply for a classroom teaching position and meet the
standards set forth in the job posting; providing that for a classroom teaching position if the recommendation of the principal and resulting from the faculty senate process are the same and the superintendent concurs, the county board is required to appoint the applicant; requiring state board rule to implement and interpret certain employment provisions; allowing released employees to be hired for certain vacancies prior to the job being posted; allowing for multiple postings within a thirty-day period under certain conditions; allowing reassignment of a teacher within his or her school upon consent of teacher and county board; creating three new types of early childhood classroom assistant teacher positions; assigning a pay grade to the new positions; modifying provisions pertaining to the length of planning periods; requiring state board study on planning periods; clarifying that not all holidays will be counted as a day of the employment term and that pay per pay period cannot change as a result; providing that snow days are not counted as days of employment or days of instruction; providing definitions; scholarships and loan assistance for teachers in critical need areas; creating loan assistance program; determining subject and geographic areas of critical need; requiring legislative rules for program administration; revising eligibility criteria and specifying effective date; determining eligibility and awarding loan assistance; establishing criteria for inclusion in scholarship and loan assistance agreements; requiring payments to be made directly to a lending entity; requiring model contract agreements; specifying loan amount, limits and duration of loan assistance; requiring repayment under certain conditions; specifying excusal from repayment under certain conditions; and making technical corrections and deleting obsolete language.

Be it enacted by the Legislature of West Virginia:

That §18-2-23a and §18-2-32 of the Code of West Virginia, 1931, as amended, be repealed; that §18-2E-5c of said code be repealed; that §18-2I-6 and §18-2I-7 of said code be repealed; that
§18A-3A-2a and §18A-3A-6 of said code be repealed; that §18-1-4 of said code be amended and reenacted; that §18-2-24 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-2-39; that §18-2E-5 of said code be amended and reenacted; that §18-2I-1, §18-2I-2, §18-2I-3, §18-2I-4 and §18-2I-5 of said code be amended and reenacted; that §18-3-1 and §18-3-12 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18-3-9b; that §18-5-18, §18-5-44 and §18-5-45 of said code be amended and reenacted; that §18-5A-5 of said code be amended and reenacted; that §18A-2-1 and §18A-2-7 of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §18A-3-1d; that §18A-3A-1, §18A-3A-2 and §18A-3A-3 of said code be amended and reenacted; that §18A-4-2a, §18A-4-7a, §18A-4-8, §18A-4-8a and §18A-4-14 of said code be amended and reenacted; that §18A-5-2 of said code be amended and reenacted; that §18C-1-2 of said code be amended and reenacted; that §18C-4-1, §18C-4-2, §18C-4-3 and §18C-4-4 of said code be amended and reenacted; and that said code be amended by adding thereto three new sections, designated §18C-4A-1, §18C-4A-2 and §18C-4A-3, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR EDUCATION.


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

5 (b) For the purposes of this section:
(1) "Goals" means those long-term public purposes which are the desired end result and only may include those items listed in subsection (c) of this section;

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

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

(c) The Legislature finds that:

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

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

(3) Published national studies by several organizations routinely examine various elements of state education systems and selected underlying socioeconomic variables and rate and rank West Virginia and the other states, the District of Columbia and the territories based on the measurement systems and priorities established by the organizations, and these measurement systems and priorities change;
(4) While the state should take pride in studies that show West Virginia is among the leaders in several of its efforts and is making progress, its students often outperforming expectations based on typical indicators of the likelihood for student success, such as the income and education levels of their parents, it should also recognize that the state must do even more to ensure that high school graduates are fully prepared for post-secondary education or gainful employment;

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

(d) As part of Vision 2020: An Education Blueprint for Two Thousand Twenty, the state board shall establish a plan in accordance with the provisions of this section for submission to and consideration by the Legislative Oversight Commission on Education Accountability. The plan shall include only the goals, objectives, strategies, indicators and benchmarks for public education set forth in this section and that meet the requirements of this section. To add clarity and avoid confusion, the goals for public education set forth in the plan pursuant to this section are the exclusive goals for public education. The plan shall include:

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

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

(3) Strategies for achieving the specific objectives;
(4) Indicators for measuring progress toward the goals and objectives established in this section; and

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

c) The plan shall include the following list of exclusive goals for the public education system in West Virginia:

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

2. The public education system will prepare fully all students for post-secondary education or gainful employment;

3. All working-age adults will be functionally literate;

4. The public education system will maintain and promote the health and safety of all students and will develop and promote responsibility, citizenship and strong character in all students; and

5. The public education system will provide equitable education opportunity to all students.

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

1. Rigorous 21st Century curriculum and engaging instruction for all students. - All students in West Virginia public schools should have access to and benefit from a rigorous 21st Century curriculum that develops proficiency
in core subjects, 21st Century content, learning skills and technology tools. These students also should have that curriculum delivered through engaging, research-based instructional strategies that develop deep understanding and the ability to apply content to real-world situations;

(2) A 21st Century accountability and accreditation system. — The prekindergarten through twelve education system should have a public accrediting system that: (i) holds local school districts accountable for the student outcomes the state values; and (ii) provides the public with understandable accountability data for judging the quality of local schools. The outcomes on which the system is based should be rigorous and should align with national and international standards such as the National Assessment of Educational Progress (NAEP), the ACT, the SAT and the Programme for International Assessment (PISA). The broad standards established for these outcomes should include a focus on: (A) Mastery of basic skills by all students; (B) closing the achievement gap among student subgroups; and (C) high levels of proficiency in a wide range of desired 21st Century measures and processes. The system for determining school and district accreditation should include school and district self analysis and generate appropriate research-based strategies for improvement. It also should allow opportunities to create innovative approaches to instructional delivery and design. Thus, the system will incorporate processes for encouraging innovation, including streamlined applications for waivers to state board policy, financial support for successful initiatives and recognition of those practices that can be brought to a district or statewide scale. The primary goal of the accreditation system is to drive school improvement. This 21st Century accountability and accreditation system also should include the methods of addressing capacity set forth in section five, article two-c of this chapter;
(3) A statewide balanced assessment process. – State, district, school and classroom decisionmaking should be grounded in 21st Century balanced assessment processes that reflect national and international rigorous performance standards and examine student proficiency in 21st Century content, skills and technology tools. A balanced assessment system includes statewide summative assessments, local benchmark assessments and classroom assessments for learning;

(4) A personnel allocation, licensure and funding process that aligns with the needs of 21st Century school systems and is supported by a quality coordinated professional development delivery system. – Increased accountability demands, as well as the focus on 21st Century learning, require a reexamination of traditional approaches to personnel allocation, licensure and funding. Creating schools of the 21st Century requires new staffing roles and staffing patterns. It also requires ongoing professional development activities focused on enhancing student achievement and achieving specific goals of the school and district strategic plans. Thus, schools should have the ability to access, organize and deliver high quality embedded professional development that provides staff with in-depth sustained and supported learning. Effective school improvement should allow opportunity for staff to collectively learn, plan and implement curricular and instructional improvements on behalf of the students they serve;

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

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

(7) Equitable access to 21st Century technology and
education resources and school facilities conducive to 21st
Century teaching and learning. — A quality educational
system of the 21st Century should have access to technology
tools and processes that enhance effective and efficient
operation. Administrators should have the digital resources
to monitor student performance, manage a variety of data and
communicate effectively. In the classroom, every teacher in
every school should be provided with the instructional
resources and educational technology necessary to deliver the
West Virginia content standards and objectives. Schools of
the 21st Century require facilities that accommodate
changing technologies, 21st Century instructional processes
and 21st Century staffing needs and patterns. These school
facilities should mirror the best in green construction and be
environmentally and educationally responsive to the
communities in which they are located;
(8) **Aligned public school with post-secondary and workplace readiness programs and standards.** – An educational system in the 21st Century should be seen as a continuum from the public school (prekindergarten through twelve) program through post-secondary education. In order to be successful in a global competitive marketplace, learning should be an ongoing, life-long experience. Thus, the public schools and the institutions of post-secondary education in West Virginia should create a system of common standards, expectations and accountability. Creating such an aligned system will enhance opportunities for success and assure a seamless educational process for West Virginia students; and

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

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

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

(2) The performance of students falling in the lowest quartile on national and international measures of student performance will improve by fifty percent;
(3) Ninety percent of ninth graders will graduate from high school;

(4) By 2012, the gap between the county with the lowest college-going rate and the state average as of the effective date of this act will decrease by fifty percent and the college-going rate of the state will equal the college-going rate of the member states of the Southern Regional Education Board;

and

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

ARTICLE 2. STATE BOARD OF EDUCATION.

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

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

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

(c) The Legislature finds that:

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

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

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

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

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

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

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

(8) The state board’s authority over the regional education service agencies can be used to motivate the agencies to collaborate with the teacher preparation institutions in providing professional development and will serve as a point of accountability for the collaboration efforts of the agencies.
(d) West Virginia University and Marshall University shall collaborate with the Center for Professional Development in performing the center’s duties. This collaboration shall include at least the following:

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

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

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

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

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

(1) Prevent unnecessary duplication of services;

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

(3) Assist the regional education service agency in obtaining any available grants for professional development or to apply for any available grant with the agency collaboratively.
(f) Since no teacher preparation institution exists in the service area of Regional Education Service Agency IV, Marshall University shall collaborate with that agency for the purposes set forth in subdivision (e) of this section.

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

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

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

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

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

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

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


(a) The Legislature finds that:

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

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

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

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

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

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

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

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

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

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

(g) The state board shall:

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

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

(3) Hold all schools and districts accountable for helping students in earlier grade levels achieve scores on math and English/language arts tests that predict success in subsequent levels of related coursework. This accountability shall be achieved through the school and school system accreditation provisions set forth in section five, article two-e of this chapter;
Except as otherwise specified, all provisions of this section become effective with the 2014-2015 school year.

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

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.

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

1. The process for improving education includes four primary elements, these being:

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

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

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

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

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

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

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

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

(b) Electronic county and school strategic improvement plans. – The state board shall promulgate a rule consistent with the provisions of this section and in accordance with article three-b, chapter twenty-nine-a of this code establishing an electronic county strategic improvement plan for each county board and an electronic school strategic improvement plan for each public school in this state. Each respective plan shall be a five-year plan that includes the mission and goals of the school or school system to improve student, school or school system performance and progress, as applicable. The strategic plan shall be revised annually in each area in which the school or system is below the standard on the annual performance measures. The plan shall be revised when required pursuant to this section to include each annual performance measure upon which the school or school system fails to meet the standard for performance and progress, the action to be taken to meet each measure, a separate time line and a date certain for meeting each measure, a cost estimate and, when applicable, the assistance to be provided by the department and other education agencies to improve student, school or school system
performance and progress to meet the annual performance measure.

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

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

1. Curriculum;
2. Workplace readiness skills;
3. Finance;
4. Transportation;
5. Special education;
6. Facilities;
7. Administrative practices;
8. Training of county board members and administrators;
9. Personnel qualifications;
(10) Professional development and evaluation;

(11) Student performance, progress and attendance;

(12) Professional personnel, including principals and central office administrators, and service personnel attendance;

(13) School and school system performance and progress;

(14) A code of conduct for students and employees;

(15) Indicators of efficiency; and

(16) Any other areas determined by the state board.

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

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

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

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

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

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

(c) State annual performance measures for school and school system accreditation. – The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual performance measures for state accreditation of schools and school systems. The state board also may establish performance incentives for schools and school systems as part of the state accreditation system. On or before December 1, 2013, the state board shall report to the Governor and to the Legislative Oversight Commission on Education Accountability the proposed rule for establishing the measures and incentives of accreditation and the estimated cost therefore, if any. Thereafter, the state board shall provide an annual report to the Governor and to the Legislative Oversight Commission on Education Accountability on the impact and effectiveness of the accreditation system. The rule for school and school system accreditation proposed by the board may include, but is not limited to, the following measures:
(1) Student proficiency in English and language arts, math, science and other subjects determined by the board;

(2) Graduation and attendance rate;

(3) Students taking and passing AP tests;

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

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

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

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

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

(2) Transportation;

(3) Facilities;

(4) Administrative practices;

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

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

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

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

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

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

(4) The on-site review of the processes in place in schools and school systems to enable school and school system performance and progress and compliance with the standards.
(h) Uses of school and school system assessment information.—The state board shall use information from the system of education performance audits to assist it in ensuring that a thorough and efficient system of schools is being provided and to improve student, school and school system performance and progress. Information from the system of education performance audits further shall be used by the state board for these purposes, including, but not limited to, the following:

1. Determining school accreditation and school system approval status;

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

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

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

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

(j) **Office of Education Performance Audits.** –

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

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

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

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

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

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

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

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

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

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

(D) Determine, in conjunction with the assessment and accountability processes, whether statewide system deficiencies exist in the capacity of schools and school systems to meet the standards established by the state board, including the identification of trends and the need for continuing improvements in education, and report those deficiencies and trends to the state board;
(E) Determine, in conjunction with the assessment and accountability processes, staff development needs of schools and school systems to meet the standards established by the state board and make recommendations to the state board, the Center for Professional Development, the regional educational service agencies, the Higher Education Policy Commission and the county boards;

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

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

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

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

(iii) The appropriate licensure of school personnel; and

(iv) The appropriate provision of multicultural activities.

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

(k) On-site reviews. —

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

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

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

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

(D) Investigating official complaints submitted to the
state board that allege serious impairments in the quality of
education in schools or school systems;
(E) Investigating official complaints submitted to the state board that allege that a school or county board is in violation of policies or laws under which schools and county boards operate; and

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

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

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

(4) The Office of Education Performance Audits shall reimburse a county board for the costs of substitutes required to replace county board employees who serve on a review team.
(5) At the conclusion of an on-site review of a school system, the director and team leaders shall hold an exit conference with the superintendent and shall provide an opportunity for principals to be present for at least the portion of the conference pertaining to their respective schools. In the case of an on-site review of a school, the exit conference shall be held with the principal and curriculum team of the school and the superintendent shall be provided the opportunity to be present. The purpose of the exit conference is to review the initial findings of the on-site review, clarify and correct any inaccuracies and allow the opportunity for dialogue between the reviewers and the school or school system to promote a better understanding of the findings.

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

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

452 (1) School accreditation. –

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

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

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

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

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

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

475 (A) To require a school to revise its electronic strategic plan;
(B) To define extraordinary circumstances under which the state board may intervene directly or indirectly in the operation of a school;

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

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

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

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

(ii) The principal who was removed is eligible for all positions in the county, including teaching positions, for which the principal is certified, by either being placed on the transfer list in accordance with section seven, article two, chapter eighteen-a of this code, or by being placed on the preferred recall list in accordance with section seven-a, article four, chapter eighteen-a of this code; and
(iii) The principal who was removed shall be paid by the county board and may be assigned to administrative duties, without the county board being required to post that position until the end of the school term; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Declaring that the office of the county superintendent is vacant;
(iii) Delegating to the state superintendent both the authority to conduct hearings on personnel matters and school closure or consolidation matters and, subsequently, to render the resulting decisions and the authority to appoint a designee for the limited purpose of conducting hearings while reserving to the state superintendent the authority to render the resulting decisions;

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

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

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

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

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

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

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

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

The state board shall recommend to the appropriate body
including, but not limited to, the Legislature, county boards,
schools and communities methods for targeting resources
strategically to eliminate deficiencies identified in the
assessment and accountability processes. When making
determinations on recommendations, the state board shall
include, but is not limited to, the following methods:
(1) Examining reports and electronic strategic improvement plans regarding the performance and progress of students, schools and school systems relative to the standards and identifying the areas in which improvement is needed;

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

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

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

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

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

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

(8) Directing county boards to target their funds strategically toward alleviating deficiencies;
(9) Ensuring that the need for facilities in counties with increased enrollment are appropriately reflected and recommended for funding;

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

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

ARTICLE 21. PROFESSIONAL DEVELOPMENT.

§18-21-1. Legislative purpose.

The purpose of this article is to establish clear state-level leadership for professional development for all West Virginia public school educators and administrators. As the state institution charged with the general supervision of the state school system, the state board shall institute a system for the coordination and delivery of high-quality professional development. The system shall clearly define the goals for professional development and delineate roles and responsibilities among the various state and regional professional development providers.

§18-21-2. Legislative findings.

The Legislature finds:

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

(2) That professional development is vital in the state's overall school improvement efforts;
(3) That the state board should assure the efficient delivery of high-quality professional development programs and assure that duplication of efforts be minimized and that all stakeholders are appropriately involved in the planning and implementing of programs to meet requisite needs and that high-quality professional development programs be provided to public school educators of West Virginia in the most efficient and cost effective manner; and

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

§18-21-3. Annual professional development master plan established by state board.

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

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

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

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

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

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

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

(a) On or before June 1, 2013, the state board shall promulgate an emergency rule in accordance with article three-b, chapter twenty-nine of this code to ensure the coordination, development and evaluation of high-quality professional development programs. On or before November 1, 2013, the state board shall promulgate a legislative rule for the same purpose. The rules shall include, but are not limited to, the following:
(1) Standards for quality professional development that all professional development providers shall use in designing, implementing and evaluating professional development that shall become part of the statewide professional development plan;

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

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

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

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

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

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

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

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

§18-21-5. Strategic Staff Development Fund.

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

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

ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.
§18-3-1. Appointment; qualifications; compensation; traveling expenses; office and residence; evaluation.

There shall be appointed by the state board a State Superintendent of Schools who serves at the will and pleasure of the state board. He or she shall be a person of good moral character, shall be able to perform the duties listed in this article and possess such other educational, administrative, experiential and other qualifications as determined by the State Board of Education. He or she shall hold at least a master's degree from a regionally accredited institution of higher education or equivalent degree as determined by the state board. He or she shall receive an annual salary set by the state board, to be paid monthly. The state superintendent also shall receive necessary traveling expenses incident to the performance of his or her duties to be paid out of the General School Fund upon warrants of the State Auditor. The state superintendent shall have his or her office at the state Capitol. The state board shall report to the Legislative Oversight Commission on Education Accountability upon request concerning its progress during any hiring process for a state superintendent.

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

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

The state superintendent shall reduce the budgeted amount for personal services, related employee benefits and contractual expenditures related to employment by five percent in fiscal years 2014 and 2015. The reductions shall be taken department wide, excluding the school aid formula and institutionalized services to juveniles and adults, and other direct-service education expenditures.
§18-3-12. Special Community Development School Pilot Program.

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

(b) Beginning in January, 2014, on or before the first day of the regular session of the Legislature, and each year thereafter, the state superintendent, county superintendent for the county in which the schools are located and lead community-based organizations shall make a status report to the Legislative Oversight Commission on Education Accountability and to the state board. The report may include any recommendations based on the progress of the demonstration project that he or she considers either necessary for improving the operations of the demonstration project or prudent for improving student achievement in other public schools through replication of successful demonstration school programs.
§18-5-18. Kindergarten programs.

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

(b) Persons employed as kindergarten teachers, as distinguished from paraprofessional personnel, shall be required to hold a certificate valid for teaching at the assigned level as prescribed by rules established by the state board. The state board shall establish the minimum requirements for all paraprofessional personnel employed in kindergarten programs established pursuant to the provisions of this section and no such paraprofessional personnel may be employed in any kindergarten program unless he or she meets the minimum requirements. Beginning July 1, 2014, any person previously employed as an aide in a kindergarten program and who is employed in the same capacity on and after that date and any new person employed in that capacity in a kindergarten program on and after that date shall hold the position of either Early Childhood Classroom Assistant Teacher - Temporary Authorization, Early Childhood Classroom Assistant Teacher - Permanent Authorization or Early Childhood Classroom Assistant Teacher - Paraprofessional Certificate. Any person employed as an aide in a kindergarten program that is eligible for full retirement benefits before July 1, 2020, may remain employed as an aide in that position and may not be required to acquire licensure pursuant to this section.
(c) The state board with the advice of the state superintendent shall establish and prescribe guidelines and criteria relating to the establishment, operation and successful completion of kindergarten programs in accordance with the other provisions of this section. Guidelines and criteria so established and prescribed also are intended to serve for the establishment and operation of nonpublic kindergarten programs and shall be used for the evaluation and approval of those programs by the state superintendent, provided application for the evaluation and approval is made in writing by proper authorities in control of the programs. The state superintendent, annually, shall publish a list of nonpublic kindergarten programs, including Montessori kindergartens that have been approved in accordance with the provisions of this section. Montessori kindergartens established and operated in accordance with usual and customary practices for the use of the Montessori method which have teachers who have training or experience, regardless of additional certification, in the use of the Montessori method of instruction for kindergartens shall be considered to be approved.

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

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

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

(b) Findings. –

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

(A) Improve overall readiness when children enter school;

(B) Decrease behavioral problems;

(C) Improve student attendance;

(D) Increase scores on achievement tests;

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

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

(2) Quality early childhood education programs improve school performance and low-quality early childhood education programs may have negative effects, especially for at-risk children;
(3) West Virginia has the lowest percentage of its adult population twenty-five years of age or older with a bachelor’s degree and the education level of parents is a strong indicator of how their children will perform in school;

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

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

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

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

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

(9) Expansion of current efforts to implement a comprehensive early childhood education program should avoid the problems encountered in kindergarten implementation;
(10) Because of the dynamics of the state aid formula, counties experiencing growth are at a disadvantage in implementing comprehensive early childhood education programs; and

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

(c) Beginning no later than the school year 2012-2013, and continuing thereafter, county boards shall provide early childhood education programs for all children who have attained the age of four prior to September 1 of the school year in which the pupil enters the early childhood education program. Beginning no later than the school year 2016-2017, and continuing thereafter, early childhood education programs that are full day and five days per week shall be available to all children meeting the age requirement set forth in the subsection.

(d) The program shall meet the following criteria:

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

(2) All children meeting the age requirement set forth in this section shall have the opportunity to enroll in a program that is full day and five days per week. The program may be for fewer than five days per week and may be less than full day based on family need if a sufficient number of families request such programs and the county board finds that such programs are in the best interest of the requesting families and students: Provided, That the ability of families to request programs that are fewer than five days a week or less than a full day does not relieve the county of the obligation to
provide all resident children with the opportunity to enroll in
a full-day program; and

(3) A parent of a child enrolled in an early education
program may withdraw a child from that program for good
cause by notifying the district. Good cause includes, but is
not limited to, enrollment of the child in another program or
the immaturity of the child. A child withdrawn under this
section is not subject to the attendance provisions of this
chapter until that child again enrolls in a public school in this
state.

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

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

(1) Federal funds provided under the Elementary and
Secondary Education Act pursuant to 20 U. S. C. §6301, \textit{et seq.};

(2) Federal funds provided for Head Start pursuant to 42
U. S. C. §9831, \textit{et seq.};

(3) Federal funds for temporary assistance to needy
families pursuant to 42 U. S. C. §601, \textit{et seq.};

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

(5) In the case of counties with declining enrollments,
funds from the state aid formula above the amount indicated
for the number of students actually enrolled in any school
year; and
(6) Any other public or private funds.

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

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

(2) An analysis of facility and personnel needs;

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

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

(5) Specific time lines for implementation; and

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

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

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

(2) The county board has provided for the maximum implementation of Head Start programs and other public and private programs approved by the state superintendent pursuant to the terms of subsection (k) of this section; and
(3) If the Secretary of the Department of Health and Human Resources finds that the county board has not met one or more of the requirements of this subsection, but that the county board has acted in good faith and the failure to comply was not the primary fault of the county board, then the secretary shall approve the plan. Any denial by the secretary may be appealed to the circuit court of the county in which the county board is located.

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

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

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

(l) The state board annually may grant a county board a waiver for total or partial implementation if the state board finds that all of the following conditions exist:
(1) The county board is unable to comply either because:

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

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

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

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

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

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

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

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

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

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

(1) Standards for curriculum;

(2) Standards for preparing students;

(3) Attendance requirements;

(4) Standards for personnel; and

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

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

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

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

(3) A method for including a broad range of content that is relevant, engaging and meaningful to young children;
(4) A requirement that the curriculum incorporate a wide variety of learning experiences, materials and equipment, and instructional strategies to respond to differences in prior experience, maturation rates and learning styles that young children bring to the classroom;

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

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

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

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

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

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

(s) The secretary and the state superintendent shall submit a report to the Legislative Oversight Commission on Education Accountability and the Joint Committee on Government and Finance which addresses, at a minimum, the following issues:
(1) A summary of the approved county plans for providing the early childhood education programs pursuant to this section;

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

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

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

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

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

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

(2) For those county boards that are including eligible children attending approved, contracted community-based programs in their net enrollment for the purposes of calculating state aid pursuant to article nine-a of this chapter, documentation that the county board is equitably distributing funding for all children regardless of setting.
§18-5-45. School calendar.

(a) As used in this section:

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

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

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

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

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

(b) Findings. —

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

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

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

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

(1) An employment term that excludes Saturdays and Sundays and consists of at least two hundred days, which
need not be successive. The beginning and closing dates of
the employment term may not exceed forty-eight weeks;

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

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

(A) Seven paid holidays;

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

(C) Six days to be designated by the county board to be
used by the employees outside the school environment, with
at least four outside the school environment days scheduled
to occur after the one hundred and thirtieth instructional day
of the school calendar; and

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

(i) Curriculum development;

(ii) Preparation for opening and closing school;

(iii) Professional development;

(iv) Teacher-pupil-parent conferences;

(v) Professional meetings;
(vi) Making up days when instruction was scheduled but not conducted; and

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

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

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

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

(A) Holidays;

(B) Election day;

(C) Saturdays and Sundays.

(f) The instructional term shall commence and terminate on a date selected by the county board.

(g) The state board may not schedule the primary statewide assessment program more than thirty days prior to the end of the instructional year unless the state board determines that the nature of the test mandates an earlier testing date.
(h) The following applies to cocurricular activities:

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

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

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

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

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

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

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

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

(n) The minimum instructional term may be decreased by order of the state superintendent in any county declared a
(o) Notwithstanding any provision of this code to the contrary, the state board may grant a waiver to a county board for its noncompliance with provisions of chapter eighteen, eighteen-a, eighteen-b and eighteen-c of this code to maintain compliance in reaching the mandatory one hundred eighty separate instructional days established in this section.

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

(q) The amendments to this section during the 2013 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2013, and the provisions of this section immediately prior to those amendments remain in effect until July 1, 2013.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

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

(a) There is established at every public school in this state a faculty senate which is comprised of all permanent, full-time professional educators employed at the school who shall all be voting members. Professional educators, as used in this section, means "professional educators" as defined in chapter eighteen-a of this code. A quorum of more than one half of the voting members of the faculty shall be present at any meeting of the faculty senate at which official business is conducted. Prior to the beginning of the instructional term
each year, but within the employment term, the principal
shall convene a meeting of the faculty senate to elect a chair,
vice chair and secretary and discuss matters relevant to the
beginning of the school year. The vice chair shall preside at
meetings when the chair is absent. Meetings of the faculty
senate shall be held during the times provided in accordance
with subdivision (12), subsection (b) of this section as
determined by the faculty senate. Emergency meetings may
be held during noninstructional time at the call of the chair or
a majority of the voting members by petition submitted to the
chair and vice chair. An agenda of matters to be considered
at a scheduled meeting of the faculty senate shall be available
to the members at least two employment days prior to the
meeting. For emergency meetings the agenda shall be
available as soon as possible prior to the meeting. The chair
of the faculty senate may appoint such committees as may be
desirable to study and submit recommendations to the full
classroom teacher and librarian shall be allotted $100 for
expenditure during the instructional year for academic

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

(1) Each faculty senate shall control funds allocated to the
school from legislative appropriations pursuant to section
nine, article nine-a of this chapter. From those funds, each
classroom teacher and librarian shall be allotted $100 for
materials, supplies or equipment which, in the judgment of the teacher or librarian, will assist him or her in providing instruction in his or her assigned academic subjects or shall be returned to the faculty senate: Provided, That nothing contained herein prohibits the funds from being used for programs and materials that, in the opinion of the teacher, enhance student behavior, increase academic achievement, improve self esteem and address the problems of students at risk. The remainder of funds shall be expended for academic materials, supplies or equipment in accordance with a budget approved by the faculty senate. Notwithstanding any other provisions of the law to the contrary, funds not expended in one school year are available for expenditure in the next school year: Provided, however, That the amount of county funds budgeted in a fiscal year may not be reduced throughout the year as a result of the faculty appropriations in the same fiscal year for such materials, supplies and equipment. Accounts shall be maintained of the allocations and expenditures of such funds for the purpose of financial audit. Academic materials, supplies or equipment shall be interpreted broadly, but does not include materials, supplies or equipment which will be used in or connected with interscholastic athletic events.

(2) A faculty senate may establish a process for members to interview or otherwise obtain information regarding applicants for classroom teaching vacancies that will enable the faculty senate to submit recommendations regarding employment to the principal. To facilitate the establishment of a process that is timely, effective, consistent among schools and counties and designed to avoid litigation or grievance, the state board shall promulgate a rule pursuant to article three-b, chapter twenty-nine-a of this code to implement the provisions of this subdivision. The rule may include the following:
(A) A process or alternative processes that a faculty senate may adopt;

(B) If determined necessary, a requirement and procedure for training for principals and faculty senate members or their designees who may participate in interviews and provisions that may provide for the compensation based on the appropriate daily rate of a classroom teacher who directly participates in the training for periods beyond his or her individual contract;

(C) Time lines that will assure the timely completion of the recommendation or the forfeiture of the right to make a recommendation upon the failure to complete a recommendation within a reasonable time;

(D) The authorization of the faculty senate to delegate the process for making a recommendation to a committee of no less than three members of the faculty senate; and

(E) Such other provisions as the state board determines are necessary or beneficial for the process to be established by the faculty senate.

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

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

(5) A faculty senate may submit recommendations to the principal regarding establishment of the master curriculum schedule for the next ensuing school year.
(6) A faculty senate may establish a process for the review and comment on sabbatical leave requests submitted by employees at the school pursuant to section eleven, article two of this chapter.

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

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

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

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

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

(12) A local board shall provide to each faculty senate a two-hour block of time for a faculty senate meeting on a day scheduled for the opening of school prior to the beginning of the instructional term and at least four additional two-hour blocks of time during noninstructional days, with each two-hour block of time scheduled once at least every forty-five instructional days. A faculty senate may meet for an unlimited block of time during noninstructional days to discuss and plan strategies to improve student instruction and to conduct other faculty senate business. A faculty senate meeting scheduled on a noninstructional day shall be considered as part of the purpose for which the noninstructional day is scheduled. This time may be used and determined at the local school level and includes, but is not limited to, faculty senate meetings.

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

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

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-1. Employment in general.

(a) The employment of professional personnel shall be made by the board only upon nomination and recommendation of the superintendent, subject to the following:

(1) The superintendent shall provide the principal at the school at which the professional educator or paraprofessional employee is to be employed an opportunity to interview all qualified applicants and make recommendations to the county superintendent regarding their employment;

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

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

(4) In case the board refuses to employ any or all of the persons nominated, the superintendent shall nominate others and submit the same to the board at such time as the board may direct;
(5) All personnel so nominated and recommended for employment and for subsequent assignment shall meet the certification, licensing, training and other eligibility classifications as may be required by provisions of this chapter and by state board rule. In addition to any other information required, the application for any certification or licensing shall include the applicant’s Social Security number.

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

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

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

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

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

(d) The provisions of this section respecting hearing upon notice of transfer is not applicable in emergency situations where the school building becomes damaged or destroyed through an unforeseeable act and which act necessitates a
(e) Notwithstanding this section or any provision of this code, when actual student enrollment in a grade level or program, unforeseen before March 1 of the preceding school year, permits the assignment of fewer teachers or service personnel to or within a school under any pupil-teacher ratio, class size or caseload standard established in section eighteen-a, article five, chapter eighteen of this code or any policy of the state board, the superintendent, with board approval, may reassign the surplus personnel to another school or to another grade level or program within the school if needed there to comply with any such pupil-teacher ratio, class size or caseload standard.

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

(2) Except as otherwise provided in subdivision (1) of this subsection, the reassignment may be made without following the notice and hearing provisions of this section, and at any time during the school year when the conditions of this subsection are met: Provided, That the reassignment may not occur after the last day of the second school month.

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

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

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

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

§18A-3-1d. Study of alternative certification programs.

The state board shall conduct a study on alternative certification programs, including the effectiveness of the current methods of alternative certification, any improvements needed on current methods of alternative certification and potential additional methods of certification that would enhance the ability of the State of West Virginia to place effective teachers in areas of high need. "Areas of high need" means those subject areas, public schools or geographic areas of the state in which the state board determines that critical teacher shortages exist. The board shall report its findings and recommendations to the Legislative Oversight Commission on Education Accountability no later than December 31, 2013.

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.

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

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

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

(c) The Center for Professional Development Board is reconstituted, and all terms of members elected or appointed prior to the effective date of this section are expired. The center board shall consist of thirteen persons as follows:
The Secretary of Education and the Arts, ex officio, and the state superintendent, ex officio, each of whom is:

- Entitled to vote; and
- A cochair of the board.

Two members of the state board, elected by the state board;

One person employed by West Virginia University and one person employed by Marshall University, both of whom are:

- Appointed by the president of the employing institution;
- Faculty in the teacher education section of the employing institution; and
- Knowledgeable in matters relevant to the issues addressed by the center;

One regional education service agency executive director, elected by all of the regional education service agency executive directors;

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

- Appointed by the Governor by and with the advice and consent of the Senate;
- Experienced educators who have achieved recognition for their superior knowledge, ability and performance in teaching or management, as applicable; and
(C) Knowledgeable in matters relevant to the issues addressed by the center; and

(6) Three citizens of the state who are:

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

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

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

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

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

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

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

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

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

(f) The position of executive director is abolished. The Governor shall appoint, by and with the advice and consent of the Senate, a chief executive officer with knowledge and experience in professional development and management principles. Any reference in this code to the Executive Director of the Center for Professional Development means the Chief Executive Officer. From appropriations to the Center for Professional Development, the center board sets the salary of the chief executive officer. The center board, upon the recommendation of the chief executive officer, may employ other staff necessary to carry out the mission and duties of the center. The chief executive officer serves at the will and pleasure of the Governor. Annually, the center board shall evaluate the chief executive officer, and shall report the results to the Governor. The duties of the chief executive officer include:

(1) Managing the daily operations of the center;

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

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

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

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

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

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

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

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

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

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

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

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

(2) Services in any specific subject matter area that the state board, the Legislature or both, determine is justified due to a need to increase student achievement in that area.
§18A-3A-2. Professional development project.

1 Subject to the provisions of article two-i, chapter eighteen-a of this code, through this project the Center for Professional Development shall:

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

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

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

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

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

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

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

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

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

1 Subject to the provisions of article two-i, chapter eighteen-a of this code, through this project the center shall:

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

8 (2) Establish programs that provide instruction to classroom teachers who will serve as beginning teacher mentors in accordance with the provisions of section two-b, article three of this chapter.
ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

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

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

(b) (1) $3,500 shall be paid annually to each classroom teacher who holds a valid certificate issued by the National Board of Professional Teaching Standards for the life of the certification, but in no event more than ten years for any one certification.

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

(c) The payments:

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

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

(3) Shall be considered a part of the state minimum salaries for teachers.
(d) For initial certification, one half the certification fee shall be paid for reimbursement once to each teacher who enrolls in the program for the National Board for Professional Teaching Standards certification and one half the certification fee shall be paid for reimbursement once to each teacher who completes the National Board for Professional Teaching Standards certification. Completion shall be defined as the completion of ten scorable entries, as verified by the National Board for Professional Teaching Standards. Teachers who achieve National Board for Professional Teaching Standards certification may be reimbursed a maximum of $600 for expenses actually incurred while obtaining the National Board for Professional Teaching Standards certification.

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

(f) The state board shall establish selection criteria for the teachers by the legislative rule required pursuant to subsection (h) of this section.

(g) Funding for reimbursement of the initial certification fee and expenses actually incurred while obtaining the National Board for Professional Teaching Standards certifications and funding for reimbursement of the renewal certification fee shall be administered by the State Department of Education from an appropriation established for that purpose by the Legislature. If funds appropriated by the Legislature to accomplish the purposes of this subsection are insufficient, the state department shall prorate the reimbursements for expenses and shall request of the Legislature, at its next regular session, funds sufficient to
accomplish the purposes of this subsection, including needed retroactive payments.

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

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

(a) A county board of education shall make decisions affecting the filling of vacancies in professional positions of employment on the basis of the applicant with the highest qualifications: Provided, That the county superintendent shall be hired under separate criteria pursuant to section two, article four, chapter eighteen of this code.

(b) In judging qualifications for the filling of vacancies of professional positions of employment, consideration shall be given to each of the following:

(1) Appropriate certification, licensure or both;

(2) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

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

(4) Academic achievement;

(5) In the case of a classroom teaching position or the position of principal, certification by the National Board for Professional Teaching Standards;
(6) Specialized training relevant to the performance of the duties of the job;

(7) Past performance evaluations conducted pursuant to section twelve, article two of this chapter and section two, article three-c of this chapter or, in the case of a classroom teacher, past evaluations of the applicant’s performance in the teaching profession;

(8) Seniority;

(9) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(10) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(11) In the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of section five, article five-a, chapter eighteen of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties.

(c) In considering the filling of a vacancy pursuant to this section, a county board is entitled to determine the appropriate weight to apply to each of the criterion when assessing an applicant’s qualifications: Provided, That if one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, each criterion under subsection (b) of this section shall be given equal weight except that the criterion in subdivisions (10) and (11) shall each be double weighted.
(d) For a classroom teaching position, if the recommendations resulting from the operations of subdivisions (10) and (11), subsection (b) of this section are for the same applicant, and the superintendent concurs with that recommendation, then the other provisions of subsections (b) and (c) of this section do not apply and the county board shall appoint that applicant notwithstanding any other provision of this code to the contrary.

(e) The state board shall promulgate a rule, including an emergency rule if necessary, in accordance with the provisions of article three-b, chapter twenty-nine-a of this code to implement and interpret the provisions of this section, including provisions that may provide for the compensation based on the appropriate daily rate of a classroom teacher who directly participates in making recommendations pursuant to this section for periods beyond his or her individual contract.

(f) Recommendations made pursuant to subdivisions (10) and (11), subsection (b) of this section shall be made based on a determination as to which of the applicants is the highest qualified for the position: Provided, That nothing in this subsection shall require principals or faculty senates to assign any amount of weight to any factor in making a recommendation.

(g) With the exception of guidance counselors, the seniority of classroom teachers, as defined in section one, article one of this chapter, shall be determined on the basis of the length of time the employee has been employed as a regular full-time certified and/or licensed professional educator by the county board of education and shall be granted in all areas that the employee is certified, licensed or both.
(h) Upon completion of one hundred thirty-three days of employment in any one school year, substitute teachers, except retired teachers and other retired professional educators employed as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a permanent, full-time professional employee. One hundred thirty-three days or more of said employment shall be prorated and shall vest as a fraction of the school year worked by the permanent, full-time teacher.

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

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

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

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

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

(3) An employee subject to release shall be employed in any other professional position where the employee is certified and was previously employed or to any lateral area for which the employee is certified, licensed or both, if the employee's seniority is greater than the seniority of any other employee in that area of certification, licensure or both;

(4) If an employee subject to release holds certification, licensure or both in more than one lateral area and if the employee's seniority is greater than the seniority of any other employee in one or more of those areas of certification, licensure or both, the employee subject to release shall be employed in the professional position held by the employee with the least seniority in any of those areas of certification, licensure or both; and
(5) If, prior to August 1 of the year a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released employee shall notify the board, in writing, of his or her intent to resume his or her position of employment or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is another employee on the preferred recall list with proper certification and higher seniority, that person shall be placed in the position restored as a result of the reduction in force being rescinded.

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

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

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

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

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

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

(5) The Legislature finds that it is not in the best interest
of the students particularly in the elementary grades to have
multiple teachers for any one grade level or course during the
instructional term. It is the intent of the Legislature that the
filling of positions through transfers of personnel from one
professional position to another after the twentieth day prior
to the beginning of the instructional term should be kept to a
minimum.
(n) All professional personnel whose seniority with the county board is insufficient to allow their retention by the county board during a reduction in work force shall be placed upon a preferred recall list. As to any professional position opening within the area where they had previously been employed or to any lateral area for which they have certification, licensure or both, the employee shall be recalled on the basis of seniority if no regular, full-time professional personnel, or those returning from leaves of absence with greater seniority, are qualified, apply for and accept the position.

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

(p) Openings in established, existing or newly created positions shall be processed as follows:

1. Boards shall be required to post and date notices of each opening at least once. At their discretion, boards may post an opening for a position other than classroom teacher more than once in order to attract more qualified applicants. At their discretion, boards may post an opening for a classroom teacher one additional time after the first posting in order to attract more qualified applicants only if fewer than three individuals apply during the first posting subject to the following:
(A) Each notice shall be posted in conspicuous working places for all professional personnel to observe for at least five working days;

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

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

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

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

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

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

(4) A position held by a teacher who is certified, licensed or both, who has been issued a permit for full-time employment and is working toward certification in the permit area shall not be subject to posting if the certificate is awarded within five years; and
(5) Nothing provided herein shall prevent the county board of education from eliminating a position due to lack of need.

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

(r) Reductions in classroom teaching positions in elementary schools shall be processed as follows:

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

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

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

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

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

(v) The amendments to this section during the 2013 regular session of the Legislature shall be effective for school years beginning on or after July 1, 2013, and the provisions of this section immediately prior to those amendments remain in effect until July 1, 2013.

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

(a) The purpose of this section is to establish an employment term and class titles for service personnel. The employment term for service personnel may not be less than ten months. A month is defined as twenty employment days. The county board may contract with all or part of these service personnel for a longer term.

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

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

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

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

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

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

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

43 (3) The additional compensation provided in this
44 subsection:

45 (A) Is equal to at least one eighth of a service person’s
46 total salary as provided by the state minimum pay scale and
47 any county pay supplement; and

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

49 (g) When there is a change in classification or when a
50 service person meets the requirements of an advanced
51 classification, his or her salary shall be made to comply with
52 the requirements of this article and any county salary
53 schedule in excess of the minimum requirements of this
54 article, based upon the service person’s advanced
55 classification and allowable years of employment.

56 (h) A service person’s contract, as provided in section
57 five, article two of this chapter, shall state the appropriate
58 monthly salary the employee is to be paid, based on the class
59 title as provided in this article and on any county salary
60 schedule in excess of the minimum requirements of this
61 article.

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

65 (1) “Pay grade” means the monthly salary applicable to
66 class titles of service personnel;

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

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

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

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

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

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

(8) "Aide I" means a person selected and trained for a teacher-aide classification such as monitor aide, clerical aide, classroom aide or general aide;
(9) “Aide II” means a service person referred to in the “Aide I” classification who has completed a training program approved by the state board, or who holds a high school diploma or has received a general educational development certificate. Only a person classified in an Aide II class title may be employed as an aide in any special education program;

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

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

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

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

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

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

(12) “Audiovisual technician” means a person employed to perform minor maintenance on audiovisual equipment, films and supplies and who fills requests for equipment;
(13) “Auditor” means a person employed to examine and verify accounts of individual schools and to assist schools and school personnel in maintaining complete and accurate records of their accounts;

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

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

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

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

(18) “Cabinetmaker” means a person employed to construct cabinets, tables, bookcases and other furniture;

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

(20) “Carpenter I” means a person classified as a
carpenter’s helper;

(21) “Carpenter II” means a person classified as a
journeyman carpenter;

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

(23) “Clerk I” means a person employed to perform
clerical tasks;

(24) “Clerk II” means a person employed to perform
general clerical tasks, prepare reports and tabulations and
operate office machines;

(25) “Computer operator” means a qualified person
employed to operate computers;

(26) “Cook I” means a person employed as a cook’s
helper;

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

(28) “Cook III” means a person employed to prepare and
serve meals, make reports, prepare requisitions for supplies,
order equipment and repairs for a food service program of a
school system;
(29) "Crew leader" means a person employed to organize the work for a crew of maintenance employees to carry out assigned projects;

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

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

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

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

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

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

(B) Professional personnel holding this class title may not be defined or classified as service personnel unless the professional person held a service personnel title under this section prior to holding the class title of "director or coordinator of services."

(C) The director or coordinator of services shall be classified either as a professional person or a service person for state aid formula funding purposes;
Funding for the position of director or coordinator of services is based upon the employment status of the director or coordinator either as a professional person or a service person; and

A person employed under the class title “director or coordinator of services” may not be exclusively assigned to perform the duties ascribed to any other class title as defined in this subsection: Provided, That nothing in this paragraph prohibits a person in this position from being multiclassified;

“Draftsman” means a person employed to plan, design and produce detailed architectural/engineering drawings;

“Electrician I” means a person employed as an apprentice electrician helper or one who holds an electrician helper license issued by the State Fire Marshal;

“Electrician II” means a person employed as an electrician journeyman or one who holds a journeyman electrician license issued by the State Fire Marshal;

“Electronic technician I” means a person employed at the apprentice level to repair and maintain electronic equipment;

“Electronic technician II” means a person employed at the journeyman level to repair and maintain electronic equipment;

“Executive secretary” means a person employed as secretary to the county school superintendent or as a secretary who is assigned to a position characterized by significant administrative duties;
(41) "Food services supervisor" means a qualified person who is not a professional person or professional educator as defined in section one, article one of this chapter. The food services supervisor is employed to manage and supervise a county school system's food service program. The duties include preparing in-service training programs for cooks and food service employees, instructing personnel in the areas of quantity cooking with economy and efficiency and keeping aggregate records and reports;

(42) "Foreman" means a skilled person employed to supervise personnel who work in the areas of repair and maintenance of school property and equipment;

(43) "General maintenance" means a person employed as a helper to skilled maintenance employees and to perform minor repairs to equipment and buildings of a county school system;

(44) "Glazier" means a person employed to replace glass or other materials in windows and doors and to do minor carpentry tasks;

(45) "Graphic artist" means a person employed to prepare graphic illustrations;

(46) "Groundsman" means a person employed to perform duties that relate to the appearance, repair and general care of school grounds in a county school system. Additional assignments may include the operation of a small heating plant and routine cleaning duties in buildings;

(47) "Handyman" means a person employed to perform routine manual tasks in any operation of the county school system;
(48) "Heating and air conditioning mechanic I" means a person employed at the apprentice level to install, repair and maintain heating and air conditioning plants and related electrical equipment;

(49) "Heating and air conditioning mechanic II" means a person employed at the journeyman level to install, repair and maintain heating and air conditioning plants and related electrical equipment;

(50) "Heavy equipment operator" means a person employed to operate heavy equipment;

(51) "Inventory supervisor" means a person employed to supervise or maintain operations in the receipt, storage, inventory and issuance of materials and supplies;

(52) "Key punch operator" means a qualified person employed to operate key punch machines or verifying machines;

(53) "Licensed practical nurse" means a nurse, licensed by the West Virginia Board of Examiners for Licensed Practical Nurses, employed to work in a public school under the supervision of a school nurse;

(54) "Locksmith" means a person employed to repair and maintain locks and safes;

(55) "Lubrication man" means a person employed to lubricate and service gasoline or diesel-powered equipment of a county school system;

(56) "Machinist" means a person employed to perform machinist tasks which include the ability to operate a lathe,
A person holding this class title also should have the ability to work from blueprints and drawings;

(57) "Mail clerk" means a person employed to receive, sort, dispatch, deliver or otherwise handle letters, parcels and other mail;

(58) "Maintenance clerk" means a person employed to maintain and control a stocking facility to keep adequate tools and supplies on hand for daily withdrawal for all school maintenance crafts;

(59) "Mason" means a person employed to perform tasks connected with brick and block laying and carpentry tasks related to these activities;

(60) "Mechanic" means a person employed to perform skilled duties independently in the maintenance and repair of automobiles, school buses and other mechanical and mobile equipment to use in a county school system;

(61) "Mechanic assistant" means a person employed as a mechanic apprentice and helper;

(62) "Multiclassification" means a person employed to perform tasks that involve the combination of two or more class titles in this section. In these instances the minimum salary scale shall be the higher pay grade of the class titles involved;

(63) "Office equipment repairman I" means a person employed as an office equipment repairman apprentice or helper;
(64) "Office equipment repairman II" means a person responsible for servicing and repairing all office machines and equipment. A person holding this class title is responsible for the purchase of parts necessary for the proper operation of a program of continuous maintenance and repair;

(65) "Painter" means a person employed to perform duties painting, finishing and decorating wood, metal and concrete surfaces of buildings, other structures, equipment, machinery and furnishings of a county school system;

(66) "Paraprofessional" means a person certified pursuant to section two-a, article three of this chapter to perform duties in a support capacity including, but not limited to, facilitating in the instruction and direct or indirect supervision of students under the direction of a principal, a teacher or another designated professional educator.

(A) A person employed on the effective date of this section in the position of an aide may not be subject to a reduction in force or transferred to create a vacancy for the employment of a paraprofessional;

(B) A person who has held or holds an aide title and becomes employed as a paraprofessional shall hold a multiclassification status that includes both aide and paraprofessional titles in accordance with section eight-b of this article; and

(C) When a service person who holds an aide title becomes certified as a paraprofessional and is required to perform duties that may not be performed by an aide without paraprofessional certification, he or she shall receive the paraprofessional title pay grade;
(67) "Payroll supervisor" means a person employed in the county board office who has primary responsibility for the payroll function and who either has completed twelve college hours of accounting from an accredited institution of higher education or has at least eight years of experience performing progressively difficult accounting tasks. Responsibilities of this class title may include supervision of other personnel;

(68) "Plumber I" means a person employed as an apprentice plumber and helper;

(69) "Plumber II" means a person employed as a journeyman plumber;

(70) "Printing operator" means a person employed to operate duplication equipment, and to cut, collate, staple, bind and shelve materials as required;

(71) "Printing supervisor" means a person employed to supervise the operation of a print shop;

(72) "Programmer" means a person employed to design and prepare programs for computer operation;

(73) "Roofing/sheet metal mechanic" means a person employed to install, repair, fabricate and maintain roofs, gutters, flashing and duct work for heating and ventilation;

(74) "Sanitation plant operator" means a person employed to operate and maintain a water or sewage treatment plant to ensure the safety of the plant's effluent for human consumption or environmental protection;

(75) "School bus supervisor" means a qualified person:
(A) Employed to assist in selecting school bus operators and routing and scheduling school buses, operate a bus when needed, relay instructions to bus operators, plan emergency routing of buses and promote good relationships with parents, students, bus operators and other employees; and

(B) Certified to operate a bus or previously certified to operate a bus;

(76) "Secretary I" means a person employed to transcribe from notes or mechanical equipment, receive callers, perform clerical tasks, prepare reports and operate office machines;

(77) "Secretary II" means a person employed in any elementary, secondary, kindergarten, nursery, special education, vocational or any other school as a secretary. The duties may include performing general clerical tasks; transcribing from notes, stenotype, mechanical equipment or a sound-producing machine; preparing reports; receiving callers and referring them to proper persons; operating office machines; keeping records and handling routine correspondence. Nothing in this subdivision prevents a service person from holding or being elevated to a higher classification;

(78) "Secretary III" means a person assigned to the county board office administrators in charge of various instructional, maintenance, transportation, food services, operations and health departments, federal programs or departments with particular responsibilities in purchasing and financial control or any person who has served for eight years in a position which meets the definition of "secretary II" or "secretary III";

(79) "Supervisor of maintenance" means a skilled person who is not a professional person or professional educator as
defined in section one, article one of this chapter. The responsibilities include directing the upkeep of buildings and shops, and issuing instructions to subordinates relating to cleaning, repairs and maintenance of all structures and mechanical and electrical equipment of a county board;

(80) “Supervisor of transportation” means a qualified person employed to direct school transportation activities properly and safely, and to supervise the maintenance and repair of vehicles, buses and other mechanical and mobile equipment used by the county school system. After July 1, 2010, all persons employed for the first time in a position with this classification title or in a multi-classification position that includes this title shall have five years of experience working in the transportation department of a county board. Experience working in the transportation department shall consist of serving as a bus operator, bus aide, assistant mechanic, mechanic, chief mechanic or in a clerical position within the transportation department;

(81) “Switchboard operator-receptionist” means a person employed to refer incoming calls, to assume contact with the public, to direct and to give instructions as necessary, to operate switchboard equipment and to provide clerical assistance;

(82) “Truck driver” means a person employed to operate light or heavy duty gasoline and diesel-powered vehicles;

(83) “Warehouse clerk” means a person employed to be responsible for receiving, storing, packing and shipping goods;

(84) “Watchman” means a person employed to protect school property against damage or theft. Additional assignments may include operation of a small heating plant and routine cleaning duties;
(85) "Welder" means a person employed to provide acetylene or electric welding services for a school system;

(86) "WVEIS data entry and administrative clerk" means a person employed to work under the direction of a school principal to assist the school counselor or counselors in the performance of administrative duties, to perform data entry tasks on the West Virginia Education Information System, and to perform other administrative duties assigned by the principal;

(87) "Early Childhood Classroom Assistant Teacher - Temporary Authorization" means a person who does not possess minimum requirements for the permanent authorization requirements, but is enrolled in and pursuing requirements;

(88) "Early Childhood Classroom Assistant Teacher - Permanent Authorization" means a person who has completed the minimum requirements for a state-awarded certificate for early childhood classroom assistant teachers that meet or exceed the requirements for a child development associate. Equivalency for the West Virginia Department of Education will be determined as the child development associate or the West Virginia Apprenticeship for Child Development Specialists; and

(89) "Early Childhood Classroom Assistant Teacher - Paraprofessional Certificate" means a person who has completed permanent authorization requirements, as well as additional requirements comparable to current paraprofessional certificate.

(j) Notwithstanding any provision in this code to the contrary, and in addition to the compensation provided for service personnel in section eight-a of this article, each
service person is entitled to all service personnel employee
rights, privileges and benefits provided under this or any
other chapter of this code without regard to the employee’s
hours of employment or the methods or sources of
compensation.

(k) A service person whose years of employment exceeds
the number of years shown and provided under the state
minimum pay scale set forth in section eight-a of this article
may not be paid less than the amount shown for the
maximum years of employment shown and provided in the
classification in which he or she is employed.

(l) Each county board shall review each service person’s
job classification annually and shall reclassify all service
persons as required by the job classifications. The state
superintendent may withhold state funds appropriated
pursuant to this article for salaries for service personnel who
are improperly classified by the county boards. Further, the
state superintendent shall order a county board to correct
immediately any improper classification matter and, with the
assistance of the Attorney General, shall take any legal action
necessary against any county board to enforce the order.

(m) Without his or her written consent, a service person
may not be:

(1) Reclassified by class title; or

(2) Relegated to any condition of employment which
would result in a reduction of his or her salary, rate of pay,
compensation or benefits earned during the current fiscal
year; or for which he or she would qualify by continuing in
the same job position and classification held during that fiscal
year and subsequent years.
(n) Any county board failing to comply with the provisions of this article may be compelled to do so by mandamus and is liable to any party prevailing against the board for court costs and the prevailing party’s reasonable attorney fee, as determined and established by the court.

(o) Notwithstanding any provision of this code to the contrary, a service person who holds a continuing contract in a specific job classification and who is physically unable to perform the job’s duties as confirmed by a physician chosen by the employee shall be given priority status over any employee not holding a continuing contract in filling other service personnel job vacancies if the service person is qualified as provided in section eight-e of this article.

(p) Any person employed in an aide position on the effective date of this section may not be transferred or subject to a reduction in force for the purpose of creating a vacancy for the employment of a licensed practical nurse.

(q) Without the written consent of the service person, a county board may not establish the beginning work station for a bus operator or transportation aide at any site other than a county board-owned facility with available parking. The workday of the bus operator or transportation aide commences at the bus at the designated beginning work station and ends when the employee is able to leave the bus at the designated beginning work station, unless he or she agrees otherwise in writing. The application or acceptance of a posted position may not be construed as the written consent referred to in this subsection.

(r) “Itinerant status” means a service person who does not have a fixed work site and may be involuntarily reassigned to another work site. A service person is considered to hold itinerant status if he or she has bid upon a position posted as
itinerant or has agreed to accept this status. A county board may establish positions with itinerant status only within the aide and autism mentor classification categories and only when the job duties involve exceptional students. A service person with itinerant status may be assigned to a different work site upon written notice ten days prior to the reassignment without the consent of the employee and without posting the vacancy. A service person with itinerant status may be involuntarily reassigned no more than twice during the school year. At the conclusion of each school year, the county board shall post and fill, pursuant to section eight-b of this article, all positions that have been filled without posting by a service person with itinerant status. A service person who is assigned to a beginning and ending work site and travels at the expense of the county board to other work sites during the daily schedule, shall not be considered to hold itinerant status.

§18A-4-8a. Service personnel minimum monthly salaries.

(a) The minimum monthly pay for each service employee shall be as follows:

(1) Beginning July 1, 2011, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one half the amount indicated in the State Minimum Pay Scale Pay Grade set forth in this subdivision.
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(2) Each service employee shall receive the amount prescribed in the Minimum Pay Scale in accordance with the provisions of this subsection according to their class title and pay grade as set forth in this subdivision:

<table>
<thead>
<tr>
<th>CLASS TITLE</th>
<th>PAY GRADE</th>
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<tbody>
<tr>
<td>Accountant I</td>
<td>D</td>
</tr>
<tr>
<td>Accountant II</td>
<td>E</td>
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<td>Accountant III</td>
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</tr>
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<td>Accounts Payable Supervisor</td>
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<tr>
<td>Aide I</td>
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<tr>
<td>No.</td>
<td>Position</td>
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<tr>
<td>66</td>
<td>Aide II</td>
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<tr>
<td>67</td>
<td>Aide III</td>
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<tr>
<td>68</td>
<td>Aide IV</td>
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<tr>
<td>69</td>
<td>Audiovisual Technician</td>
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<tr>
<td>70</td>
<td>Auditor</td>
</tr>
<tr>
<td>71</td>
<td>Autism Mentor</td>
</tr>
<tr>
<td>72</td>
<td>Braille or Sign Language Specialist</td>
</tr>
<tr>
<td>73</td>
<td>Bus Operator</td>
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<tr>
<td>74</td>
<td>Buyer</td>
</tr>
<tr>
<td>75</td>
<td>Cabinetmaker</td>
</tr>
<tr>
<td>76</td>
<td>Cafeteria Manager</td>
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<tr>
<td>77</td>
<td>Carpenter I</td>
</tr>
<tr>
<td>78</td>
<td>Carpenter II</td>
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<tr>
<td>79</td>
<td>Chief Mechanic</td>
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<tr>
<td>80</td>
<td>Clerk I</td>
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<tr>
<td>81</td>
<td>Clerk II</td>
</tr>
<tr>
<td>82</td>
<td>Computer Operator</td>
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<tr>
<td>83</td>
<td>Cook I</td>
</tr>
<tr>
<td>84</td>
<td>Cook II</td>
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</tbody>
</table>
123 [Enr. Com. Sub. for S. B. No. 359

85 Cook III ........................................ C
86 Crew Leader ..................................... F
87 Custodian I ...................................... A
88 Custodian II ..................................... B
89 Custodian III .................................... C
90 Custodian IV .................................... D
91 Director or Coordinator of Services ................. H
92 Draftsman ........................................ D
93 Early Childhood Classroom Assistant Teacher - Temporary Authorization .. E
94 Early Childhood Classroom Assistant Teacher - Permanent Authorization .. E
95 Early Childhood Classroom Assistant Teacher - Paraprofessional Certificate E
96 Electrician I ..................................... F
97 Electrician II ..................................... G
98 Electronic Technician I ................................ F
99 Electronic Technician II ................................ G
100 Executive Secretary .................................. G
101 Food Services Supervisor ............................. G
102 Foreman ........................................... G
<table>
<thead>
<tr>
<th>Code</th>
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<tr>
<td>103</td>
<td>General Maintenance</td>
<td>C</td>
</tr>
<tr>
<td>104</td>
<td>Glazier</td>
<td>D</td>
</tr>
<tr>
<td>105</td>
<td>Graphic Artist</td>
<td>D</td>
</tr>
<tr>
<td>106</td>
<td>Groundsman</td>
<td>B</td>
</tr>
<tr>
<td>107</td>
<td>Handyman</td>
<td>B</td>
</tr>
<tr>
<td>108</td>
<td>Heating and Air Conditioning Mechanic I</td>
<td>E</td>
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<td>109</td>
<td>Heating and Air Conditioning Mechanic II</td>
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<td>110</td>
<td>Heavy Equipment Operator</td>
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<tr>
<td>111</td>
<td>Inventory Supervisor</td>
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<tr>
<td>112</td>
<td>Key Punch Operator</td>
<td>B</td>
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<tr>
<td>113</td>
<td>Licensed Practical Nurse</td>
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<tr>
<td>114</td>
<td>Locksmith</td>
<td>G</td>
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<tr>
<td>115</td>
<td>Lubrication Man</td>
<td>C</td>
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<td>116</td>
<td>Machinist</td>
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<tr>
<td>117</td>
<td>Mail Clerk</td>
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<tr>
<td>118</td>
<td>Maintenance Clerk</td>
<td>C</td>
</tr>
<tr>
<td>119</td>
<td>Mason</td>
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<td>120</td>
<td>Mechanic</td>
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<td>121</td>
<td>Mechanic Assistant</td>
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<tr>
<td>Code</td>
<td>Title</td>
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<tr>
<td>122</td>
<td>Office Equipment Repairman I</td>
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<tr>
<td>123</td>
<td>Office Equipment Repairman II</td>
<td>G</td>
</tr>
<tr>
<td>124</td>
<td>Painter</td>
<td>E</td>
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<tr>
<td>125</td>
<td>Paraprofessional</td>
<td>F</td>
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<tr>
<td>126</td>
<td>Payroll Supervisor</td>
<td>G</td>
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<tr>
<td>127</td>
<td>Plumber I</td>
<td>E</td>
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<tr>
<td>128</td>
<td>Plumber II</td>
<td>G</td>
</tr>
<tr>
<td>129</td>
<td>Printing Operator</td>
<td>B</td>
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<tr>
<td>130</td>
<td>Printing Supervisor</td>
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<tr>
<td>131</td>
<td>Programmer</td>
<td>H</td>
</tr>
<tr>
<td>132</td>
<td>Roofing/Sheet Metal Mechanic</td>
<td>F</td>
</tr>
<tr>
<td>133</td>
<td>Sanitation Plant Operator</td>
<td>G</td>
</tr>
<tr>
<td>134</td>
<td>School Bus Supervisor</td>
<td>E</td>
</tr>
<tr>
<td>135</td>
<td>Secretary I</td>
<td>D</td>
</tr>
<tr>
<td>136</td>
<td>Secretary II</td>
<td>E</td>
</tr>
<tr>
<td>137</td>
<td>Secretary III</td>
<td>F</td>
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<tr>
<td>138</td>
<td>Supervisor of Maintenance</td>
<td>H</td>
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<tr>
<td>139</td>
<td>Supervisor of Transportation</td>
<td>H</td>
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<tr>
<td>140</td>
<td>Switchboard Operator-Receptionist</td>
<td>D</td>
</tr>
</tbody>
</table>
(b) An additional $12 per month shall be added to the minimum monthly pay of each service employee who holds a high school diploma or its equivalent.

(c) An additional $11 per month also shall be added to the minimum monthly pay of each service employee for each of the following:

1. A service employee who holds twelve college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

2. A service employee who holds twenty-four college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

3. A service employee who holds thirty-six college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

4. A service employee who holds forty-eight college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

5. A service employee who holds sixty college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
(6) A service employee who holds seventy-two college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(7) A service employee who holds eighty-four college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(8) A service employee who holds ninety-six college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(9) A service employee who holds one hundred eight college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(10) A service employee who holds one hundred twenty college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(d) An additional $40 per month also shall be added to the minimum monthly pay of each service employee for each of the following:

(1) A service employee who holds an associate’s degree;

(2) A service employee who holds a bachelor’s degree;

(3) A service employee who holds a master’s degree;

(4) A service employee who holds a doctorate degree.

(e) An additional $11 per month shall be added to the minimum monthly pay of each service employee for each of the following:
(1) A service employee who holds a bachelor's degree plus fifteen college hours;

(2) A service employee who holds a master's degree plus fifteen college hours;

(3) A service employee who holds a master's degree plus thirty college hours;

(4) A service employee who holds a master's degree plus forty-five college hours; and

(5) A service employee who holds a master's degree plus sixty college hours.

(f) To meet the objective of salary equity among the counties, each service employee shall be paid an equity supplement, as set forth in section five of this article, of $152 per month, subject to the provisions of that section. These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to section five-b of this article; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for service personnel.

(g) When any part of a school service employee's daily shift of work is performed between the hours of six o'clock p.m. and five o'clock a.m. the following day, the employee shall be paid no less than an additional $10 per month and one half of the pay shall be paid with local funds.

(h) Any service employee required to work on any legal school holiday shall be paid at a rate one and one-half times the employee's usual hourly rate.
(i) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid shall be paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(j) No service employee may have his or her daily work schedule changed during the school year without the employee's written consent and the employee's required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

(k) The minimum hourly rate of pay for extra duty assignments as defined in section eight-b of this article shall be no less than one seventh of the employee's daily total salary for each hour the employee is involved in performing the assignment and paid entirely from local funds: Provided, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time employees within that classification category of employment within that county: Provided, however, That the vote shall be by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment shall be prorated accordingly. When performing extra duty assignments, employees who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the employee were employed on a full-day salary basis.

(l) The minimum pay for any service personnel employees engaged in the removal of asbestos material or
Related duties required for asbestos removal shall be their regular total daily rate of pay and no less than an additional $3 per hour or no less than $5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos related duties outside of the employee’s regular employment county, the daily rate of pay shall be no less than the minimum amount as established in the employee’s regular employment county for asbestos removal and an additional $30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel employees may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in section eight, article five of this chapter, an aide shall be considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds or wherever supervision is required. For purposes of this section, “under the direct supervision of a certified professional person” means that certified professional person is present, with and accompanying the aide.
§18A-4-14. Duty-free lunch and daily planning period for certain employees.

(a) Notwithstanding the provisions of section seven, article two of this chapter, every teacher who is employed for a period of time more than one half the class periods of the regular school day and every service person whose employment is for a period of more than three and one-half hours per day and whose pay is at least the amount indicated in the state minimum pay scale as set forth in section eight-a of this article shall be provided a daily lunch recess of not less than thirty consecutive minutes, and the employee shall not be assigned any responsibilities during this recess. The recess shall be included in the number of hours worked, and no county shall increase the number of hours to be worked by an employee as a result of the employee being granted a recess under the provisions of this section.

(b) Every teacher who is regularly employed for a period of time more than one half the class periods of the regular school day shall be provided at least one planning period within each school instructional day to be used to complete necessary preparations for the instruction of pupils. No teacher may be assigned any responsibilities during this period, and no county shall increase the number of hours to be worked by a teacher as a result of such teacher being granted a planning period subsequent to the adoption of this section (March 13, 1982).

The duration of the planning period shall be in accordance with the following:

(1) For grades where the majority of the student instruction is delivered by only one teacher, the planning period shall be no less than forty minutes; and
(2) For grades where students take separate courses during at least four separate periods of instruction, most usually delivered by different teachers for each subject, the planning period shall be the length of the usual class period taught by the teacher, but no less than forty minutes.

Principals, and assistant principals, where applicable, shall cooperate in carrying out the provisions of this subsection, including, but not limited to, assuming control of the class period or supervision of students during the time the teacher is engaged in the planning period. Substitute teachers may also be utilized to assist with classroom responsibilities under this subsection: Provided, That any substitute teacher who is employed to teach a minimum of two consecutive days in the same position shall be granted a planning period pursuant to this section.

(c) Nothing in this section prevents any teacher from exchanging his or her lunch recess or a planning period or any service person from exchanging his or her lunch recess for any compensation or benefit mutually agreed upon by the employee and the county superintendent or his or her agent: Provided, That a teacher and the superintendent or his or her agent may not agree to terms which are different from those available to any other teacher granted rights under this section within the individual school or to terms which in any way discriminate among those teachers within the individual school, and a service person granted rights under this section and the superintendent or his or her agent may not agree to terms which are different from those available to any other service personnel within the same classification category granted rights under this section within the individual school or to terms which in any way discriminate among those service personnel within the same classification category within the individual school.

(d) The state board shall conduct a study on planning periods. The study shall include, but not be limited to, the
appropriate length for planning periods at the various grade
levels and for the different types of class schedules. The
board shall report its findings and recommendations to the
Legislative Oversight Commission on Education
Accountability no later than December 31, 2013.

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-2. Holidays; closing of schools; time lost because of such;
special Saturday classes.

(a) Schools shall be closed on Saturdays and on the
following days which are designated as legal school holidays:
Independence Day, Labor Day, Veterans Day, Thanksgiving
Day, Christmas Day, New Year’s Day, Martin Luther King’s
birthday, Memorial Day and West Virginia Day. Schools
also shall be closed on any day on which a primary election,
general election or special election is held throughout the
state or school district and on any day appointed and set apart
by the president or the Governor as a holiday of special
observance by the people of the state.

(b) When any of the above designated holidays, except a
special election, falls on Saturday, the schools shall be closed
on the preceding Friday. When any designated holiday falls
on Sunday, the schools shall be closed on the following
Monday.

(c) Special classes may be conducted on Saturdays for
pupils and by teachers and service personnel. Saturday
classes shall be conducted on a voluntary basis and teachers
and service personnel shall be remunerated in ratio to the
regularly contracted pay.

(d) Any school or schools may be closed by proper
authorities on account of the prevalence of contagious
disease, conditions of weather or any other calamitous cause
over which the board has no control.
(1) Under any or all of the above provisions, the time lost by the school closings may not be counted as days of employment and may not be counted as meeting a part of the requirements of the minimum term of one hundred eighty days of instruction. A school employee’s pay per pay period may not change as a result of a school closing not being counted as a day of employment, and the employee shall be paid the same amount during any pay period in which a school closing occurs that the employee would have been paid during the pay period if a school closing had not occurred.

(2) On the day or days when a school or schools are closed, county boards may provide appropriate alternate work schedules for professional and service personnel affected by the closing of any school or schools under any or all of the provisions of this subsection. Professional and service personnel shall receive pay the same as if school were in session.

(3) Insofar as funds are available or can be made available during the school year, the board may extend the employment term for the purpose of making up time that might affect the instructional term.

(e) In addition to any other provisions of this chapter, the board further is authorized to provide in its annual budget for meetings, workshops, vacation time or other holidays through extended employment of personnel at the same rate of pay.

CHAPTER 18C. STUDENT LOANS; SCHOLARSHIPS AND STATE AID.

ARTICLE 1. FINANCIAL ASSISTANCE GENERALLY.

§18C-1-2. Definitions.
Definitions for terms used in this chapter have the meanings ascribed to them in section two, article one, chapter eighteen-b of this code unless the context clearly indicates a different meaning:

(a) "Board" or "governing board" in the singular or plural means the vice chancellor for administration employed pursuant to section two, article four, chapter eighteen-b of this code when a power or duty assigned to a governing board is delegated by it to the senior administrator. In other instances as used in this chapter, "board" or "governing board" in the singular or plural means the Higher Education Policy Commission or the Council for Community and Technical College Education, as appropriate.

(b) "Senior administrator" means the vice chancellor for administration employed pursuant to section two, article four, chapter eighteen-b of this code.

ARTICLE 4. UNDERWOOD-SMITH TEACHER SCHOLARSHIP PROGRAM.

§18C-4-1. Scholarship and loan assistance fund created; purposes; funding.

(a) It is the purpose of this article and article four-a of this chapter to improve the quality of education in the public schools of West Virginia by encouraging and enabling individuals who have demonstrated outstanding academic abilities to pursue teaching careers at the preschool, elementary, middle or secondary levels in the public schools of this state. In addition, of those individuals who have demonstrated outstanding academic abilities to pursue teaching careers, for scholarships initially awarded for the fall semester, 2014, and thereafter, particular efforts shall be made in the scholarship selection criteria and procedures to reflect the state's present and projected subject and geographic areas of critical need.
(b) In consultation with the State Board of Education and the State Superintendent of Schools the commission shall propose legislative rules in accordance with the provisions of article three-a, chapter twenty-nine-a of this code. The rules shall provide for the administration of the Underwood-Smith Teacher Scholarship and Loan Assistance programs by the vice chancellor for administration in furtherance of the purposes of this article and article four-a of this chapter, including, but not limited to, the following:

1. Establishing scholarship selection criteria and procedures;

2. Establishing criteria and procedures for identifying subject areas, public schools or geographic areas in critical need of teachers;

3. Awarding loan assistance, including establishing conditions under which partial awards may be granted for less than a full year of teaching in an area of critical need;

4. Determining eligibility for loan assistance renewal;

5. Establishing procedures ensuring that loan assistance funds are paid directly to the proper lending entity; and

6. Establishing criteria for determining participant compliance or noncompliance with terms of the agreement and establishing procedures to address noncompliance including, but not limited to, repayment, deferral and excusal; and

7. Developing model agreements.

(c) There is created in the State Treasury a special revolving fund to be known as the Underwood-Smith
Teacher Scholarship and Loan Assistance Fund to be administered by the vice chancellor for administration solely for granting scholarships and loan assistance to teachers and prospective teachers in accordance with this article and article four-a of this chapter. Any moneys which may be appropriated by the Legislature, or received by the vice chancellor for administration from other sources, for the purposes of this article and article four-a of this chapter, shall be deposited in the fund. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Any moneys repaid to the vice chancellor for administration by reason of default of a scholarship or loan assistance agreement under this article or article four-a of this chapter also shall be deposited in the fund. Fund balances shall be invested with the state's consolidated investment fund, and any and all interest earnings on these investments shall be used solely for the purposes for which moneys invested were appropriated or otherwise received.

(d) The vice chancellor for administration may accept and expend any gift, grant, contribution, bequest, endowment or other money for the purposes of this article and article four-a of this chapter and shall make a reasonable effort to encourage external support for the scholarship and loan assistance programs.

(e) For the purpose of encouraging support for the scholarship and loan assistance programs from private sources, the vice chancellor for administration may set aside no more than half of the funds appropriated by the Legislature for Underwood-Smith Teacher Scholarships and Loan Assistance Awards to be used to match two state dollars to each private dollar from a nonstate source contributed on behalf of a specific institution of higher education in this state.
§18C-4-2. Selection criteria and procedures for awarding scholarships.

(a) The Governor shall designate the Higher Education Student Financial Aid Advisory Board created by section five, article one of this chapter to select the recipients of Underwood-Smith teacher scholarships who meet the eligibility criteria set forth in subsection (b) of this section.

(b) Eligibility for an Underwood-Smith Teacher Scholarship award shall be limited to students who meet the following criteria:

(1) Have graduated or are graduating from a West Virginia high school and rank in the top ten percent of their graduating class or the top ten percent statewide of those West Virginia students taking the ACT test;

(2) Have a cumulative grade point average of at least 3.25 on a possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia;

(3) Are public school aides or paraprofessionals as defined in section eight, article four, chapter eighteen-a of this code and who have a cumulative grade point average of at least 3.25 on a possible scale of four after successfully completing two years of course work at an approved institution of higher education in West Virginia; or

(4) Are graduate students at the master’s degree level who have graduated or are graduating in the top ten percent of their college graduating class.

(c) In accordance with the rules of the commission, the vice chancellor for administration shall develop criteria and procedures for the selection of scholarship recipients. The
selection criteria shall reflect the purposes of this article and shall specify the areas in which particular efforts will be made in the selection of scholars as set forth in section one of this article. Selection procedures and criteria also may include, but are not limited to, the grade point average of the applicant, involvement in extracurricular activities, financial need, current academic standing and an expression of interest in teaching as demonstrated by an essay written by the applicant.

These criteria and procedures further may require the applicant to furnish letters of recommendation from teachers and others.

It is the intent of the Legislature that academic abilities be the primary criteria for selecting scholarship recipients. However, the qualified applicants with the highest academic abilities who intend to pursue teaching careers in areas of critical need and shortage pursuant to section one of this article shall be given priority.

(d) In developing the selection criteria and procedures to be used by the Higher Education Student Financial Aid Advisory Board, the vice chancellor for administration shall solicit the views of public and private education agencies and institutions and other interested parties. Input from interested parties shall be solicited by means of written and published selection criteria and procedures in final form for implementation and may be solicited by means of public hearings on the present and projected teacher needs of the state or any other methods the vice chancellor for administration may determine to be appropriate to gather the information.

(e) The vice chancellor for administration shall make application forms for Underwood-Smith Teacher Scholarships available to public and private high schools in
the state and in other locations convenient to applicants, parents and others, and shall make an effort to attract students from low-income backgrounds, ethnic or racial minority students, students with disabilities, and women or minority students who show interest in pursuing teaching careers in mathematics and science and who are underrepresented in those fields.

§18C-4-3. Scholarship agreement.

(a) Each recipient of an Underwood-Smith teacher scholarship shall enter into an agreement with the vice chancellor for administration under which the recipient shall meet the following conditions:

1. Provide the commission with evidence of compliance with subsection (a), section four of this article;

2. Within a ten-year period after completing the teacher education for which the scholarship was awarded:

   (A) Teach full time under contract with a county board of education in a public education program in the state for a period of not fewer than two years for each year for which a scholarship was received; or

   (B) Teach full time under contract for not less than one year for each year for which a scholarship was received with a county board of education in this state in a teacher shortage area pursuant to section one of this article, in an exceptional children program in this state, in a school having less than average academic results or in a school in an economically disadvantaged area of this state; or

   (C) Within the ten-year period, while seeking and unable to secure a full-time teaching position under contract with a
county board of education which satisfies the conditions of paragraph (A) of this subdivision:

(i) Teach full-time in a private school, parochial or other school approved for the instruction of students of compulsory school age pursuant to section one, article eight, chapter eighteen of this code; or

(ii) Teach in an institution of higher education in this state as defined in section two, article one, chapter eighteen-b of this code or in a post-secondary vocational education program in this state for a period of not fewer than two years for each year for which a scholarship was received; or

(iii) Perform alternative service or employment in this state pursuant to rules promulgated by the commission, in federal, state, county or local supported programs with an educational component, including mental or physical health care, or with bona fide tax exempt charitable organizations dedicated to the above, for a period of not fewer than two years for each year for which a scholarship was received.

Any teaching time accrued as a substitute teacher for a county board of education under paragraph (A) or (B) of this subdivision shall be credited pro rata in accordance with rules promulgated by the commission; or

(3) Repay all or part of an Underwood-Smith teacher scholarship received under this article plus interest and, if applicable, reasonable collection fees in accordance with subsection (c), section four of this article, except as provided in subsection (d) of section four of this article.

(b) Scholarship agreements shall disclose fully the terms and conditions under which assistance under this article is provided and under which repayment may be required. The agreements shall include the following:
(1) A description of the conditions and procedures to be established under section four of this article; and

(2) A description of the appeals procedure required to be established under section four of this article.

(c) Individuals who were awarded an Underwood-Smith teacher scholarship prior to the effective date of this section may apply the provisions of paragraph (A), (B) or (C), subdivision (2), subsection (a) of this section to teaching or other service performed by them after July 1, 1997.

§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.

(a) The recipient of an Underwood-Smith Teacher Scholarship is eligible for scholarship renewal only during those periods when the recipient meets the following conditions:

(1) Is enrolled as a full-time student in an accredited institution of higher education in this state;

(2) Is pursuing a course of study leading to teacher certification at the preschool, elementary, middle or secondary level in this state;

(3) Is maintaining satisfactory progress as determined by the institution of higher education the recipient is attending; and

(4) Is complying with such other standards as the commission may establish by rule.

(b) Recipients found to be in noncompliance with the agreement entered into under section three of this article shall be required to repay the amount of the scholarship awards received, plus interest, and, where applicable, reasonable
collection fees, on a schedule and at a rate of interest
prescribed in the program guidelines. Guidelines also shall
provide for proration of the amount to be repaid by a
recipient who teaches for part of the period required under
subsection (a), section three of this article and for appeal
procedures under which a recipient may appeal any
determination of noncompliance.

(c) A recipient is not in violation of the agreement
entered into under section three of this article during any
period in which the recipient is meeting any of the following
conditions:

(1) Pursuing a full-time course of study at an accredited
institution of higher education;

(2) Serving, not in excess of four years, as a member of
the armed services of the United States;

(3) Seeking and unable to find full-time employment in
accordance with paragraph (A), subdivision (2), subsection
(a), section three of this article and is fulfilling any of the
alternatives specified in paragraph (B) or (C) of that
subdivision;

(4) Satisfying the provisions of additional repayment
exemptions that may be prescribed by the commission by
rule; or

(5) Failing to comply with the terms of the agreement due
to death or permanent or temporary disability as established
by sworn affidavit of a qualified physician.

(d) The rules adopted by the commission may provide
guidelines under which the vice chancellor for administration
may extend the period for fulfilling the obligation to fifteen
years, if extenuating circumstances exist.
ARTICLE 4A. UNDERWOOD-SMITH TEACHER LOAN ASSISTANCE PROGRAM.

§18C-4A-1. Selection criteria and procedures for loan assistance.

(a) The Governor shall designate the Higher Education Student Financial Aid Advisory Board created by section five, article one of this chapter to select recipients to receive Underwood-Smith Teacher Loan Assistance Awards.

(b) The advisory board shall make decisions regarding loan assistance pursuant to section one, article four of this chapter and the following criteria:

(A) Eligibility for an award is limited to a teacher who has earned a teaching degree and is certified to teach a subject area of critical need in the public schools of West Virginia. A certified teacher in a subject area of critical need who is enrolled in an advanced in-field degree course or who has earned an advanced in-field degree may apply for an award to be paid toward current education loans;

(B) To be eligible for a loan award, a teacher shall agree to teach, or shall currently be teaching, a subject area of critical need in a state school or geographic area of the state identified as an area of critical need pursuant to section one, article four of this chapter.

(c) In accordance with the rule promulgated pursuant to section one, article four of this chapter, the vice chancellor for administration shall develop criteria and procedures for the administration of the loan program.

(d) The vice chancellor for administration shall make available program application forms to public and private schools in the state via the commission and the State Department of Education’s websites and in other locations convenient to potential applicants.
§18C-4A-2. Loan assistance agreement.

(a) Before receiving an award, each eligible teacher shall enter into an agreement with the vice chancellor for administration and shall meet the following criteria:

(1) Provide the commission with evidence of compliance with subsection (b), section four, article four of this chapter;

(2) Teach in a subject area or geographic area of critical need full time under contract with a county board for a period of two school years for each year for which loan assistance is received pursuant to this article. The vice chancellor for administration may grant a partial award to an eligible recipient whose contract term is for less than a full school year pursuant to criteria established by commission rule.

(3) Acknowledge that an award is to be paid to the recipient’s educational loan institution, not directly to the recipient, only after the commission determines that the recipient has complied with all terms of the agreement; and

(4) Repay all or part of an award received pursuant to this article if the award is not paid to the educational loan institution or if the recipient does not comply with the other terms of the agreement.

(b) Each loan agreement shall disclose fully the terms and conditions under which an award may be granted pursuant to this article and under which repayment may be required. The agreement also is subject to and shall include the terms and conditions established by section five, article four of this chapter.

§18C-4A-3. Amount and duration of loan assistance; limits.
(a) Each award recipient is eligible to receive loan assistance of up to $2,000 annually subject to limits set forth in subsection (b) of this section:

(1) If the recipient has taught math or science for a full school year under contract with a county board in a school or geographic area of critical need; and

(2) If the recipient otherwise has complied with the terms of the agreement and with applicable provisions of this article and article four of this chapter, and any rules promulgated pursuant thereto.

(b) The recipient is eligible for renewal of loan assistance only during the periods when the recipient is under contract with a county board to teach in a subject area of critical need in a school or geographic area of critical need, and complies with other criteria and conditions established by rule, except that a teacher who is teaching under a contract in a position that no longer meets the definition of critical need under rules established in accordance with section one, article four of this chapter is eligible for renewal of loan assistance until the teacher leaves his or her current position.

(c) No recipient may receive loan assistance pursuant to this article which accumulates in excess of $15,000.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 10th Day of April, 2013.

Governor
PRESENTED TO THE GOVERNOR

APR - 5 2013

Time 2:01 pm