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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

THIRD EXTRAORDINARY SESSION, 1990

ENROLLED

SENATE BILL NO. 1

(By Senators Burdette and Harman)

PASSED August 30, 1990

In Effect from Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 1

THIRD EXTRAORDINARY SESSION, 1990

(BY SENATORS BURDETTE, MR. PRESIDENT, AND HARMAN,
BY REQUEST OF THE EXECUTIVE)

[Passed August 30, 1990; in effect from passage.]

AN ACT to repeal sections six-a, six-b, six-c, twenty-two and twenty-eight, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal articles two-c and two-f of said chapter; to repeal article six-c, chapter forty-nine of said code; to amend chapter five by adding thereto two new articles, designated articles twenty-six and twenty-seven; to amend article one, chapter eighteen by adding thereto a new section, designated section four; to amend and reenact sections five, six and twenty-six, article two of said chapter; to amend and reenact section five, article two-e of said chapter; to amend and reenact section four, article four of said chapter; to amend and reenact sections one-a and forty, article five of said chapter; to further amend said chapter by adding thereto a new article, designated article five-a; to amend and reenact sections one and sixteen, article nine-d of said chapter; to further amend said chapter by adding thereto a new article, designated

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*to further amend
said article
by adding thereto
a new section
designated
section thirty
one;*

article thirty two; to amend and reenact sections two, eight and nine, article two, chapter eighteen-a of said code; to further amend said article two by adding thereto a new section, designated section twelve; to amend and reenact sections one, two, three and eight, article three of said chapter; to further amend said article three by adding thereto four new sections, designated sections one-a, one-b, two-a and two-b; to further amend said chapter by adding thereto a new article, designated article three-a; to amend and reenact sections eight-b and eight-c, article four of said chapter; to further amend said article four by adding thereto a new section, designated section seven-a; to amend and reenact section four, article five of said chapter; to further amend said chapter by adding thereto a new article, designated article seven; and to amend chapter eighteen-b of said code by adding thereto two new articles, designated articles three-b and fifteen, all relating to the "Education Reform Act of 1990"; creating a governor's cabinet on children and youth to coordinate programs and services to children and families; providing severability clause; establishing educational goals for the year 2000; clarifying the powers and duties of the state board of education; requiring that the state board develop a three-year plan for the transition to developmentally based program for kindergarten through fourth grade; reorganizing and recodifying existing statutes; providing for implementation of a uniform regional computer information system for education data collection and reporting; requiring the state board of education to develop a plan providing for automatic cost of living adjustments; adding a code of conduct, focused curriculum, attention to the acquisition of student proficiencies to the performance based accreditation system and the percentage of graduating students entering post-secondary education or training; adding education and training in evaluating personnel performance to the certification requirements of superintendents and principals; requiring a high school diploma, general educational development diploma and completion of an orientation course to county board member eligibility; adding boardsmanship and gover-

nance effectiveness training to county board member eligibility requirements with penalties specified for noncompliance; requiring regulations relating to school entrance age to utilize flexibility; providing for local school involvement, including local school improvement councils with authority to adopt policies and request waivers in certain instances of policies, certain rules and interpretations, a schools of excellence award program, public school faculty senates and school curriculum teams; adding two members to the school building authority; requiring RESA's to prioritize their plan in accordance with school building authority criteria; providing a severability clause; providing for the general supervision of teacher education to be under the state board of education after consultation with the secretary of education and the arts; creating additional grounds for the suspension and dismissal of county board employees based on unsatisfactory performance and conviction of a felony; expanding prerequisites for administrative certificates for principals; establishing a uniform system for professional personnel performance evaluations; providing an alternative program and requirements for the education of teachers; codifying testing and degree standards for professional teaching and administrative certificates; creating certification for paraprofessionals; providing for the certification or permit of athletic and extracurricular coaches employed under a limited contract; creating a beginning teacher internship program; requiring teacher elected county staff development councils; creating a center for professional development assisted by an advisory council on professional development; specifying criteria which must be considered in judging the relative qualifications of professional personnel for promotion and filling of vacancies; providing for the calculation of seniority; providing for substitute teaching seniority; giving certification preference over permits in reductions in force; limiting voluntary transfers of professional personnel; allowing the county superintendent to fill vacancies prior to the next semester in certain instances; creating a time frame and criteria for posting of professional personnel

positions; requiring county boards to adopt policies providing professional time or extra duty compensation and adequate coverage; providing a severability clause; creating a West Virginia literacy council; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

That sections six-a, six-b, six-c, twenty-two and twenty-eight, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that articles two-c and two-f of said chapter be repealed; that article six-c, chapter forty-nine of said code be repealed; that chapter five of said code be amended by adding thereto two new articles, designated articles twenty-six and twenty-seven; that article one, chapter eighteen of said code be amended by adding thereto a new section, designated section four; that sections five, six and twenty-six, article two of said chapter be amended and reenacted; that section five, article two-e of said chapter be amended and reenacted; that section four, article four of said chapter be amended and reenacted; that sections one-a and forty, article five of said chapter be amended and reenacted; that said chapter be further amended by adding thereto a new article, designated article five-a; that sections one and sixteen, article nine-d of said chapter be amended and reenacted; that said chapter be further amended by adding thereto a new article, designated article thirty-two; that sections two, eight and nine, article two, chapter eighteen-a of said code be amended and reenacted; that said article two be further amended by adding thereto a new section, designated section twelve; that sections one, two, three and eight, article three of said chapter be amended and reenacted; that said article three be further amended by adding thereto four new sections, designated sections one-a, one-b, two-a and two-b; that said chapter be further amended by adding thereto a new article, designated article three-a; that sections eight-b and eight-c, article four of said chapter be amended and reenacted; that said article four be further amended by adding thereto a new section, designated section seven-a; that section four, article five of said chapter be amended and reenacted; that said chapter be further amended by

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that said article be further amended by adding thereto a new section, designated section thirty-one;

adding thereto a new article, designated article seven; and that chapter eighteen-b of said code be amended by adding thereto two new articles, designated articles three-b and fifteen, all to read as follows:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF
THE GOVERNOR, SECRETARY OF STATE AND
ATTORNEY GENERAL; BOARD OF PUBLIC WORKS;
MISCELLANEOUS AGENCIES, COMMISSIONS,
OFFICES, PROGRAMS, ETC.**

ARTICLE 26. GOVERNOR'S CABINET ON CHILDREN AND FAMILIES.

§5-26-1. Legislative findings; statement of purpose.

1 (a) The Legislature finds that the early years of life
2 are a critical developmental and educational stage in
3 the total life cycle and declares that parents are the
4 children's first teachers and have the primary respon-
5 sibility for meeting the needs and addressing the
6 development of their children. Therefore, social
7 programs and services for children and families shall
8 be built upon respect for the integrity of the family
9 and the belief in the strength and the ability of
10 families to thrive and the ability of parents to nurture
11 and provide for their children. However, families can
12 experience severe crises which result in life-
13 threatening situations to children or other family
14 members or can have long-term negative impact on
15 the child. The Legislature further finds that two of the
16 crises which affect the ability of children to thrive and
17 develop are teenage pregnancies and substance abuse.
18 Successful intervention by a combined effort of
19 government, the people of West Virginia and the
20 Legislature can successfully reduce the number of
21 pregnancies to unmarried, adolescent females and the
22 instances of drug and alcohol abuse by children by the
23 year 2000.

24 The state has an obligation to provide crisis inter-
25 vention and stabilization, with the goal of providing
26 for children's well-being in a permanent situation in
27 the home environment or in the least restrictive
28 setting as close to a home environment as possible.

29 The Legislature intends to accomplish its goals
30 relating to children and families through a family-
31 centered, comprehensive, community-based system for
32 the provision of social services, programs and facilities
33 for children and families overseen by the highest
34 levels of state government, although this may require
35 fundamental changes in the way state government
36 responds to the needs of children and their families.

37 (b) The Legislature hereby declares that one purpose
38 of this article and the policy of the state is to achieve
39 the coordination of programs and services to children
40 and families through a cabinet in the governor's office
41 which is independent from any state agency and
42 which shall act as an inter-agency cabinet created to
43 nurture a flexible system for the comprehensive,
44 unified, effective and efficient administration of
45 programs and services to children and families which
46 avoids fragmentation and duplication of programs and
47 services and which facilitates and promotes coopera-
48 tion among state agencies, as well as regional, local
49 and private service agencies. It is the intent of the
50 Legislature, through the governor's cabinet, to empha-
51 size preventive services to children and families in
52 order to avoid the human and financial costs to the
53 state of individual and family instability and to benefit
54 the state and society as a whole. For maximum
55 effectiveness, the Legislature intends to provide such
56 services in a long-term manner with such intensity as
57 the needs of the particular situation require.

58 (c) The Legislature intends that participation in the
59 programs authorized or required in this article shall
60 be voluntary on the part of any child or family for
61 whom the program is available, and not otherwise
62 required under state or federal laws or regulations,
63 and all outreach shall emphasize the positive, volun-
64 tary nature of the programs. The service delivery
65 system shall be driven by the needs and preferences of
66 the child and family, shall reflect local community
67 characteristics and resources, shall allow for local
68 input, and shall focus on prevention, education and
69 early intervention. The service providers shall convey

70 an attitude of support, compassion, understanding,
71 friendliness and patience.

72 The Legislature intends, by this article, to allow
73 diversity and regional, cultural and ethnic sensitivity
74 in the development of programs and services for
75 children and families. To the greatest extent possible,
76 families are to be involved in all aspects of planning
77 and delivery of services to that family, and the
78 community shall be involved in the service delivery
79 system in that community. This is intended to foster
80 strong family and community program ownership
81 while maintaining clear parameters for program goals
82 and purposes through the governor's cabinet on
83 children and families.

§5-26-2. Cabinet established.

1 There is hereby created the governor's cabinet on
2 children and families, hereinafter referred to as the
3 "cabinet". In addition to such other administrative
4 heads of government as the governor may appoint to
5 the cabinet, the cabinet shall include the secretary of
6 health and human resources; the secretary of com-
7 merce, labor and environmental resources or a desig-
8 nee; the secretary of administration or a designee; the
9 state superintendent of schools; and the attorney
10 general; one member of the senate, to be appointed by
11 the governor, and one member of the house of dele-
12 gates, to be appointed by the governor, both of whom
13 shall serve in an advisory capacity only.

14 The cabinet shall be chaired by the governor and
15 shall convene at least monthly during the first year
16 and thereafter shall meet at least quarterly. The
17 cabinet shall establish bylaws which govern its deci-
18 sion making.

§5-26-3. Duties and responsibilities of cabinet generally.

1 In addition to all other duties and responsibilities
2 assigned to the cabinet in this article and elsewhere by
3 law, the cabinet shall have the power and the duty to:

4 (1) Analyze ways to best utilize the information and
5 evaluations obtained through previously existing or

6 ongoing programs for children and families such as
7 "Home-Oriented Preschool Education" (HOPE), which
8 focuses on televised educational outreach to rural
9 children; "Parent and Child Education" (PACE),
10 which focuses on literacy; and "Parents as Teachers"
11 (PAT), which focuses on parents working with the
12 children and determine ways to implement or incorpo-
13 rate aspects of the programs that would be of benefit
14 to families and children in this state;

15 (2) Designate an individual who shall monitor and
16 report on head-start, early intervention and other
17 preschool programs throughout the state;

18 (3) Provide for the holistic coordination of programs
19 and services for all children and families in such areas
20 as housing; health promotion and disease prevention;
21 education, transportation, reading and literacy; food
22 and nutrition; other necessities such as clothing and
23 utilities; job training and employment; child care;
24 child protection; early intervention and crisis inter-
25 vention; assessment and diagnosis; home-based family
26 development, preservation and reunification; financial
27 planning; mental health and counseling; substance
28 abuse prevention counseling and treatment; in order
29 to increase the available drug and alcohol counseling,
30 education and addiction awareness training; pregnancy
31 prevention for adolescents with the goal being to
32 reduce the number of adolescent pregnancies by fifty
33 percent by the year 2000; information, referral and
34 placement and any other such services;

35 (4) Promote the delivery of early prenatal care
36 services for all pregnant women through local health
37 care providers;

38 (5) Assure the development of parenting education
39 services and outreach efforts, child developmental
40 stages, including the utilization of media and suppor-
41 tive activities for children and care givers with a focus
42 on children three to five years old living in rural
43 areas;

44 (6) Provide for the coordination of programs and
45 services for comprehensive developmental screening

46 and well-baby visits for all preschool children and
47 parental involvement in all areas of a child's education
48 and development;

49 (7) Identify facilities and properties throughout the
50 state that may be required or available for the effec-
51 tive and efficient provision of programs and services to
52 children and families, with an emphasis on utilizing
53 available state facilities, including public school facili-
54 ties and facilities within the state system of higher
55 education;

56 (8) Prepare a proposed budget for the operation of
57 the cabinet to be recommended to the governor for
58 inclusion in the executive budget to be submitted to
59 the Legislature;

60 (9) Create an independent case management system
61 for all children in the custody of the state, for families
62 requiring services from multiple agencies, and for any
63 other category of children or families as the cabinet
64 may deem appropriate;

65 (10) Develop coordinated information systems and
66 examples of forms, including eligibility forms, for use
67 at the local, regional and state levels designed (i) to
68 provide people with complete, easy-to-read informa-
69 tion on programs and services available to children
70 and families and (ii) to provide service providers with
71 sufficient information while minimizing the amount of
72 paperwork required of people seeking services or for
73 program participation;

74 (11) Promote the work of the governor's cabinet on
75 children and families in order to engender strong
76 support from the community, the Legislature, and
77 business leaders;

78 (12) Provide public information on services and
79 programs available to children and families which
80 shall include a staffed, statewide toll-free phone
81 number whereby children and families can receive
82 information on available services and programs and
83 which may include television programs, public service
84 announcements, and any other effective means of

85 providing information on, communicating or promot-
86 ing any service or program;

87 (13) Address specifically the provision of programs
88 and services to children and families living in the
89 rural areas of the state; and

90 (14) Report annually to the Legislature and to such
91 other units as the cabinet may deem appropriate on
92 issues relating to children and families.

§5-26-4. Powers and authority of cabinet generally.

1 In addition to all other powers granted to the cabinet
2 in this article and elsewhere by law, the cabinet shall
3 have the power and authority to:

4 (1) Negotiate written agreements and procedures
5 between and among departments of state government
6 which assure that children and families are provided
7 with health care, social services, appropriate education
8 and vocational training, and any other services to
9 which they may be entitled under state and federal
10 law;

11 (2) Provide or contract with any agencies or persons
12 in this state and other states for any facilities, equip-
13 ment or service necessary to achieve the purposes of
14 this article; and hire such staff support sufficient to
15 carry out the duties and responsibilities of the cabinet;

16 (3) Develop and implement rules, regulations, stand-
17 ards and policies governing the internal operation and
18 administration of the cabinet;

19 (4) Delegate any of the cabinet's powers, duties or
20 functions as the cabinet may deem appropriate,
21 expedient and effective;

22 (5) Solicit and accept proposals in furtherance of any
23 program or service required by this article, especially
24 for the establishment of family resource networks at
25 the regional or local level and for the implementation
26 of pilot programs;

27 (6) Develop programmatic standards for early child-
28 hood programs, including recommendations regarding

29 development activities required to be provided by
30 licensed day care and child care facilities and programs;

31 (7) Review any rules and regulations, including
32 licensure requirements, to the extent that they impact
33 on or create barriers to the provision of programs and
34 services to children and families;

35 (8) Develop and require the implementation of
36 interdisciplinary and interagency standards for all
37 children in the custody of the state, with the goal of
38 providing for children's well-being in the home
39 environment or the least restrictive setting;

40 (9) Waive rules and regulations that impede coordi-
41 nated service delivery;

42 (10) Solicit, accept and expend grants, gifts, bequests,
43 donations and other funds made available to the
44 cabinet: *Provided*, That all unrestricted grants, gifts,
45 bequests and donations shall be deposited in the
46 children's fund created pursuant to section six of this
47 article;

48 (11) Establish family resource networks and services
49 in local communities by building on existing resources
50 to coordinate services to families and children;

51 (12) Authorize family resource networks or other-
52 wise develop service areas which will allow for the
53 efficient delivery of programs and services on a local
54 or regional basis so that programs and services are
55 provided in or as close to the local community level as
56 possible in accordance with guidelines to be estab-
57 lished by the cabinet; and

58 (13) Exercise any and all other powers, including the
59 adoption of an official seal and to charter public or
60 quasi-public corporations, necessary for the discharge
61 of the cabinet's duties and the implementation of the
62 purposes of this article.

**§5-26-5. Powers and duties relating to funding and budget-
ary needs for children and families.**

1 (a) The cabinet shall analyze the budgets of the
2 departments of state government to the extent that .

3 they address or impact upon programs and services for
4 children and families, review budgetary needs and
5 revenue sources, and make recommendations regard-
6 ing the governor's proposed budget and the redirection
7 of resources. In making such recommendations, the
8 cabinet shall educate themselves on the availability of
9 and eligibility for federal, local and private funding,
10 with the goal of maximizing federal, local and private
11 revenues for use in areas directly benefitting children
12 and families.

13 (b) Any legislative recommendation shall be accom-
14 panied by a proposal or plan for sufficient funding. In
15 exploring all aspects of funding possibilities, the
16 cabinet shall consider innovative, flexible funding such
17 as inter-agency funding, joint funding pools, inter-
18 agency reimbursement, and funding by the families
19 serviced based on ability to pay.

20 (c) Notwithstanding the provisions of section nine-
21 teen, article two, chapter five-a of this code or any
22 other provision of law to the contrary, the cabinet
23 shall have the ability to transfer funds among,
24 between and within departments in accordance with
25 rules for such purpose adopted by the cabinet notwith-
26 standing the provisions of chapter twenty-nine-a of
27 this code.

28 (d) The cabinet shall develop fiscal incentives for the
29 establishment of family resource networks and for
30 programs resulting in substantial cost savings, such as
31 programs which keep children at home and which
32 thereby avoid unnecessary out-of-home care. Any
33 savings resulting from the coordination of programs
34 and services for children and families shall be reinv-
35 ested for expenditure in areas directly benefitting
36 children and families.

§5-26-6. Children's fund created; purpose.

1 (a) The cabinet shall establish a children's fund for
2 the sole purpose of awarding grants, loans and loan
3 guaranties for children and families. All unrestricted
4 federal funds and grants, gifts, bequests or donations,
5 in addition to appropriations to the fund, shall be

6 deposited in the state treasury in a special revenue
7 account that is independent from any executive or
8 other department of government, other than the office
9 of the governor. Any moneys deposited in the child-
10 ren's trust fund created pursuant to article six-c,
11 chapter forty-nine of this code on the effective date of
12 this section, and any interest accruing to such fund,
13 shall be deposited in the children's fund created
14 pursuant to this section, and the children's trust fund
15 shall thereafter be discontinued.

16 (b) Each state taxpayer may voluntarily contribute a
17 portion of the taxpayer's state income tax refund to
18 the children's fund by so designating the contribution
19 on the state personal income tax return form. The
20 cabinet shall approve the wording of the designation
21 on the income tax return form, which designation
22 shall appear on tax forms as of the first day of
23 January, one thousand nine hundred ninety-one. The
24 tax commissioner shall determine by the first day of
25 July of each year the total amount designated pursu-
26 ant to this subsection and shall report that amount to
27 the state treasurer, who shall credit that amount to
28 the children's fund.

29 (c) All interest accruing from investment of moneys
30 in the children's fund shall be credited to the fund,
31 and the legislative auditor shall conduct an annual
32 audit of the fund.

33 (d) Grants, loans and loan guaranties may be
34 awarded from the children's fund by the cabinet for
35 any purpose required or authorized by this cabinet.

**§5-26-7. Use of public school and higher education facilities
and resources.**

1 At every level of planning, service providers and
2 administrators shall plan to utilize available facilities
3 and resources under the control of the state and
4 county boards of education and governing boards of
5 the state institutions of higher education.

§5-26-8. Effective date and termination date.

1 This article shall be in effect from passage. The

2 cabinet shall terminate on the thirtieth day of June,
3 one thousand nine hundred ninety-three, unless
4 extended by legislation enacted before the termination
5 date.

ARTICLE 27. SEVERABILITY.

§5-27-1. Severability.

1 Pursuant to section ten, article two, chapter two of
2 this code, if any provision of this chapter or the
3 application thereof to any person or circumstance is
4 held unconstitutional or invalid, such unconstitutional-
5 ity or invalidity shall not affect other provisions or
6 applications of the chapter, and to this end the
7 provisions of this chapter are declared to be severable.

CHAPTER 18. EDUCATION.

ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER.

§18-1-4. Educational improvement plan; "Goals for the Year 2000".

1 (a) The governor, the Legislature and the people of
2 West Virginia agree that the education of their chil-
3 dren is of utmost importance to the future well-being
4 of the state and that the purpose of enacting education
5 laws and providing funding to support a system of free
6 schools is to assure that all of our children have every
7 opportunity to secure an education which is thorough
8 and is provided in an efficient manner. The governor,
9 the Legislature and the people of West Virginia
10 further agree that improvements are needed in the
11 educational system of West Virginia if these objectives
12 are to be met.

13 (b) Therefore, the governor, the Legislature and the
14 people of West Virginia have established goals for
15 themselves which are measurable and achievable over
16 a ten-year period to be accomplished through the
17 combined efforts of the government, the school system
18 and the people through an increased focus on the
19 needs of children. These goals are that by the year
20 2000:

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

22 for the first grade;

23 (2) All students will have equal educational
24 opportunity;

25 (3) Student performance on national measures of
26 student performance will equal or exceed national
27 averages and the performance of students falling in
28 the lowest quartile will improve by fifty percent;

29 (4) Ninety percent of ninth graders will graduate
30 from high school;

31 (5) High school graduates will be fully prepared for
32 college, other post-secondary education, or gainful
33 employment. The number of high school graduates
34 entering post-secondary education will increase by
35 fifty percent; and

36 (6) All working age adults will be functionally
37 literate.

38 The intent of the governor and the Legislature is to
39 pursue the accomplishment of these goals through
40 strategies which focus on (i) early childhood develop-
41 ment; (ii) improving the quality of teaching; (iii)
42 technology and learning; (iv) helping at-risk students;
43 (v) work force preparation; and (vi) restructuring and
44 accountability in the educational system.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5. Powers and duties generally; public school entrance age; "public schools" not to include kindergartens.

1 Subject to and in conformity with the constitution
2 and laws of this state, the state board of education
3 shall exercise general supervision of the public schools
4 of the state, and shall make rules in accordance with
5 the provisions of article three-b, chapter twenty-nine-
6 a of this code for carrying into effect the laws and
7 policies of the state relating to education, including
8 rules relating to standards for performance and
9 measures of accountability, the physical welfare of
10 pupils, the education of all children of school age,
11 school attendance, evening and continuation or part-

12 time day schools, school extension work, the classifica-
13 tion of schools, the issuing of certificates upon creden-
14 tials, the distribution and care of free textbooks by the
15 county boards of education, the general powers and
16 duties of county boards of education, and of teachers,
17 principals, supervisors and superintendents, and such
18 other matters pertaining to the public schools of the
19 state as may seem to the state board to be necessary
20 and expedient.

21 Notwithstanding any other provision of law which
22 may be to the contrary, and notwithstanding the rule-
23 making powers given to the state board of education
24 by this section, a child shall not be permitted to enter
25 the public schools of this state in any school year,
26 beginning with the school year one thousand nine
27 hundred eighty-three—eighty-four, unless such child
28 be six years of age prior to the first day of September
29 of such school year or is attending public school in
30 accordance with article twenty of this chapter: *Pro-*
31 *vided*, That children who have successfully completed
32 a kindergarten program in the school year one thou-
33 sand nine hundred eighty-two—eighty-three, may
34 enter the public schools notwithstanding the provi-
35 sions of this section. The term “public schools” as used
36 in the preceding sentence shall not be deemed to
37 include public kindergartens, but nothing herein shall
38 prevent a county board from permitting a child
39 enrolled in kindergarten from entering public schools
40 for attendance in particular curriculum areas.

41 The state board shall develop a three-year plan to
42 provide for the transition to developmental program-
43 ming and instruction to be provided to the students in
44 kindergarten through fourth grade and further shall,
45 include the method of information dissemination in
46 order to provide for parental preparation, and further
47 shall, in conjunction with the professional develop-
48 ment center, develop an ongoing program for training
49 of principals and classroom teachers in methods of
50 instruction to implement the developmental program.
51 The existing developmental programs throughout the
52 state shall be involved in this process and shall be

53 provided an opportunity to assist in pilot programs to
 54 begin no later than the first day of September, one
 55 thousand nine hundred ninety-one. The plan shall be
 56 fully implemented by the first day of September, one
 57 thousand nine hundred ninety-three.

**§18-2-6. Classification and standardization of schools;
 standards for degrees and diploma.**

1 The state board shall make rules for the accredita-
 2 tion, classification and standardization of all schools in
 3 the state, except institutions of higher education, and
 4 shall determine the minimum standards for the
 5 granting of diplomas and certificates of proficiency by
 6 those schools. Not later than the school year one
 7 thousand nine hundred ninety—ninety-one, certifi-
 8 cates of proficiency including specific information
 9 regarding the graduate's skills, competence, and
 10 readiness for employment or honors and advanced
 11 education shall be granted, along with the diploma, to
 12 every eligible high school graduate. No institution of
 13 less than collegiate or university status may grant any
 14 diploma or certificate of proficiency on any basis of
 15 work or merit below the minimum standards pres-
 16 cribed by the state board.

17 No charter or other instrument containing the right
 18 to issue diplomas or certificates of proficiency shall be
 19 granted by the state of West Virginia to any institution
 20 or other associations or organizations of less than
 21 collegiate or university status within the state until
 22 the condition of granting or issuing such diplomas or
 23 other certificates of proficiency has first been
 24 approved in writing by the state board.

**§18-2-26. Establishment of multicounty regional educational
 service agencies; purposes; authority to
 implement regional services.**

1 (a) In order to consolidate and administer more
 2 effectively existing educational programs and services
 3 so individual districts will have more discretionary
 4 moneys for educational improvement and in order to
 5 equalize and extend educational opportunities, the
 6 state board of education shall establish multicounty

7 regional educational service agencies for the purpose
8 of providing high quality, cost effective educational
9 programs and services to the county school systems,
10 and shall make such rules as may be necessary for the
11 effective administration and operation of such agencies.

12 (b) In furtherance of these purposes, it is the duty of
13 the board of directors of each regional educational
14 service agency to continually explore possibilities for
15 the delivery of services on a regional basis which will
16 facilitate equality in the educational offerings among
17 counties in its service area, permit the delivery of high
18 quality educational programs at a lower per student
19 cost, strengthen the cost effectiveness of education
20 funding resources, reduce administrative and/or
21 operational costs, including the consolidation of admin-
22 istrative, coordinating and other county level functions
23 into region level functions, and promote the efficient
24 administration and operation of the public school
25 systems generally.

26 Technical, operational, programmatic or professional
27 services would be among the types of services appro-
28 priate for delivery on a regional basis.

29 (c) In addition to performing the services and
30 functions required by the provisions of this or any
31 other section of this code, a regional educational
32 service agency may implement regional programs and
33 services by a majority vote of its board of directors.
34 When said vote is not unanimous, the board of direc-
35 tors shall file a plan for the service or program
36 delivery with the state board describing the program
37 or service, the manner of delivery and the projected
38 savings and/or the improved quality of the program or
39 service. The state board shall promulgate rules requir-
40 ing a county board that declines to participate in such
41 programs or services to show just cause for not
42 participating and the estimated savings accruing to the
43 county therefrom. If a county board fails to show that
44 savings will accrue to the county or that the quality of
45 the program will be significantly and positively
46 affected as a result of its decision not to participate,
47 the state board shall withhold from the county's

48 foundation allowance for administrative cost the lesser
49 of the amount of the estimated savings or the alloca-
50 tion for the county's foundation allowance for admin-
51 istrative cost.

52 (d) The state board, in conjunction with the various
53 regional educational service agencies, shall develop an
54 effective model for the regional delivery of instruction
55 in subjects where there exists low student enrollment
56 or a shortage of certified teachers or where such
57 delivery method substantially improves the quality of
58 an instructional program. Such model shall incorpo-
59 rate an interactive electronic classroom approach to
60 instruction. To the extent funds are appropriated or
61 otherwise available, county boards or regional educa-
62 tional service agencies may adopt and utilize the
63 model for the delivery of such instruction.

64 (e) Each regional educational service agency shall
65 conduct a study setting forth how the following
66 services and functions may be performed by the
67 agency for public schools and school districts within
68 the region without terminating the employment of
69 personnel employed by school districts prior to the
70 effective date of this subsection: Accounting, purchas-
71 ing, food service, transportation, delivery of high cost
72 services to low incidence student populations, audiovi-
73 sual material distribution, facilities planning, federal
74 program coordination, personnel recruiting and an
75 integrated regional computer information system. On
76 or before the tenth day of January, one thousand nine
77 hundred ninety, each regional educational service
78 agency shall submit the study to the state board, to the
79 standing committees on education and finance of the
80 West Virginia senate and house of delegates, and to the
81 secretary of education and the arts: *Provided*, That in
82 the event such study is implemented those individuals
83 employed prior to the effective date thereof shall not
84 have their employment terminated as a result of the
85 study.

86 (f) Each regional educational service agency shall
87 commence implementation of a uniform integrated
88 regional computer information system as recom-

89 mended by the state board of education on or before
90 the first day of January, one thousand nine hundred
91 ninety-one. Each county board of education shall use
92 the computer information system for data collection
93 and reporting to the state department of education
94 beginning no later than the first day of July, one
95 thousand nine hundred ninety-three. County boards of
96 education shall fully participate in the implementation
97 of the system.

98 (g) Each regional educational service agency shall
99 submit a report and evaluation of the services pro-
100 vided and utilized by the schools within each respec-
101 tive region. Furthermore, each school shall submit an
102 evaluation of the services provided by the regional
103 educational service agency, which shall include an
104 evaluation of the regional educational service agency
105 program, suggestions as to how to improve utilization
106 and the individual school's plan as to development of
107 new programs and enhancement of existing programs.
108 The reports shall be due by the first day of January
109 of each year commencing with the year one thousand
110 nine hundred ninety-one and shall be made available
111 to the state board of education, standing committees
112 on education of the West Virginia senate and house of
113 delegates and to the secretary of education and the
114 arts.

115 (h) A regional board shall be empowered to receive
116 and disburse funds from the state and federal govern-
117 ments, member counties, gifts and grants.

§18-2-31. Plan for automatic cost of living adjustments.

1 After consultation with the governor's office of
2 community and industrial development, the state
3 board of education shall develop within equity guide-
4 lines a plan which provides for automatic cost of living
5 adjustments to the salary schedules, as provided in
6 chapter eighteen-a, whenever it is determined that the
7 purchasing power of salaries of teachers and service
8 personnel in areas of the state experiencing extraordi-
9 nary growth and/or increases in the factors compris-
10 ing the cost of living index is not equal to the purchas-

11 ing power of teacher and service personnel salaries
 12 statewide, such plan to be submitted to the Legislature
 13 by the first day of the regular session one thousand
 14 nine hundred ninety-one.

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-5. School accreditation; standards compliance board; approval status; intervention to correct impairments.

1 (a) The purpose of this section is to provide assuran-
 2 ces that a thorough and efficient system of education
 3 is being provided for all West Virginia public school
 4 students on an equal educational opportunity basis and
 5 that the high quality standards are being met. A
 6 system for the review of school district educational
 7 plans, performance based accreditation and periodic,
 8 random, unannounced on-site effectiveness reviews of
 9 district educational systems, including individual
 10 schools within the districts, shall provide assurances
 11 that the high quality standards, established pursuant
 12 to subsection (b) of this section, are being met. A
 13 performance-based accreditation system shall provide
 14 assurances that the high quality standards, established
 15 pursuant to subsection (c) of this section, are being
 16 met.

17 (b) On or before the first day of January, one
 18 thousand nine hundred ninety-one, the state board of
 19 education shall, in accordance with the provisions of
 20 article three-b, chapter twenty-nine-a of this code,
 21 establish and adopt high quality educational standards
 22 in the areas of curriculum, finance, transportation,
 23 special education, facilities, administrative practices,
 24 training of school district board members and admin-
 25 istrators, personnel qualifications, professional devel-
 26 opment and evaluation, student and school perfor-
 27 mance, a code of conduct for students and employees
 28 and other such areas as determined by the state board
 29 of education. The standards established in the area of
 30 curriculum shall assure that all graduates are pre-
 31 pared for the world of work or for continuing post-
 32 secondary education and training. Each school district

33 shall submit an annual improvement plan designed
34 around locally identified needs showing how the
35 educational program of each school in the district will
36 meet or exceed the high quality standards.

37 A performance-based accreditation system shall be
38 the only statewide system used for accrediting or
39 classifying the public schools in West Virginia. The
40 state board shall establish a schedule and shall review
41 each school within a district and each school district
42 board of education for accreditation based on informa-
43 tion submitted to the board under the performance-
44 based accreditation system as set forth in subsection
45 (c) of this section.

46 (c) On or before the first day of July, one thousand
47 nine hundred ninety-one, the state board of education
48 shall, in accordance with the provisions of article
49 three-b, chapter twenty-nine-a of this code, establish
50 by rule a system which measures the performance of
51 each school based on the following measures of
52 student and school performance: The acquisition of
53 student proficiencies as indicated by student perfor-
54 mance by grade level in the various subjects tested
55 under the Statewide Testing of Educational Progress
56 program and other appropriate measures; school
57 attendance rates; the student dropout rate; the percent
58 of students promoted to next grade and the number of
59 waivers of the promotion standard granted; the grad-
60 uation rate; the average class size; the pupil-teacher
61 ratio; the number of exceptions to pupil-teacher ratio
62 requested by the county board and the number of
63 exceptions granted; the number of split-grade class-
64 rooms; the percentage of graduating students entering
65 post-secondary education or training; the pupil-
66 administrator ratio; parent involvement; parent,
67 teacher and student satisfaction; and operating expen-
68 ditures per pupil.

69 The state board annually shall review the informa-
70 tion submitted for each school and shall issue to every
71 school: (1) full accreditation status; or (2) probationary
72 accreditation status.

73 Full accreditation status shall be given to a school
74 when the school's performance on the above indicators
75 is at a level which would be expected when all of the
76 high quality educational standards are being met.
77 Probationary accreditation status shall be given to a
78 school when the measure of the school's performance
79 is below such level.

80 Whenever a school is given probationary accredita-
81 tion status, the district board shall implement an
82 improvement plan which is designed to increase the
83 performance of the school to a full accreditation status
84 level within one year.

85 (d) Whenever the state board of education deter-
86 mines that the quality of education in a school is
87 seriously impaired, the state superintendent, with
88 approval of the state board, shall appoint a team of
89 three improvement consultants to make recommenda-
90 tions within sixty days of appointment for correction
91 of the impairment. Upon approval of the recommenda-
92 tions by the state board, the recommendations shall be
93 made to the district board of education. If progress in
94 correcting the impairment is not made within six
95 months of receipt of the recommendations, the state
96 superintendent shall provide consultation and assis-
97 tance to the district board to (1) improve personnel
98 management, (2) establish more efficient financial
99 management practices, (3) improve instructional
100 programs and policies or (4) make such other improve-
101 ments as may be necessary to correct the impairment.
102 If the impairment is not corrected within one year of
103 receipt of the recommendations, the district shall be
104 given probationary approval status or nonapproval
105 status.

106 (e) Whenever a school is given probationary status
107 or is determined to be seriously impaired and fails to
108 improve its status within one year, any student
109 attending such school may transfer once to the nearest
110 fully accredited school, subject to approval of the fully
111 accredited school and at the expense of the school
112 from which the student transferred.

113 (f) The state board of education shall issue one of the
114 following accreditation levels to each school district
115 board of education: (1) full approval, (2) probationary
116 approval or (3) nonapproval.

117 Full approval shall be given to a district board whose
118 educational system meets or exceeds all of the high
119 quality standards adopted by the state board and
120 whose schools have all been given full accreditation
121 status. Full approval shall be for a period not to exceed
122 four years.

123 Probationary approval shall be given to a district
124 board of education whose educational program has not
125 met the high quality standards, or which has one or
126 more schools in the district given probationary status.
127 Probationary approval is a warning that the district
128 board must make specified improvements. If the high
129 quality standards are not met during the succeeding
130 year, or the number of schools in the district given
131 probationary status is not reduced to a number that
132 would allow full accreditation to be granted in the
133 following year, the district board shall be automati-
134 cally given nonapproval. In addition, nonapproval shall
135 be given to a district board of education which fails to
136 submit an annual program plan or fails to demonstrate
137 a reasonable effort to meet the high quality standards.

138 (g) Whenever nonapproval status is given to a
139 district, the state board of education shall declare a
140 state of emergency in the district and may intervene
141 in the operation of the district to (1) limit the author-
142 ity of the district superintendent and district board of
143 education as to the expenditure of funds, the employ-
144 ment and dismissal of personnel, the establishment
145 and operation of the school calendar, the establish-
146 ment of instructional programs and policies, and such
147 other areas as may be designated by the state board by
148 rule, (2) take such direct action as may be necessary to
149 correct the impairment and (3) declare that the office
150 of the district superintendent is vacant.

151 (h) To assist the state board in determinations of the
152 accreditation status of schools and the approval status

153 of school districts under this section, the state board
154 shall from time to time appoint an educational stand-
155 ards compliance review team to make unannounced
156 on-site reviews of the educational programs in any
157 school or school district in the state to assess com-
158 pliance of the school or district with the high quality
159 standards adopted by the state board, including, but
160 not limited to, facilities, administrative procedures,
161 transportation, food services and the audit of all
162 matters relating to school finance, budgeting and
163 administration.

164 The teams shall be composed of not more than ten
165 persons, not more than half of whom may be members
166 of or currently employed by the state board, who
167 possess the necessary knowledge, skills and experience
168 to make an accurate assessment of such educational
169 programs. The educational standards compliance team
170 shall report the findings of its on-site reviews to the
171 state board of education for inclusion in the determi-
172 nation of a school's or district's accreditation or
173 approval status as applicable. The state board of
174 education shall encourage the sharing of information
175 to improve school effectiveness among the districts.

176 The state board shall make accreditation information
177 available to the Legislature, the governor, the general
178 public and to any individuals who request such
179 information.

180 (i) The state board shall fully implement the accred-
181 itation system established under this article for all
182 schools on the first day of July, one thousand nine
183 hundred ninety-one, and may pilot test the system
184 prior to that date. The state board shall adopt rules in
185 accordance with the provisions of article three-b,
186 chapter twenty-nine-a of this code necessary to imple-
187 ment the provisions of this article.

ARTICLE 4. COUNTY SUPERINTENDENT OF SCHOOLS.

§18-4-4. Compensation generally; master's degree or equiv- alent required or new appointee.

1 On or before the first day of May of the year in

2 which the superintendent is appointed, the board shall
3 fix the annual salary of the superintendent for the
4 period of appointment for the term beginning on the
5 first day of July following. The board shall pay the
6 salary from the general current expense fund of the
7 district: *Provided*, That the superintendent shall hold
8 at least a master's degree or its equivalent related to
9 public school education earned at an accredited insti-
10 tution of higher education approved to offer graduate
11 work: *Provided, however*, That commencing with the
12 first day of July, one thousand nine hundred ninety-
13 three, any newly appointed superintendent employed
14 as a superintendent after the twenty-seventh day of
15 June, one thousand nine hundred eighty-eight, shall
16 meet the requirements set forth in section two of this
17 article and at a minimum shall qualify for an initial
18 license as a superintendent, hold at least a master's
19 degree or its equivalent related to public school
20 education plus twenty-four semester hours related to
21 public school education earned at an accredited insti-
22 tution of higher education approved to offer graduate
23 work, and shall qualify for a superintendent's certifi-
24 cate within three years of being employed as a
25 superintendent: *Provided further*, That any assistant
26 superintendent or educational administrator employed
27 in such capacity in this state prior to the twenty-
28 seventh day of June, one thousand nine hundred
29 eighty-eight, who was employed as a county superin-
30 tendent in this state shall not be required to meet the
31 requirements of the superintendent's initial licensure,
32 certificate and said twenty-four semester hours
33 beyond a master's degree: *And Provided further*, That
34 after the first day of July, one thousand nine hundred
35 ninety-four, no person may be issued a superintend-
36 ent's certificate or have such certificate renewed
37 unless the state board determines that such person has
38 successfully completed education and training in
39 evaluation skills through the center for professional
40 development, or equivalent education and training in
41 evaluation skills approved by the state board.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-1a. Eligibility of members.

1 No person shall be eligible for membership on any
2 county board of education who is not a citizen,
3 resident in such county, or who accepts a position as
4 teacher or service personnel in any school district, or
5 who is an elected or an appointed member of any
6 political party executive committee, or who becomes a
7 candidate for any other office than to succeed oneself.

8 No member or member-elect of any board of educa-
9 tion shall be eligible for nomination, election or
10 appointment to any public office, other than to succeed
11 oneself, or for election or appointment as a member of
12 any political party executive committee, unless and
13 until after that membership on the board, or his status
14 as member-elect to the board, has been terminated at
15 or before the time of his filing for such nomination
16 for, or appointment to, such public office or committee.

17 Any person who is elected or appointed to a county
18 board of education on or after the fifth day of May,
19 one thousand nine hundred ninety-two, shall possess
20 at least a high school diploma or a general educational
21 development (GED) diploma: *Provided*, That this
22 provision shall not apply to members or members-
23 elect who have taken office prior to the fifth day of
24 May, one thousand nine hundred ninety-two, and who
25 serve continuously therefrom.

26 No person elected to a county board of education
27 after the first day of July, one thousand nine hundred
28 ninety, shall assume the duties of board member
29 unless he or she has first attended and completed a
30 course of orientation relating to boardsmanship and
31 governance effectiveness which shall be given
32 between the date of election and the beginning of the
33 member's term of office. Members appointed to the
34 board shall attend and complete the next such course
35 offered following their appointment. Commencing on
36 the effective date of this section, members shall
37 annually receive seven clock hours of training in areas
38 relating to boardsmanship and governance effective-

39 ness. Such orientation and training shall be approved
40 by the state board of education and conducted by the
41 West Virginia school board association or other organi-
42 zation or organizations approved by the state board.
43 Failure to attend and complete such an approved
44 courses of orientation and training relating to boards-
45 manship and governance effectiveness without good
46 cause shall constitute neglect of duty.

§18-5-40. School entry age; operation of schools on semester basis.

1 (a) The state board shall establish guidelines prior to
2 the first day of January, one thousand nine hundred
3 eighty-nine, for the operation of public kindergarten
4 and elementary schools on a semester basis within the
5 applicable provisions of this article and chapter
6 relating to the school term. Notwithstanding any other
7 provision of this code to the contrary relating to
8 compulsory school attendance, any child required or
9 allowed by proximity to attend a school operated on a
10 semester basis shall be deemed to have reached
11 compulsory school age and shall enroll as follows: (1)
12 For the fall semester, in such year when the sixth
13 birthday is reached on or between the first day of July
14 and the last day of December, and (2) for the spring
15 semester, when the sixth birthday is reached on or
16 between the first day of January and the last day of
17 June of that year: *Provided*, That the state board shall
18 establish guidelines for enrollment prior to a child's
19 reaching compulsory school age. Student progress
20 within and between the various grade levels shall be
21 determined on a semester by semester basis, and
22 promotion or assignment to the middle or junior high
23 school grade levels is conditioned upon completion of
24 either of the last two semesters offered at the elemen-
25 tary school.

26 (b) By the school year one thousand nine hundred
27 eighty-nine—ninety, the state board shall select at
28 least four elementary schools with kindergarten
29 programs which may be operated on a semester basis
30 upon applications submitted, with preference being
31 given in such selection to schools in different regional

32 educational service agency areas to the extent reason-
 33 able and practical based on the applications. The
 34 operation of these schools on a semester basis shall be
 35 phased in by grade level beginning with kindergarten
 36 and progressing by one additional grade level in each
 37 successive school year until all of the grade levels
 38 offered at that school are operated on a semester basis.

39 Any regulations adopted under this section shall
 40 utilize the flexibility contained herein so as to provide
 41 the students of West Virginia a more successful
 42 educational experience.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A-1. Intent and purpose of article.

1 The intent of this article is to facilitate and encour-
 2 age the involvement of the school community in the
 3 operation of the local schools to improve educational
 4 quality. This article is intended to establish processes
 5 at each school which provide opportunities for involve-
 6 ment of the school community in the operation of the
 7 local schools and to support local initiatives to improve
 8 school performance. It is not the intent of this article
 9 to restrict the ability of the county board of education
 10 in its efforts to effect county-wide school
 11 improvements.

§18-5A-2. Local school improvement councils; election.

1 A local school improvement council shall be estab-
 2 lished at every school consisting of the principal, who
 3 shall serve as the ex officio chairman of the council
 4 and be entitled to vote, three teachers elected by the
 5 faculty senate of the school, two school service person-
 6 nel elected by the school service personnel employed
 7 at the school, three parents or legal guardians of
 8 students enrolled at the school elected by the school's
 9 parent teacher organization, and two at-large
 10 members appointed by the principal, one of whom
 11 resides in the school's attendance area and one of
 12 whom represents business or industry, both of whom
 13 are not eligible for membership under any of the
 14 other elected classes of members: *Provided*, That if the

15 school houses students in grade seven or higher, then
16 the student body president or other student, elected by
17 the student body in grade seven or higher, shall also
18 be a member of the council.

19 The principal shall arrange for such elections to be
20 held prior to the tenth day of May of each school year
21 to elect a council to serve for the next ensuing school
22 year and shall give notice of the elections at least one
23 week prior to the elections being held. To the extent
24 practical, all elections shall be held within the same
25 week. Persons elected to the council shall serve until
26 the next election and may only be replaced upon
27 death, resignation, failure to appear at three consecu-
28 tive meetings of the council for which notice was
29 given or, a change in personal circumstances so that
30 the person is no longer representative of the class of
31 members from which appointed. In the case of
32 replacement, an election shall be held to elect another
33 qualified person to serve the unexpired term of the
34 person being replaced.

35 Each member of the school improvement council
36 must be given written notice two employment days in
37 advance of any council meeting.

38 School improvement councils shall meet at least
39 once every nine weeks or equivalent grading period at
40 the call of the chair or by three fourths of its
41 members. At the first meeting of the council, the chair
42 shall provide each member with a copy of the current
43 applicable section of this code and any state board rule
44 or regulation promulgated pursuant to the operation of
45 these councils, and the council shall elect from its
46 membership two members to assist the chair in setting
47 the agenda for each council meeting.

48 School improvement councils shall be considered for
49 the receipt of school of excellence awards under
50 section three of this article and competitive grant
51 awards under section twenty-nine, article two of this
52 chapter, and may receive and expend such grants for
53 the purposes provided in such section.

54 In any and all matters which may fall within the

55 scope of both the school improvement councils and the
56 school curriculum teams authorized in section five of
57 this article, the school curriculum teams shall be
58 deemed to have jurisdiction.

59 A school improvement council shall receive cooper-
60 ation from the school in implementing policies and
61 programs it may adopt to:

62 (1) Encourage the involvement of parents in their
63 child's educational process and in the school;

64 (2) Encourage businesses to provide time for their
65 employees who are parents to meet with teachers
66 concerning their child's education;

67 (3) Encourage advice and suggestions from the
68 business community;

69 (4) Encourage school volunteer programs and men-
70 torship programs; and

71 (5) Foster utilization of the school facilities and
72 grounds for public community activities.

**§18-5A-3. Authority and procedures for local school
improvement councils to request waivers of
certain rules, policies and interpretations.**

1 The intent of this section is to establish a mechanism
2 which allows local school level initiatives to be
3 designed and implemented to meet local school needs
4 and circumstances. In accordance with this intent, a
5 local school improvement council established under
6 the provisions of this article may propose alternatives
7 to the operation of the public school which alternatives
8 will meet or exceed the high quality standards estab-
9 lished by the state board and will increase administra-
10 tive efficiency, enhance the delivery of instructional
11 programs, promote community involvement in the
12 local school system or improve the educational perfor-
13 mance of the school generally. The proposal of the
14 council shall set forth the objective or objectives to be
15 accomplished under the proposal, how the accomplish-
16 ment of such objective or objectives will meet or
17 exceed the standards established by the state board,

18 the indicators upon which the meeting of such stand-
19 ards should be judged and a projection of any funds to
20 be saved by the proposal and how such funds will be
21 reallocated within the school. The alternatives pro-
22 posed by the council may include matters which
23 require the waiver of policies or rules promulgated by
24 the state or county board of education, state superin-
25 tendent interpretations and interpretations of the
26 county or state boards of education: *Provided*, That
27 such request for waiver be submitted to the appropri-
28 ate board adopting said rule or policy and that board
29 may approve the waiver: *Provided, however*, That the
30 state superintendent need only be notified that the
31 local council intends to waive the interpretation:
32 *Provided further*, That notwithstanding any other
33 provisions of the law to the contrary, council is not
34 prohibited from permitting off-site classrooms to be
35 developed in conjunction with local businesses if those
36 sites have met the requirements established by the
37 local board of education and if sites are located off
38 campus. For an alternative to be proposed, at least
39 two-thirds of the members must vote in favor thereof:
40 *And provided further*, That if the alternative to be
41 proposed relates to a waiver of policies or rules,
42 promulgated by the state or county board of education,
43 state superintendent interpretations and interpreta-
44 tions of the county or state boards of education
45 affecting employees, then prior to the proposal of the
46 alternative, a majority of the local affected employee
47 group involved must agree.

48 A council may also submit a written statement, with
49 supporting reasons, to the legislative oversight com-
50 mission on education accountability recommending a
51 waiver of a statute or legislative rule, which the
52 commission shall review and determine whether a
53 recommendation should be made to the Legislature to
54 waive such statute or rule.

55 When a council decides to propose an alternative, it
56 shall forward a copy of the proposal to the state board
57 of education and the affected local board of education.
58 The state board shall acknowledge receipt of the

59 proposed alternative, promptly review the proposed
 60 alternative in consultation with the county board or
 61 their agents and, in its discretion, approve implemen-
 62 tation of the alternative or reply to the council within
 63 a reasonable time as to its reasons for not approving
 64 the proposed alternative. If the state board approves a
 65 proposed alternative, the state board shall provide
 66 appropriate notice to the local school improvement
 67 council and the county board of education and shall
 68 establish a process for evaluation of the operation of
 69 the alternative. Approval for the operation of the
 70 alternative may be continued or revoked at any time
 71 based on the results and findings of the evaluation.

72 The state board shall submit a report to the legisla-
 73 tive oversight commission on education accountability
 74 and the governor on the first day of July of each year
 75 summarizing the proposed alternatives received,
 76 approved or rejected, continued or revoked during the
 77 preceding school year and the results and findings of
 78 the evaluations. The report shall specifically identify
 79 all policy, rule, and interpretation waiver requests
 80 received during the preceding year and the disposition
 81 of each.

**§18-5A-4. State board to establish criteria for selecting
 schools of excellence; annual school of excel-
 lence awards.**

1 The state board of education shall promulgate rules,
 2 in accordance with the provisions of article three-b,
 3 chapter twenty-nine-a of this code, outlining criteria
 4 for the identification of schools of excellence. Such
 5 criteria shall include, but not be limited to, improve-
 6 ment in student achievement in comparison to state
 7 and national norms, improvement in reducing drop-
 8 out rates, improvement in standardized test scores,
 9 implementation of advanced or innovative programs,
 10 improvement in parent and community involvement,
 11 improvement in parent, teacher and student satisfac-
 12 tion, improvement in student attendance and other
 13 factors which promote excellence in education. Such
 14 rules shall be promulgated by the first day of January,
 15 one thousand nine hundred ninety-one. Such rules

16 may not prohibit any school from applying for consid-
17 eration as a school of excellence.

18 Each year, the state board shall select one high
19 school, one middle or junior high school, and one
20 elementary school within each regional educational
21 service agency district, and one vocational school
22 selected on a statewide basis to be awarded school of
23 excellence status.

24 The rules promulgated by the state board shall
25 outline appropriate methods of recognizing and honor-
26 ing the students, teachers and other employees and
27 parents or members of the school community who
28 have contributed to excellence in education at the
29 school.

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

1 (a) There is established at every public school in this
2 state a faculty senate which shall be comprised of all
3 permanent, full-time professional educators employed
4 at the school who shall all be voting members. Profes-
5 sional educators as used in this section means profes-
6 sional educators as defined in chapter eighteen-a of
7 this code. A quorum of more than one-half of the
8 voting members of the faculty shall be present at any
9 meeting of the faculty senate at which official business
10 is conducted. Prior to the beginning of the instruc-
11 tional term each year, but within the employment
12 term, the principal shall convene a meeting of the
13 faculty senate to elect a chair, vice chair and secretary
14 and discuss matters relevant to the beginning of the
15 school year. The vice chair shall preside at meetings
16 when the chair is absent. Meetings of the faculty
17 senate shall be held on a regular basis as determined
18 by a schedule approved by the faculty senate and
19 amended from time to time if needed. Emergency
20 meetings may be held at the call of the chair or a
21 majority of the voting members by petition submitted
22 to the chair and vice chair. An agenda of matters to be
23 considered at a scheduled meeting of the faculty
24 senate shall be available to the members at least two

25 employment days prior to the meeting, and in the case
26 of emergency meetings, as soon as possible prior to the
27 meeting. The chair of the faculty senate may appoint
28 such committees as may be desirable to study and
29 submit recommendations to the full faculty senate, but
30 the acts of the faculty senate shall be voted upon by
31 the full body.

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

44 (1) Each faculty senate shall control funds allocated
45 to the school from legislative appropriations pursuant
46 to section nine, article nine-a of this chapter. From
47 such funds, each classroom teacher and librarian shall
48 be allotted fifty dollars for expenditure during the
49 instructional year for academic materials, supplies or
50 equipment which in the judgement of the teacher or
51 librarian will assist him or her in providing instruction
52 in his or her assigned academic subjects, or shall be
53 returned to the faculty senate. The remainder of funds
54 shall be expended for academic materials, supplies or
55 equipment in accordance with a budget approved by
56 the faculty senate. Notwithstanding any other provi-
57 sions of the law to the contrary, funds not expended in
58 one school year shall be available for expenditure in
59 the next school year: *Provided*, That the amount of
60 county funds already budgeted for the fiscal year one
61 thousand nine hundred ninety—ninety-one, shall not
62 be reduced for such materials, supplies and equip-
63 ment. Accounts shall be maintained of the allocations
64 and expenditures of such funds for the purpose of
65 financial audit. Academic materials, supplies or equip-

66 ment shall be interpreted broadly, but shall not
67 include materials, supplies or equipment which will be
68 used in or connected with interscholastic athletic
69 events.

70 (2) A faculty senate may establish a process for
71 faculty members to interview new prospective profes-
72 sional educators and paraprofessional employees at the
73 school and submit recommendations regarding
74 employment to the principal, who may also make
75 independent recommendations, for submission to the
76 county superintendent: *Provided*, That such process
77 must permit the timely employment of persons to
78 perform necessary duties.

79 (3) A faculty senate may nominate teachers for
80 recognition as outstanding teachers under state and
81 local teacher recognition programs and other person-
82 nel at the school, including parents, for recognition
83 under other appropriate recognition programs and
84 may establish such programs for operation at the
85 school.

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

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

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

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

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

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

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

117 (11) On or after the first day of January, one
 118 thousand nine hundred ninety-two, any faculty senate
 119 may review the evaluation procedure as conducted in
 120 their school to ascertain whether such evaluations
 121 were conducted in accordance with the written system
 122 required pursuant to section twelve, article two of
 123 chapter eighteen-a of this code and the general intent
 124 of this Legislature regarding meaningful performance
 125 evaluations of school personnel. If a majority of
 126 members of the faculty senate determine that such
 127 evaluations were not so conducted, they shall submit
 128 a report in writing to the state board of education:
 129 *Provided*, That nothing herein shall create any new
 130 right of access to or review of any individual's
 131 evaluations.

132 (12) Each faculty senate shall be provided by its local
 133 board of education, at least a two-hour per month
 134 block of non-instructional time within the school day:
 135 *Provided*, That any such designated day shall consti-
 136 tute a full instructional day. This time may be utilized
 137 and determined at the local school level and shall
 138 include, but not be limited to, faculty senate meetings.

§18-5A-6. Establishment of school curriculum teams.

1 There shall be established at each elementary school
 2 in the state a school curriculum team composed of the
 3 school principal, the counselor designated to serve that
 4 school and three teachers from the kindergarten
 5 through fourth grade faculty chosen by that faculty.

6 The school curriculum team shall establish the
7 programs and methods for implementing a curriculum
8 based on state-approved learning outcomes for kinder-
9 garten through fourth grade based on the needs of the
10 individual school with a focus on the basic skills of
11 reading, composition and mathematics. The curricu-
12 lum thus established shall be submitted to the county
13 board of education for approval or for return to the
14 school for reconsideration.

15 The school curriculum team may apply through the
16 school's local school improvement council for a waiver
17 from the textbook adoption process established in
18 article two-a, of this chapter if, in the judgement of
19 the team, materials necessary for the implementation
20 of such curriculum are not available through the
21 normal adoption process.

22 The school team may apply for a grant from the
23 state board of education for the development or
24 implementation, or both, of remedial and accelerated
25 programs to meet the needs of the students at the
26 individual school.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-1. School building authority; powers.

1 The school building authority shall consist of ten
2 persons, of whom one shall be the state superinten-
3 dent of schools, ex officio; three shall be members of
4 the state board of education, elected by the state
5 board; and six shall be citizens of the state, appointed
6 by the governor, by and with the advice and consent
7 of the senate, who are knowledgeable in matters
8 relevant to the issues addressed by the authority, one
9 of whom shall be representative of the interests of the
10 construction trades.

11 The citizen appointments shall be made as soon as
12 possible after the effective date of this section, and no
13 two citizen appointees shall be residents within the
14 same region. Two of the initial appointments shall be
15 for two-year terms, and two shall be for four-year
16 terms, with all successive appointments being for four-

17 year terms. Until such appointments take effect, the
18 state board as constituted under the provisions of
19 section one, article two of this chapter may act as the
20 authority with such power as was granted them under
21 the prior enactment of this section.

22 The school building authority shall meet at least
23 quarterly, and the citizen members shall be reim-
24 bursed for reasonable and necessary expenses actually
25 incurred in the performance of their official duties
26 from funds appropriated or otherwise made available
27 for such purposes upon submission of an itemized
28 statement therefor. The state superintendent of
29 schools shall serve as president of the authority.

30 The acts performed by the members of the state
31 board of education in their capacity as members of the
32 school building authority are solely the acts of the
33 authority.

§18-9D-16. Facilities plans generally; need-based eligibility.

1 (a) To facilitate the goals as stated in section fifteen
2 of this article and to assure the prudent and resource-
3 ful expenditure of state funds, each regional educa-
4 tional service agency created pursuant to section
5 twenty-six, article two of this chapter shall submit a
6 region-wide facilities plan that addresses the facilities
7 needs of each district within the region pursuant to
8 such guidelines as shall be adopted by the authority in
9 accordance with this section. Any project receiving
10 funding shall be in furtherance of such approved
11 facilities plan.

12 (b) To assure efficiency and productivity in the
13 project approval process, the facilities plan shall be
14 submitted only after a preliminary plan, a plan outline
15 or a proposal for a plan has been submitted to the
16 authority. Selected members of the authority, which
17 selection shall include citizen members, shall then
18 meet promptly with those persons designated by the
19 regional educational service agency, including one
20 person from each county within the region, to attend
21 the facilities plan consultation. The purpose of the
22 consultation is to assure understanding of the general

23 goals of the school building authority and the specific
24 goals encompassed in the following criteria and to
25 discuss ways the plan may be structured to meet those
26 goals.

27 (c) The guidelines for the development of a facilities
28 plan shall state the manner, timeline and process for
29 submission of any plan to the authority; such project
30 specifications as may be deemed appropriate by the
31 authority; and those matters which are deemed by the
32 authority to be important reflections of how the
33 project will further the overall goals of the authority.

34 The guidelines regarding submission of the plans
35 shall include requirements for public hearings, com-
36 ments or other means of providing broad-based input
37 within a reasonable time period as the authority may
38 deem appropriate. The submission of each facilities
39 plan shall be accompanied by a synopsis of all com-
40 ments received and a formal comment by each county
41 board included in the region. The guidelines regarding
42 project specifications may include such matters as
43 energy efficiency, preferred siting, construction mate-
44 rials, maintenance plans or any other matter related to
45 how the capital improvement project is to proceed.
46 The guidelines pertaining to quality education shall
47 require that a facilities plan address how the current
48 facilities do not meet and the proposed plan and any
49 project thereunder does meet the following goals:

50 (1) Student health and safety;

51 (2) Economies of scale, including compatibility with
52 similar schools that have achieved the most economi-
53 cal organization, facility utilization and pupil-teacher
54 ratios;

55 (3) Reasonable travel time and practical means of
56 addressing other demographic considerations;

57 (4) Multi-county and regional planning to achieve
58 the most effective and efficient instructional delivery
59 system;

60 (5) Curriculum improvement and diversification,
61 including computerization and technology and

62 advanced senior courses in science, mathematics,
63 language arts and social studies;

64 (6) Innovations in education such as year-round
65 schools and community-based programs; and

66 (7) Adequate space for projected student enrollments.

67 If the project is to benefit more than one county in
68 the region, the facilities plan shall state the manner in
69 which the cost and funding of the project shall be
70 apportioned among the counties.

71 (d) Each plan shall prioritize all the projects both
72 within a county and among the counties, which
73 priority list shall be the basis for determining how
74 available funds shall be expended. In prioritizing the
75 projects, each regional educational service agency shall
76 make determinations in accordance with objective
77 criteria to be formulated by the school building
78 authority prior to the first day of January, one
79 thousand nine hundred ninety-one.

80 (e) Each plan shall include the objective means to be
81 utilized in evaluating implementation of the overall
82 plan and each project included therein. Such evalua-
83 tion shall measure each project's furtherance of each
84 goal stated in this section and any guidelines adopted
85 hereunder, as well as the overall success of any project
86 as it relates to the facilities plan of its region and the
87 overall goals of the authority.

88 (f) The authority may adopt guidelines for requiring
89 that a regional educational service agency modify,
90 update, supplement or otherwise submit changes or
91 additions to an approved plan and shall provide
92 reasonable notification and sufficient time for such
93 change or addition.

ARTICLE 32. SEVERABILITY.

§18-32-1. Severability.

1 Pursuant to section ten, article two, chapter two of
2 this code, if any provision of this chapter or the
3 application thereof to any person or circumstance is
4 held unconstitutional or invalid, such unconstitutional-

ity or invalidity shall not affect other provisions or applications of the chapter, and to this end the provisions of this chapter are declared to be severable.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-2. Employment of teachers; contracts; continuing contract status; how terminated; dismissal for lack of need; released time; failure of teacher to perform contract or violation thereof.

Before entering upon their duties, all teachers shall execute a contract with their boards of education, which contract shall state the salary to be paid and shall be in the form prescribed by the state superintendent of schools. Every such contract shall be signed by the teacher and by the president and secretary of the board of education, and when so signed shall be filed, together with the certificate of the teacher, by the secretary of the office of the board.

A teacher's contract, under this section, shall be for a term of not less than one nor more than three years, one of which shall be for completion of a beginning teacher internship pursuant to the provisions of section two-b, article three of this chapter, if applicable; and if, after three years of such employment, the teacher who holds a professional certificate, based on at least a bachelor's degree, has met the qualifications for the same, and the board of education enter into a new contract of employment, it shall be a continuing contract: *Provided*, That any teacher holding a valid certificate with less than a bachelor's degree who is employed in a county beyond the said three-year probationary period shall upon qualifying for said professional certificate based upon a bachelor's degree, if reemployed, be granted continuing contract status: *Provided, however*, That a teacher holding continuing contract status with one county shall be granted continuing contract status with any other county upon completion of one year of acceptable employment if such employment is during the next succeeding school year or immediately following an approved leave of

32 absence extending no more than one year.

33 The continuing contract of any teacher shall remain
34 in full force and effect except as modified by mutual
35 consent of the school board and the teacher, unless
36 and until terminated (1) by a majority vote of the full
37 membership of the board before the first day of April
38 of the then current year, after written notice, served
39 upon the teacher, return receipt requested, stating
40 cause or causes, and an opportunity to be heard at a
41 meeting of the board prior to the board's action
42 thereon, or (2) by written resignation of the teacher
43 before that date, to initiate termination of a continuing
44 contract. Such termination shall take effect at the
45 close of the school year in which the contract is so
46 terminated: *Provided*, That the contract may be
47 terminated at any time by mutual consent of the
48 school board and the teacher, and that this section
49 shall not affect the powers of the school board to
50 suspend or dismiss a principal or teacher pursuant to
51 section eight of this article: *Provided, however*, That a
52 continuing contract for any teacher holding a certifi-
53 cate valid for more than one year and in full force and
54 effect during the school year one thousand nine
55 hundred eighty-four, and one thousand nine hundred
56 eighty-five, shall remain in full force and effect:
57 *Provided further*, That a continuing contract shall not
58 operate to prevent a teacher's dismissal based upon
59 the lack of need for the teacher's services pursuant to
60 the provisions of law relating to the allocation to
61 teachers and pupil-teacher ratios. But in case of such
62 dismissal, the teachers so dismissed shall be placed
63 upon a preferred list in the order of their length of
64 service with that board, and no teacher shall be
65 employed by the board until each qualified teacher
66 upon the preferred list, in order, shall have been
67 offered the opportunity for reemployment in a posi-
68 tion for which they are qualified: *And provided*
69 *further*, That he has not accepted a teaching position
70 elsewhere. Such reemployment shall be upon a
71 teacher's preexisting continuing contract and shall
72 have the same effect as though the contract had been
73 suspended during the time the teacher was not

74 employed.

75 In the assignment of position or duties of a teacher
76 under said continuing contract, the board shall have
77 authority to provide for released time of a teacher for
78 any special professional or governmental assignment
79 without jeopardizing the contractual rights of such
80 teacher or any other rights, privileges or benefits
81 under the provisions of this chapter.

82 Any teacher who fails to fulfill his contract with the
83 board, unless prevented from so doing by personal
84 illness or other just cause, or unless released from
85 such contract by the board, or who violates any lawful
86 provision thereof, shall be disqualified to teach in any
87 other public school in the state for a period of the next
88 ensuing school year, and the state department of
89 education or board may hold all papers and credentials
90 of such teacher on file for a period of one year for
91 such violation: *Provided*, That marriage of a teacher
92 shall not be considered a failure to fulfill, or violation
93 of, the contract.

94 Any classroom teacher, as defined in section one,
95 article one of this chapter, who desires to resign
96 employment with a board of education or request a
97 leave of absence, such resignation or leave of absence
98 to become effective on or before the fifteenth day of
99 July of the same year and after completion of the
100 employment term, may do so at any time during the
101 school year by written notification thereof, and any
102 such notification received by a board of education shall
103 automatically extend such teacher's public employee
104 insurance coverage until the thirty-first day of August
105 of the same year.

**§18A-2-8. Suspension and dismissal of school personnel by
board; appeal.**

1 Notwithstanding any other provisions of law, a board
2 may suspend or dismiss any person in its employment
3 at any time for: Immorality, incompetency, cruelty,
4 insubordination, intemperance, willful neglect of duty,
5 unsatisfactory performance, the conviction of a felony
6 or a guilty plea or a plea of nolo contendere to a felony

7 charge. A charge of unsatisfactory performance shall
8 not be made except as the result of an employee
9 performance evaluation pursuant to section twelve of
10 this article. The charges shall be stated in writing
11 served upon the employee within two days of presen-
12 tation of said charges to the board. The employee so
13 affected shall be given an opportunity, within five
14 days of receiving such written notice, to request, in
15 writing, a level four hearing and appeals pursuant to
16 provisions of article twenty-nine, chapter eighteen of
17 the code of West Virginia, one thousand nine hundred
18 thirty-one, as amended, except that dismissal for the
19 conviction of a felony or guilty plea or plea of nolo
20 contendere to a felony charge is not by itself a
21 grievable dismissal. An employee charged with com-
22 mission of felony may be reassigned to duties which do
23 not involve direct interaction with pupils pending final
24 disposition of the charges.

**§18A-2-9. Duties and responsibilities of school principals;
assistant principals.**

1 Upon the recommendation of the county superinten-
2 dent of schools, the county board of education shall
3 employ and assign, through written contract, public
4 school principals who shall supervise the management
5 and the operation of the school or schools to which
6 they are assigned. Such principals shall hold valid
7 administrative certificates appropriate for their
8 assignments.

9 Beginning on the first day of July, one thousand
10 nine hundred ninety-four, the prerequisites for issu-
11 ance of an administrative certificate for principals
12 shall include that the person has successfully com-
13 pleted at least six credit hours of approved course
14 work in public school management techniques at an
15 accredited institution of higher education and has
16 successfully completed education and training in
17 evaluation skills through the center for professional
18 development, or equivalent education and training in
19 evaluation skills approved by the state board.

20 Under the supervision of the superintendent and in

21 accordance with the rules and regulations of the
22 county board of education, the principal shall assume
23 administrative and instructional supervisory responsi-
24 bility for the planning, management, operation and
25 evaluation of the total educational program of the
26 school or schools to which he is assigned.

27 The principal may submit recommendations to the
28 superintendent regarding the appointment, assign-
29 ment, promotion, transfer and dismissal of all person-
30 nel assigned to the school or schools under said
31 principal's control. Such recommendation shall be
32 submitted in writing as prescribed by the
33 superintendent.

34 The principal shall perform such other duties as
35 may be assigned by the superintendent pursuant to
36 the rules and regulations of the county board of
37 education.

38 Upon recommendation of the county superintendent
39 of schools, the county board of education shall, when
40 needed, employ and assign, through written contract,
41 assistant principals who shall work under the direction
42 of the school principal. Such assistant principals shall
43 hold valid administrative certificates appropriate for
44 their assignments.

45 On or before the first day of July, one thousand nine
46 hundred eighty-nine and continuing thereafter, each
47 county board of education shall assign a certificated
48 principal to each school and no principal may be
49 assigned more than two schools: *Provided*, That where
50 enrollment exceeds four hundred students there will
51 be no additional schools assigned to that principal.

52 No principal assigned to more than one school may
53 be assigned any teaching duties except on a temporary
54 emergency basis. No county shall have more teaching
55 principalships or multi-school principalships than was
56 present on the first day of January, one thousand nine
57 hundred eighty-eight.

58 On or before the first day of July, one thousand nine
59 hundred ninety-three and continuing thereafter, each

60 county board of education shall employ a full-time
61 supervising principal at each school whose net enroll-
62 ment equals or exceeds one hundred seventy students.
63 A principal assigned to a school with a net enrollment
64 equal to or greater than one hundred seventy students
65 may not be assigned any teaching duties except on a
66 temporary emergency basis. When a principal is
67 assigned on a full-time basis to a school whose net
68 enrollment is more than seventy-five students but less
69 than one hundred seventy students, such principal
70 shall have a minimum of twenty hours per week for
71 nonteaching duties. A principal assigned on a full-time
72 basis to a school with seventy-five students or less
73 shall have a minimum of ten hours per week for
74 nonteaching duties: *Provided*, That nothing in this
75 section prohibits a county board of education from
76 assigning a full-time supervising principal to a school
77 with a net enrollment of less than one hundred
78 seventy students.

79 Nothing contained in this section shall be construed
80 to reduce or limit the rights and privileges of princi-
81 pals and assistant principals as teachers under the
82 provisions of section one, article one, chapter eighteen
83 of the code of West Virginia as amended; section one,
84 article one, chapter eighteen-a; and other provisions of
85 this code: *Provided*, That on or before the first day of
86 July, one thousand nine hundred ninety-three, the
87 state board of education shall not deny a county board
88 of education the right to place a principal in a school
89 with less than one hundred seventy students.

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

1 (a) The state board of education shall adopt a written
2 system for the evaluation of the employment perfor-
3 mance of personnel, which system shall be applied
4 uniformly by county boards of education in the
5 evaluation of the employment performance of person-
6 nel employed by the board.

7 (b) The system adopted by the state board of educa-
8 tion for evaluating the employment performance of

9 professional personnel shall be in accordance with the
10 provisions of this section. Professional personnel
11 means professional personnel as defined in section
12 one, article one of this chapter. In developing the
13 professional personnel performance evaluation system,
14 and amendments thereto, the state board shall consult
15 with the professional development project of the
16 center for professional development created in section
17 three, article three-a of this chapter. The center shall
18 actively participate with the state board in developing
19 written standards for evaluation which clearly specify
20 satisfactory performance and the criteria to be used to
21 determine whether the performance of each profes-
22 sional personnel meets such standards.

23 The performance evaluation system shall contain,
24 but shall not be limited to the following information:

25 (1) The professional personnel positions to be evalu-
26 ated, whether they be teachers, substitute teachers,
27 administrators, principals, or others;

28 (2) The frequency and duration of the evaluations,
29 which shall be on a regular basis and of such fre-
30 quency and duration as to insure the collection of a
31 sufficient amount of data from which reliable conclu-
32 sions and findings may be drawn;

33 (3) The purposes of the evaluation, which shall serve
34 as a basis for the improvement of the performance of
35 the personnel in their assigned duties, serve as an
36 indicator of satisfactory performance for individual
37 professional personnel and serve as documentation for
38 a dismissal on the grounds of unsatisfactory perfor-
39 mance, and serve as a basis for programs to increase
40 the professional growth and development of profes-
41 sional personnel;

42 (4) The standards for satisfactory performance for
43 professional personnel and the criteria to be used to
44 determine whether the performance of each profes-
45 sional meets such standards and other criteria for
46 evaluation for each professional position evaluated;
47 and

48 (5) Provisions for a written improvement plan,
49 which shall be specific as to what improvements, if
50 any, are needed in the performance of the professional
51 and shall clearly set forth recommendations for
52 improvements, including recommendations for addi-
53 tional education and training during the professional's
54 recertification process.

55 A professional whose performance is deemed to be
56 unsatisfactory shall be given notice of deficiencies. A
57 remediation plan to correct deficiencies shall be
58 developed by the employing county board of education
59 and the professional. The professional shall be given a
60 reasonable period of time for remediation of the
61 deficiencies and shall receive a statement of the
62 resources and assistance available for the purposes of
63 correcting the deficiencies.

64 No person may evaluate professional personnel for
65 the purposes of this section unless such person has an
66 administrative certificate issued by the state superin-
67 tendent and has successfully completed education and
68 training in evaluation skills through the center for
69 professional development, or equivalent education
70 training approved by the state board, which will
71 enable the person to make fair, professional, and
72 credible evaluations of the personnel whom the person
73 is responsible for evaluating. After the first day of
74 July, one thousand nine hundred ninety-four, no
75 person may be issued an administrative certificate or
76 have an administrative certificate renewed unless the
77 state board determines that such person has success-
78 fully completed education and training in evaluation
79 skills through the center for professional development,
80 or equivalent education and training approved by the
81 state board.

82 Any professional personnel whose performance
83 evaluation includes a written improvement plan shall
84 be given an opportunity to improve his or her perfor-
85 mance through the implementation of the plan. If the
86 next performance evaluation shows that the profes-
87 sional is now performing satisfactorily, no further
88 action shall be taken concerning the original perfor-

89 mance evaluation. If such evaluation shows that the
90 professional is still not performing satisfactorily, the
91 evaluator shall either make additional recommenda-
92 tions for improvement or may recommend the dis-
93 missal of such professional in accordance with the
94 provisions of section eight of this article.

**ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFES-
SIONAL DEVELOPMENT.**

**§18A-3-1. Teacher preparation programs; program approval
and standards; authority to issue teaching
certificates.**

1 (a) The education of professional educators in the
2 state shall be under the general direction and control
3 of the state board of education after consultation with
4 the secretary of education and the arts, who shall
5 represent the board of directors of the state college
6 system and the board of trustees of the university of
7 West Virginia system. The education of professional
8 educators in the state includes all programs leading to
9 certification to teach or serve in the public schools
10 including (1) those programs in all institutions of
11 higher education, including student teaching in the
12 public schools, (2) beginning teacher internship pro-
13 grams, (3) the granting of West Virginia certification to
14 persons who received their preparation to teach
15 outside the boundaries of this state, (4) any alternative
16 preparation programs in this state leading to certifica-
17 tion, including programs established pursuant to the
18 provisions of section one-a of this article and programs
19 which are in effect on the effective date of this section,
20 and (5) any continuing professional education, profes-
21 sional development and in-service training programs
22 for professional educators employed in the public
23 schools in the state.

24 The state board of education, after consultation with
25 the secretary of education and the arts, who shall
26 represent the board of directors of the state college
27 system and the board of trustees of the university of
28 West Virginia system, shall adopt standards for the
29 education of professional educators in the state and for

30 the awarding of certificates valid in the public schools
31 of this state.

32 The standards approved by the board for teacher
33 preparation shall include a provision for the study of
34 multicultural education. As used in this section,
35 multicultural education means the study of the plural-
36 istic nature of American society including its values,
37 institutions, organizations, groups, status positions and
38 social roles.

39 (b) To give prospective teachers the teaching expe-
40 rience needed to demonstrate competence as a prereq-
41 uisite to certification, the state board of education may
42 enter into an agreement with county boards of educa-
43 tion for the use of the public schools. Such agreement
44 shall recognize student teaching as a joint responsibil-
45 ity of the teacher preparation institution and the
46 cooperating public schools and shall include (1) the
47 minimum qualifications for the employment of public
48 school teachers selected as supervising teachers; (2) the
49 remuneration to be paid public school teachers by the
50 state board, in addition to their contractual salaries,
51 for supervising student teachers; and (3) minimum
52 standards to guarantee the adequacy of the facilities
53 and program of the public school selected for student
54 teaching. The student teacher, under the direction and
55 supervision of the supervising teacher, shall exercise
56 the authority of a substitute teacher.

57 (c) The state superintendent of schools may issue
58 certificates to graduates of teacher education programs
59 and alternative teacher education programs approved
60 by the state board of education and in accordance with
61 rules adopted by the state board after consultation
62 with the secretary of education and the arts, who shall
63 represent the board of directors of the state college
64 system and the board of trustees of the university of
65 West Virginia system. A certificate to teach shall not
66 be granted to any person who is not a citizen of the
67 United States, is not of good moral character and
68 physically, mentally and emotionally qualified to
69 perform the duties of a teacher and who has not
70 attained the age of eighteen years on or before the

71 first day of October of the year in which his certificate
72 is issued; except, that an exchange teacher from a
73 foreign country, or an alien person who meets the
74 requirements to teach may be granted a permit to
75 teach within the public schools of the state.

76 (d) In consultation with the secretary of education
77 and the arts, who shall represent the board of direc-
78 tors of the state college system and the board of
79 trustees of the university of West Virginia system,
80 institutions of higher education approved for teacher
81 preparation may cooperate with each other, with the
82 center for professional development and with one or
83 more county boards of education in the organization
84 and operation of centers to provide selected phases of
85 the teacher preparation program such as student
86 teaching, beginning teacher internship programs,
87 instruction in methodology and seminar programs for
88 college students, teachers with provisional certifica-
89 tion, professional support team members and supervis-
90 ing teachers.

91 Such institutions of higher education, the center and
92 county boards of education may by mutual agreement
93 budget and expend funds for the operation of such
94 centers through payments to the appropriate fiscal
95 office of the participating institutions, the center and
96 the county boards.

97 The provisions of this section shall not be construed
98 to require the discontinuation of an existing student
99 teacher training center or school which meets the
100 standards of the state board of education.

101 All institutions of higher education approved for
102 teacher preparation in the school year of one thousand
103 nine hundred sixty-two—sixty-three shall continue to
104 hold that distinction so long as they meet the mini-
105 mum standards for teacher preparation. Nothing
106 contained herein shall infringe upon the rights
107 granted to any institution by charter given according
108 to law previous to the adoption of this code.

§18A-3-1a. Alternative programs for the education of teachers.

1 (a) By the first day of July, one thousand nine

2 hundred ninety-one, the state board of education, after
3 consultation with the secretary of education and the
4 arts, shall adopt rules in accordance with the provi-
5 sions of article three-b, chapter twenty-nine-a of this
6 code for the approval and operation of teacher educa-
7 tion programs which are an alternative to the regular
8 college or university programs for the education of
9 teachers. To participate in an approved alternative
10 teacher education program, the candidate must hold
11 an alternative program teacher certificate issued by
12 the superintendent and endorsed for the instructional
13 field in which the candidate seeks certification. An
14 alternative program teacher certificate is a temporary
15 certificate issued for one year to a candidate who does
16 not meet the standard educational requirements for
17 certification. To be eligible for such a certificate, an
18 applicant shall:

19 (1) Possess at least a bachelor's degree from an
20 accredited institution of higher education in a disci-
21 pline taught in the public schools, except that the rules
22 established by the board may exempt candidates in
23 selected vocational and technical areas who have at
24 least ten years experience in the subject field from
25 this requirement;

26 (2) Pass an appropriate state board approved basic
27 skills and subject matter tests or complete three years
28 of successful experience within the last seven years in
29 the area for which licensure is being sought;

30 (3) Be a citizen of the United States, be of good
31 moral character and physically, mentally and emotion-
32 ally qualified to perform the duties of a teacher, and
33 have attained the age of eighteen years on or before
34 the first day of October of the year in which the
35 alternative program teacher certificate is issued; and

36 (4) Have been offered employment in a school
37 included in an alternative teacher education plan
38 approved by the board to offer an alternative teacher
39 education program.

40 Persons who pass the the appropriate test as set
41 forth in subdivision (2) above shall be granted a formal

42 document which will enable them to seek employment
43 as an alternative program teacher in a public school
44 approved to offer an alternative teacher education
45 program.

46 (b) The rules adopted by the board shall include
47 provisions for the approval of alternative teacher
48 education programs which may be offered by schools,
49 school districts, consortia of schools or regional educa-
50 tional service agency and for the setting of tuition
51 charges to offset the program costs. An approved
52 alternative teacher education program shall be in
53 effect for a school, school district, consortium of
54 schools or regional educational service agency before
55 an alternative program teacher may be employed in
56 that school, school district, consortium of schools or
57 regional educational service agency. Approximately
58 two hundred hours of formal instruction shall be
59 provided in all of the three following phases combined.
60 An approved alternative program shall provide essen-
61 tial knowledge and skills to alternative program
62 teachers through the following phases of training:

63 (1) A full-time seminar/practicum of no less than
64 twenty and no more than thirty days duration which
65 is accomplished before the alternative program
66 teacher has full responsibility for a classroom. The
67 seminar/practicum shall provide formal instruction in
68 the essential areas for professional study which shall
69 emphasize the topics of student assessment, develop-
70 ment and learning, curriculum, classroom manage-
71 ment, and the use of educational computers and other
72 technology and shall introduce basic teaching skills
73 through supervised teaching experiences with stu-
74 dents. The seminar and practicum components shall
75 be integrated and shall include an orientation to the
76 policies, organization and curriculum of the employing
77 district;

78 (2) A period of intensive on-the-job supervision
79 beginning the first day on which the alternative
80 program teacher assumes full responsibility for a
81 classroom and continuing for a period of at least ten
82 weeks. During this time, the alternative program

83 teacher shall be visited and critiqued no less than one
84 time per week by members of a professional support
85 team and shall be observed and formally evaluated at
86 the end of five weeks and at the end of ten weeks by
87 the appropriately certified members of the team.
88 During the same period, formal instruction shall be
89 continued in the essential areas for professional study
90 which shall emphasize the topics of teaching skills,
91 student assessment, development and learning, curric-
92 ulum, classroom management, and the use of educa-
93 tional computers and other technology. At the end of
94 the ten-week period, the alternative program teacher
95 shall receive a formal written progress report from the
96 chairperson of the support team; and

97 (3) An additional period of continued supervision
98 and evaluation of no less than twenty weeks duration.
99 During this period, the alternative program teacher
100 shall be visited and critiqued at least twice per month
101 and shall be observed formally and evaluated at least
102 twice. No more than two months shall pass without a
103 formal evaluation. Formal instruction shall continue
104 in the essential areas for professional study. Opportun-
105 ities shall be provided for the alternative program
106 teacher to observe the teaching of experienced
107 colleagues.

108 (c) Training and supervision of alternative program
109 teachers shall be provided by a professional support
110 team comprised of a school principal, an experienced
111 classroom teacher, a college or university education
112 faculty member and a curriculum supervisor. Districts
113 or schools which do not employ curriculum supervi-
114 sors or have been unable to establish a relationship
115 with a college or university shall provide for compara-
116 ble expertise on the team. The school principal shall
117 serve as chairperson of the team.

118 (d) The training efforts of the districts shall be
119 coordinated by the center for professional develop-
120 ment and the center shall provide an orientation and
121 training program for professional support team
122 members.

123 (e) A school, school district, consortium of schools or
124 regional educational service agency seeking to employ
125 an alternative program teacher must submit a plan to
126 the state board of education and receive approval in
127 accordance with the same procedures used for approval of
128 collegiate preparation programs. Each plan shall
129 describe how the proposed training program will
130 accomplish the key elements of an alternative program
131 for the education of teachers as set forth in this
132 section. Each school, school district, consortium of
133 schools or regional educational service agency shall
134 show evidence in its plan of having sought joint
135 sponsorship of their training program with institutions
136 of higher education.

**§18A-3-1b. Recommendation for certification of alternative
program teachers.**

1 At the conclusion of an alternative teacher education
2 program, the principal, chairperson of the professional
3 support team, shall prepare a comprehensive evaluation
4 report on the alternative program teacher's
5 performance. This report shall be submitted directly to
6 the state superintendent of schools and shall contain a
7 recommendation as to whether or not a professional
8 certificate should be issued to the alternative program
9 teacher. The report shall be made on standard forms
10 developed by the state superintendent.

11 The comprehensive evaluation report shall include
12 one of the following recommendations:

13 (1) Approved: Recommends issuance of a professional
14 certificate;

15 (2) Insufficient: Recommends that a professional
16 certificate not be issued but that the candidate be
17 allowed to seek reentry on one or more occasions in
18 the future into an approved alternative teacher
19 education program; or

20 (3) Disapproved: Recommends that a professional
21 certificate not be issued and that the candidate not be
22 allowed to enter into another approved alternative
23 teacher education program in this state, but shall not

24 be prohibited from pursuing teacher certification
 25 through other approved programs for the education of
 26 teachers in this state.

27 The chairperson of the professional support team
 28 shall provide the alternative program teacher with a
 29 copy of the alternative program teacher's written
 30 evaluation report and certification recommendation
 31 before submitting it to the state superintendent. If the
 32 alternative program teacher disagrees with the chair-
 33 person's recommendation, the alternative program
 34 teacher may, within fifteen days of receipt, request an
 35 appeal in accordance with the certification appeals
 36 process established by the state board of education.

**§18A-3-2. Teacher certification; required; expiration; quali-
 fications; certification of aliens.**

1 Any professional educator, as defined in article one
 2 of this chapter, who is employed within the public
 3 school system of the state shall hold a valid teaching
 4 certificate licensing him or her to teach in the special-
 5 izations and grade levels as shown on the certificate
 6 for the period of his or her employment. If a teacher
 7 is employed in good faith on the anticipation that he
 8 or she is eligible for a certificate and it is later
 9 determined that the teacher was not eligible, the state
 10 superintendent of schools may authorize payment by
 11 the county board of education to the teacher for a time
 12 not exceeding three school months or the date of
 13 notification of his or her ineligibility, whichever shall
 14 occur first. All certificates shall expire on the thirtieth
 15 day of June of the last year of their validity irrespec-
 16 tive of the date of issuance.

**§18A-3-2a. Authority of state superintendent to issue
 certificates; kinds of certificates.**

1 In accordance with state board of education rules for
 2 the education of professional educators adopted after
 3 consultation with the secretary of education and the
 4 arts, the state superintendent of schools may issue
 5 certificates valid in the public schools of the state:
 6 *Provided*, That a certificate shall not be issued to any
 7 person who is not a citizen of the United States, is not

8 of good moral character and physically, mentally and
9 emotionally qualified to perform the duties for which
10 the certification would be granted and who has not
11 attained the age of eighteen years on or before the
12 first day of October of the year in which the certificate
13 is issued: *Provided, however,* That an exchange
14 teacher from a foreign county, or an alien person who
15 meets the requirements to teach may be granted a
16 permit to teach within the public schools of the state.

17 Certificates authorized to be issued include:

18 (1) *Professional teaching certificates.*—A professional
19 teaching certificate for teaching in the public schools
20 may be issued to a person who:

21 (i) Has at least a bachelor's degree from an accre-
22 dited institution of higher education in this state, has
23 completed a program for the education of teachers
24 which meets the requirements approved by the state
25 board of education, or has met equivalent standards at
26 institutions in other states, and has passed appropriate
27 state board approved basic skills and subject matter
28 tests or has completed three years of successful
29 experience within the last seven years in the area for
30 which licensure is being sought; or

31 (ii) Has at least a bachelor's degree in a discipline
32 taught in the public schools from an accredited
33 institution of higher education, has passed appropriate
34 state board approved basic skills and subject matter
35 tests or has completed three years of successful
36 experience within the last seven years in the area for
37 which licensure is being sought, has completed an
38 alternative program for teacher education approved by
39 the state board and is recommended for a certificate
40 by the chairperson of the professional support team of
41 the persons alternative program or the state superin-
42 tendent based on documentation submitted.

43 The certificate shall be endorsed to indicate the
44 grade level or levels, or areas of specialization in
45 which the person is certified to teach or to serve in the
46 public schools. The initial professional certificate shall
47 be issued provisionally for a period of three years from

48 the date of issuance and may be converted to a
49 professional certificate valid for five years subject to
50 successful completion of a beginning teacher intern-
51 ship, if applicable, or renewed subject to rules adopted
52 by the state board.

53 (2) *Professional administrative certificate.*—A profes-
54 sional administrative certificate, endorsed for serving
55 in the public schools, may be issued to a person who
56 has completed requirements all to be approved by the
57 state board as follows: for a master's degree in an
58 institution of higher education accredited to offer a
59 master's degree, has successfully completed education
60 and training in evaluation skills through the center for
61 professional development, or equivalent education and
62 training in evaluation skills, and three years of
63 management level experience. Beginning the first day
64 of September, one thousand nine hundred seventy, the
65 initial professional administrative certificate shall be
66 issued provisionally for a period of three years. This
67 certificate may be converted to a professional admin-
68 istrative certificate valid for five years or renewed,
69 subject to the regulations of the state board.

70 (3) *Paraprofessional certificate.*—A paraprofessional
71 certificate may be issued to a person who has com-
72 pleted thirty-six semester hours of post-secondary
73 education or its equivalent in subjects directly related
74 to performance of the job, all approved by the state
75 board, and can demonstrate the proficiencies to
76 perform duties as required of a paraprofessional as
77 defined in section eight, article four of this chapter.

78 (4) *Other certificates; permits.*—Other certificates
79 and permits may be issued, subject to the approval of
80 the state board, to persons who do not qualify for the
81 professional or paraprofessional certificate. Such
82 certificates or permits shall not be given permanent
83 status and persons holding such shall meet renewal
84 requirements provided by law and by regulation,
85 unless the state board declares certain of these certifi-
86 cates to be the equivalent of the professional
87 certificate.

88 Within the category of other certificates and permits,
89 the state superintendent may issue certificates for
90 persons to serve, in the public schools as athletic
91 coaches or other extracurricular activities coaches
92 whose duties may include the supervision of students,
93 subject to the following limitations: (i) Such person
94 shall be employed under a contract with the county
95 board of education which specifies the duties to be
96 performed, which specifies a rate of pay equivalent to
97 the rate of pay for professional educators in the
98 district who accept similar duties as extra duty
99 assignments and which provides for liability insurance
100 associated with the activity: *Provided*, That such
101 persons shall not be considered employees of the board
102 for salary and benefit purposes other than as specified
103 in the contract; (ii) a currently employed certified
104 professional educator has not applied for the position;
105 and (iii) such person completes an orientation program
106 designed and approved in accordance with state board
107 rules which shall be adopted no later than the first day
108 of January, one thousand nine hundred ninety-one.

§18A-3-2b. Beginning teacher internships.

1 (a) Every person to whom a professional teaching
2 certificate is awarded after the first day of January,
3 one thousand nine hundred ninety-two, shall success-
4 fully complete a beginning teacher internship program
5 under the provisions of this section, except such
6 persons who were awarded a professional teaching
7 certificate on the basis of at least five years teaching
8 experience in another state.

9 The beginning teacher internship program is a
10 school based program intended to provide appropriate
11 staff development activities and supervision to begin-
12 ning teachers to assure their competency for licensure
13 to teach in the public schools of this state. The
14 beginning teacher internship program shall consist of
15 the following components:

16 (1) A professional support team comprised of the
17 school principal, who shall be the chair of the profes-
18 sional support team, a member of the county profes-

19 sional staff development council and an experienced
20 classroom teacher at the school who teaches the same
21 or similar subject and grade level as the beginning
22 teacher and who shall serve as a mentor for the
23 beginning teacher;

24 (2) An orientation program to be conducted prior to
25 the beginning of the instructional term, but within the
26 employment term, supervised by the mentor teacher;

27 (3) The scheduling of joint planning periods for the
28 mentor and beginning teacher throughout the school
29 year;

30 (4) Mentor observation of the classroom teaching
31 skills of the beginning teacher for at least one hour per
32 week during the first half of the school year and
33 which may be reduced at the discretion of the mentor
34 to one hour every two weeks during the second half of
35 the school year;

36 (5) Weekly meetings between the mentor and the
37 beginning teacher at which the mentor and the
38 beginning teacher discuss the performance of the
39 beginning teacher and any needed improvements,
40 which meetings may be reduced at the discretion of
41 the mentor to biweekly meetings during the second
42 half of the school year;

43 (6) Monthly meetings of the professional support
44 team to discuss the performance of the beginning
45 teacher which meetings may include all mentor
46 members of all professional support teams at the
47 school if helpful in the judgement of the participants;

48 (7) In-service professional development programs
49 provided through the professional development project
50 of the center for professional development for begin-
51 ning teachers and for mentors both of which will be
52 held in the first half of the school year;

53 (8) The provision of necessary release time from
54 regular duties for the mentor teacher, as agreed to by
55 the principal and the mentor teacher, and a stipend of
56 at least six hundred dollars for the mentor teacher for
57 duties as a mentor teacher; and

58 (9) A final evaluation of the performance of the
59 beginning teacher completed by the principal on a
60 form developed by the state board of education.

61 (b) The final evaluation form shall be submitted by
62 the principal to the county school superintendent and
63 shall include one of the following recommendations:

64 (1) Full professional status: A recommendation of
65 full professional status indicates that the beginning
66 teacher has successfully completed the internship
67 program and in the judgement of the principal has
68 demonstrated competence as a professional educator;

69 (2) Continuing internship status: A recommendation
70 of continuing internship status indicates that in the
71 judgement of the principal the beginning teacher
72 requires further supervision and further employment
73 in the district should be conditioned upon successful
74 completion of an additional year under a beginning
75 teacher internship program; or

76 (3) Discontinue employment: A recommendation to
77 discontinue employment indicates that in the judge-
78 ment of the principal the beginning teacher has
79 completed two years of employment under supervision
80 in a beginning teacher internship program, has not
81 demonstrated competence as a professional educator
82 and will not benefit from further supervised employ-
83 ment in the district.

§18A-3-3. Renewal of certificates; permanent certification.

1 Until the person qualifies for a permanent certifi-
2 cate, any professional or first class certificate based
3 upon a bachelor's degree shall be renewable provided
4 the holder: (1) Files application on a prescribed form
5 with the state department of education; (2) presents an
6 official transcript of six semester hours of approved
7 credit, as may be prescribed by the state board:
8 *Provided*, That such renewal is completed after the
9 beginning of the period of validity of the certificate to
10 be renewed and within the five-year period immedi-
11 ately preceding the date of application for renewal; (3)
12 successfully completes a beginning teacher internship

13 program, if applicable; and (4) submits a recommenda-
14 tion based on successful teaching experience from the
15 county superintendent of schools of the county in
16 which the holder last taught or resides.

17 The holder of a professional certificate, valid for five
18 years, shall have the certificate made permanent upon
19 meeting either of the following requirements: (1)
20 Completion of the second renewal, in accordance with
21 the provisions set forth in (2) above; (2) after five years
22 of service in the public schools, presentation of a
23 transcript showing the completion of requirements for
24 a master's degree from an institution of higher
25 education accredited to offer the master's degree and
26 in a program relevant to the public school program or
27 completes the fifth year of training leading to a
28 bachelor's degree in library science from a school fully
29 approved by the American library association. In
30 either event the person must file application on a
31 prescribed form with the state department of educa-
32 tion and must submit a recommendation from the
33 county superintendent of schools of the county in
34 which the person last taught or resides.

35 All certificates and permits, other than the profes-
36 sional certificate, shall be renewed in accordance with
37 state board regulations.

38 If the applicant seeking renewal has cause to believe
39 that the county superintendent refuses to give a
40 recommendation without just cause, the applicant
41 shall have the right, in such case, to appeal to the state
42 superintendent of schools whose responsibility it shall
43 be to investigate the matter and issue a certificate if,
44 in the opinion of the state superintendent, the county
45 superintendent's recommendation was withheld
46 arbitrarily.

47 A person who has reached the age of sixty and holds
48 a renewable certificate, as provided in this section,
49 need not present renewal credit but shall meet all
50 other renewal requirements.

§18A-3-8. County professional staff development councils.

1 The Legislature finds the professional expertise and

2 insight of the classroom teacher to be an invaluable
3 ingredient in the development and delivery of staff
4 development programs which meet the needs of
5 classroom teachers.

6 Therefore, a professional staff development council
7 comprised of proportional representation from the
8 major school levels and from vocational, special
9 education and other specialties in proportion to their
10 employment numbers in said county shall be estab-
11 lished in each school district in the state in accordance
12 with rules adopted by the state board of education.
13 Nominations of instructional personnel to serve on the
14 county staff development council may be submitted by
15 the faculty senates of the district to the county
16 superintendent who shall prepare and distribute
17 ballots and tabulate the votes of the counties instruc-
18 tional personnel voting on the persons nominated.
19 Each county staff development council shall consist of
20 between nine and fifteen members at the discretion of
21 the county superintendent based on the size of the
22 county. Such councils shall have final authority to
23 propose staff development programs for their peers
24 based upon rules established by statute and the council
25 on professional education.

26 The county superintendent or a designee shall enjoy
27 an advisory, nonvoting role on said council. The
28 county board shall make available an amount equal to
29 one tenth of one percent of the amounts provided in
30 accordance with section four, article nine-a, chapter
31 eighteen of this code and credit such funds to an
32 account to be used by the council to fulfill its objec-
33 tives. The local board will have final approval of all
34 proposed disbursements.

35 The professional staff development project of the
36 center for professional development shall assist in the
37 development and delivery of staff development pro-
38 grams by the county staff development councils and
39 shall coordinate staff development efforts statewide.

ARTICLE 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.

**§18A-3A-1. Center for professional development created;
intent; advisory council.**

1 (a) Teaching is a profession that directly correlates
2 to the social and economic well-being of a society and
3 its citizens. Superior teaching is essential to a well
4 educated and productive populace. The intent of this
5 article is to recognize the value of professional invol-
6 vement by experienced educators in building and
7 maintaining a superior teaching force and to establish
8 avenues for applying such involvement.

9 In furtherance of this intent, the center for profes-
10 sional development is established. The general mission
11 of the center is to study matters relating to the quality
12 of teaching and management in the schools of West
13 Virginia and to promote the implementation of pro-
14 grams and practices to assure the highest quality in
15 such teaching and management. The center shall also
16 perform such duties as are assigned to it by law.

17 The center shall consist of nine persons as members:
18 The secretary of education and the arts, ex officio; the
19 state superintendent of schools, ex officio; one member
20 of the state board of education, elected by the state
21 board; two experienced educators, of whom one shall
22 be a working classroom teacher, appointed by the
23 governor by and with the advice and consent of the
24 senate; and four citizens of the state who are knowl-
25 edgeable in matters relevant to the issues addressed by
26 the center appointed by the governor by and with the
27 advice and consent of the senate. No two appointees
28 shall be residents within the same region. The state
29 superintendent of schools shall convene the first
30 meeting of the center to elect a chair, vice-chair and
31 secretary.

32 The election and appointment of members shall be
33 made as soon as possible after the effective date of this
34 section. Of the initial appointed members, three shall
35 be appointed for two-year terms and four shall be
36 appointed for four-year terms. All successive appoint-
37 ments shall be for four-year terms.

38 The center for professional development shall meet
39 at least quarterly, and the appointed members shall be
40 reimbursed for reasonable and necessary expenses

41 actually incurred in the performance of their official
42 duties from funds appropriated or otherwise made
43 available for such purposes upon submission of an
44 itemized statement therefor.

45 The center may employ and fix the compensation of
46 an executive director and such other persons as may
47 be necessary to carry out the mission and duties of the
48 center. When practical, personnel employed by state
49 higher education agencies and state, regional and
50 county public education agencies shall be made avail-
51 able to the center to assist in the operation of projects
52 of limited duration.

53 The center shall contract with existing agencies or
54 agencies created after the effective date of this section
55 or others to provide training programs in the most
56 efficient manner. Existing programs currently based
57 in agencies of the state shall be continued in the
58 agency of their origin unless the center establishes a
59 compelling need to transfer or cancel the existing
60 program. The center shall recommend to the governor
61 the transfer of funds to the providing agency, if
62 needed, to provide programs approved by the center.

63 (b) To assist the center for professional development
64 in the performance of its duties related to teacher
65 education and professional development, there is
66 created an advisory council on professional develop-
67 ment which shall consist of eleven persons as follows:
68 An employee of the center who shall chair the advi-
69 sory council; two shall be professors, or associate or
70 assistant professors, of teacher education, one from a
71 public institution and one from a private institution of
72 higher education in this state offering programs
73 leading to certification to teach in the public schools of
74 this state; two county school superintendents, one of
75 whom shall be from a district with a student enroll-
76 ment above the statewide average and one of whom
77 shall be from a district with a student enrollment
78 below such average; two school principals, one of
79 whom shall be from a school including elementary
80 grade levels and one of whom shall be from a school
81 including secondary grade levels; and four professional

82 instructional personnel, two of whom shall be from a
83 school including elementary grade levels and two of
84 whom shall be from a school including secondary
85 grade levels. To the extent possible, the principals and
86 instructional personnel shall be appointed from the
87 members of county staff development councils. Except
88 for the employee of the center, the members shall be
89 appointed jointly by the secretary of education and the
90 arts and the state superintendent for two year terms
91 which overlap so that one member from each of the
92 classes shall be appointed in each successive year,
93 except that two members from the professional
94 instructional personnel class shall be appointed in each
95 successive year. No two members of the council shall
96 be from the same college or university or school
97 district. Members of the council shall be granted
98 release time from their employment for attending
99 meetings of the council.

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

- 1 (a) Through this project the center shall:
 - 2 (1) Identify the knowledge, skills, attitudes and other
3 such pertinent complements deemed essential for an
4 individual to demonstrate appropriate performance as
5 a professional personnel in the public schools of West
6 Virginia. The center shall review the report of the
7 governor's committee on the preparation of teachers
8 established in section six of this article, shall partici-
9 pate in the work of, and may contract with, the
10 National Board for Professional Teaching Standards,
11 Inc., to develop processes, procedures and assessment
12 measures for the certification of teachers, and shall
13 consult regularly with active members of the teaching
14 profession in the public schools and higher education
15 teacher preparation programs. The center may make
16 recommendations to the state board of education and
17 the higher education governing boards regarding the
18 adoption of such work for application in the continuing
19 professional development of public school professional
20 educators;
 - 21 (2) Serve in a coordinating capacity to assure that

22 the knowledge, skills, attitude and other pertinent
23 complements of appropriate professional performance
24 which evolve over time in the public school environ-
25 ment are appropriately reflected in the programs
26 approved for the education of professional personnel;

27 (3) Provide for the routine updating of professional
28 skills of professional educators through in-service and
29 other programs; and

30 (4) Provide consultation and assistance to county
31 staff development councils established under the
32 provisions of section eight, article three of this chapter
33 in designing and delivering staff development pro-
34 grams to meet the staff development needs of the
35 professional educators of their county.

§18A-3A-2a. Development training project.

1 Through this project the center shall develop train-
2 ing in the area of developmental instruction with an
3 emphasis in grades kindergarten through grade four.

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

1 Through this project, the center shall:

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

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

**§18A-3A-4. Project for instructional renewal through
science and technology (Project FIRST).**

1 Through this project, the center shall:

2 (1) Determine the most effective and efficient ways
3 to integrate the capabilities of the state for producing,
4 delivering and receiving electronic instruction and
5 establish a comprehensive long-range plan to further
6 the cooperation and coordination of the various agen-

7 cies of the state, the county boards of education and
8 the regional educational service agencies involved in
9 distance learning technology; and

10 (2) Encourage the use of technology for educational
11 purposes that will enhance teaching and learning,
12 promote equality in educational offerings, facilitate the
13 delivery of instruction to non-traditional student
14 populations and increase educational system manage-
15 ment capabilities, including assisting in the provision
16 of training programs for teachers involved in technol-
17 ogy assisted instruction programs.

18 In accomplishing this project, the center shall
19 cooperate with and receive cooperation from other
20 agencies of the state and its political subdivisions
21 which have control over technologies appropriate for
22 application in the project or which have a need for the
23 services available as a result of the project.

24 A goal of the project is to create a statewide technol-
25 ogy network linking universities and colleges, schools,
26 libraries and, eventually, homes with software, data
27 bases and video learning capabilities.

§18A-3A-5. West Virginia advanced placement center.

1 There is established a West Virginia advanced
2 placement center to provide statewide coordination for
3 the continued growth and development of the
4 advanced placement programs in West Virginia high
5 schools. The center will assist the West Virginia
6 department of education, county boards of education,
7 institutions of higher education, The College Board,
8 Inc., and the West Virginia advanced placement
9 advisory council in all matters relative to the advanced
10 placement in this state.

11 The specific functions of the center include:

12 (1) Coordinating advanced placement teacher train-
13 ing institutes;

14 (2) Establishing a cadre of instructors for the
15 advanced placement teacher training institutes;

16 (3) Providing follow-up teacher training for advance

17 placement teachers;

18 (4) Identifying and obtaining external sources of
19 funding;

20 (5) Networking advanced placement teachers
21 through an advanced placement newsletter;

22 (6) Serving as a liaison for The College Board and
23 the West Virginia department of education, county
24 boards of education, institutions of higher education,
25 the West Virginia advanced placement advisory coun-
26 cil, the Legislature and the governor;

27 (7) Conducting research and evaluating the state's
28 advanced placement program;

29 (8) Assisting county boards of education and local
30 schools in establishing, evaluating and maintaining
31 advanced placement programs;

32 (9) Serving as a clearing house for advanced place-
33 ment materials and correspondence; and

34 (10) Certify individual courses that meet the estab-
35 lished standards of advanced placement programs.

§18A-3A-6. Task force on teacher preparation.

1 The task force on the preparation of teachers
2 appointed by the governor and existing on the effec-
3 tive date of this section shall undertake a comprehen-
4 sive review of programs to prepare teachers for
5 employment in West Virginia, shall identify ways to
6 improve teacher preparation programs and shall
7 report to the governor and the Legislature on such
8 matters no later than the fifteenth day of December,
9 one thousand nine hundred ninety. The report should
10 address:

11 (1) Upgrading teacher education programs to make
12 the academic area of study more rigorous and more
13 effective;

14 (2) Streamlining and simplifying certification stand-
15 ards and processes;

16 (3) Establishing a delivery system in higher educa-

17 tion for the in-field masters program;

18 (4) An examination of the range of non-traditional
19 approaches to augment the teaching force, including,
20 but not limited to, alternative programs leading to
21 certification and national teacher's exam testing;

22 (5) A survey of the demand for teachers over the
23 next ten years which identifies possible areas of
24 teacher shortage and over supply;

25 (6) Upgrading teacher education programs to make
26 the pedagogical area of study reflective of new devel-
27 opments in the classroom such as distance learning,
28 computer assisted instruction and early childhood
29 developmental programs;

30 (7) Continuing education and evaluation of the
31 teaching force; and

32 (8) Recommendations relating to the governance of
33 teacher preparation, including, but not limited to,
34 assessment, accountability, funding and mechanisms to
35 assure appropriate program review and modifications
36 in response to the changing demands of the teaching
37 work force.

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

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

1 A county board of education shall make decisions
2 affecting the hiring of new classroom teachers or
3 professional personnel other than classroom teachers,
4 on the basis of the applicant with the highest qualifi-
5 cations. In judging qualifications, consideration shall
6 be given to each of the following: Appropriate certifi-
7 cation and/or licensure; amount of experience rele-
8 vant to the position or, in the case of a classroom
9 teaching position, the amount of teaching experience
10 in the subject area and/or grade level; the amount of
11 course work and/or degree level in the relevant field
12 and degree level generally; academic achievement;
13 relevant specialized training; past performance evalua-
14 tions conducted pursuant to section twelve, article two

15 of this chapter; and other measures or indicators upon
16 which the relative qualifications of the applicant may
17 fairly be judged. If one or more permanently
18 employed instructional personnel apply for a class-
19 room teaching position and meet the standards set
20 forth in the job posting, the county board of education
21 shall make decisions affecting the filling of such
22 positions on the basis of the following: Appropriate
23 certification and/or licensure; amount of experience
24 relevant to the position; the existence of teaching
25 experience in the subject area; degree level in the
26 relevant field; specialized training directly related to
27 the performance of the job; meeting satisfactory
28 standards in evaluations over the previous two years;
29 and seniority. If the applicant with the most seniority
30 is not selected for the position, upon the request of the
31 applicant a written statement of reasons shall be given
32 to the applicant with suggestions for improving the
33 applicant's qualifications.

34 The seniority of classroom teachers as defined in
35 section one, article one of this chapter with the
36 exception of guidance counselors shall be determined
37 on the basis of the length of time the employee has
38 been employed as a regular full-time certified and/or
39 licensed professional educator by the county board of
40 education and shall be granted in all areas that the
41 employee is certified and/or licensed.

42 Upon completion of one hundred thirty-three days
43 of employment in any one school year, substitute
44 teachers shall accrue seniority exclusively for the
45 purpose of applying for employment as a permanent,
46 full-time professional employee. One hundred thirty-
47 three days or more of said employment shall be
48 prorated and shall vest as a fraction of the school year
49 worked by the permanent, full-time teacher.

50 Guidance counselors and all other professional
51 employees, as defined in section one, article one of this
52 chapter, except classroom teachers, shall gain seniority
53 in their non-teaching area of professional employment
54 on the basis of the length of time the employee has
55 been employed by the county board of education in

56 that area: *Provided*, That if an employee is certified as
57 a classroom teacher, the employee accrues classroom
58 teaching seniority for the time that that employee is
59 employed in another professional area. For the pur-
60 poses of accruing seniority under this paragraph,
61 employment as principal, supervisor or central office
62 administrator, as defined in section one, article one of
63 this chapter, shall be considered one area of
64 employment.

65 Employment for a full employment term shall equal
66 one year of seniority, but no employee may accrue
67 more than one year of seniority during any given
68 fiscal year. Employment for less than the full employ-
69 ment term shall be prorated. A random selection
70 system established by the employees and approved by
71 the board shall be used to determine the priority if
72 two or more employees accumulate identical seniority.

73 Whenever a county board is required to reduce the
74 number of professional personnel in its employment,
75 the employee with the least amount of seniority shall
76 be properly notified and released from employment
77 pursuant to the provisions of section two, article two
78 of this chapter: *Provided*, That all persons employed in
79 a certification area to be reduced who are employed
80 under a temporary permit shall be properly notified
81 and released before a fully certified employee in such
82 a position is subject to release: *Provided, however*,
83 That an employee subject to release shall be employed
84 in any other professional position where such
85 employee is certified and was previously employed or
86 to any lateral area for which such employee is certi-
87 fied and/or licensed, if such employee's seniority is
88 greater than the seniority of any other employee in
89 that area of certification and/or licensure.

90 After the fifth day prior to the beginning of the
91 instructional term, or after the first day of the second
92 half of the instructional term, no person employed and
93 assigned to a professional position may transfer to
94 another professional position in the county during that
95 half of the instructional term: *Provided*, That such
96 person may apply for any posted, vacant positions with

97 the successful applicant assuming the position at the
98 beginning of the next half of the instructional term:
99 *Provided, however,* That professional personnel who
100 have been on an approved leave of absence may fill
101 these vacancies prior to the next semester. The
102 superintendent may fill a position before the next
103 instructional term when it is determined to be in the
104 best interest of the students.

105 All professional personnel whose seniority with the
106 county board is insufficient to allow their retention by
107 the county board during a reduction in work force
108 shall be placed upon a preferred recall list. As to any
109 professional position opening within the area where
110 they had previously been employed or to any lateral
111 area for which they have certification and/or licen-
112 sure, such employee shall be recalled on the basis of
113 seniority if no regular, full-time professional person-
114 nel, or those returning from leaves of absence with
115 greater seniority, are qualified, apply for and accept
116 such position. Before position openings that are known
117 or expected to extend for twenty consecutive employ-
118 ment days or longer for professional personnel may be
119 filled by the board, the board shall be required to
120 notify all qualified professional personnel on the
121 preferred list and give them an opportunity to apply,
122 but failure to apply shall not cause such employee to
123 forfeit any right to recall. The notice shall be sent by
124 certified mail to the last known address of the
125 employee, and it shall be the duty of each professional
126 personnel to notify the board of continued availability
127 annually of any change in address or of any change in
128 certification and/or licensure.

129 Boards shall be required to post and date notices of
130 all openings in established, existing or newly created
131 positions in conspicuous working places for all profes-
132 sional personnel to observe for at least five working
133 days. The notice shall be posted within twenty work-
134 ing days of such position openings and shall include
135 the job description. Any special criteria or skills that
136 are required by the position shall be specifically stated
137 in the job description and directly related to the

138 performance of the job. No vacancy shall be filled
139 until after the five-day minimum posting period. For
140 the purposes of this article, a position is deemed
141 vacant when the instructional position could be filled
142 by a certified, full-time professional personnel: *Pro-*
143 *vided*, That nothing provided herein shall prevent the
144 county board of education from eliminating a position
145 due to lack of need.

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

157 When the total number of classroom teaching posi-
158 tions in an elementary school needs to be reduced,
159 such reduction shall be made on the basis of seniority
160 with the least senior classroom teacher being recom-
161 mended for transfer: *Provided*, That a specified grade
162 level needs to be reduced and the least senior
163 employee in the school is not in that grade level, the
164 least senior classroom teacher in the grade level that
165 needs to be reduced shall be reassigned to the position
166 made vacant by the transfer of the least senior
167 classroom teacher in the school without that position
168 being posted: *Provided, however*, That the employee is
169 certified and/or licensed and agrees to the
170 reassignment.

§18A-4-8b. Seniority rights for school service personnel.

1 A county board of education shall make decisions
2 affecting promotion and filling of any service person-
3 nel positions of employment or jobs occurring
4 throughout the school year that are to be performed
5 by service personnel as provided in section eight,
6 article four of this chapter, on the basis of seniority,

7 qualifications and evaluation of past service.

8 Qualifications shall mean that the applicant holds a
9 classification title in his category of employment as
10 provided in this section and must be given first
11 opportunity for promotion and filling vacancies. Other
12 employees then must be considered and shall qualify
13 by meeting the definition of the job title as defined in
14 section eight, article four of this section, that relates to
15 the promotion or vacancy. If the employee so requests,
16 the board must show valid cause why an employee
17 with the most seniority is not promoted or employed
18 in the position for which he applies. Applicants shall
19 be considered in the following order:

20 (1) Regularly employed service personnel;

21 (2) Service personnel whose employment has been
22 discontinued in accordance with this section;

23 (3) Professional personnel who held temporary
24 service personnel jobs or positions prior to the ninth
25 day of June, one thousand nine hundred eighty-two,
26 and who apply only for such temporary jobs or
27 positions;

28 (4) Substitute service personnel; and

29 (5) New service personnel.

30 The county board of education may not prohibit a
31 service employee from retaining or continuing his
32 employment in any positions or jobs held prior to the
33 effective date of this section and thereafter.

34 A promotion shall be defined as any change in his
35 employment that the employee deems to improve his
36 working circumstance within his classification cate-
37 gory of employment and shall include a transfer to
38 another classification category or place of employment
39 if the position is not filled by an employee who holds
40 a title within that classification category of employ-
41 ment. Each class title listed in section eight, article
42 four of this chapter shall be considered a separate
43 classification category of employment for service
44 personnel, except for those class titles having Roman

45 numeral designations, which shall be considered a
46 single classification of employment. The cafeteria
47 manager class title shall be included in the same
48 classification category as cooks. The executive secre-
49 tary class title shall be included in the same classifica-
50 tion category as secretaries.

51 For purposes of determining seniority under this
52 section an employee's seniority begins on the date that
53 he enters into his assigned duties.

54 Notwithstanding any other provisions of this chapter
55 to the contrary, decisions affecting such personnel
56 with respect to extra-duty assignments, shall be made
57 in the following manner: An employee with the
58 greatest length of service time in a particular category
59 of employment shall be given priority in accepting
60 such assignments, followed by other fellow employees
61 on a rotating basis according to the length of their
62 service time until all such employees have had an
63 opportunity to perform similar assignments. The cycle
64 then shall be repeated: *Provided*, That an alternative
65 procedure for making extra-duty assignments within a
66 particular classification category of employment may
67 be utilized if the alternative procedure is approved
68 both by the county board of education and by an
69 affirmative vote of two thirds of the employees within
70 that classification category of employment. For the
71 purpose of this section, extra-duty assignments are
72 defined as irregular jobs that occur periodically or
73 occasionally such as, but not limited to, field trips,
74 athletic events, proms, banquets and band festival
75 trips.

76 Boards shall be required to post and date notices of
77 all job vacancies of established existing or newly
78 created positions in conspicuous working places for all
79 school service employees to observe for at least five
80 working days. The notice of such job vacancies shall
81 include the job description, the period of employment,
82 the amount of pay and any benefits and other infor-
83 mation that is helpful to the employees to understand
84 the particulars of the job. After the five day minimum
85 posting period all vacancies shall be filled within

86 twenty working days from the posting date notice of
87 any job vacancies of established existing or newly
88 created positions.

89 All decisions by county boards of education concern-
90 ing reduction in work force of service personnel shall
91 be made on the basis of seniority, as hereinafter
92 provided.

93 The seniority of any such service personnel shall be
94 determined on the basis of the length of time the
95 employee has been employed by the county board of
96 education within a particular job classification. For the
97 purpose of establishing seniority for a preferred recall
98 list as hereinafter provided, when an employee has
99 been employed in one or more classifications, the
100 seniority accrued in each previous classification shall
101 be retained by the employee.

102 Should a county board of education be required to
103 reduce the number of employees within a particular
104 job classification, the employee with the least amount
105 of seniority within that classification or grades of
106 classification shall be properly released and employed
107 in a different grade of that classification if there is a
108 job vacancy: *Provided*, That if there is no job vacancy
109 for employment within such classification or grades of
110 classification, he shall be employed in any other job
111 classification which he previously held with the
112 county board if there is a vacancy and shall retain any
113 seniority accrued in such job classification or grade of
114 classification.

115 If two or more employees accumulate identical
116 seniority, the priority shall be determined by a
117 random selection system established by the employees
118 and approved by the county board.

119 All employees whose seniority with the county
120 board is insufficient to allow their retention by the
121 county board during a reduction in work force shall be
122 placed upon a preferred recall list and shall be recalled
123 to employment by the county board on the basis of
124 seniority.

125 Employees placed upon the preferred list shall be
 126 recalled to any position openings by the county board
 127 within the classification(s), where they had previously
 128 been employed, or to any lateral position for which the
 129 employee is qualified or to a lateral area for which an
 130 employee has certification and/or licensure.

131 Employees on the preferred recall list shall not
 132 forfeit their right to recall by the county board if
 133 compelling reasons require an employee to refuse an
 134 offer of reemployment by the county board.

135 The county board shall be required to notify all
 136 employees on the preferred recall list of all position
 137 openings that from time to time exist. Such notice
 138 shall be sent by certified mail to the last known
 139 address of the employee; it shall be the duty of each
 140 such employee to notify the county board of any
 141 change in the address of such employee.

142 No position openings may be filled by the county
 143 board, whether temporary or permanent, until all
 144 employees on the preferred recall list have been
 145 properly notified of existing vacancies and have been
 146 given an opportunity to accept reemployment.

147 Any board failing to comply with the provisions of
 148 this article may be compelled to do so by mandamus
 149 and shall be liable to any party prevailing against the
 150 board for court costs and his reasonable attorney fee,
 151 as determined and established by the court. Further,
 152 employees denied promotion or employment in viola-
 153 tion of this section shall be awarded the job, pay and
 154 any applicable benefits retroactively to the date of the
 155 violation and payable entirely from local funds.
 156 Further, the board shall be liable to any party prevail-
 157 ing against the board for any court reporter costs
 158 including copies of transcripts.

**§18A-4-8c. Seniority rights for personnel employed by
 multi-county vocational centers.**

1 Professional and service personnel employed by a
 2 multi-county vocational center shall establish seniority
 3 on the basis of the length of time the employee has

4 been employed by the multi-county vocational center,
5 except that any professional or service personnel
6 whose employment with the multi-county vocational
7 center was immediately preceded by employment
8 with one of the county boards participating in the
9 operation of the center or whose employment contract
10 was with one of the county boards participating in the
11 operation of the center (1) shall retain any seniority
12 accrued during employment by said county board; (2)
13 shall accrue seniority as a regular employee with said
14 county board during employment with the center; (3)
15 shall attain continuing contract status with both the
16 county and the center if the sum of the years
17 employed by the county and the center equals the
18 statutory number required for continuing contract
19 status; and (4) shall retain and continue to accrue
20 county and center seniority in the event of reemploy-
21 ment by said participating county as a result of direct
22 transfer from the center or recall from the preferred
23 list.

24 Reductions in work force in the center or employ-
25 ment by the center or county board shall be made in
26 accordance with the provisions of sections seven-a and
27 eight-b of this article: *Provided*, That only years of
28 employment within the multi-county vocational center
29 shall be considered for purposes of reduction in force
30 within the center.

31 The seniority conferred herein shall apply retroac-
32 tively to all affected professional and service person-
33 nel, but the rights incidental thereto shall commence
34 as of the effective date of this section.

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-4. Educational meetings.

1 A county board of education may approve the
2 attendance of any or all teachers at educational
3 conventions, conferences, or other professional meet-
4 ings of teachers on school days when in the judgment
5 of the superintendent it is necessary or desirable.
6 Attendance at such meetings may be substituted for
7 an equal amount of teaching or employment and

8 teachers attending shall not suffer loss of pay. Further,
9 the board is authorized to pay all or any part of
10 expenses of any personnel whom it may designate to
11 represent the board at any such professional or
12 educational meetings or in visitation to another school
13 system.

14 Every county board of education shall adopt a policy
15 under which professional educators serving as mentor
16 teachers, serving on state and county professional staff
17 development councils, serving on school curriculum
18 teams, and serving on professional support teams will
19 be granted professional time if required for perfor-
20 mance of their duties during the instructional day or
21 extra duty compensation if required at other times
22 and for reimbursement for necessary expenses actu-
23 ally incurred in attending meetings of the bodies upon
24 which they serve upon. Such policy shall provide for
25 the coverage of the professional personnel's regular
26 duties during such release times through the use of
27 paraprofessional aides, substitutes and other methods
28 if necessary to avoid the interruption of instruction.

ARTICLE 7. SEVERABILITY.

§18A-7-1. Severability.

1 Pursuant to section ten, article two, chapter two of
2 this code, if any provision of this chapter or the
3 application thereof to any person or circumstance is
4 held unconstitutional or invalid, such unconstitutional-
5 ity or invalidity shall not affect other provisions or
6 applications of the chapter, and to this end the
7 provisions of this chapter are declared to be severable.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 3B. WEST VIRGINIA LITERACY PROJECT.

§18B-3B-1. Purpose and intent of article.

1 The enactment of this article is based on the finding
2 that many efforts are currently under way in West
3 Virginia to assist citizens in upgrading their literacy
4 skills. These efforts are due to both public sector
5 programs and private sector voluntary initiatives. The

6 enactment of this section recognizes that these efforts
7 are having a positive impact in addressing literacy
8 needs and that the many persons who have contrib-
9 uted their own time to these efforts deserve the
10 sincere gratitude of the people of West Virginia for
11 their service in this cause.

12 The governor and the Legislature recognize that the
13 future strength and vitality of the state depend upon
14 the ability of its citizens to undertake and accomplish
15 the challenges presented in a competitive society and
16 that accomplishing these challenges requires an ever-
17 changing base of knowledge and skills. The governor
18 and the Legislature have, therefore, established a goal
19 for West Virginia that, by the year 2000, all working-
20 age adults will be functionally literate. Reaching this
21 goal will require a determined effort, one which
22 combines the successes already in place with a new
23 focus on the objectives of the future.

24 The intent of this article is to facilitate the beginning
25 of this effort.

§18B-3B-2. West Virginia literacy council established.

1 As soon as practical after the effective date of this
2 section, the governor shall appoint a literacy council
3 consisting of nine members who shall be individuals
4 broadly representative of citizens and organizations
5 within the state having an interest in adult literacy
6 education. Of the nine members, four shall be state
7 employees and shall be representative of state adult
8 basic education programs, the state library system,
9 state employment training programs and the state job
10 training council, one being appointed to represent each
11 area. Of the five remaining members, the appoint-
12 ments shall include active members of adult literacy
13 organizations who are of various occupations in
14 business, industry, labor, homemaker or others.

15 The literacy council shall be under the jurisdiction
16 of the department of education and the arts pursuant
17 to the provisions of article one, chapter five-f of this
18 code, and shall be subject to the supervision of the
19 secretary of the department of education and the arts.

20 Members of the council shall be reimbursed for
21 reasonable and necessary expenses actually incurred
22 in conducting the business of the council.

23 The literacy council shall survey existing efforts to
24 address the literacy needs of the citizens of the state
25 and make recommendations to the governor and the
26 Legislature on or before the first day of January, one
27 thousand nine hundred ninety-one as to how the state
28 could best serve to facilitate, encourage, coordinate
29 and augment these efforts.

ARTICLE 15. SEVERABILITY.

§18B-15-1. Severability.

1 Pursuant to section ten, article two, chapter two of
2 this code, if any provision of this chapter or the
3 application thereof to any person or circumstance is
4 held unconstitutional or invalid, such unconstitutionality
5 or invalidity shall not affect other provisions or
6 applications of the chapter, and to this end the
7 provisions of this chapter are declared to be severable.

The Joint Committee on Enrolled Bills hereby certifies
that the foregoing bill is correctly enrolled.

Frederick L. Parker
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Harrell E. Mahan
.....
Clerk of the Senate

Donald L. Koep
.....
Clerk of the House of Delegates

Keith Russell
.....
President of the Senate

Bill Chubb
.....
Speaker House of Delegates

The within *is approved* this the *10th*
day of *September*, 1990.

Gaston Caperton
.....
Governor

GOVERNOR

Date

9/7/90

Time

11:00 AM