AN ACT to amend and reenact article twenty, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to education of exceptional children.

Be it enacted by the Legislature of West Virginia:

That article twenty, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-1. Establishment of special programs and teaching services for exceptional children.

In accordance with the following provisions, county boards of education throughout the state shall establish and maintain for all exceptional children between five and twenty-three years of age special educational programs, including but not limited to special schools, classes, regular classroom programs, home-teaching or visiting-teacher services for such type or classification as the state board of education shall approve. Provisions shall be made for educating such exceptional children (including the handicapped and the gifted) who differ from the average or normal in physical, mental or emotional characteristics, or in communicative or intellectual deviation characteristics, or in both communicative and intellectual deviation characteristics, to the extent that they cannot be educated safely or profitably
in the regular classes of the public schools or to the extent
that they need special educational provisions within the
regular classroom in order to educate them in accordance
with their capacities, limitations and needs. In addition,
county boards of education may establish and maintain other
educational services for exceptional children as the state
superintendent of schools may approve.

By the school year beginning on the first day of July,
one thousand nine hundred seventy-four, county boards of
education shall establish and maintain these special educational
programs, including but not limited to special schools, classes,
regular class programs, home-teaching and visiting-teacher
services. The state board of education shall adopt rules and
regulations to advance and accomplish this program.

Nothing in this section shall be construed to prevent county
boards of education from providing special educational pro-
grams, including but not limited to special schools, classes,
regular class programs, home-teaching or visiting-teacher
services for such exceptional children who are three years of age
or older.

§18-20-2. Providing suitable educational facilities, equipment and
services.

The board of education of each county is empowered and
is responsible for providing suitable educational facilities, spe-
cial equipment, and such special services as may be necessary.
Special services include provisions and procedures for finding
and enumerating exceptional children of each type, diagnosis
by appropriate specialists who will certify the child's need and
eligibility for special education and make recommendations for
such treatment and prosthesis as may alleviate his disability,
special teaching by qualified and especially trained teachers,
transportation, lunches, and remedial therapeutic services.
Qualifications of teachers and therapists shall be in accordance
with standards prescribed or approved by the state board of
education.

Counties may provide for educating their resident exceptio-
nal children by contracting with other counties or other educa-
tional agencies which maintain such special education facili-
ties. Fiscal matters will follow policies approved by the state board of education.

§18-20-3. County reports.

Counties maintaining special schools, classes, regular class programs, home-teaching or visiting services and receiving or requesting reimbursement from state appropriated funds shall file with the state superintendent of schools on forms supplied by his office, applications, annual reports and such other reports as he may require.

§18-20-4. Examination and report by medical or other specialists...

Each child prior to enrolling in a special education program shall be examined by an appropriate medical specialist, psychologist, or educational specialist (reading specialist, speech and language clinician, or other specialists as required by the state board of education for specific areas of exceptionality) who shall report to the county superintendent of schools. The specialists' report shall carry recommendation for eligibility and placement in regular school or in the special education facility, indicate the nature and extent of disability, and advise with reference to treatment and prosthesis for alleviating the child's disability.

No educationally exceptional child shall be excused or excluded from attending school except with expressed written approval of the county superintendent of schools.

§18-20-5. Powers and duties of state superintendent.

The state superintendent of schools shall have power to organize, promote and administer this program under his present organization and be responsible for:

(1) Stimulating and assisting county boards of education in establishing, organizing and maintaining special schools, classes, regular class programs, home-teaching and visiting-teacher services.

(2) Cooperating with all other public and private agencies engaged in relieving, caring for, curing, educating and rehabilitating exceptional children, and in helping coordinate the services of such agencies.
(3) Preparing the necessary rules, regulations, formula for distribution of available appropriated funds, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children, insuring the employment, certification and approval of qualified teachers and therapists subject to approval by the state board of education.

(4) Receiving from county boards of education their applications, annual reports, and claims for reimbursement from such moneys as are appropriated by the legislature, auditing such claims and preparing vouchers to reimburse said counties the amounts reimbursable to them.

(5) Performing such other duties and assuming such other responsibilities in connection with this program as may be needed.

(6) Nothing herein contained shall be construed to prevent any county board of education from establishing and maintaining special schools, classes, regular class programs, home-teaching or visiting-teaching services out of funds available from local revenue.

§18-20-6. Advisory council for the education of exceptional children.

There shall be an advisory council for the education of exceptional children which shall advise and consult with the state board of education on matters pertinent thereto. The advisory council shall be composed of nine members appointed by the state superintendent of free schools, four of which shall be parents of exceptional children utilizing the services of the special educational programs established hereunder. Officers and employees of the state shall not be eligible for appointment to the advisory council. Members shall be appointed for terms of three years. The members of the advisory council shall be citizens and residents of this state, who by reason of their training, education or experience are qualified to carry out the functions of the advisory council under this article.

The first term of office for the members shall begin the
thirtieth day of June, one thousand nine hundred seventy-four.

At its first meeting, to be held the second Wednesday in July, one thousand nine hundred seventy-four, the advisory council shall elect a chairman from among its members, who shall preside over its meetings until the second Wednesday in July of the next year. Thereafter, the advisory council shall elect a chairman on the second Wednesday in July of each year.

All members shall be eligible for reappointment. A member shall, unless sooner removed, continue to serve until his term expires and his successor has been appointed and has qualified. A vacancy caused by the death, resignation or removal of a member prior to the expiration of his term shall be filled only for the remainder of such term.

For the purpose of carrying out its functions under this article, five members of the advisory council shall constitute a quorum. The advisory council shall meet at least four times each year at a building in the state capitol complex and at a time designated by the chairman. Additional meetings may be held when called by the chairman or when requested by five members of the advisory council.

Members of the council shall not receive any compensation for their services on the council, but shall be reimbursed any actual expenses incurred by them in carrying out their duties from funds appropriated to the department of education.

The council shall:

(a) Consult with the state board of education concerning any rules and regulations formulated by such board in implementing this article;

(b) Consider and advise the state board and superintendent concerning any problems presented to the council;

(c) Hold public meetings at such times and places as the advisory council deems appropriate;

(d) Periodically review the state plan for special programs and make any recommendations it may have concerning changes it may deem proper.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

H. Darrel Clarke
Chairman Senate Committee

Clarence E. Chastain, Jr.
Chairman House Committee

Originated in the House.
Takes effect July 1, 1974.

Howard W. Harrison
Clerk of the Senate

C.A. Blankenship
Clerk of the House of Delegates

W. T. Brotherton, Jr.
President of the Senate

James A. Whiteman
Speaker House of Delegates

The within [approval] this the 25th
day of [March], 1974.

Andra Moore
Governor

C 641
PRESENTED TO THE
GOVERNOR

Date 3/21/74
Time 10:30 a.m.