ENROLLED

SENATE BILL NO. 365

(By Mr. ...)

PASSED March 12, 1983

In Effect ninety days from Passage
AN ACT to amend and reenact section five, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section eighteen, article five of said chapter; and to amend and reenact article eight of said chapter by adding thereto a new section, designated section one-a, all relating to minimum age for kindergarten and public school attendance; changing the eligibility date from November one to September one; adding special provisions for Montessori kindergartens; providing that certain determinations of the board relating to kindergarten be final; changing compulsory school attendance from seven to six years old; providing that certain kindergarten attendance fulfills compulsory school requirements; requiring kindergarten for entrance into public schools; providing for exceptions thereto; and providing for advanced entrance or placement.

Be it enacted by the Legislature of West Virginia:

That section five, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section eighteen, article five of said chapter be amended and reenacted; and that article eight of said chapter be amended by adding thereto a new section, designated section one-a, all to read as follows:

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 and
2 laws of this state, the state board of education shall
3 determine the educational policies of the state and shall
4 make rules for carrying into effect the laws and policies
5 of the state relating to education, including rules relating
6 to the physical welfare of pupils, the education of feeble-
7 minded and physically disabled or crippled children of
8 school age, school attendance, evening and continuation
9 or part-time day schools, school extension work, the
10 classification of schools, the issuing of certificates upon
11 credentials, the distribution and care of free text-
12 books by the county boards of education, the general
13 powers and duties of county boards of education, and
14 of teachers, principals, supervisors and superintendents,
15 and such other matters pertaining to the public schools
16 of the state as may seem to the state board to be necessary
17 and expedient.
18 Notwithstanding any other provision of law which
19 may be to the contrary, and notwithstanding the rule-
20 making powers given to the state board of education by
21 this section, a child shall not be permitted to enter the
22 public schools of this state in any school year, beginning
23 with the school year one thousand nine hundred eighty-
24 three—eighty-four, unless such child be six years of age
25 prior to September one of such school year or is attending
26 public school in accordance with article twenty of this
27 chapter: Provided, That children who have successfully
28 completed a kindergarten program in the school year one
29 thousand nine hundred eighty-two—eighty-three may
30 enter the public schools notwithstanding the provisions
31 of this section. The term "public schools" as used in the
32 preceding sentence shall not be deemed to include public
33 kindergartens, but nothing herein shall prevent a county
34 board from permitting a child enrolled in kindergarten
35 from entering public schools for attendance in particular
36 curriculum areas.

ARTICLE 5. COUNTY BOARD OF EDUCATION.
§ 18-5-18. Kindergarten programs.
1 County boards of education shall provide by the school
2 year one thousand nine hundred eighty-three—eighty-
3 four and continue thereafter kindergarten programs for
4 all children who shall have attained the age of five prior
to September first of the school year in which the pupil enters such kindergarten program and may establish kindergarten programs designed for children below the age of five: Provided, That nothing herein shall prohibit children who shall have attained the age of five prior to November first of the school year one thousand nine hundred eighty-three-eighty-four from entering such kindergarten program.

Persons employed as kindergarten teachers, as distinguished from paraprofessional personnel, shall be required to hold a certificate valid for teaching at the assigned level as prescribed by regulations established by the state board of education. The state board of education shall establish and prescribe guidelines and criteria setting forth the minimum requirements for all paraprofessional personnel employed in kindergarten programs established pursuant to the provisions of this section and no such paraprofessional personnel shall be employed in any kindergarten program unless he meets such minimum requirements.

The state board of education with the advice of the state superintendent of free schools shall establish and prescribe guidelines and criteria relating to the establishment, operation and successful completion of kindergarten programs in accordance with the other provisions of this section. Guidelines and criteria so established and prescribed are also intended to serve for the establishment and operation of nonpublic kindergarten programs and shall be used for the evaluation and approval of such programs, provided application for such evaluation and approval is made in writing to the state board by proper authorities in control of such programs. The state superintendent of free schools at intervals not to exceed two years shall publish a list of nonpublic kindergarten programs that have been approved in accordance with the provisions of this section and a list of Montessori kindergartens established and operated in accordance with usual and customary practices for the use of the Montessori method. Teachers who have training or experience in the use of the Montessori method of instruction for
kindergartens shall be deemed to be approved to teach
in such kindergartens using the Montessori method with­
out additional certification.

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

 Funds for implementing the kindergarten programs
during the fiscal year nineteen hundred seventy-two and
thereafter shall be allocated to counties from a special
appropriation to the state department of education from
the general revenue fund: Provided, however, That except
for expenditures from the general revenue funds for
regional kindergarten demonstration centers, in no event
shall any state money from the general fund be expended
under the provisions of this section unless federal funds
are available for the purpose of this section.

Allocations to counties will be made on the basis of
approved kindergarten programs. The West Virginia
board of education shall establish criteria and standards
necessary to guide counties in developing approvable
kindergarten programs and shall determine funding
levels of said programs on local operating costs.

An additional appropriation shall be made to the state
department of education from the general revenue fund
to establish and operate during the fiscal year nineteen eighty-six, regional kindergarten demonstration centers in educational regions three, four, five, six and seven, and thereafter in regions one through seven. Said funds shall be allocated to said regions for establishing and operating regional demonstration centers in accordance with criteria and standards established by the West Virginia board of education. Said regional centers shall be established to provide exemplary and innovative kindergarten programs, to provide laboratory experiences for preservice and in-service education for professional personnel and staff development programs for training paraprofessional personnel, to establish organizational and administrative machinery designed to promote cooperation between and among all agencies involved in the education and development of young children, and to promote cooperation between counties in providing high cost supervisory, developmental, research and evaluative services not currently available to individual counties.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-1a. Compulsory school attendance; public school entrance requirements; exceptions thereto.

1 Notwithstanding the provisions of section one of this article, compulsory school attendance shall begin with the school year in which the sixth birthday is reached prior to September one of such year and continue to the sixteenth birthday. Attendance at a state-approved or Montessori kindergarten, as provided for in section eighteen, article five of this chapter, shall be deemed school attendance for purposes of this section. Prior to entrance into the first grade in accordance with section five, article two of said chapter, each child must have either (1) successfully completed such publicly or privately supported, state-approved kindergarten program or Montessori kindergarten program, or (2) successfully completed an entrance test of basic readiness skills approved by the county in which the school is located: Provided, That such test be administered in lieu of kindergarten attendance only under extraordinary circumstances to be determined by the board. Notwith-
standing the provisions of this section and of section five, article two of this chapter and section eighteen, article five of said chapter, a county board may provide for advanced entrance or placement under policies adopted by said board for any child who has demonstrated sufficient mental and physical competency for such entrance or placement. Nothing herein shall prevent a student from another state from enrolling in a public school in West Virginia in such grade as the student was enrolled at the school from which he transferred.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Donald Axello
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Saul C. Nuss
Clerk of the Senate

Donald L. Yeag
Clerk of the House of Delegates

Warren R. McFann
President of the Senate

Speaker House of Delegates

The within approved this the 27 day of March, 1983.

Governor