WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

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ENROLLED

Com. Sub. for

HOUSE BILL No. 2326

(By Mr.

Speaker, Mr. Chamberlain, D. H. Benk)

[By Request of the Executive]

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Passed

April 8, 1989

In Effect

July 1, 1989
AN ACT to amend and reenact sections six, twenty-six and twenty-nine, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section thirty; to amend and reenact section two, article two-e of said chapter; to further amend said article by adding thereto three new sections, designated sections three-a, three-b and seven; to amend and reenact sections four, eighteen-a and eighteen-c article five of said chapter; to amend and reenact sections two, four, five-a, six-a, seven, eight, nine, ten, thirteen-b and twenty-two, article nine-a of said chapter; to amend and reenact section one, article twenty of said chapter; to further amend said article by adding thereto a new section, designated section nine; to amend and reenact sections one, two, five-a, five-b, five-c, and eight-a, article four, chapter eighteen-a of said code; and to further amend said article by adding thereto a new section, designated section eight-d, all relating to the curriculum and instructional improvement; providing for the granting of certificates of proficiency to eligible high school graduates; providing for regional educational service agencies to conduct a
study for performing certain services and functions for public schools and school districts in the region and protecting certain employees; requiring each regional educational service agency to evaluate school services in its region and requiring each school to evaluate its regional educational service agency services; providing for awarding competitive grants to schools to implement exemplary and innovative programs to improve instruction; providing for establishment of a statewide curriculum technology resource center to facilitate access to and expedite acquisition of materials; providing for regional educational service agencies to serve as depository and distribution centers for curriculum technology resource materials; clarifying intent of readiness evaluations; providing criteria for use in the development of an evaluation model; requiring a criterion referenced test to be given to first and second graders in reading and math with third and fourth graders being tested in reading, composition and math; providing for honors and advanced placement courses in grades nine through twelve by school year one thousand nine hundred ninety-one; defining honors and advanced placement; establishing curriculum offered in honors and advanced placement and providing for the instruction thereof; providing for the phase-in of honors and advanced placement; providing that certain students in grades nine through twelve may be served in honors and advanced placement; requiring state board of education to designate an employee who is an expert in financial assistance to inform students of the availability of financial assistance to attend college; providing for high quality basic skills development and remediation in the public schools; changing the time requirement for when a county board must hold a public hearing concerning the preliminary operating budget; providing for additional compensation for elementary teachers whose number of pupils have exceeded the maximum class size; creating the early childhood program to replace the transitional or developmental kindergarten program; revising the definitions of professional instructional personnel, adjusted enrollment and basic resources per pupil; providing that
attrition, early retirement and other methods shall be utilized before implementing reduction in force procedures; permitting waiver of ratio of foundation allowance for professional educators and service personnel to net enrollment for a limited period; changing the gradual phase-in of the teachers retirement factor schedule from three and one half percent to the full fifteen percent; increasing school bus replacement cycle to ten years; increasing the foundation allowance for administrative cost to provide additional funding for regional educational service agencies; increasing the allowance for current expense; resetting base in foundation allowance to improve instructional programs; increasing the minimum amount of funds allocated to each county on the basis of adjusted enrollment from one hundred thousand to one hundred fifty thousand; changing the distribution of funds recaptured due to adjusted enrollment in allowances for remedial and accelerated education programs and salary equity; eliminating certain standards for education quality; revising exceptional children program and defining exceptional gifted; requiring caseload review of various programs in certain grades; establishing requirements for in-field master’s degrees earned after a certain date; increasing by five percent the state minimum salary schedule for teachers effective the second half of the employment term and establishing in-field master’s salary schedule; removing the limits placed on benefits that counties may provide for teachers and service personnel; requiring certain study relating to service personnel salaries; increasing the service personnel state minimum pay scale to reflect an approximate aggregate five percent increase effective the second half of the employment term; and providing for consolidation of services and seniority rights for administrative personnel.

Be it enacted by the Legislature of West Virginia:

That sections six, twenty-six and twenty-nine, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding
thereo a new section, designated section thirty; that section
two, article two-e of said chapter be amended and reenacted;
that said article be further amended by adding thereto three
new sections, designated sections three-a, three-b and seven;
that sections four, eighteen-a and eighteen-c, article five of
said chapter be amended and reenacted; that sections two,
four, five-a, six-a, seven, eight, nine, ten, thirteen-b and
twenty-two, article nine-a of said chapter be amended and
reenacted; that section one, article twenty of said chapter be
amended and reenacted; that said article twenty be further
amended by adding thereo a new section, designated section
nine; that sections one, two, five-a, five-b, five-c, eight-a, article
four, chapter eighteen-a of said code be amended and
reenacted; and that said article be further amended by adding
thereo a new section, designated section eight-d, all to read
as follows:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-6. Training of teachers; accreditation, classification
and standardization of schools; standards for
degrees and diploma.

(a) The education of teachers in the state shall be
under the general direction and control of the state
board of education after consultation with the board of
regents, which shall, through the state superintendent
of schools, exercise supervisory control over teacher
preparation including (1) those programs in all institu-
tions of higher education, including student teaching in
the public schools; and (2) any alternative training
programs leading to licensure, in accordance with
standards for program approval stated in writing by the
board. Such standards shall include a provision for the
study of multicultural education.

As used in this section, multicultural education means
the study of the pluralistic nature of American society
including its values, institutions, organizations, groups,
status positions and social roles.

(b) To give prospective teachers the teaching expe-
rience needed to demonstrate competence, as a prereq-
suit to licensure, the state board of education may enter into an agreement with county boards of education for the use of the public schools. Such agreement shall recognize student teaching as a joint responsibility of the teacher preparation institution and the cooperating public schools and shall include (1) the minimum qualifications for the employment of public school teachers selected as supervising teachers; (2) the remuneration to be paid public school teachers by the state board, in addition to their contractual salaries, for supervising student teachers; and (3) minimum standards to guarantee adequacy of facilities and program of the public school selected for student teaching. The student teacher, under the direction and supervision of the supervising teacher, shall exercise the authority of a substitute teacher.

Institutions of higher education approved for teacher preparation may cooperate with each other and with one or more county boards of education in the organization and operation of centers to provide selected phases of the teacher preparation program such as student teaching or internship programs, instruction in methodology, seminar programs for college students, first year teachers and supervising teachers.

Such institutions of higher education and participating county boards of education may budget and expend funds for the operation of such centers through payments to the appropriate fiscal office of the county designated by mutual agreement of participating county school boards and higher education institutions to serve as the administering agency of the center.

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

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

(c) Notwithstanding any other provision of this article to the contrary, the state board of education is authorized to develop alternative training programs leading to licensure in accordance with rules and regulations adopted by the state board of education after consultation with the board of regents: Provided, That no teacher shall be permanently certified who has not completed a core curriculum, as determined by the state board after consultation with the board of regents, in an approved teacher preparation or improvement program of an accredited institution of higher education.

The state board shall also develop and implement a beginning teacher internship program by the first day of July, one thousand nine hundred ninety.

(d) The state board shall make rules for the accreditation, classification and standardization of all schools in the state, except institutions of higher education, and shall determine the minimum standards for the granting of diplomas and certificates of proficiency by those schools. Not later than the school year one thousand nine hundred ninety-one, certificates of proficiency including specific information regarding the graduate's skills, competence, and readiness for employment or honors and advanced education shall be granted, along with the diploma, to every eligible high school graduate. No institution of less than collegiate or university status may grant any diploma or certificate of proficiency on any basis of work or merit below the minimum standards prescribed by the state board.

No charter or other instrument containing the right to issue diplomas or certificates of proficiency shall be granted by the state of West Virginia to any institution or other associations or organizations of less than collegiate or university status within the state until the condition of granting or issuing such diplomas or other certificates of proficiency has first been approved in writing by the state board.
§18-2-26. Establishment of multi-county regional educational service agencies; purposes; authority to implement regional services.

(a) In order to consolidate and administer more effectively existing educational programs and services so individual districts will have more discretionary moneys for educational improvement and in order to equalize and extend educational opportunities, the state board of education shall establish multi-county regional educational service agencies for the purpose of providing high quality, cost effective educational programs and services to the county school systems, and shall make such rules as may be necessary for the effective administration and operation of such agencies.

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

Technical, operational, programmatic or professional services would be among the types of services appropriate for delivery on a regional basis.

(c) In addition to performing the services and functions required by the provisions of this or any other section of this code, a regional educational service agency may implement regional programs and services by a majority vote of its board of directors. When said vote is not unanimous, the board of directors shall file a plan for the service or program delivery with the state board describing the program or service, the manner of delivery and the projected savings and/or the improved
quality of the program or service. The state board shall promulgate rules requiring a county board that declines to participate in such programs or services to show just cause for not participating and the estimated savings accruing to the county therefrom. If a county board fails to show that savings will accrue to the county or that the quality of the program will be significantly and positively affected as a result of its decision not to participate, the state board shall withhold from the county's foundation allowance for administrative cost the lesser of the amount of the estimated savings or the allocation for the county's foundation allowance for administrative cost.

(d) The state board, in conjunction with the various regional educational service agencies, shall develop an effective model for the regional delivery of instruction in subjects where there exists low student enrollment or a shortage of certified teachers or where such delivery method substantially improves the quality of an instructional program. Such model shall incorporate an interactive electronic classroom approach to instruction. To the extent funds are appropriated or otherwise available, county boards or regional educational service agencies may adopt and utilize the model for the delivery of such instruction.

(e) Each regional educational service agency shall conduct a study setting forth how the following services and functions may be performed by the agency for public schools and school districts within the region without terminating the employment of personnel employed by school districts prior to the effective date of this subsection: Accounting, purchasing, food service, transportation, delivery of high cost services to low incidence student populations, audiovisual material distribution, facilities planning, federal program coordination, personnel recruiting and an integrated regional computer information system. On or before the tenth day of January, one thousand nine hundred ninety, each regional educational service agency shall submit the study to the state board, to the standing committees on education and finance of the West Virginia Senate.
and House of Delegates, and to the secretary of education and the arts: Provided, That in the event such study is implemented those individuals employed prior to the effective date thereof shall not have their employment terminated as a result of the study.

(f) Each regional educational service agency shall submit a report and evaluation of the services provided and utilized by the schools within each respective region. Furthermore, each school shall submit an evaluation of the services provided by the regional educational service agency, which shall include an evaluation of the regional educational service agency program, suggestions as to how to improve utilization and the individual school's plan as to development of new programs and enhancement of existing programs. The reports shall be due by the first day of January of each year commencing with the year one thousand nine hundred ninety-one and shall be made available to the state board of education, standing committees on education of the West Virginia senate and house of delegates and to the secretary of education and the arts.

(g) A regional board shall be empowered to receive and disburse funds from the state and federal governments, member counties, gifts and grants.

§18-2-29. Competitive grant program for selected schools and school districts.

The state board shall establish no later than the school year one thousand nine hundred eighty-nine—ninety, a competitive grant program whereby schools may be awarded grants to implement exemplary and innovative programs designed to improve instruction.

Applications for awarding competitive grants which include one or more of the following considerations shall be given priority: (a) whether local community resources have been committed to work in partnership with the school to implement the program, (b) whether the program involves extending the school year, (c) whether the program is for remediation, (d) whether the proposal will implement an early childhood program pursuant to section eighteen-c, article five of this chapter, (e)
whether the proposal will implement a beginning
teacher assistance program, (f) whether the school has
probationary or nonapproval accreditation status, and,
(g) how the program will be evaluated based on
measurable performance criteria such as: student
achievement gain; student attendance; teacher attend-
ance; parent participation; reduction in the amount of
paperwork required of teachers; and any other factor
promoting the attainment of full accreditation for the
school or the school district.

The state board shall promulgate rules which ensure
that the school or school district utilizes these funds
appropriately. The state board shall encourage the
donation of funds from private and other sources to
augment state funding for the program.

§18-2-30. Statewide curriculum technology resource
center established; distribution of materials
by regional educational service agencies.

There shall be established a statewide curriculum
technology resource center to facilitate access to and,
expedite the acquisition of, audiovisual materials to
assist in the continued enrichment of the school curric-
ulum. The state board shall designate the statewide
center. The legislative intent is that appropriations for
the said resource center be designated primarily for
supportive materials to be made available for use by
teachers: Provided, That no more than five percent of
the moneys allocated for fiscal year one thousand nine
hundred eighty-nine—ninety be used for capital outlay
and improvements on any structure used to house said
resource center. The center shall develop a program of
services for public school teachers in the fields of
curricular development, instructional resources and
technology. The center shall also undertake projects to
describe systematically and evaluate curriculum mate-
rials and instruction resources, provide for dissemina-
tion of software and programs to teachers, provide
leadership in the areas of instructional resources and
provide training to increase skills in the use of technol-
ogy and other instructional resources.
The center shall be a centralized purchasing agent for audiovisual materials requested for use in the public schools. The center shall utilize curriculum teams of classroom teachers and other professional educators representing all regional educational service agency regions to assist in the materials selection process. The center may obtain authorization to duplicate such materials and may duplicate such materials when duplication is justified by cost and need and when appropriate authorization has been obtained. The center shall maintain a central library of all original materials duplicated and shall compile no later than the first day of July, one thousand nine hundred ninety, a statewide catalog of all audiovisual materials available. The center shall make the statewide catalog accessible to teachers through electronic or other means.

Each regional educational service agency shall serve as a depository and distribution center for the audiovisual materials available to the public schools in its region. Each regional educational service agency shall survey audiovisual material currently held in the public schools in its region and submit the list to the statewide center for possible inclusion in the statewide catalog: Provided, That nothing in this section shall be construed to change ownership by any county board of any materials which are included in the catalog. Whenever the regional educational service agency receives a request for material not listed in the statewide catalog, the agency shall submit a request to the statewide center for review by one of the curriculum teams and, if appropriate, purchase and distribute the material.

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-2. Statewide testing of educational progress program (WV-STEP); purposes, development and implementation of program.

(a) The state board shall establish a program for the statewide testing of the educational progress of public school students in attaining a high quality education, hereinafter referred to as the WV-STEP program.

The WV-STEP program shall provide information to:
Assess the overall academic progress of students, including (i) identifying individual students' academic weaknesses and readiness, and (ii) identifying students who may need remediation;

(2) Assist the teacher in determining student promotion;

(3) Compare achievement of students in West Virginia to achievement of students on a national basis;

(4) Assess the strengths and weaknesses of school performance;

(5) Assess the effects of state and local educational programs;

(6) Make decisions at the state and local level with regard to educational matters, including (i) the need for new or revised educational programs and the need to terminate existing educational programs, (ii) overall curriculum development and revision activities, and (iii) teacher training and staff development activities; and

(7) Inform the public of the overall quality of education in individual schools and school districts.

(b) The state board shall prepare detailed design specifications for the WV-STEP program which accomplish the following:

(1) Take into account the state learning outcome statements in the basic skill areas of reading, composition, mathematics and other subject areas as determined by the state board; and

(2) Include testing of students' higher level cognitive thinking in each subject area tested.

"Learning outcome statements" mean statements developed and adopted by the state board which for the purposes of this article have been fully and properly field tested to insure their reliability and validity in indicating the knowledge base and skills expected of students for particular subject areas and which may be used to measure indicators of statewide standards for student progress in attaining a high quality education.
(c) The state board shall implement the WV-STEP program as follows:

(1) Beginning in the school year one thousand nine hundred ninety-nine, and continuing thereafter:

(i) An evaluation designed to measure student readiness to begin the formal school curriculum shall be administered to all kindergarten public school students. Such evaluation shall be used solely to assist in making policy decisions at the state and local levels with regard to educational matters as outlined in subdivision six of subsection (a) of this section, and shall not be used for individual diagnostic or placement purposes.

(ii) An evaluation model for children in kindergarten, first and second grades shall be developed by a committee of teachers, parents and principals selected by each regional educational service agency board within each regional educational service agency. The evaluation model shall be developed using the following criteria:

(a) The model shall be based on the fact that kindergarten through second grade is educationally continuous;

(b) The model shall allow for variability in the achievement of children in kindergarten through second grade;

(c) The model shall be applied continuously to reflect assessment as a teaching tool;

(d) Information gathered by the evaluation model shall be used to adapt curriculum and to provide feedback to parents;

(e) The model shall include a measure of achievement of the state learning outcomes.

The evaluation model, as developed by each regional educational service agency committee, shall be made available to the state board and to the legislative oversight commission on education accountability by the first day of January, one thousand nine hundred ninety-nine; and
(iii) A criterion referenced test measuring competencies based on the learning outcome statements shall be administered to all public school students in grades one and two to measure their academic progress in reading and mathematics; and

(iv) A criterion referenced test measuring competencies based on the learning outcome statements shall be administered to all public school students in grades three and four to measure their academic progress in reading, composition and mathematics.

The results of the tests shall be used to identify each student's deficiencies, aid in determining instruction needed by the student in achieving the statewide standards established for the respective grade and assist the teacher in determining student promotion.

(2) Beginning in the school year one thousand nine hundred ninety-one—ninety-two, and continuing thereafter:

(i) A criterion referenced test measuring competencies based on the learning outcome statements for reading, composition and mathematics in grade five shall be administered to all public school students in grade five. Each year thereafter, a criterion referenced test for these subject areas shall be administered to students in the next higher grade through grade eight; and

(ii) Criterion referenced testing measuring competencies based on the learning outcome statements in additional subject areas shall be implemented as funds are available on a schedule determined by the board.

(3) Beginning in the school year one thousand nine hundred ninety-one—ninety-one, and continuing thereafter, National Assessment of Educational Progress Program tests shall be administered in academic areas at the various grades designated by the National Assessment of Educational Progress officials to provide comparisons of West Virginia students to a national sample.

(d) The state board shall revise and update the learning outcome statements as necessary and shall
120 determine a schedule for the annual administration of
121 the WV-STEP program tests. The state superintendent
122 is responsible for the overall development, implementa-
123 tion and monitoring of the program. The state board
124 may establish a pilot program to implement the WV-
125 STEP program prior to the required implementation
126 dates under subsection (c) of this section.

127 (e) Any student who is unable to take any of the tests
128 prescribed in this section because of absence from school
129 and provides school authorities with a valid reason for
130 such absence shall be given the missed test as soon as
131 possible following the student's return to school. An
132 exceptional child is subject to testing under the WV-
133 STEP program only to the extent specified in that
134 child's individualized education program (IEP).

135 (f) The parent or guardian of each student tested
136 under the WV-STEP program shall be notified in
137 writing of the students test score, along with the average
138 test score of all other students in the same grade at the
139 school. The state board shall promulgate rules for the
140 compilation of aggregate test scores by grade in such
141 manner as to permit the comparison of student perfor-
142 mance at different schools within and among the various
143 school districts. The test scores of all students taking the
144 test at each school shall be compiled by the district
145 pursuant to such rules, shall be made available for
146 public inspection and shall be included in the school and
147 county report cards under section four of this article.
148 However, no individual student's WV-STEP scores may
149 be disclosed to the public.

150 (g) The department of education shall take necessary
151 administrative action under section five of this article
152 to monitor and evaluate the curriculum and instruction
153 methods in each school district to insure compliance
154 with the standards and purposes of this article.

§18-2E-3a. Honors and advanced placement programs.

1 (a) The purpose of this section is to provide honors and
2 advanced placement programs to meet the needs of
3 students who have the potential and desire to complete
4 curriculum more demanding than that offered in the
regular classroom for their current grade level. Honors programs are those programs offering courses to expand the academic content in a given program of study and may include, but shall not be limited to, research and in-depth studies, mentorships, content-focused seminars, and extended learning outcomes instruction in the content area. Advanced placement programs are those programs offering classes which are advanced in terms of content and performance expectations of those normally available for the age-grade level of the student and providing credit toward graduation and possible college credit. Advanced placement classes also include those recognized or offered by the college board, postsecondary institutions and other recognized foundations corporations or institutions.

Curriculum approved under this section shall be designed to advance the achievement of students in the subject area or areas in which the student has achieved at least two of the following three criteria: (a) demonstrated exceptional ability and interest through past performance, (b) obtained the prerequisite knowledge and skills to perform honors or advanced placement work, and (c) recommended by the student's former or present teachers. Honors and advanced placement curriculum may include advanced placement courses offered through the college board or other public or private foundations, corporations, institutions, or businesses whose courses are generally accepted as leading to advanced placement or standing in a postsecondary institution, accelerated instructional courses offered via satellite and other courses and arrangements, approved by the state board, which provide students an opportunity to advance their learning above that offered through the regular curriculum. To the maximum extent possible, honors and advanced placement courses shall be taught by a regular classroom teacher. Such classroom teacher shall have adequate knowledge in the subject area for the instruction of such course. If a teacher, licensed by the state board, with adequate knowledge in the advanced subject area is not available, an adjunct teacher or other qualified person may be employed, contracted for, or shared between
That the position shall be posted annually prior to the beginning of the school year immediately following the school year in which the adjunct teacher or other qualified person is employed. The state board may grant waivers to existing certification requirements for an adjunct teacher or other qualified person who has an earned bachelors degree and has demonstrated competence in the subject to be taught.

(b) The honors and advanced placement curriculum shall be phased-in in accordance with the following schedule:

(1) Prior to the first day of June, one thousand nine hundred eighty-nine, the state board shall establish a program coordinated through the colleges and universities or some other entity, to provide training to teachers in the instruction of honors and advanced placement courses: Provided, That the state board shall not establish an additional certification area for the teaching of honors or advanced placement courses;

(2) To assist in the implementation of teacher training for honors and advanced placement instruction, there shall be an appropriation to the state board;

(3) On or before the first day of June, one thousand nine hundred eighty-nine, and each year thereafter, teachers shall be selected to teach honors and advanced placement courses based upon the teacher's qualifications and academic interests and the needs of the students. The county boards of education shall, if necessary, make arrangements for the teachers to attend a training program;

(4) Beginning in the school year one thousand nine hundred ninety—ninety-one, each county board shall provide in grades nine through twelve honors and advanced placement courses as provided under subsection (a) of this section.

(c) The state board shall designate one employee who is an expert in the area of higher education financial aid, including, but not limited to, loans, grants and work
§18-2E-3b. Placement advisory committee established.

Gifted students in grades nine through twelve may be served in honors and advanced placement programs as described in section three of this article, pursuant to the student's individualized education program and set forth in the student's four year education plan. Prior to the end of grade eight, a placement advisory committee shall convene for the purpose of determining whether a student should be placed in an honors or advanced placement program pursuant to the placement criteria set forth in section three-a of this article. Upon a determination that placement in one of the programs would be appropriate, the placement advisory committee shall write a four year education plan which will designate honors or advanced placement courses and/or offerings appropriate and agreed to by the school, parent and student.

The four year education plan must be reviewed annually and approved by the parent, student and school. Schools shall be required to deliver the individualized education program as stated in the four year education plan.

§18-2E-7. Providing for high quality basic skills development and remediation in all public schools.

The legislature finds that teachers must be provided the support, assistance and teaching tools necessary to meet individual student instructional needs on a daily basis in a classroom of students who differ in learning styles, learning rates and in motivation to learn. The legislature further finds that attaining a solid foundation in the basic skills of reading, composition and arithmetic is essential for advancement in higher education, occupational and avocational pursuits and that computers are an effective tool for the teacher in corrective, remedial and enrichment activities. Therefore, the state board shall develop a plan which
specifies the resources to be used to provide services to students in the earliest grade level and moving upward as resources become available based on a plan developed by each individual school team.

This plan must provide for standardization of computer hardware and software for the purposes of achieving economies of scale, facilitating teacher training, permitting the comparison of achievement of students in schools and counties utilizing the hardware and software, and facilitating the repair of equipment, and insuring appropriate utilization of the hardware and software purchased for remediation and basic skills development.

The state board shall determine the computer hardware and software specifications after input from practicing teachers at the appropriate grade levels and with the assistance of educational computer experts and the curriculum technology resource center.

Computer hardware and software shall be purchased either directly or through a lease purchase arrangement pursuant to the provisions of article three, chapter five-a of this code in the amount equal to anticipated revenues being appropriated.

The state board shall develop and provide through the state curriculum technology resource center a program to insure adequate teacher training, continuous teacher support, and updates.

§18-5-4. Meetings; employment and assignment of teachers; budget hearing; compensation of members; affiliation with state and national associations.

The board shall meet on the first Monday of January, except that in the year one thousand nine hundred eighty-two, and every year thereafter, the board shall meet on the first Monday of July, and upon the dates provided by law for the laying of levies, and at such other times as the board may fix upon its records. At any meeting as authorized above and in compliance with the provisions of article four of this chapter, the board
may employ such qualified teachers, or those who will
qualify by the time of entering upon their duties,
necessary to fill existing or anticipated vacancies for the
current or next ensuing school year. At a meeting of the
board, on or before the first Monday of May, the
superintendent shall furnish in writing to the board a
list of those teachers to be considered for transfer and
subsequent assignment for the next ensuing school year;
all other teachers not so listed shall be considered as
reassigned to the positions held at the time of this
meeting. Such list of those recommended for transfer
shall be included in the minute record and the teachers
so listed shall be notified in writing, which notice shall
be delivered in writing, by certified mail, return receipt
requested, to such teachers' last-known addresses within
ten days following said board meeting, of their having
been so recommended for transfer and subsequent
assignment.

Special meetings may be called by the president or
any three members, but no business shall be transacted
other than that designated in the call.

In addition, a public hearing shall be held concerning
the preliminary operating budget for the next fiscal
year not less than ten days after such budget has
received tentative approval by the West Virginia board
of education and at such hearing reasonable time shall
be granted to any person or persons who wish to speak
regarding parts or all of such budget. Notice of such
hearing shall be published as a Class I legal advertise-
ment in compliance with the provisions of article three,
chapter fifty-nine of this code.

A majority of the members shall constitute the
quorum necessary for the transaction of official
business.

Board members may receive compensation at a rate
not to exceed eighty dollars per meeting attended. But
they shall not receive pay for more than fifty-two
meetings in any one fiscal year.

Members shall also be paid, upon the presentation of
an itemized sworn statement, for all necessary traveling
expenses, including all authorized meetings, incurred on official business, at the order of the board.

When, by a majority vote of its members, a county board of education deems it a matter of public interest, such board may join the West Virginia school board association and the national school board association, and may pay such dues as may be prescribed by said associations and approved by action of the respective county boards. Membership dues and actual traveling expenses of board members for attending meetings of the West Virginia school board association may be paid by their respective county boards of education out of funds available to meet actual expenses of the members, but no allowance shall be made except upon sworn itemized statements.


County boards of education shall provide, by the school year one thousand nine hundred eighty-three—eighty-four, and thereafter, sufficient personnel, equipment and facilities as will ensure that each first and second grade classroom, or classrooms having two or more grades that include either the first or second grades shall not have more than twenty-five pupils for each teacher of the grade or grades and shall not have more than twenty pupils for each kindergarten teacher per session, unless the state superintendent has excepted a specific classroom upon application therefor by a county board.

County boards shall provide by the school year one thousand nine hundred eighty-four—eighty-five, and continue thereafter, sufficient personnel, equipment and facilities as will ensure that each third, fourth, fifth and sixth grade classroom, or classrooms having two or more grades that include one or more of the third, fourth, fifth and sixth grades, shall not have more than twenty-five pupils for each teacher of the grade or grades.

Beginning with the school year one thousand nine hundred eighty-six—eighty-seven, and thereafter, no county shall maintain a greater number of classrooms having two or more grades that include one or more of
the grade levels referred to in this section than were in
existence in said county as of the first day of January,
one thousand nine hundred eighty-three: Provided, That
for the prior school years, and only if there is insuffi-
cient classroom space available in the school or county,
a county may maintain one hundred ten percent of such
number of classrooms.

During the school year one thousand nine hundred
eighty-four—eighty-five, and thereafter, the state
superintendent is authorized, consistent with sound
educational policy, (a) to permit on a statewide basis, in
grades four through six, more than twenty-five pupils
per teacher in a classroom for the purposes of instruc-
tion in physical education, and (b) to permit more than
twenty pupils per teacher in a specific kindergarten
classroom and twenty-five pupils per teacher in a
specific classroom in grades one through six during a
school year in the event of extraordinary circumstances
as determined by the state superintendent after appli-
cation by a county board of education.

The state board shall establish guidelines for the
exceptions authorized in this section, but in no event
shall the superintendent except classrooms having more
than three pupils above the pupil-teacher ratio as set
forth in this section.

The requirement for approval of an exception to
exceed the twenty pupils per kindergarten teacher per
session limit or the twenty-five pupils per teacher limit
in grades one through six is waived in schools where the
schoolwide pupil-teacher ratio is twenty-five or less in
grades one through six: Provided, That a teacher shall
not have more than three pupils above the teacher/pupil
ratio as set forth in this section. Any kindergarten
teacher who has more than twenty pupils per session
and any classroom teacher of grades one through six
who has more than twenty-five pupils shall be paid
additional compensation based on the affected classroom
teacher's average daily salary divided by twenty for
kindergarten teachers or twenty-five for teachers of
grades one through six for every day times the number
of additional pupils enrolled up to the maximum pupils
permitted in the teacher's classroom. All such additional compensation shall be paid from county funds exclusively.

No provision of this section is intended to limit the number of pupils per teacher in a classroom for the purpose of instruction in choral, band or orchestra music.

Each school principal shall assign students equitably among the classroom teachers, taking into consideration reasonable differences due to subject areas and/or grade levels.

The state board shall collect from each county board of education information on class size and the number of pupils per teacher for all classes in grades seven through twelve. The state board shall report such information to the legislative oversight commission on education accountability before the first day of January of each year.

§18-5-18c. Early childhood programs; eligibility and standards for placement; guidelines and criteria.

County boards shall provide by the school year one thousand nine hundred eighty-nine—ninety, and continuing thereafter, programs and instructional procedures that recognize the variability in achievement, development, and background experience of the early childhood years.

Such programs and instructional procedures may include, but shall not be limited to, developmental kindergarten, developmental first grade, early first grade, transitional first grade, and/or developmental second grade.

Placement of children in any of the aforementioned early childhood programs shall be based on the judgment of the teacher and other professional personnel after consultation with the parent or guardian and in accordance with the evaluation model for children as set forth in section two, article two-e of this chapter.

Counties may designate one or more classes or schools
for such early childhood programs and may transport
children to these schools.

Provisions shall be made for early childhood teachers
to communicate on a regular basis with other teachers,
professional personnel and representatives of other
appropriate agencies.

The state board shall establish and prescribe guide-
lines and criteria relating to the establishment, opera-
tion and successful completion of early childhood
programs in accordance with the other provisions of this
section and high quality educational programs.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.


For the purpose of this article:

“State board” means the West Virginia board of
education.

“County board” or “board” means a county board of
education.

“Professional salaries” means the state legally man-
dated salaries of the professional educators as provided
in article four, chapter eighteen-a of this code.

“Professional educator” shall be synonymous with and
shall have the same meaning as “teacher” as defined in
section one, article one, chapter eighteen of this code.

“Professional instructional personnel” means a profes-
sional educator whose regular duty is as that of a
classroom teacher, librarian, counselor, attendance
director, school psychologist or school nurse with a
bachelors degree and who is licensed by the West
Virginia board of examiners for registered professional
nurses. A professional educator having both instruc-
tional and administrative or other duties shall be
included as professional instructional personnel for that
ratio of the school day for which he is assigned and
serves on a regular full-time basis in appropriate
instruction, library, counseling, attendance, psychologist
or nursing duties.
“Service personnel salaries” shall mean the state legally mandated salaries for service personnel as provided in section eight-a, article four, chapter eighteen-a of this code.

“Service personnel” shall mean all personnel as provided for in section eight, article four, chapter eighteen-a of this code. For the purpose of computations under this article of ratios of service personnel to adjusted enrollment, a service employee shall be counted as that number found by dividing his number of employment days in a fiscal year by two hundred:

Provided, That the computation for any such person employed for three and one-half hours or less per day as provided in section eight-a, article four, chapter eighteen-a of this code, shall be calculated as one half an employment day.

“Net enrollment” means the number of pupils enrolled in special education programs, kindergarten programs and grades one to twelve, inclusive, of the public schools of the county. Commencing with the school year beginning on the first day of July, one thousand nine hundred eighty-eight, net enrollment further shall include adults enrolled in regular secondary vocational programs existing as of the effective date of this section:

Provided, That net enrollment shall include no more than one thousand such adults counted on the basis of full-time equivalency and apportioned annually to each county in proportion to the adults participating in regular secondary vocational programs in the prior year counted on the basis of full-time equivalency: Provided, however, That no tuition or special fees beyond that required of the regular secondary vocational student is charged for such adult students.

“Adjusted enrollment” means the net enrollment plus twice the number of pupils enrolled for special education. Commencing with the school year beginning on the first day of July, one thousand nine hundred ninety, adjusted enrollment means the net enrollment plus twice the number of pupils enrolled for special education, including exceptional gifted, plus the number of pupils in grades nine through twelve enrolled for honors.
and advanced placement programs, plus the number of pupils enrolled on the first day of July, one thousand nine hundred eighty-nine in the gifted program in grades nine through twelve: Provided, That commencing with the school year beginning on the first day of July, one thousand nine hundred ninety, no more than four percent of net enrollment of grades one through eight may be counted as enrolled in gifted education and no more than six percent of net enrollment of grades nine through twelve may be counted as enrolled in gifted education, exceptional gifted education (subject to the limitation set forth in section one, article twenty of this chapter) and honors and advanced placement programs for the purpose of determining adjusted enrollment within a county: Provided, however, That nothing herein shall be construed to limit the number of students who may actually enroll in gifted, honors or advanced placement education programs in any county: Provided further, That until the school year beginning on the first day of July, one thousand nine hundred ninety-two, the preceding percentage limitations shall not restrict the adjusted enrollment definition for a county to the extent that those limitations are exceeded by students enrolled in gifted education programs on the first day of July, one thousand nine hundred eighty-nine: And provided further, That no pupil may be counted more than three times for the purpose of determining adjusted enrollment. Such enrollment shall be adjusted to the equivalent of the instructional term and in accordance with such eligibility requirements and rules as established by the state board. No pupil shall be counted more than once by reason of transfer within the county or from another county within the state, and no pupil shall be counted who attends school in this state from another state.

"Levies for general current expense purposes" means on each hundred dollars of valuation, twenty-two and five tenths cents on Class I property, forty-five cents on Class II property, and ninety cents on Classes III and IV property.

"Basic resources per pupil" for the state and the
several counties means the total of (a) property tax revenues computed at the maximum regular levy rates as provided by section six-c, article eight, chapter eleven of this code, at a uniform rate of ninety-five percent, but excluding revenues from increased levies as provided in section ten, article X of the Constitution of West Virginia, and (b) basic state aid as provided in sections twelve and thirteen of this article, but excluding the foundation allowance to improve instructional programs as provided in section ten of this article, and excluding any funds appropriated for the purpose of achieving salary equity among county board employees, this total divided by the number of students in adjusted enrollment:

Provided, That beginning with the school year commencing on the first day of July, one thousand nine hundred ninety-one, and thereafter, the foundation allowance for transportation cost as provided in section seven of this article shall also be excluded and the total shall be divided by the number of students in net enrollment:

Provided, however, That any year's allocations to the counties of the eighty percent portion of the foundation allowance to improve instructional programs, as provided in section ten of this article, shall be determined on the basis of the immediately preceding school year's basic resources per pupil.

§18-9A-4. Foundation allowance for professional educators.

The basic foundation allowance to the county for professional educators shall be the amount of money required to pay the state minimum salaries, in accordance with provisions of article four, chapter eighteen-a of the code, to such personnel employed:

Provided, That in making this computation no county shall receive an allowance for such personnel which number is in excess of fifty-five professional educators to each one thousand students in adjusted enrollment:

Provided, however, That any county not qualifying under the provision of section fourteen of this article shall be eligible for a growth rate in professional personnel in any one year not to exceed twenty percent of its total potential increase under this provision, except that in no
case shall such limit be fewer than five professionals:

Provided further, That the number of and the allowance for personnel paid in part by state and county funds shall be prorated. And provided further, That where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional educators for such school or program may be prorated among the participating counties on the basis of each one's enrollment therein and that such personnel shall be considered within the above-stated limit. And provided further, That in the school year beginning the first day of July, one thousand nine hundred eighty-eight, and the succeeding school year, each county board shall establish and maintain a minimum ratio of fifty professional instructional personnel per one thousand students in adjusted enrollment, and in the school year beginning the first day of July, one thousand nine hundred ninety, and for each succeeding school year, each county board shall establish and maintain a minimum ratio of fifty-one professional instructional personnel per one thousand students in adjusted enrollment. Any county board which does not establish and maintain this minimum ratio shall suffer a pro rata reduction in the allowance for professional educators under this section, and, further, any county board which does not establish and maintain this minimum ratio shall utilize any and all allocations to it by provision of section fourteen of this article solely to employ professional instructional personnel until the minimum ratio is attained. And provided further, That for the fiscal year commencing on the first day of July, one thousand nine hundred eighty-eight, only, the foundation allowance for professional educators for a county board of education shall be equal to the amount allowable based upon the actual ratio of professional educators per one thousand students in net enrollment for which the county board of education received state reimbursement during the school year one thousand nine hundred eighty-seven—eighty-eight, except that this provision shall not apply to those counties whose percent rate of special education enrollment to net enrollment is less than sixteen and two
tenths percent. No person employed prior to the first
day of July, one thousand nine hundred eighty-eight,
shall have their employment terminated because of a
reduction in force resulting from the provisions of this
section. Every county shall utilize methods other than
reductions in force, such as attrition and early retire-
ment, before implementing their reductions in force
policy to comply with the limitations of this section.

§18-9A-5a. Ratio of foundation allowances for profes-
sional educators and service personnel to
net enrollment.

(a) The purpose of this section is to establish maxi-
mum ratios between the numbers of professional
educators and service personnel in the counties which
are funded through the public school support plan and
the net enrollment in the counties, such ratios are in
addition to the ratios provided for in sections four and
five of this article. It is the intent of the Legislature to
adjust these ratios pursuant to legislative act as may be
appropriate when additional personnel are needed to
perform additional duties.

(b) Commencing with the school year one thousand
nine hundred eighty-nine—ninety, and each year
thereafter, in computing the basic foundation allowance
to a county for professional educators and the basic
foundation allowance to a county for service personnel
under sections four and five of this article, a county shall
not receive an allowance for such personnel which
number per one thousand students in net enrollment is
in excess of the number of professional educators and
the number of service personnel in the county computed
as follows:

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<thead>
<tr>
<th>For the school year</th>
<th>Maximum professional educators per 1000 net enrollment the preceding year</th>
<th>Maximum service personnel per 1000 net enrollment the preceding year</th>
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<tbody>
<tr>
<td>1989-90</td>
<td>76.5</td>
<td>45.5</td>
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<td>1990-91</td>
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<td>1991-92</td>
<td>75.5</td>
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<tr>
<td>1992-93</td>
<td>75.0</td>
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</table>
(c) No person employed prior to the first day of July, one thousand nine hundred eighty-eight, will be laid off because of a reduction in force resulting from the provisions of this section. Every county shall utilize methods other than reductions in force, such as attrition and early retirement, before implementing their reductions in force policy to comply with the limitations of this section.

(d) For the school years one thousand nine hundred eighty-nine-ninety and one thousand ninety-ninety-one only, if a school district loses more than six percent of the number chargeable for the previous school year for professional educator positions or service personnel positions, due to the maximum ratios established in subsection (b) of this section, it may apply to the state board for a waiver of said ratios to the extent that the loss exceeds either six percent of its professional educators or service personnel: Provided, That the county board of education establishes and maintains a minimum ratio of fifty professional instructional personnel per one thousand students in adjusted enrollment for the school year beginning the first day of July one thousand nine hundred eighty-nine and fifty-one professional instructional personnel per one thousand students in adjusted enrollment for the school year one thousand nine hundred ninety-ninety-one as required in section four of this article. Waivers shall be determined on a case by case basis according to rules adopted by the state board and granted to the extent funds are appropriated by the Legislature for this purpose. Prior to the adoption of such rules, the state board shall conduct a thorough review of the staffing patterns in each county. Any personnel positions funded as a result of a waiver granted under the provisions of this subsection shall not be included in the computations set forth in sections four and five of this article.

§18-9A-6a. Teachers retirement fund allowance.
The total teachers retirement fund allowance shall be the sum of the basic foundation allowance for professional educators and the basic foundation allowance for service personnel, as provided in sections four and five of this article; all salary equity appropriations authorized in section five, article four of chapter eighteen-a; and such amounts as are to be paid by the counties pursuant to sections five-a and five-b of said article to the extent such county salary supplements are equal to the amount distributed for salary equity among the counties, multiplied by fifteen percent.

The teachers retirement fund allowance amounts shall be accumulated in the employers accumulation fund of the state teachers retirement system pursuant to section eighteen, article seven-a of this chapter, and shall be in lieu of the contribution required of employers pursuant to subsection (b) of said section eighteen as to all personnel included in the allowance for state aid in accordance with sections four and five of this article.


The allowance in the foundation school program for each county for transportation shall be the sum of the following computations:

1. Eighty percent of the transportation cost within each county for maintenance, operation and related costs, exclusive of all salaries;

2. The total cost, within each county, of insurance premiums on buses, buildings and equipment used in transportation. Provided, That such premiums were procured through competitive bidding;

3. For the school year beginning the first day of July, one thousand nine hundred eighty-nine and thereafter, an amount equal to ten percent of the current replacement value of the bus fleet within each county as determined by the state board, such amount to be used only for the replacement of buses;

4. Eighty percent of the cost of contracted transportation services and public utility transportation with each county; and
(5) Aid in lieu of transportation equal to the state average amount per pupil for each pupil receiving such aid within each county.

The total state share for this purpose shall be the sum of the county shares: Provided, That no county shall receive an allowance which is greater than one third above the computed state average allowance per mile multiplied by the total mileage in the county.


The allowance for administrative cost shall be equal to one and twenty-five one hundredths percent of the allocation for professional educators, as determined in section four of this article.

Distribution of the computed allowance shall be made as follows:

(1) Fifty-six percent of the allowance shall be distributed to the counties in equal amounts; and

(2) Forty-four percent of the allowance shall be distributed to the regional educational service agencies in accordance with rules adopted by the state board. The allowance for regional educational service agencies shall be excluded from the computation of total basic state aid as provided for in section twelve of this article.

§18-9A-9. Foundation allowance for other current expense and substitute employees.

The total allowance for other current expense and substitute employees shall be the sum of the following:

(1) For current expense, for the year one thousand nine hundred eighty-nine-ninety only, ten percent of the sum of the computed state allocation for professional educators and service personnel as determined in sections four and five of this article, and thereafter the rate shall be ten and six-tenths percent. Distribution to the counties shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment; plus
(2) For professional educator substitutes or current expense, two and five-tenths percent of the computed state allocation for professional educators as determined in section four of this article. Distribution to the counties shall be made proportional to the total county allocation for professional educators; plus

(3) For service personnel substitutes or current expense, two and five-tenths percent of the computed state allocation for service personnel as determined in section five of this article. Distribution to the counties shall be made proportional to the total county allocation for service personnel.

§18-9A-10. Foundation allowance to improve instructional programs.

(a) Commencing with the school year beginning on the first day of July, one thousand nine hundred eighty-nine, and thereafter, twenty-eight million eight hundred thousand dollars, in addition to funds which accrue from allocations due to increase in total local share above that computed for the school year beginning on the first day of July, one thousand nine hundred eighty-nine, from balances in the general school fund, or from appropriations for such purpose shall be allocated to increase state support of counties as follows:

(1) Twenty percent of these funds shall be allocated to the counties proportional to adjusted enrollment; and

(2) Each county whose allocation in subsection (1) is less than one hundred fifty thousand dollars in any fiscal year shall then receive an amount which equals the difference between such amount received and one hundred fifty thousand dollars.

(b) The remainder of these funds shall be allocated according to the following plan for progress toward basic resources per pupil equity:

Beginning with the county which has the lowest basic resources per pupil and progressing through the counties successively to and beyond the county with the highest basic resources per pupil, the funds available shall be allocated in amounts necessary to increase
moneys available to the county or counties to the basic resources per pupil level, as nearly as is possible, of the county having the next higher basic resources per pupil: 

Provided, That to be eligible for its allocation under this section, a county board shall lay the maximum regular tax rates set out in section six-c, article eight, chapter eleven of this code: Provided, however, That moneys allocated by provision of this section shall be used to improve instructional programs according to a plan for instructional improvement which the affected county board shall file with the state board by the first day of August of each year, to be approved by the state board by the first day of September of that year if such plan substantially complies with standards to be adopted by the state board: Provided further, That no part of this allocation may be used to employ professional educators in counties until and unless all applicable provisions of sections four and fourteen of this article have been fully utilized. Such instructional improvement plan shall be made available for distribution to the public at the office of each affected county board.

(c) Commencing with the school year beginning on the first day of July, one thousand nine hundred eighty-eight, and thereafter, fifty percent of the funds which accrue due to an increase in local share above that computed for the school year beginning on the first day of July, one thousand nine hundred eighty-seven, shall be paid into the school building capital improvements fund created by section six, article nine-d of this chapter, and shall be used solely for the purposes of said article nine-d.

(d) There shall be appropriated seven million four hundred ten thousand six hundred sixty-eight dollars for aid to counties which may be expended by the county boards for the initiation, and/or improvements of special education programs including employment of new special education professional personnel solely serving exceptional children; instructional programs which utilize state of the art technology; training of educational personnel to work with exceptional children; and supportive costs such as materials, transportation,
(e) There shall be appropriated two million one thousand seven hundred thirty-two dollars to be used by the state department of education which may be expended for the purposes of paying staff and operating costs of both administrative/program personnel and instructional personnel delivering education to handicapped children in facilities operated by the state department of health; paying state department of education staff, current expenses and equipment; supporting a gifted summer camp; and supporting special state projects including but not limited to (1) an instructional materials center for visually handicapped children at the West Virginia Schools for the Deaf and the Blind, (2) the state special olympics program, (3) the West Virginia advisory council for the education of exceptional children at the West Virginia College of Graduate Studies, (4) statewide training activities or other programs benefiting exceptional children, and (5) the state very special arts program.

§18-9A-13b. Allowances for remedial and accelerated education programs and salary equity.

1 For the fiscal years commencing on the first day of July, one thousand nine hundred eighty-eight and eighty-nine, only, the total state appropriation for the basic foundation program shall be no less than the state appropriation for the fiscal year which began on the first day of July, one thousand nine hundred eighty-seven.

8 For the school year beginning on the first day of July,
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one thousand nine hundred eighty-eight, and the school
beginning on the first day of july, one thousand nine
hundred eighty-nine, funds which accrue from alloca-
tions due to changes in adjusted enrollment above that
computed for the school year beginning on the first day
of july, one thousand nine hundred eighty-seven, or
from appropriations for such purpose, shall be allocated
to increase state support for salary equity and to develop
and implement remedial and accelerated programs in
the following manner:

sixty percent of these funds shall be allocated for the
purpose of attaining salary equity among the counties
pursuant to section five, article four, chapter eighteen-
a; and

forty percent of these funds shall be allocated to
implement remedial and accelerated programs as
developed under guidelines of the state board; provided,
that for the school year one thousand nine hundred
eighty-nine—ninety only, funds which accrue from
allocations due to changes in adjusted enrollment above
that computed for the school year beginning on the first
day of july, one thousand nine hundred eighty-seven,
shall be distributed for the purpose of achieving equity
within the state basic foundation program.

commencing with the school year beginning on the
first day of july, one thousand nine hundred ninety, and
thereafter funds which accrue from allocations due to
changes in adjusted enrollment above that computed for
the school year beginning on the first day of july, one
thousand nine hundred eighty-seven, or from appropri-
ations for such purpose, shall be allocated to increase
state support for salary equity and to develop and
implement remedial and accelerated programs in the
following manner:

eighty percent of these funds shall be allocated for the
purpose of attaining salary equity among the counties
pursuant to section five, article four, chapter eighteen-
a; and

twenty percent of these funds shall be allocated to
implement remedial and accelerated programs as

(a) The purpose of this section is to declare the intent of the Legislature to provide a thorough and efficient system of education for West Virginia public school students. High quality educational standards shall be provided all public school students on an equal educational opportunity basis. A system for the review of county educational plans and the on-site reviews of county educational programs shall provide assurances that the high quality standards, established pursuant to this section, are being met.

On or before January one, one thousand nine hundred eighty-five, the state board of education shall establish and adopt high quality educational standards and shall provide each county board of education a copy thereof.

On or before July one, one thousand nine hundred eighty-five, and each July one thereafter, each county board of education shall file an annual specific program plan with the state department of education. The program plan shall, at a minimum, meet the statewide high quality educational standards as established by the state board of education.

The purpose of the program plan is to allow county boards of education flexibility in developing school improvement programs structured around locally identified needs, but in compliance with the high quality standards adopted by the state board of education. High quality standards must be met in curriculum, finance, transportation, special education, facilities, textbooks, personnel qualifications and other such areas as determined by the state board of education.

The state department of education shall review the plans annually and conduct an on-site review of each county's educational program every fourth year. The state board of education shall have authority to issue four types of recognition status: (1) full approval, (2) substantial approval, (3) probationary and (4) nonapproval.
Full approval status may be granted to a county board of education whose educational program has undergone an on-site evaluation by representatives of the state department of education and has met the high quality standards adopted by the state board of education. Full approval status shall be for a period not to exceed four years.

Substantial approval status may be granted to a county board of education whose educational program has satisfied all conditions identified under full approval status, with the exception of an on-site review, or all conditions identified under full approval have been satisfied except that one or more of the high quality standards have not been met but will be attained within one year, as described in an acceptable plan of action.

Probationary status is given to a county board of education whose educational program has not met the high quality standards. Probationary status is a warning that the county board of education must make specified improvements. If progress is not made toward meeting the high quality standards during the succeeding year, the county board of education is automatically placed on nonapproval status.

Nonapproval status is given to a county board of education which fails to submit an annual program plan, fails to give evidence of meeting the high quality standards or has not demonstrated a reasonable effort to meet such standards.

(b) After the thirty-first day of December, one thousand nine hundred eighty-eight, the approval of educational programs based on high quality educational standards established by the state board shall be in accordance with the provisions of article two-e of this chapter and the provisions of this section shall expire.

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 any type or classification as
the state board shall approve. Provisions shall be made
for educating 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 accor-
dance with their capacities, limitations and needs:
Provided, That commencing with the school year
beginning on the first day of July, one thousand nine
hundred ninety, provisions shall be made for educating
exceptional children, including the handicapped, the
gifted in grades one through eight, the pupils enrolled
on the first day of July, one thousand nine hundred
eighty-nine in the gifted program in grades nine
through twelve and the exceptional gifted in grades nine
through twelve. The term "exceptional gifted" means
those students in grades nine through twelve identified
as gifted and at least one of the following: behavior
disorder, specific learning disabilities, psychological
adjustment disorder, underachieving, or economically
disadvantaged. Exceptional gifted children shall be
referred for identification pursuant to recommendation
by a school psychologist, school counselor, principal,
teacher, parent or by self-referral, at which time the
placement process, including development of an individ-
ualized education program, and attendant due process
rights, shall commence. Exceptional gifted children, for
purposes of calculating adjusted enrollment pursuant to
section two, article nine-a of this chapter, shall not
exceed one percent of net enrollment in grades nine
through twelve. Nothing herein shall be construed to
limit the number of students identified as exceptional
gifted and who receive appropriate services. Each
county board of education is mandated to provide gifted
education to its students according to guidelines
promulgated by the state board and consistent with the
provisions of this chapter. Upon the recommendation of
a principal, counselor, teacher and parent, a student
who does not meet the gifted eligibility criteria may
participate in any school program deemed appropriate
for the student provided that classroom space is availa-
ble. 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. After the first
day of July, one thousand nine hundred eighty-three, the
special education programs shall include home-teaching
or visiting-teacher services for children who are
homebound due to injury or who for any other reason
as certified by a licensed physician are homebound for
a period that has lasted or will last more than three
weeks: Provided, That pupils receiving such homebound
or visiting-teacher services shall not be included when
computing adjusted enrollment as defined in section
two, article nine-a, chapter eighteen of this code. The
state board shall adopt rules and regulations to advance
and accomplish this program and to assure that all
exceptional children in the state, including children in
mental health facilities, residential institutions and
private schools, will receive an education in accordance
with the mandates of state and federal laws.

Nothing in this section shall be construed to prevent
county boards of education from providing special
educational programs, including, but not limited to,
special schools, classes, regular class programs, home-
teaching or visiting-teacher services for such excep-

Notwithstanding any other provision of this code, to the contrary, the teacher-student ratio for gifted, honors, and advanced placement education in grades nine through twelve shall be the same as regular classroom education and not as required for special education of exceptional children: Provided, That this shall not apply to education of exceptional gifted, as defined in section one, article twenty of this chapter. The state board shall review class sizes and enrollment percentages of students in gifted, exceptional gifted, honors, and advanced placement programs in grades nine through twelve and report its findings to the standing education committees of the Senate and House of Delegates by the tenth day of January, one thousand nine hundred ninety-one.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

§18A-4-1. Definitions.

For the purpose of this section, salaries shall be defined as: (a) “Basic salaries” which shall mean the salaries paid to teachers with zero years of experience and in accordance with the classification of certification and of training of said teachers; and (b) “advanced salaries” which shall mean the basic salary plus an experience increment based on the allowable years of experience of the respective teachers in accordance with the schedule established herein for the applicable classification of certification and of training of said teachers.

Classification of certification” means the class or type of certificate issued by the state superintendent of schools under the statutory provisions of this chapter.

“Classification of training” means the number of collegiate or graduate hours necessary to meet the requirements stipulated in the definitions set forth in the next paragraph in items (2) to (10) inclusive.
The column heads of the state minimum salary schedule set forth in section two of this article are defined as follows:

(1) "Years of experience" means the number of years the teacher has been employed in the teaching profession, including active work in educational positions other than the public schools, and service in the armed forces of the United States if the teacher were under contract to teach at the time of induction. For a registered professional nurse employed by a county board of education, "years of experience" means the number of years the nurse has been employed as a public school health nurse, including active work in a nursing position related to education, and service in the armed forces if the nurse was under contract with the county board at the time of induction. For the purpose of section two of this article, the experience of a teacher or a nurse shall be limited to that allowed under their training classification as found in the minimum salary schedule.

(2) "Fourth class" means all certificates previously identified as (a) "certificates secured by examination," and (b) "other first grade certificates."

(3) "Third class" means all certificates previously identified as (a) "standard normal certificates" and (b) "third class temporary (sixty-four semester hours) certificates."

(4) "Second class" means all certificates previously identified as "second class temporary certificates based upon the required ninety-six hours of college work."

(5) "A.B." means a bachelor's degree, from an accredited institution of higher education, which has been issued to, or for which the requirements for such have been met by, a person who qualifies for or holds a professional certificate or its equivalent. A registered professional nurse with a bachelor's degree, who is licensed by the West Virginia board of examiners for registered professional nurses and employed by a county board of education, shall be within this classification for payment in accordance with sections two and two-a of
(6) "A.B. plus 15" means a bachelor's degree as defined above plus fifteen hours of graduate work, from an accredited institution of higher education certified to do graduate work, in an approved planned program at the graduate level which requirements have been met by a person who qualifies for or holds a professional certificate or its equivalent.

(7) "M.A." means a master's degree, earned in an institution of higher education approved to do graduate work, which has been issued to, or the requirements for such have been met by, a person who qualifies for or holds a professional certificate or its equivalent.

(8) "M.A. plus 15" means the above-defined master's degree plus fifteen hours of graduate work, earned in an institution approved to do graduate work, if the person is qualified for or holds a professional certificate or its equivalent.

(9) "M.A. plus 30" means the above-defined master's degree plus thirty graduate hours, earned in an institution approved to do graduate work, if the person is qualified for or holds a professional certificate or its equivalent.

(10) "Doctorate" means a doctor's degree, earned from a university qualified and approved to confer such a degree, which has been issued to or the requirements for such have been met by a person who qualifies for or holds a professional certificate or its equivalent.

Notwithstanding the requirements set forth in subdivisions (6), (8) and (9) of this section relating to hours of graduate work at an institution certified to do such work, fifteen undergraduate credit hours from a regionally accredited institution of higher education, earned after the effective date of this section, may be utilized for advanced salary classification if such hours are in accordance with (a) the teacher's current classification of certification and of training, (b) a designated instructional shortage area documented by the employing county superintendent, or (c) an identi-
Any professional educator earning a master's degree shall be entitled to any "MA" classifications of training for purposes of compensation pursuant to the provisions of the in-field master's salary schedule set forth in section two of this article only if a minimum of two-thirds of the course work for such degree is in the field in which the professional educator holds certification and is employed: Provided, That the classroom teacher who holds multiple certifications or a certification in elementary education and has obtained an in-field master's in one of those certification areas shall be compensated at the level commensurate with the in-field provisions.

Upon request for a specific master's degree program, the appropriate governing board of higher education shall provide all of the course work needed to obtain a master's degree in the requested program. The course work for such program shall be initiated no later than two years from the date requested and shall be provided in its entirety within each regional educational service agency area in which the request has been made as follows: (1) via satellite instruction; (2) via public television home instruction; or (3) in a manner prescribed by such governing board. If a governing board fails to initiate the course work within the above time period, an individual shall be compensated at the appropriate level of years of experience on the in-field master's salary schedule whenever the individual has obtained any master's degree related to the public school program.

The governing boards of higher education shall develop a plan to provide "MA" classification programs to professional educators throughout this state by the first day of January, one thousand nine hundred ninety-one with the objective being to provide course work enabling professional educators to achieve an "MA" degree classification in their teaching field.

§18A-4-2. State minimum salaries for teachers.
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STATE IN-FIELD MASTER’S SALARY SCHEDULE

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On and after the first day of July, one thousand nine hundred ninety-four, each teacher who has met the in-field master’s requirements set forth in section one of
On and after the first day of July, one thousand nine
hundred eighty-six, each teacher shall receive the
amount prescribed in the "state minimum salary
schedule I" as set forth in this section, specific additional
amounts prescribed in this section or article, and any
county supplement in effect in a county pursuant to
section five-a of this article during the contract year:
Provided, That on and after the first day of the second
half of the teacher's employment term in the school year
one thousand nine hundred eighty-nine—ninety, each
teacher shall receive the amount prescribed in the "state
minimum salary schedule II" as set forth in this section,
specific additional amounts prescribed in this section or
article, and any county supplement in effect in a county
pursuant to section five-a of this article during the
contract year.

Six hundred dollars shall be paid annually to each
classroom teacher who has at least twenty years of
teaching experience. Such payments shall be in addition
to any amounts prescribed in the "state minimum salary
schedule," shall be paid in equal monthly installments,
and shall be deemed a part of the state minimum
salaries for teachers.

§ 18A-4-5a. County salary supplements for teachers.

County boards of education in fixing the salaries of
teachers shall use at least the state minimum salaries
established under the provisions of this article. The
board may establish salary schedules which shall be in
excess of the state minimums fixed by this article, such
county schedules to be uniform throughout the county
as to the above stipulated training classifications,
experience, responsibility and other requirements,
except that no such county schedule may exceed one
hundred two and one-half percent of a schedule which
incorporates the state minimum salary for teachers in
effect on the first day of July, one thousand nine
hundred eighty-four, and adopts a supplement which equals the highest supplement provided by a county on the first day of January, one thousand nine hundred eighty-four, so as to assist the state in meeting its objective of salary equity among the counties: Provided, That all teachers in the state shall be entitled to any increases in the minimum salary schedules established under the provisions of this article, and when a county schedule changes due to said increase in the state minimum salary taking effect after the first day of July, one thousand nine hundred eighty-four, it shall not be deemed to exceed the maximum salary schedule prescribed herein.

Counties may fix higher salaries for teachers placed in special instructional assignments, for those assigned to or employed for duties other than regular instructional duties, and for teachers of one-teacher schools, and they may provide additional compensation for any teacher assigned duties in addition to the teacher's regular instructional duties wherein such noninstructional duties are not a part of the scheduled hours of the regular school day. Uniformity also shall apply to such additional salary increments or compensation for all persons performing like assignments and duties within the county: Provided, That in establishing such local salary schedules, no county shall reduce local funds allocated for salaries in effect on the first day of January, one thousand nine hundred eighty-four, and used in supplementing the state minimum salaries as provided for in this article, unless forced to do so by defeat of a special levy, or a loss in assessed values or events over which it has no control and for which the county board has received approval from the state board prior to making such reduction.

Counties may provide, in a uniform manner, benefits for teachers which require an appropriation from local funds including, but not limited to, dental, optical, health and income protection insurance, vacation time and retirement plans excluding the state teachers retirement system. Nothing herein shall prohibit the maintenance nor result in the reduction of any benefits
in effect on January one, one thousand nine hundred eighty-four, by any county board of education.

To further assist the state in meeting such objective, each county board of education shall provide to the state board of education on or before the first day of November, one thousand nine hundred eighty-nine, such information as the state board directs to assist the state superintendent of schools in preparing a report to be submitted to the Legislature on the first day of the regular session thereof in the year one thousand nine hundred ninety. Such report shall include findings, conclusions and recommendations with respect to benefits provided and meeting the objective of benefit equity among the counties.

§18A-4-5b. County salary supplements for school service personnel.

The county board of education may establish salary schedules which shall be in excess of the state minimums fixed by this article, except that no such schedule may exceed one hundred two and one-half percent of a schedule which incorporates the state minimum salary for school service personnel in effect on the first day of July, one thousand nine hundred eighty-four, and adopts a monthly supplement of two hundred and five dollars for zero years of experience for all pay grades and which increases said monthly supplement by two dollars for each year of experience codified for school service personnel in this article, so as to assist the state in meeting its objective of salary equity among the counties: Provided, That all school service personnel in the state shall be entitled to any increases in the minimum salary for school service personnel established under the provisions of this article, and when a county schedule changes due to said increase in the state minimum salary taking effect after the first day of July, one thousand nine hundred eighty-four, it shall not be deemed to exceed the maximum salary schedule prescribed herein. Any county supplement for any position which, on the first day of January, one thousand nine hundred eighty-four, extends the schedule beyond the maximum prescribed herein for such position shall be
exempt from the maximums stated herein, subject to the
approval of the state board, but no such supplement
shall be increased beyond the amount received on the
first day of January, one thousand nine hundred eighty-
four.

These county schedules shall be uniform throughout
the county with regard to any training classification,
experience, years of employment, responsibility, duties,
pupil participation, pupil enrollment, size of buildings,
operation of equipment or other requirements. Further,
uniformity shall apply to all salaries, rates of pay,
benefits, increments or compensation for all persons
regularly employed and performing like assignments
and duties within the county: Provided, That in estab-
lishing such local salary schedules, no county shall
reduce local funds allocated for salaries in effect on the
first day of January, one thousand nine hundred eighty-
four, and used in supplementing the state minimum
salaries as provided for in this article, unless forced to
do so by defeat of a special levy, or a loss in assessed
values or events over which it has no control and for
which the county board has received approval from the
state board prior to making such reduction.

Counties may provide, in a uniform manner, benefits
for service personnel which require an appropriation
from local funds including, but not limited to, dental,
optical, health and income protection insurance, vaca-
tion time and retirement plans excluding the state
teachers retirement system. Nothing herein shall
prohibit the maintenance nor result in the reduction of
any benefits in effect on January one, one thousand nine
hundred eighty-four, by any county board of education.

To further assist the state in meeting such objective,
each county board of education shall provide to the state
board of education on or before the first day of
November, one thousand nine hundred eighty-nine, such
information as the state board directs to assist the state
superintendent of schools in preparing a report to be
submitted to the Legislature on the first day of the
regular session thereof in the year one thousand nine
hundred ninety. Such report shall include findings,
conclusions, and recommendations with respect to
benefits provided and meeting the objective of benefit
equity among the counties.

§18A-4-5c. Equity appropriation from surplus revenues.

1 Notwithstanding the provisions of section five of this
2 article, any moneys appropriated and expended for
3 equity that are in addition to such amounts as were
4 expended for such purpose prior to the effective date of
5 this section shall be apportioned between teachers and
6 school service personnel in such proportion as necessary
7 to align more closely teachers and school service
8 personnel with their counterparts in the contiguous
9 states: Provided, That an adequate amount of such funds
10 shall be reserved to finance the appropriate foundation
11 allowances and staffing incentives provided for in
12 article nine-a of chapter eighteen.

13 The state board shall collect information annually
14 from contiguous states for the purpose of making a
15 thorough and comprehensive comparison of West
16 Virginia school service personnel salaries to those in
17 surrounding states, which shall be used as a guide to
18 align more closely teachers and school service personnel
19 with their counterparts in the contiguous states.

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

STATE MINIMUM PAY SCALE PAY GRADE I

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On and after the first day of July, one thousand nine hundred eighty-nine the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the "state minimum pay scale pay grade I" as set forth in this section, and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one half the amount indicated in the "state minimum pay scale pay grade I" set forth in this section: Provided, That beginning on the first day of the second half of the employment term in the school year one thousand nine hundred eighty-nine—ninety, and thereafter, "state minimum pay scale pay grade II" shall replace "state minimum pay scale pay grade I", and an additional ten dollars per month shall be added to the minimum monthly pay if the service employee holds a high school diploma or its equivalent.

Any service employee required to work on any legal school holiday shall be paid at a rate one and one-half times such employee's usual hourly rate.

Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid shall be paid for such additional hours or fraction thereof at a rate of one and one-half times their usual hourly rate and paid entirely from county board of education funds.

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

The minimum pay for extra-duty assignments as defined in section eight-b of this article shall be no less than one-seventh of the employee's daily total salary for each hour the employee is involved in performing the assignment and paid entirely from local funds. The
salary for any fraction of an hour the employee is involved in performing the assignment shall be pro-rated accordingly. When performing extra-duty assignments, employees who are regularly employed on a one-half day salary basis shall receive the same hourly extra-duty assignment pay computed as though such an employee were employed on a full-day salary basis.

§18A-4-8d. Consolidation of services and seniority rights for administrative personnel.

Where two or more counties join together to share the services of central office administrative personnel, any employee whose services are no longer needed by virtue of such sharing may have his or her contract terminated for lack of need, as provided in sections two and six, article two of this chapter, notwithstanding any provision of this code to the contrary. Any employee whose contract is so terminated shall be afforded all rights pursuant to section eight-b of this article.

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

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect July 1, 1989.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 25th day of April, 1989.

Governor