

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1990



ENROLLED

HOUSE BILL No. 101.....

(By Mr. Speaker, M. Chambers, & Del. Latta)



Passed March 15, 1990

In Effect From Passage

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H. B. 101

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE SATTES)

[Passed March 15, 1990; in effect from passage.]

AN ACT to repeal section fourteen, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend article two of said chapter by adding thereto a new section, designated section five-b; to amend article two-b of said chapter by adding thereto a new section, designated section two-a; to amend and reenact section thirteen, article five of said chapter; to amend and reenact section one, article eight of said chapter; to amend and reenact sections four, five, five-a, seven, nine, ten, thirteen and thirteen-b, article nine-a of said chapter; to amend article nine-b of said chapter by adding thereto a new section, designated section six-a; to amend and reenact section one, article twenty of said chapter; to further amend said article twenty by adding thereto a new section, designated section one-b; to amend and reenact section seven, article two, chapter eighteen-a of said code; to amend and reenact sections five-a, five-b and seven, article four of said chapter; to further amend said article four by adding thereto a new section, designated section five-d; and to amend article one, chapter eighteen-b of said code by adding thereto a new section, designated section eleven, all relating to public education generally; authorizing the state board to become a medicaid provider and ascertaining eligible students; permitting the state board to delegate provider status in certain instances and requiring an annual report;

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prohibiting withdrawal from participation in a multi-county vocational center; allowing county school boards to contract with colleges or universities or recognized campus organizations to provide school buses to transport college or university students, faculty and staff to and from such college or university; providing for the aforesaid contract to include cost of service and rules concerning student behavior; requiring certain individuals to be provided with information relating to vocational or higher education opportunities; deleting obsolete language pertaining to meetings and reports for the joint establishment of county school systems; conforming the compulsory school attendance age with other sections of the code; requiring test publishers to norm homeschooling standardized tests; authorizing an additional test choice; requiring the standardized test to be less than ten years old; providing the test results to be reported as a national percentile; requiring test results to be made available by a certain date; decreasing the professional educator ratio of fifty-five per thousand and establishing priorities in the event of a reduction in force; providing for a minimum number of principals and central office administrators; deleting obsolete language pertaining to the foundation allowance for the fiscal year one thousand nine hundred eighty-eight; removing the prohibition that certain school employees may not be reduced-in-force in certain instances; permitting counties with increasing student populations to apply for additional bus funding; providing ninety percent of transportation costs to counties to cover certain costs in transporting certain students to and from multicounty vocational schools; delaying the increase in the allowance for other current expense for one year; providing an appropriation of fifteen million four hundred forty thousand four hundred ninety-three dollars for the school building authority for the fiscal year beginning on the first day of July, one thousand nine hundred ninety and increasing such amount by at least seven million seven hundred thousand dollars in each subsequent year; changing the allowance for loss reduction to an allowance for counties in severe financial crisis; deleting obsolete language pertaining to total

state appropriation for the basic foundation program; providing for an amount of funds for salary equity; delaying allocation of funding for remedial and accelerated programs for one year; delaying submission of county board's budget to the state board until the tenth day next following the state board's transmittal of the final state aid computations; decreasing the maximum age addressed by special education programs; permitting special education program completion by students at least twenty-one years of age and enrolled prior to a certain date; requiring the education of exceptional and handicapped children in foster care and correctional facilities beginning on the first day of July, one thousand nine hundred ninety; deleting obsolete language pertaining to establishment of special education program for certain children; expanding the services provided to the severely handicapped to include handicapped children ages three through five, inclusive beginning the first day of July, one thousand nine hundred ninety; broadening the definition of the term "handicapped children" beginning the first day of July, one thousand nine hundred ninety; requiring state board of education to adopt rules to assure appropriate educational programs for certain children in foster care and correctional facilities beginning the first day of July, one thousand nine hundred ninety; removing the limits placed on counties for teacher and service personnel salary supplements for one year and changing certain effective dates; authorizing a salary equity appropriation; providing for an adjustment in substitute teacher compensation; requiring state funded institutions of higher education to provide appropriate services to meet the needs of students with handicapping conditions; and repealing the section providing for incentives for staffing improvements.

Be it enacted by the Legislature of West Virginia:

That section fourteen, article nine-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that article two of said chapter be amended by adding thereto a new section, designated section five-b; that article two-b of said chapter be amended by adding

thereto a new section, designated section two-a; that section thirteen, article five of said chapter be amended and reenacted; that section one, article eight of said chapter be amended and reenacted; that sections four, five, five-a, seven, nine, ten, thirteen and thirteen-b, article nine-a of said chapter be amended and reenacted; that article nine-b of said chapter be further amended by adding thereto a new section, designated section six-a; that section one, article twenty of said chapter be amended and reenacted; that said article twenty be further amended by adding thereto a new section, designated section one-b; that section seven, article two, chapter eighteen-a of said code be amended and reenacted; that sections five-a, five-b and seven, article four of said chapter be amended and reenacted; that said article four be further amended by adding thereto a new section, designated section five-d; and that article one, chapter eighteen-b of said code be amended by adding thereto a new section, designated section eleven, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5b. Medicaid eligible children.

1 The state board of education, shall become a medicaid
2 provider and seek out medicaid eligible students for the
3 purpose of providing medicaid and related services to
4 students eligible under the medicaid program and to
5 maximize federal reimbursement for all services
6 available under the Omnibus Budget Reconciliation Act
7 of one thousand nine hundred eighty-nine, as it relates
8 to medicaid expansion and any future expansions in the
9 medicaid program for medicaid and related services for
10 which state dollars are or will be expended: *Provided,*
11 That the state board may delegate this provider status
12 and subsequent reimbursement to regional educational
13 service agencies (RESA) and/or county boards of
14 education: *Provided, however,* That annually the state
15 board of education shall report to the legislature the
16 number and age of children eligible for medicaid, the
17 number and age of children with medicaid coverage, the
18 types of medicaid eligible services provided, the
19 frequency of services provided, the medicaid dollars

20 reimbursed; and that this report shall be on a county
 21 by county basis and made available no later than the
 22 first day of January, one thousand nine hundred ninety-
 23 one, and annually thereafter.

ARTICLE 2B. AREA VOCATIONAL PROGRAM.

§18-2B-2a. Withdrawal from multi-county vocational center prohibited.

1 Any county which participates in the operation of a
 2 multi-county vocational center shall not be permitted to
 3 withdraw from such participation.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-13. Authority of boards generally.

1 The boards, subject to the provisions of this chapter
 2 and the rules and regulations of the state board, shall
 3 have authority:

4 (1) To control and manage all of the schools and school
 5 interests for all school activities and upon all school
 6 property, whether owned or leased by the county,
 7 including the authority to require that records be kept
 8 of all receipts and disbursements of all funds collected
 9 or received by any principal, teacher, student or other
 10 person in connection therewith, any programs, activities
 11 or other endeavors of any nature operated or carried on
 12 by or in the name of the school, or any organization or
 13 body directly connected with the school, to audit such
 14 records and to conserve such funds, which shall be
 15 deemed quasi-public moneys, including securing surety
 16 bonds by expenditure of board moneys;

17 (2) To establish schools, from preschool through high
 18 school, inclusive of vocational schools; and to establish
 19 schools and programs, or both, for post high school
 20 instruction, subject to approval of the state board of
 21 education;

22 (3) To close any school which is unnecessary and to
 23 assign the pupils thereof to other schools: *Provided*, That
 24 such closing shall be officially acted upon and teachers
 25 and service personnel involved notified on or before the
 26 first Monday in April, in the same manner as provided

27 in section four of this article, except in an emergency,
28 subject to the approval of the state superintendent, or
29 under subdivision (5) of this section;

30 (4) To consolidate schools;

31 (5) To close any elementary school whose average
32 daily attendance falls below twenty pupils for two
33 months in succession and send the pupils to other schools
34 in the district or to schools in adjoining districts. If the
35 teachers in the school so closed are not transferred or
36 reassigned to other schools, they receive one month's
37 salary;

38 (6) (a) To provide at public expense adequate means
39 of transportation, including transportation across county
40 lines, for all children of school age who live more than
41 two miles distance from school by the nearest available
42 road; to provide at public expense and according to such
43 regulations as the board may establish, adequate means
44 of transportation for school children participating in
45 board-approved curricular and extracurricular activi-
46 ties; and to provide in addition thereto at public expense,
47 by rules and regulations and within the available
48 revenues, transportation for those within two miles
49 distance; to provide in addition thereto, at no cost to the
50 board and according to rules and regulations established
51 by the board, transportation for participants in projects
52 operated, financed, sponsored or approved by the
53 commission on aging: *Provided*, That all costs and
54 expenses incident in any way to transportation for
55 projects connected with the commission on aging shall
56 be borne by such commission, or the local or county
57 chapter thereof: *Provided however*, That in all cases the
58 school buses owned by the board of education shall be
59 driven or operated only by drivers regularly employed
60 by the board of education: *Provided further*, That the
61 county board may provide, under rules established by
62 the state board, for the certification of professional
63 employees as drivers of board-owned vehicles with a
64 seating capacity of less than ten passengers used for the
65 transportation of pupils for school-sponsored activities
66 other than transporting students between school and
67 home: *And provided further*, That the use of such

68 vehicles shall be limited to one for each school-sponsored
69 activity: *And provided further*, That buses shall be used
70 for extracurricular activities as herein provided only
71 when the insurance provided for by this section shall
72 have been effected;

73 (b) To enter into agreements with one another to
74 provide, on a cooperative basis, adequate means of
75 transportation across county lines for children of school
76 age subject to the conditions and restrictions of subdi-
77 visions (6) and (8) of this section;

78 (7) (a) To lease school buses operated only by drivers
79 regularly employed by the board to public and private
80 nonprofit organizations or private corporations to
81 transport school-age children to and from camps or
82 educational activities in accordance with rules and
83 regulations established by the board. All costs and
84 expenses incurred by or incidental to the transportation
85 of such children shall be borne by the lessee;

86 (b) To contract with any college or university or
87 officially recognized campus organizations to provide
88 transportation for college or university students, faculty
89 or staff to and from such college or university: *Provided*,
90 That only college and/or university students, faculty and
91 staff are being transported. The contract shall include
92 consideration and compensation for bus operators,
93 repairs and other costs of service, insurance and any
94 rules and regulations concerning student behavior.

95 (8) To provide at public expense for insurance against
96 the negligence of the drivers of school buses, trucks or
97 other vehicles operated by the board; and if the
98 transportation of pupils be contracted, then the contract
99 therefor shall provide that the contractor shall carry
100 insurance against negligence in such an amount as the
101 board shall specify;

102 (9) To provide solely from county funds for all regular
103 full-time employees of the board all or any part of the
104 cost of a group plan or plans of insurance coverage not
105 provided or available under the West Virginia public
106 employees insurance act;

107 (10) To employ teacher aides, to provide in-service
108 training for teacher aides, the training to be in
109 accordance with rules and regulations of the state board
110 and, in the case of service personnel assuming duties as
111 teacher aides in exceptional children programs, to
112 provide a four-clock-hour program of training prior to
113 such assignment which shall, in accordance with rules
114 and regulations of the state board, consist of training in
115 areas specifically related to the education of exceptional
116 children;

117 (11) To establish and conduct a self-supporting
118 dormitory for the accommodation of the pupils attend-
119 ing a high school or participating in a post high school
120 program and of persons employed to teach therein;

121 (12) To employ legal counsel;

122 (13) To provide appropriate uniforms for school
123 service personnel;

124 (14) To provide at public expense and under regula-
125 tions as established by any county board of education for
126 the payment of traveling expenses incurred by any
127 person invited to appear to be interviewed concerning
128 possible employment by such county board of education;

129 (15) To allow or disallow their designated employees
130 to use publicly provided carriage to travel from their
131 residences to their workplace and return: *Provided,*
132 That such usage is subject to the supervision of such
133 board and is directly connected with and required by
134 the nature and in the performance of such employee's
135 duties and responsibilities;

136 (16) To provide, at public expense, adequate public
137 liability insurance, including professional liability
138 insurance for board employees;

139 (17) To enter into agreements with one another to
140 provide, on a cooperative basis, improvements to the
141 instructional needs of each county. Said cooperative
142 agreements may be used to employ specialists in a field
143 of academic study or support functions or services,
144 therefor. Such agreements shall be subject to approval
145 by the state board of education; and

146 (18) To provide information about vocational or
 147 higher education opportunities to students with handi-
 148 capping conditions. The board shall provide in writing
 149 to the students and their parents or guardians informa-
 150 tion relating to programs of vocational education and to
 151 programs available at state funded institutions of higher
 152 education. Such information may include sources of
 153 available funding, including grants, mentorships and
 154 loans for students who wish to attend classes at
 155 institutions of higher education.

156 “Quasi-public funds” as used herein means any money
 157 received by any principal, teacher, student or other
 158 person for the benefit of the school system as a result
 159 of curricular or noncurricular activities.

160 The board of each county shall expend under such
 161 regulations as it establishes for each child an amount not
 162 to exceed the proportion of all school funds of the district
 163 that each child would be entitled to receive if all the
 164 funds were distributed equally among all the children
 165 of school age in the district upon a per capita basis.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-1. Commencement and termination of compulsory school attendance; exemptions.

1 Compulsory school attendance shall begin with the
 2 school year in which the sixth birthday is reached prior
 3 to the first day of September of such year or upon
 4 enrolling in a publicly supported kindergarten program
 5 and continue to the sixteenth birthday.

6 Exemption from the foregoing requirements of
 7 compulsory public school attendance shall be made on
 8 behalf of any child for the following causes or conditions,
 9 each such cause or condition being subject to confirma-
 10 tion by the attendance authority of the county:

11 **Exemption A. Instruction in a private, parochial**
 12 **or other approved school.**—Such instruction shall be
 13 in a school approved by the county board of education
 14 and for a time equal to the school term of the county
 15 for the year. In all such schools it shall be the duty of
 16 the principal or other person in control, upon the request

17 of the county superintendent of schools, to furnish to the
18 county board of education such information and records
19 as may be required with respect to attendance, instruc-
20 tion and progress of pupils enrolled between the
21 entrance age and sixteen years;

22 **Exemption B. Instruction in home or other ap-**
23 **proved place.**

24 (a) Such instruction shall be in the home of such child
25 or children or at some other place approved by the
26 county board of education and for a time equal to the
27 school term of the county. If such request for home
28 instruction is denied by the county board of education,
29 good and reasonable justification for such denial must
30 be furnished in writing to the applicant by the county
31 board of education. The instruction in such cases shall
32 be conducted by a person or persons who, in the
33 judgment of the county superintendent and county
34 board of education, are qualified to give instruction in
35 subjects required to be taught in the free elementary
36 schools of the state. It shall be the duty of the person
37 or persons providing the instruction, upon request of the
38 county superintendent, to furnish to the county board of
39 education such information and records as may be
40 required from time to time with respect to attendance,
41 instruction and progress of pupils enrolled between the
42 entrance age and sixteen years receiving such instruc-
43 tion. The state department of education shall develop
44 guidelines for the homeschooling of special education
45 students including alternative assessment measures to
46 assure that satisfactory academic progress is achieved.

47 (b) Notwithstanding the provisions of subsection
48 (a) of this Exemption B, the person or persons providing
49 home instruction meet the requirements for Exemption
50 B when the conditions of this subsection are met:
51 *Provided*, That the county superintendent shall have the
52 right to seek from the circuit court of the county an
53 order denying the home instruction, which order may
54 be granted upon a showing of clear and convincing
55 evidence that the child will suffer educational neglect
56 or that there are other compelling reasons to deny home
57 instruction.

58 (1) The person or persons providing home instruction
59 present to the county superintendent or county board of
60 education a notice of intent to provide home instruction
61 and the name and address of any child of compulsory
62 school age to be instructed: *Provided*, That if a child is
63 enrolled in a public school, notice of intent to provide
64 home instruction shall be given at least two weeks prior
65 to withdrawing such child from public school;

66 (2) The person or persons providing home instruction
67 submit satisfactory evidence of (i) a high school diploma
68 or equivalent and (ii) formal education at least four
69 years higher than the most academically advanced child
70 for whom the instruction will be provided or achieve-
71 ment of a score on the National Teachers Examination
72 sufficient for teacher certification in this state;

73 (3) The person or persons providing home instruction
74 outline a plan of instruction for the ensuing school year;
75 and

76 (4) The child receiving home instruction annually
77 takes a standardized test, to be administered at a public
78 school in the county where the child resides, or admin-
79 istered by a licensed psychologist or other person
80 authorized by the publisher of the test, or administered
81 by a person authorized by the county superintendent or
82 county board of education. The child shall be adminis-
83 tered a test which has been normed by the test publisher
84 on that child's age or grade group. In no event may the
85 child's parent or legal guardian administer the test.
86 Where a test is administered outside of a public school,
87 the child's parent or legal guardian shall pay the cost
88 of administering the test. The public school or other
89 qualified person shall administer to children of compul-
90 sory school age the Comprehensive Test of Basic Skills,
91 the California achievement test, the Stanford achieve-
92 ment test, or the Iowa tests of basic skills, achievement
93 and proficiency which test will be selected by the public
94 school, or other person administering the test, in the
95 subjects of English, grammar, reading, social studies,
96 science and mathematics; and shall be administered
97 under standardized conditions as set forth by the
98 published instructions of the selected test. No test shall

99 be administered if the publication date is more than ten
100 years from the date of the administration of the test.
101 Each child's test results shall be reported as a national
102 percentile for each of the six subjects tested. Each
103 child's test results shall be made available on or before
104 the thirtieth day of June of the school year in which the
105 test is to be administered to the person or persons
106 providing home instruction, the child's parent or legal
107 guardian and the county superintendent. Upon request
108 of a duly authorized representative of the West Virginia
109 department of education, each child's test results shall
110 be furnished by the person or persons providing home
111 instruction, or by the child's parent or legal guardian,
112 to the state superintendent of schools.

113 If the child's composite test results for any single year
114 for English, grammar, reading, social studies, science
115 and mathematics fall below the fortieth percentile on
116 the selected tests, the person or persons providing home
117 instruction shall initiate a remedial program to foster
118 achievement above that level. If, after one calendar year,
119 the child's composite test results are not above the
120 fortieth percentile level, home instruction shall no
121 longer satisfy the compulsory school attendance require-
122 ment exemption.

123 The superintendent or a designee shall offer such
124 assistance, including textbooks, other teaching materials
125 and available resources, as may assist the person or
126 persons providing home instruction subject to their
127 availability. Any child receiving home instruction may,
128 upon approval of the county board of education, exercise
129 the option to attend any class offered by the county
130 board of education as the person or persons providing
131 home instruction may deem appropriate subject to
132 normal registration and attendance requirements.

133 **Exemption C. Physical or mental incapacity.—**
134 Physical or mental incapacity shall consist of incapacity
135 for school attendance and the performance of school
136 work. In all cases of prolonged absence from school due
137 to incapacity of the child to attend, the written state-
138 ment of a licensed physician or authorized school nurse
139 shall be required under the provisions of this article:

140 *Provided*, That in all cases incapacity shall be narrowly
141 defined and in no case shall the provisions of this article
142 allow for the exclusion of the mentally, physically,
143 emotionally or behaviorally handicapped child otherwise
144 entitled to a free appropriate education;

145 **Exemption D. Residence more than two miles**
146 **from school or school bus route.**—The distance of
147 residence from a school, or school bus route providing
148 free transportation, shall be reckoned by the shortest
149 practicable road or path, which contemplates travel
150 through fields by right of permission from the land-
151 holders or their agents. It shall be the duty of the county
152 board of education, subject to written consent of
153 landholders, or their agents, to provide and maintain
154 safe foot bridges across streams off the public highways
155 where such are required for the safety and welfare of
156 pupils whose mode of travel from home to school or to
157 school bus route must necessarily be other than along
158 the public highway in order for said road or path to be
159 not over two miles from home to school or to school bus
160 providing free transportation;

161 **Exemption E. Hazardous conditions.**—Conditions
162 rendering school attendance impossible or hazardous to
163 the life, health or safety of the child;

164 **Exemption F. High school graduation.**—Such
165 exemption shall consist of regular graduation from a
166 standard senior high school;

167 **Exemption G. Granting work permits.**—The
168 county superintendent may, after due investigation,
169 grant work permits to youths under sixteen years of age,
170 subject to state and federal labor laws and regulations:
171 *Provided*, That a work permit may not be granted on
172 behalf of any youth who has not completed the eighth
173 grade of school;

174 **Exemption H. Serious illness or death in the**
175 **immediate family of the pupil.**—It is expected that the
176 county attendance director will ascertain the facts in all
177 cases of such absences about which information is
178 inadequate and report same to the county superintend-
179 ent of schools;

180 **Exemption I. Destitution in the home.**—Exemp-
181 tion based on a condition of extreme destitution in the
182 home may be granted only upon the written recommen-
183 dation of the county attendance director to the county
184 superintendent following careful investigation of the
185 case. A copy of the report confirming such condition and
186 school exemption shall be placed with the county
187 director of public assistance. This enactment contem-
188 plates every reasonable effort that may properly be
189 taken on the part of both school and public assistance
190 authorities for the relief of home conditions officially
191 recognized as being so destitute as to deprive children
192 of the privilege of school attendance. Exemption for this
193 cause shall not be allowed when such destitution is
194 relieved through public or private means;

195 **Exemption J. Church ordinances; observances of**
196 **regular church ordinances.**—The county board of
197 education may approve exemption for religious instruc-
198 tion upon written request of the person having legal or
199 actual charge of a child or children: *Provided*, That such
200 exemption shall be subject to the rules and regulations
201 prescribed by the county superintendent and approved
202 by the county board of education;

203 **Exemption K. Alternative private, parochial,**
204 **church or religious school instruction.**—In lieu of the
205 provisions of Exemption A hereinabove, exemption shall
206 be made for any child attending any private school,
207 parochial school, church school, school operated by a
208 religious order, or other nonpublic school which elects
209 to comply with the provisions of article twenty-eight,
210 chapter eighteen of the code of West Virginia.

211 The completion of the eighth grade shall not exempt
212 any child under sixteen years of age from the compul-
213 sory attendance provision of this article: *Provided*, That
214 there is a public high school or other public school of
215 advanced grades or a school bus providing free trans-
216 portation to any such school, the route of which is within
217 two miles of the child's home by the shortest practicable
218 route or path as hereinbefore specified under Exemp-
219 tion D of this section.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

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

1 The basic foundation allowance to the county for
2 professional educators shall be the amount of money
3 required to pay the state minimum salaries, in accor-
4 dance with provisions of article four, chapter eighteen-
5 a of the code, to such personnel employed: *Provided,*
6 That in making this computation no county shall receive
7 an allowance for such personnel which number is in
8 excess of fifty-five professional educators to each one
9 thousand students in adjusted enrollment: *Provided,*
10 *however,* That for the school year commencing on the
11 first day of July, one thousand nine hundred ninety, no
12 county shall receive an allowance for such personnel
13 which number is in excess of fifty-four and thirty-three
14 one-hundredths professional educators to each one
15 thousand students in adjusted enrollment: *Provided*
16 *further,* That for the school year commencing on the first
17 day of July, one thousand nine hundred ninety-one and
18 thereafter, no county shall receive an allowance for such
19 personnel which number is in excess of fifty-three and
20 one-half professional educators to each one thousand
21 students in adjusted enrollment: *And provided further,*
22 That any county not qualifying under the provision of
23 section fourteen of this article shall be eligible for a
24 growth rate in professional personnel in any one year
25 not to exceed twenty percent of its total potential
26 increase under this provision, except that in no case
27 shall such limit be fewer than five professionals: *And*
28 *provided further,* That the number of and the allowance
29 for personnel paid in part by state and county funds
30 shall be prorated: *And provided further,* That where two
31 or more counties join together in support of a vocational
32 or comprehensive high school or any other program or
33 service, the professional educators for such school or
34 program may be prorated among the participating
35 counties on the basis of each one's enrollment therein
36 and that such personnel shall be considered within the
37 above-stated limit: *And provided further,* That in the
38 school year beginning the first day of July, one thousand

39 nine hundred eighty-eight, and the succeeding school
40 year, each county board shall establish and maintain a
41 minimum ratio of fifty professional instructional
42 personnel per one thousand students in adjusted
43 enrollment, and in the school year beginning the first
44 day of July, one thousand nine hundred ninety, and for
45 each succeeding school year, each county board shall
46 establish and maintain a minimum ratio of fifty-one
47 professional instructional personnel per one thousand
48 students in adjusted enrollment: *And provided further,*
49 That no county shall have less than a total of five
50 principals and central office administrators. Any county
51 board which does not establish and maintain this
52 minimum ratio shall suffer a pro rata reduction in the
53 allowance for professional educators under this section,
54 and, further, any county board which does not establish
55 and maintain this minimum ratio shall utilize any and
56 all allocations to it by provision of section fourteen of
57 this article solely to employ professional instructional
58 personnel until the minimum ratio is attained. Every
59 county shall utilize methods other than reductions in
60 force, such as attrition and early retirement, before
61 implementing their reductions in force policy to comply
62 with the limitations of this section. Any reductions
63 resulting from the provisions of this section shall be
64 made in the following order: (1) central office adminis-
65 trators, (2) assistant principals, and (3) principals.

66 Every county board of education shall annually
67 determine the number of professional educators em-
68 ployed that exceeds the number allowed by the public
69 school support plan and determine the amount of salary
70 supplement that would be available per state authorized
71 employee if all expenditures for such excess employees
72 were converted to annual salaries for state authorized
73 professional educators. Such information shall be
74 published annually in each school report card of each
75 county.

§18-9A-5. Foundation allowance for service personnel.

1 The basic foundation allowance to the county for
2 service personnel shall be the amount of money required
3 to pay the annual state minimum salaries in accordance

4 with the provisions of article four, chapter eighteen-a of
5 the code, to such service personnel employed: *Provided,*
6 That no county shall receive an allowance for an amount
7 in excess of thirty-four service personnel per one
8 thousand students in adjusted enrollment: *Provided,*
9 *however,* That the state superintendent of schools is
10 authorized in accordance with rules and regulations
11 established by the state board and upon request of a
12 county superintendent, to waive the maximum ratio of
13 thirty-four service personnel per one thousand students
14 in adjusted enrollment and the twenty percent per year
15 growth cap provided in this section, to the extent
16 appropriations are provided, in those cases where the
17 state superintendent determines that student population
18 density and miles of bus route driven justify such
19 waiver, except that no waiver shall be granted to any
20 county whose financial statement shows a net balance
21 in general current expense funds greater than three
22 percent at the end of the previous fiscal year: *Provided*
23 *further,* That on or before the first day of each regular
24 session of the Legislature, the state board, through the
25 state superintendent, shall make to the Legislature a full
26 report concerning the number of waivers granted and
27 the fiscal impact related thereto. Every county shall
28 utilize methods other than reduction in force, such as
29 attrition and early retirement, before implementing
30 their reductions in force policy to comply with the
31 limitations of this section.

32 For any county which has in excess of thirty-four
33 service personnel per one thousand students in adjusted
34 enrollment, such allowance shall be computed based
35 upon the average state minimum pay scale salary of all
36 service personnel in such county: *Provided,* That for any
37 county having fewer than thirty-four service personnel
38 per one thousand students in adjusted enrollment, in any
39 one year, the number of service personnel used in
40 making this computation may be increased the succeeding
41 years by no more than twenty percent per year of
42 its total potential increase under this provision, except
43 that in no case shall such limit be fewer than two service
44 personnel until the county attains the maximum ratio
45 set forth: *Provided, however,* That where two or more

46 counties join together in support of a vocational or
47 comprehensive high school or any other program or
48 service, the service personnel for such school or program
49 may be prorated among the participating counties on
50 the basis of each one's enrollment therein and that such
51 personnel shall be considered within the above-stated
52 limit.

53 Every county board of education shall annually
54 determine the number of service personnel employed
55 that exceeds the number allowed by the public school
56 support plan and determine the amount of salary
57 supplement that would be available per state authorized
58 employee if all expenditures for such excess employees
59 were converted to annual salaries for state authorized
60 service personnel. Such information shall be published
61 annually in each school report card of each county.

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

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

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

22 23 24 25	For the school year	Maximum professional educators per 1000 net enrollment the preceding year	Maximum service personnel per 1000 net enrollment the preceding year
26	1989-90	76.5	45.5
27	1990-91	76.0	45.0
28	1991-92	75.5	44.5
29	1992-93	75.0	44.0
30	1993-94	74.5	43.75
31	1994-95 and	74.0	43.5
32	thereafter		

33 (c) Every county shall utilize methods other than
 34 reductions in force, such as attrition and early retire-
 35 ment, before implementing their reductions in force
 36 policy to comply with the limitations of this section.

37 (d) For the school years one thousand nine hundred
 38 eighty-nine—ninety and one thousand nine hundred
 39 ninety—ninety-one only, if a school district loses more
 40 than six percent of the number chargeable for the
 41 previous school year for professional educator positions
 42 or service personnel positions, due to the maximum
 43 ratios established in subsection (b) of this section, it may
 44 apply to the state board for a waiver of said ratios to
 45 the extent that the loss exceeds either six percent of its
 46 professional educators or service personnel: *Provided,*
 47 That the county board of education establishes and
 48 maintains a minimum ratio of fifty professional instruc-
 49 tional personnel per one thousand students in adjusted
 50 enrollment for the school year beginning the first day
 51 of July, one thousand nine hundred eighty-nine, and
 52 fifty-one professional instructional personnel per one
 53 thousand students in adjusted enrollment for the school
 54 year one thousand nine hundred ninety—ninety-one as
 55 required in section four of this article. Waivers shall be
 56 determined on a case by case basis according to rules
 57 adopted by the state board and granted to the extent
 58 funds are appropriated by the Legislature for this
 59 purpose. Prior to the adoption of such rules, the state
 60 board shall conduct a thorough review of the staffing
 61 patterns in each county. Any personnel positions funded
 62 as a result of a waiver granted under the provisions of

63 this subsection shall not be included in the computations
64 set forth in sections four and five of this article.

§18-9A-7. Foundation allowance for transportation cost.

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

4 (1) Eighty percent of the transportation cost within
5 each county for maintenance, operation and related
6 costs, exclusive of all salaries;

7 (2) The total cost, within each county, of insurance
8 premiums on buses, buildings and equipment used in
9 transportation: *Provided*, That such premiums were
10 procured through competitive bidding;

11 (3) For the school year beginning the first day of July,
12 one thousand nine hundred eighty-nine, and thereafter,
13 an amount equal to ten percent of the current replace-
14 ment value of the bus fleet within each county as
15 determined by the state board, such amount to be used
16 only for the replacement of buses. In addition, in any
17 school year in which its net enrollment increases when
18 compared to the net enrollment the year immediately
19 preceding, a school district may apply to the state
20 superintendent for funding for an additional bus.
21 Furthermore, large, sparsely populated counties may
22 also apply to the state superintendent for funding for
23 additional mini-buses. The state superintendent shall
24 make a decision regarding each application based upon
25 an analysis of the individual school district's net
26 enrollment history and transportation needs or, in the
27 case of a large, sparsely populated county, the popula-
28 tion of the county: *Provided*, That the superintendent
29 shall not consider any application which fails to
30 document that the county has applied for federal
31 funding for additional buses. If the state superintendent
32 finds that a need exists, a request for funding shall be
33 included in the budget request submitted by the state
34 board for the upcoming fiscal year.

35 (4) Eighty percent of the cost of contracted transpor-
36 tation services and public utility transportation with

37 each county;

38 (5) Aid in lieu of transportation equal to the state
39 average amount per pupil for each pupil receiving such
40 aid within each county; and

41 (6) Ninety percent of the total cost of transportation
42 operations and related expenses, excluding salaries and
43 maintenance for transporting students to and from
44 classes at a multi-county vocational center.

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

**§18-9A-9. Foundation allowance for other current ex-
pense and substitute employees.**

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

3 (1) For current expense, for the year one thousand
4 nine hundred ninety—ninety-one only, ten percent of the
5 sum of the computed state allocation for professional
6 educators and service personnel as determined in
7 sections four and five of this article, and thereafter the
8 rate shall be ten and six-tenths percent. Distribution to
9 the counties shall be made proportional to the average
10 of each county's average daily attendance for the
11 preceding year and the county's second month net
12 enrollment; plus

13 (2) For professional educator substitutes or current
14 expense, two and five-tenths percent of the computed
15 state allocation for professional educators as determined
16 in section four of this article. Distribution to the counties
17 shall be made proportional to the total county allocation
18 for professional educators; plus

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

24 for service personnel.

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

1 (a) Commencing with the school year beginning on
2 the first day of July, one thousand nine hundred ninety,
3 and thereafter, twenty-eight million eight hundred
4 thousand dollars, in addition to funds which accrue from
5 allocations due to increase in total local share above that
6 computed for the school year beginning on the first day
7 of July, one thousand nine hundred ninety, from
8 balances in the general school fund, or from appropri-
9 ations for such purpose shall be allocated to increase
10 state support of counties as follows:

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

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

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

21 Beginning with the county which has the lowest basic
22 resources per pupil and progressing through the
23 counties successively to and beyond the county with the
24 highest basic resources per pupil, the funds available
25 shall be allocated in amounts necessary to increase
26 moneys available to the county or counties to the basic
27 resources per pupil level, as nearly as is possible, of the
28 county having the next higher basic resources per pupil:
29 *Provided*, That to be eligible for its allocation under this
30 section, a county board shall lay the maximum regular
31 tax rates set out in section six-c, article eight, chapter
32 eleven of this code: *Provided, however*, That moneys
33 allocated by provision of this section shall be used to
34 improve instructional programs according to a plan for
35 instructional improvement which the affected county
36 board shall file with the state board by the first day of

37 August of each year, to be approved by the state board
38 by the first day of September of that year if such plan
39 substantially complies with standards to be adopted by
40 the state board: *Provided further*, That no part of this
41 allocation may be used to employ professional educators
42 in counties until and unless all applicable provisions of
43 sections four and fourteen of this article have been fully
44 utilized. Such instructional improvement plan shall be
45 made available for distribution to the public at the office
46 of each affected county board.

47 (c) Commencing with the school year beginning on the
48 first day of July, one thousand nine hundred ninety,
49 fifteen million four hundred forty thousand four
50 hundred ninety-three dollars shall be paid into the
51 school building capital improvements fund created by
52 section six, article nine-d of this chapter, and shall be
53 used solely for the purposes of said article nine-d. In
54 each fiscal year thereafter, fifty percent of the funds
55 which accrue due to an increase in local share above that
56 computed for the school year beginning on the first day
57 of July, one thousand nine hundred eighty-seven, shall
58 be paid into the school building capital improvements
59 fund created by section six, article nine-d of this
60 chapter, and shall be used solely for the purposes of said
61 article nine-d: *Provided*, That in each such subsequent
62 fiscal year, not less than seven million seven hundred
63 thousand dollars shall be added to the amount of the
64 prior year's appropriation for such fund.

65 (d) There shall be appropriated seven million, four
66 hundred ten thousand, six hundred sixty-eight dollars
67 for aid to counties which may be expended by the county
68 boards for the initiation, and/or improvements of special
69 education programs including employment of new
70 special education professional personnel solely serving
71 exceptional children; instructional programs which
72 utilize state of the art technology; training of educa-
73 tional personnel to work with exceptional children; and
74 supportive costs such as materials, transportation,
75 contracted services, minor renovations and other costs
76 directly related to the special education delivery process
77 prescribed by the state board. The appropriation may

78 also be used for nonpersonnel costs associated with the
79 maintenance of special education programs in accor-
80 dance with such rules as established by the state board.
81 The appropriation includes out-of-state instruction and
82 may be expended to provide instruction, care and
83 maintenance for educable persons who are severely
84 handicapped and for whom the state provides no
85 facilities.

86 (e) There shall be appropriated two million, one
87 thousand, seven hundred thirty-two dollars to be used
88 by the state department of education which may be
89 expended for the purposes of paying staff and operating
90 costs of both administrative/program personnel and
91 instructional personnel delivering education to handi-
92 capped children in facilities operated by the state
93 department of health; paying state department of
94 education staff, current expenses and equipment;
95 supporting a gifted summer camp; and supporting
96 special state projects, including, but not limited to,
97 (1) an instructional materials center for visually
98 handicapped children at the West Virginia Schools for
99 the Deaf and the Blind, (2) the state special olympics
100 program, (3) the West Virginia advisory council for the
101 education of exceptional children at the West Virginia
102 College of Graduate Studies, (4) statewide training
103 activities or other programs benefiting exceptional
104 children and (5) the state very special arts program.

§18-9A-13. Allowance for counties in severe financial crisis.

1 For the fiscal year beginning on the first day of July,
2 one thousand nine hundred ninety only, there shall be
3 an allowance for counties who have suffered a severe
4 financial crisis for two or more consecutive years, as
5 determined by the department of education, after taking
6 under consideration funding stability, sparcity of
7 population and staffing ratio to students, among other
8 factors. The amount of such allowance shall be deter-
9 mined by policies adopted by the state board of
10 education. The amount of such allowance shall be
11 contingent upon appropriations provided by the Legis-
12 lature and shall be allocated to counties in accordance

13 with policies adopted by the state board of education.

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

1 For the school year one thousand nine hundred eighty-
2 nine—ninety, only, funds which accrue from allocations
3 due to changes in adjusted enrollment above that
4 computed for the school year beginning on the first day
5 of July, one thousand nine hundred eighty-seven, shall
6 be distributed for the purpose of achieving equity within
7 the state basic foundation program.

8 Commencing with the school year beginning on the
9 first day of July, one thousand nine hundred ninety-one
10 and thereafter, funds which accrue from allocations due
11 to changes in adjusted enrollment above that computed
12 for the school year beginning on the first day of July,
13 one thousand nine hundred eighty-seven, or from
14 appropriations for such purpose, shall be allocated to
15 increase state support for salary equity and to develop
16 and implement remedial and accelerated programs in
17 the following manner:

18 Eighty percent of these funds shall be allocated for the
19 purpose of attaining salary equity among the counties
20 pursuant to section five, article four, chapter eighteen-
21 a, except that for the school year commencing on the
22 first day of July, one thousand nine hundred ninety only,
23 the allocation to salary equity shall be made in accor-
24 dance with the provisions of section five-d, article four,
25 chapter eighteen-a of this code; and

26 Twenty percent of these funds shall be allocated to
27 implement remedial and accelerated programs as
28 developed under guidelines of the state board, except
29 that for the school year commencing on the first day of
30 July, one thousand nine hundred ninety only, the
31 allocation to implement remedial and accelerated
32 programs shall be made only to the extent funds are
33 appropriated for such programs.

ARTICLE 9B. STATE BOARD OF SCHOOL FINANCE.

§18-9B-6a. Delaying submission of budget.

1 Notwithstanding any other provisions of the code to
2 the contrary, the county board shall not be required to
3 submit its budget for approval by the state board of
4 education as provided by section twelve-a, article eight,
5 chapter eleven of this code and sections six and seven
6 of article nine-b, chapter eighteen of this code, until the
7 tenth day next following the state board's transmittal of
8 final state aid computations following the adoption of
9 the state budget, but no later than the thirtieth day of
10 May: *Provided*, That, in any year in which the state
11 budget is not adopted on or before the first day of May,
12 the state board may require the county board to adopt
13 a preliminary budget and to submit it to the state board
14 no later than the thirtieth day of May, and when final
15 computations of state aid are transmitted to the county
16 board, the county board shall make such adjustments as
17 are necessary prior to final adoption of the budget.

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

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

1 In accordance with the following provisions, county
2 boards of education throughout the state shall establish
3 and maintain for all exceptional children between five
4 and twenty-one years of age special educational pro-
5 grams, including, but not limited to, special schools or
6 classes, regular classroom programs, home-teaching or
7 visiting-teacher services for any type or classification as
8 the state board shall approve. Special educational
9 programs shall continue to be provided to those children
10 who are at least twenty-one years of age and enrolled
11 in the above mentioned "special education program"
12 prior to the first day of September, one thousand nine
13 hundred ninety-one, until they reach twenty-three years
14 of age. Provisions shall be made for educating excep-
15 tional children (including the handicapped and the
16 gifted) who differ from the average or normal in
17 physical, mental or emotional characteristics, or in
18 communicative or intellectual deviation characteristics,
19 or in both communicative and intellectual deviation
20 characteristics, to the extent that they cannot be
21 educated safely or profitably in the regular classes of the

22 public schools or to the extent that they need special
23 educational provisions within the regular classroom in
24 order to educate them in accordance with their capac-
25 ities, limitations and needs: *Provided*, That for the school
26 year beginning on the first day of July, one thousand
27 nine hundred ninety, provisions shall be made for
28 educating exceptional children, including the handi-
29 capped, the gifted in grades one through eight, the
30 pupils enrolled on the first day of July, one thousand
31 nine hundred eighty-nine, in the gifted program in
32 grades nine through twelve and the exceptional gifted
33 in grades nine through twelve. The term "exceptional
34 gifted" means those students in grades nine through
35 twelve identified as gifted and at least one of the
36 following: Behavior disorder, specific learning disabil-
37 ities, psychological adjustment disorder, underachiev-
38 ing, or economically disadvantaged. Exceptional gifted
39 children shall be referred for identification pursuant to
40 recommendation by a school psychologist, school coun-
41 selor, principal, teacher, parent or by self-referral, at
42 which time the placement process, including develop-
43 ment of an individualized education program, and
44 attendant due process rights, shall commence.
45 Exceptional gifted children, for purposes of calculating
46 adjusted enrollment pursuant to section two, article
47 nine-a of this chapter, shall not exceed one percent of
48 net enrollment in grades nine through twelve. Nothing
49 herein shall be construed to limit the number of students
50 identified as exceptional gifted and who receive appropri-
51 ate services. Each county board of education is
52 mandated to provide gifted education to its students
53 according to guidelines promulgated by the state board
54 and consistent with the provisions of this chapter. Upon
55 the recommendation of a principal, counselor, teacher
56 and parent, a student who does not meet the gifted
57 eligibility criteria may participate in any school
58 program deemed appropriate for the student provided
59 that classroom space is available. In addition, county
60 boards of education may establish and maintain other
61 educational services for exceptional children as the state
62 superintendent of schools may approve.

63 County boards of education shall establish and

64 maintain these special educational programs, including,
65 but not limited to, special schools classes, regular class
66 programs, home-teaching and visiting-teacher services.
67 The special education programs shall include home-
68 teaching or visiting-teacher services for children who
69 are homebound due to injury or who for any other
70 reason as certified by a licensed physician are home-
71 bound for a period that has lasted or will last more than
72 three weeks: *Provided*, That pupils receiving such
73 homebound or visiting-teacher services shall not be
74 included when computing adjusted enrollment as
75 defined in section two, article nine-a, chapter eighteen
76 of this code. The state board shall adopt rules to advance
77 and accomplish this program and to assure that all
78 exceptional children in the state, including children in
79 mental health facilities, residential institutions and
80 private schools, will receive an education in accordance
81 with the mandates of state and federal laws: *Provided*,
82 That commencing with the school year beginning on the
83 first day of July, one thousand nine hundred ninety-one,
84 all exceptional children in the state in foster care and
85 correctional facilities, will receive an education in
86 accordance with the mandates of state and federal laws.

§18-20-1b. Preschool programs for handicapped children; rules and regulations.

1 (a) During the school year beginning on the first day
2 of July, one thousand nine hundred ninety-one, each
3 county board of education shall develop a coordinated
4 service delivery plan in accordance with standards for
5 preschool programs for handicapped children to be
6 developed by the state board of education and begin
7 services where plans are already developed.

8 (b) Each county board of education shall establish and
9 maintain special education programs, including, but not
10 limited to, special classes, regular classes and home-
11 teaching and visiting-teacher services for all handi-
12 capped children ages three through five inclusive.

13 As used in this section, the term "handicapped
14 children" means those children who fall in any one of
15 the following categories as defined or to be defined in

16 the state board of education standards for the education
 17 of exceptional children: Severe behavioral disorders,
 18 communication disordered, deaf-blind, developmentally
 19 delayed, hearing impaired, other health impaired
 20 including autism, physically handicapped, mentally
 21 impaired or visually impaired.

22 Before the first day of August, one thousand nine
 23 hundred ninety-one, the state board of education shall
 24 adopt rules to advance and accomplish this program and
 25 to assure that an appropriate educational program is
 26 available to all such children in the state, including
 27 children in mental health facilities, residential institu-
 28 tions, foster care, correctional facilities and private
 29 schools.

30 This section does not prevent county boards of
 31 education from providing special education programs,
 32 including, but not limited to, special schools or classes,
 33 regular class programs and home-teaching or visiting-
 34 teacher services for severely handicapped preschool
 35 children prior to such times as are required by this
 36 section.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

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

1 The superintendent, subject only to approval of the
 2 board, shall have authority to assign, transfer, promote,
 3 demote or suspend school personnel and to recommend
 4 their dismissal pursuant to provisions of this chapter.
 5 However, an employee shall be notified in writing by the
 6 superintendent on or before the first Monday in April
 7 if he is being considered for transfer or to be trans-
 8 ferred, except that for the school year one thousand nine
 9 hundred eighty-nine—ninety only, the superintendent
 10 shall have until the fourth Monday of April to provide
 11 an employee with such written notice. Any teacher or

12 employee who desires to protest such proposed transfer
13 may request in writing a statement of the reasons for
14 the proposed transfer. Such statement of reasons shall
15 be delivered to the teacher or employee within ten days
16 of the receipt of the request. Within ten days of the
17 receipt of the statement of the reasons, the teacher or
18 employee may make written demand upon the superin-
19 tendent for a hearing on the proposed transfer before
20 the county board of education. The hearing on the
21 proposed transfer shall be held on or before the first
22 Monday in May, except that for the school year one
23 thousand nine hundred eighty-nine—ninety only, the
24 hearing shall be held on or before the fourth Monday
25 in May, one thousand nine hundred ninety. At the
26 hearing, the reasons for the proposed transfer must be
27 shown.

28 The superintendent at a meeting of the board on or
29 before the first Monday in May shall furnish in writing
30 to the board a list of teachers and other employees to
31 be considered for transfer and subsequent assignment
32 for the next ensuing school year, except that for the
33 school year one thousand nine hundred eighty-nine—
34 ninety only, the superintendent shall have until the
35 fourth Monday in May to provide the board with such
36 written list. All other teachers and employees not so
37 listed shall be considered as reassigned to the positions
38 or jobs held at the time of this meeting. The list of those
39 recommended for transfer shall be included in the
40 minute record of such meeting and all those so listed
41 shall be notified in writing, which notice shall be
42 delivered in writing, by certified mail, return receipt
43 requested, to such persons' last known addresses within
44 ten days following said board meeting, of their having
45 been so recommended for transfer and subsequent
46 assignment and the reasons therefor. The superintend-
47 ent's authority to suspend school personnel shall be
48 temporary only pending a hearing upon charges filed by
49 the superintendent with the board of education and such
50 period of suspension shall not exceed thirty days unless
51 extended by order of the board.

52 The provisions of this section respecting hearing upon

53 notice of transfer shall not be applicable in emergency
54 situations where the school building becomes damaged
55 or destroyed through an unforeseeable act and which act
56 necessitates a transfer of such school personnel because
57 of the aforementioned condition of the building.

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

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

1 County boards of education in fixing the salaries of
2 teachers shall use at least the state minimum salaries
3 established under the provisions of this article. The
4 board may establish salary schedules which shall be in
5 excess of the state minimums fixed by this article, such
6 county schedules to be uniform throughout the county
7 as to the above stipulated training classifications,
8 experience, responsibility and other requirements.
9 Beginning with the school year commencing on the first
10 day of July, one thousand nine hundred ninety-one, no
11 such county schedule may exceed one hundred two and
12 one-half percent of a schedule which incorporates the
13 state minimum salary for teachers in effect on the first
14 day of July, one thousand nine hundred ninety-one, and
15 adopts a supplement which equals the highest supple-
16 ment provided by a county on the first day of January,
17 one thousand nine hundred ninety-one, so as to assist the
18 state in meeting its objective of salary equity among the
19 counties: *Provided*, That all teachers in the state shall
20 be entitled to any increases in the minimum salary
21 schedules established under the provisions of this
22 article, and when a county schedule changes due to said
23 increase in the state minimum salary taking effect after
24 the first day of July, one thousand nine hundred ninety-
25 one, it shall not be deemed to exceed the maximum
26 salary schedule prescribed herein.

27 Counties may fix higher salaries for teachers placed
28 in special instructional assignments, for those assigned
29 to or employed for duties other than regular instruc-
30 tional duties, and for teachers of one-teacher schools,
31 and they may provide additional compensation for any
32 teacher assigned duties in addition to the teacher's
33 regular instructional duties wherein such noninstruc-

34 tional duties are not a part of the scheduled hours of the
35 regular school day. Uniformity also shall apply to such
36 additional salary increments or compensation for all
37 persons performing like assignments and duties within
38 the county: *Provided*, That in establishing such local
39 salary schedules, no county shall reduce local funds
40 allocated for salaries in effect on the first day of
41 January, one thousand nine hundred ninety, and used in
42 supplementing the state minimum salaries as provided
43 for in this article, unless forced to do so by defeat of a
44 special levy, or a loss in assessed values or events over
45 which it has no control and for which the county board
46 has received approval from the state board prior to
47 making such reduction.

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

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

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

1 The county board of education may establish salary
2 schedules which shall be in excess of the state min-
3 imums fixed by this article. Beginning with the school

4 year commencing on the first day of July, one thousand
5 nine hundred ninety-one, no such schedule may exceed
6 one hundred two and one-half percent of a schedule
7 which incorporates the state minimum salary for school
8 service personnel in effect on the first day of July, one
9 thousand nine hundred ninety-one, and adopts a monthly
10 supplement of two hundred and five dollars for zero
11 years of experience for all pay grades and which
12 increases said monthly supplement by two dollars for
13 each year of experience codified for school service
14 personnel in this article, so as to assist the state in
15 meeting its objective of salary equity among the
16 counties: *Provided*, That all school service personnel in
17 the state shall be entitled to any increases in the
18 minimum salary for school service personnel established
19 under the provisions of this article, and when a county
20 schedule changes due to said increase in the state
21 minimum salary taking effect after the first day of July,
22 one thousand nine hundred ninety-one, it shall not be
23 deemed to exceed the maximum salary schedule pres-
24 cribed herein. Any county supplement for any position
25 which, on the first day of January, one thousand nine
26 hundred ninety-one, extends the schedule beyond the
27 maximum prescribed herein for such position shall be
28 exempt from the maximums stated herein, subject to the
29 approval of the state board, but no such supplement
30 shall be increased beyond the amount received on the
31 first day of January, one thousand nine hundred ninety-
32 one.

33 These county schedules shall be uniform throughout
34 the county with regard to any training classification,
35 experience, years of employment, responsibility, duties,
36 pupil participation, pupil enrollment, size of buildings,
37 operation of equipment or other requirements. Further,
38 uniformity shall apply to all salaries, rates of pay,
39 benefits, increments or compensation for all persons
40 regularly employed and performing like assignments
41 and duties within the county: *Provided*, That in estab-
42 lishing such local salary schedules, no county shall
43 reduce local funds allocated for salaries in effect on the
44 first day of January, one thousand nine hundred ninety,
45 and used in supplementing the state minimum salaries

46 as provided for in this article, unless forced to do so by
47 defeat of a special levy, or a loss in assessed values or
48 events over which it has no control and for which the
49 county board has received approval from the state board
50 prior to making such reduction.

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

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

§18A-4-5d. 1990 appropriation for salary equity.

1 Notwithstanding any other provisions of this code to
2 the contrary, for the fiscal year beginning on the first
3 day of July, one thousand nine hundred ninety only, not
4 less than twenty-seven million four hundred thousand
5 dollars shall be appropriated and expended for salary
6 equity among the counties in addition to such amounts
7 as were expended for such purpose prior to the effective
8 date of this section: *Provided*, That for professional
9 educators each person shall receive a minimum salary
10 equity adjustment of five hundred thirty-five dollars per
11 year and that for service personnel each person shall
12 receive a minimum salary equity adjustment of twenty
13 dollars per month: *Provided, however*, That the re-

14 mainder of the equity money shall be distributed as
 15 directed in section five of this article: *Provided further*,
 16 That an adequate amount of such funds shall be
 17 reserved to finance the appropriate foundation allowan-
 18 ces for fixed charges as provided for in section six,
 19 article nine-a, chapter eighteen of this code: *And*
 20 *provided further*, That notwithstanding the provisions of
 21 said sections five and five-c of this article, foundation
 22 allowances other than for fixed charges shall not be
 23 financed from such funds.

§18A-4-7. Substitute teachers pay.

1 The pay of a substitute teacher shall not be less than
 2 eighty percent of the daily rate of the state basic salary
 3 paid to teachers: *Provided*, That any substitute teacher
 4 who teaches in excess of ten consecutive instructional
 5 days in the same position shall, thereafter, not be paid
 6 less than eighty percent of the daily rate of the state
 7 advanced salary based upon teaching experience:
 8 *Provided, however*, That any substitute teacher who
 9 teaches in excess of thirty days in the same position shall
 10 be paid the daily rate of the advanced salary, within that
 11 teacher's county.

' CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1. GOVERNANCE.

**§18B-1-11. Colleges and universities to provide appropri-
 ate services to meet needs of students
 with handicapping conditions.**

1 Each state funded institution of higher education
 2 accepting students with handicapping conditions, such
 3 as physical, learning, or severe sensory disabilities, shall
 4 provide services in accordance with Rehabilitation Act
 5 504 appropriate to meet the educational needs of these
 6 students. Such information shall be provided to local
 7 boards of education for information dissemination to
 8 students and parents to fulfill the goals of transition.

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

Frederick L. Rivers
Chairman Senate Committee

Bernard V. Kelly
Chairman House Committee

Originating in the House.

Takes effect from passage.

Garrett E. Adams
Clerk of the Senate

Donald G. Kopp
Clerk of the House of Delegates

Kurt Hundtette
President of the Senate

Bob Cole
Speaker of the House of Delegates

The within *is approved* this the *31st*
day of *March* 1990.

Caston Caperton
Governor

PRESENTED TO THE

GOVERNOR

Date 3/30/90

Time 4:01 pm