ENROLLED

SENATE BILL NO. 1

(By Senators Burdette and Harmon)

PASSED August 30, 1990
AN ACT to repeal sections six-a, six-b, six-c, twenty-two and twenty-eight, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to repeal articles two-c and two-f of said chapter; to repeal article six-c, chapter forty-nine of said code; to amend chapter five by adding thereto two new articles, designated articles twenty-six and twenty-seven; to amend article one, chapter eighteen by adding thereto a new section, designated section four; to amend and reenact sections five, six and twenty-six, article two of said chapter; to amend and reenact section five, article two-e of said chapter; to amend and reenact section four, article four of said chapter; to amend and reenact sections one-a and forty, article five of said chapter; to further amend said chapter by adding thereto a new article, designated article five-a; to amend and reenact sections one and sixteen, article nine-d of said chapter; to further amend said chapter by adding thereto a new article, designated
article thirty two; to amend and reenact sections two, eight and nine, article two, chapter eighteen-a of said code; to further amend said article two by adding thereto a new section, designated section twelve; to amend and reenact sections one, two, three and eight, article three of said chapter; to further amend said article three by adding thereto four new sections, designated sections one-a, one-b, two-a and two-b; to further amend said chapter by adding thereto a new article, designated article three-a; to amend and reenact sections eight-b and eight-c, article four of said chapter; to further amend said article four by adding thereto a new section, designated section seven-a; to amend and reenact section four, article five of said chapter; to further amend said chapter by adding thereto a new article, designated article seven; and to amend chapter eighteen-b of said code by adding thereto two new articles, designated articles three-b and fifteen, all relating to the “Education Reform Act of 1990”; creating a governor’s cabinet on children and youth to coordinate programs and services to children and families; providing severability clause; establishing educational goals for the year 2000; clarifying the powers and duties of the state board of education; requiring that the state board develop a three-year plan for the transition to developmentally based program for kindergarten through fourth grade; reorganizing and recodifying existing statutes; providing for implementation of a uniform regional computer information system for education data collection and reporting; requiring the state board of education to develop a plan providing for automatic cost of living adjustments; adding a code of conduct, focused curriculum, attention to the acquisition of student proficiencies to the performance based accreditation system and the percentage of graduating students entering post-secondary education or training; adding education and training in evaluating personnel performance to the certification requirements of superintendents and principals; requiring a high school diploma, general educational development diploma and completion of an orientation course to county board member eligibility; adding boardsmanship and gover-
nance effectiveness training to county board member eligibility requirements with penalties specified for noncompliance; requiring regulations relating to school entrance age to utilize flexibility; providing for local school involvement, including local school improvement councils with authority to adopt policies and request waivers in certain instances of policies, certain rules and interpretations, a schools of excellence award program, public school faculty senates and school curriculum teams; adding two members to the school building authority; requiring RESA's to prioritize their plan in accordance with school building authority criteria; providing a severability clause; providing for the general supervision of teacher education to be under the state board of education after consultation with the secretary of education and the arts; creating additional grounds for the suspension and dismissal of county board employees based on unsatisfactory performance and conviction of a felony; expanding prerequisites for administrative certificates for principals; establishing a uniform system for professional personnel performance evaluations; providing an alternative program and requirements for the education of teachers; codifying testing and degree standards for professional teaching and administrative certificates; creating certification for paraprofessionals; providing for the certification or permit of athletic and extracurricular coaches employed under a limited contract; creating a beginning teacher internship program; requiring teacher elected county staff development councils; creating a center for professional development assisted by an advisory council on professional development; specifying criteria which must be considered in judging the relative qualifications of professional personnel for promotion and filling of vacancies; providing for the calculation of seniority; providing for substitute teaching seniority; giving certification preference over permits in reductions in force; limiting voluntary transfers of professional personnel; allowing the county superintendent to fill vacancies prior to the next semester in certain instances; creating a time frame and criteria for posting of professional personnel
positions; requiring county boards to adopt policies providing professional time or extra duty compensation and adequate coverage; providing a severability clause; creating a West Virginia literacy council; and providing a severability clause.

Be it enacted by the Legislature of West Virginia:

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

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

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

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

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

The state has an obligation to provide crisis inter-
vention and stabilization, with the goal of providing
for children's well-being in a permanent situation in
the home environment or in the least restrictive
setting as close to a home environment as possible.
The Legislature intends to accomplish its goals relating to children and families through a family-centered, comprehensive, community-based system for the provision of social services, programs and facilities for children and families overseen by the highest levels of state government, although this may require fundamental changes in the way state government responds to the needs of children and their families.

(b) The Legislature hereby declares that one purpose of this article and the policy of the state is to achieve the coordination of programs and services to children and families through a cabinet in the governor's office which is independent from any state agency and which shall act as an inter-agency cabinet created to nurture a flexible system for the comprehensive, unified, effective and efficient administration of programs and services to children and families which avoids fragmentation and duplication of programs and services and which facilitates and promotes cooperation among state agencies, as well as regional, local and private service agencies. It is the intent of the Legislature, through the governor's cabinet, to emphasize preventive services to children and families in order to avoid the human and financial costs to the state of individual and family instability and to benefit the state and society as a whole. For maximum effectiveness, the Legislature intends to provide such services in a long-term manner with such intensity as the needs of the particular situation require.

(c) The Legislature intends that participation in the programs authorized or required in this article shall be voluntary on the part of any child or family for whom the program is available, and not otherwise required under state or federal laws or regulations, and all outreach shall emphasize the positive, voluntary nature of the programs. The service delivery system shall be driven by the needs and preferences of the child and family, shall reflect local community characteristics and resources, shall allow for local input, and shall focus on prevention, education and early intervention. The service providers shall convey
en an attitude of support, compassion, understanding, friendliness and patience.

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

§5-26-2. Cabinet established.

There is hereby created the governor's cabinet on children and families, hereinafter referred to as the "cabinet". In addition to such other administrative heads of government as the governor may appoint to the cabinet, the cabinet shall include the secretary of health and human resources; the secretary of commerce, labor and environmental resources or a designee; the secretary of administration or a designee; the state superintendent of schools; and the attorney general; one member of the senate, to be appointed by the governor, and one member of the house of delegates, to be appointed by the governor, both of whom shall serve in an advisory capacity only.

The cabinet shall be chaired by the governor and shall convene at least monthly during the first year and thereafter shall meet at least quarterly. The cabinet shall establish bylaws which govern its decision making.

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

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

(1) Analyze ways to best utilize the information and evaluations obtained through previously existing or
ongoing programs for children and families such as "Home-Oriented Preschool Education" (HOPE), which focuses on televised educational outreach to rural children; "Parent and Child Education" (PACE), which focuses on literacy; and "Parents as Teachers" (PAT), which focuses on parents working with the children and determine ways to implement or incorporate aspects of the programs that would be of benefit to families and children in this state;

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

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

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

(5) Assure the development of parenting education services and outreach efforts, child developmental stages, including the utilization of media and supportive activities for children and care givers with a focus on children three to five years old living in rural areas;

(6) Provide for the coordination of programs and services for comprehensive developmental screening
and well-baby visits for all preschool children and parental involvement in all areas of a child’s education and development;

(7) Identify facilities and properties throughout the state that may be required or available for the effective and efficient provision of programs and services to children and families, with an emphasis on utilizing available state facilities, including public school facilities and facilities within the state system of higher education;

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

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

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

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

(12) Provide public information on services and programs available to children and families which shall include a staffed, statewide toll-free phone number whereby children and families can receive information on available services and programs and which may include television programs, public service announcements, and any other effective means of
providing information on, communicating or promoting any service or program;

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

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

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

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

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

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

(3) Develop and implement rules, regulations, standards and policies governing the internal operation and administration of the cabinet;

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

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

(6) Develop programmatic standards for early childhood programs, including recommendations regarding
development activities required to be provided by licensed day care and child care facilities and programs;

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

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

(9) Waive rules and regulations that impede coordinated service delivery;

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

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

(12) Authorize family resource networks or otherwise develop service areas which will allow for the efficient delivery of programs and services on a local or regional basis so that programs and services are provided in or as close to the local community level as possible in accordance with guidelines to be established by the cabinet; and

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

§5-26-5. Powers and duties relating to funding and budgetary needs for children and families.

(a) The cabinet shall analyze the budgets of the departments of state government to the extent that
they address or impact upon programs and services for children and families, review budgetary needs and revenue sources, and make recommendations regarding the governor's proposed budget and the redirection of resources. In making such recommendations, the cabinet shall educate themselves on the availability of and eligibility for federal, local and private funding, with the goal of maximizing federal, local and private revenues for use in areas directly benefitting children and families.

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

(c) Notwithstanding the provisions of section nineteen, article two, chapter five-a of this code or any other provision of law to the contrary, the cabinet shall have the ability to transfer funds among, between and within departments in accordance with rules for such purpose adopted by the cabinet notwithstanding the provisions of chapter twenty-nine-a of this code.

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

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

(a) The cabinet shall establish a children's fund for the sole purpose of awarding grants, loans and loan guaranties for children and families. All unrestricted federal funds and grants, gifts, bequests or donations, in addition to appropriations to the fund, shall be
deposited in the state treasury in a special revenue account that is independent from any executive or other department of government, other than the office of the governor. Any moneys deposited in the children's trust fund created pursuant to article six-c, chapter forty-nine of this code on the effective date of this section, and any interest accruing to such fund, shall be deposited in the children's fund created pursuant to this section, and the children's trust fund shall thereafter be discontinued.

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

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

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

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

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

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

This article shall be in effect from passage. The
ARTICLE 27. SEVERABILITY.

§5-27-1. Severability.

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

CHAPTER 18. EDUCATION.

ARTICLE I. DEFINITIONS; LIMITATIONS OF CHAPTER.

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

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

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

(1) All children entering the first grade will be ready
(2) All students will have equal educational opportunity;
(3) Student performance on national measures of student performance will equal or exceed national averages and the performance of students falling in the lowest quartile will improve by fifty percent;
(4) Ninety percent of ninth graders will graduate from high school;
(5) High school graduates will be fully prepared for college, other post-secondary education, or gainful employment. The number of high school graduates entering post-secondary education will increase by fifty percent; and
(6) All working age adults will be functionally literate.

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

ARTICLE 2. STATE BOARD OF EDUCATION.

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

Subject to and in conformity with the constitution and laws of this state, the state board of education shall exercise general supervision of the public schools of the state, and shall make rules in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for carrying into effect the laws and policies of the state relating to education, including rules relating to standards for performance and measures of accountability, the physical welfare of pupils, the education of all children of school age, school attendance, evening and continuation or part-
time day schools, school extension work, the classification of schools, the issuing of certificates upon credentials, the distribution and care of free textbooks by the county boards of education, the general powers and duties of county boards of education, and of teachers, principals, supervisors and superintendents, and such other matters pertaining to the public schools of the state as may seem to the state board to be necessary and expedient.

Notwithstanding any other provision of law which may be to the contrary, and notwithstanding the rule-making powers given to the state board of education by this section, a child shall not be permitted to enter the public schools of this state in any school year, beginning with the school year one thousand nine hundred eighty-three—eighty-four, unless such child be six years of age prior to the first day of September of such school year or is attending public school in accordance with article twenty of this chapter: Provided, That children who have successfully completed a kindergarten program in the school year one thousand nine hundred eighty-two—eighty-three, may enter the public schools notwithstanding the provisions of this section. The term "public schools" as used in the preceding sentence shall not be deemed to include public kindergartens, but nothing herein shall prevent a county board from permitting a child enrolled in kindergarten from entering public schools for attendance in particular curriculum areas.

The state board shall develop a three-year plan to provide for the transition to developmental programming and instruction to be provided to the students in kindergarten through fourth grade and further shall, include the method of information dissemination in order to provide for parental preparation, and further shall, in conjunction with the professional development center, develop an ongoing program for training of principals and classroom teachers in methods of instruction to implement the developmental program. The existing developmental programs throughout the state shall be involved in this process and shall be
provided an opportunity to assist in pilot programs to
begin no later than the first day of September, one
thousand nine hundred ninety-one. The plan shall be
fully implemented by the first day of September, one
thousand nine hundred ninety-three.

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

The state board shall make rules for the accredita-
tion, 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—ninety-one, certifi-
cates 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 pres-
cribed 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 multicounty 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 multicounty
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 alloca-
tion for the county’s foundation allowance for admin-
istrative 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 incorpo-
rate an interactive electronic classroom approach to
instruction. To the extent funds are appropriated or
otherwise available, county boards or regional educa-
tional 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, purchas-
ing, food service, transportation, delivery of high cost
services to low incidence student populations, audiovi-
sual 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
commence implementation of a uniform integrated
regional computer information system as recom-
mended by the state board of education on or before
the first day of January, one thousand nine hundred
ninety-one. Each county board of education shall use
the computer information system for data collection
and reporting to the state department of education
beginning no later than the first day of July, one
thousand nine hundred ninety-three. County boards of
education shall fully participate in the implementation
of the system.

(g) Each regional educational service agency shall
submit a report and evaluation of the services pro-
vided and utilized by the schools within each respec-
tive 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.

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


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

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

(a) The purpose of this section is to provide assurances that a thorough and efficient system of education is being provided for all West Virginia public school students on an equal educational opportunity basis and that the high quality standards are being met. A system for the review of school district educational plans, performance based accreditation and periodic, random, unannounced on-site effectiveness reviews of district educational systems, including individual schools within the districts, shall provide assurances that the high quality standards, established pursuant to subsection (b) of this section, are being met. A performance-based accreditation system shall provide assurances that the high quality standards, established pursuant to subsection (c) of this section, are being met.

(b) On or before the first day of January, one thousand nine hundred ninety-one, the state board of education shall, in accordance with the provisions of article three-b, chapter twenty-nine-a of this code, establish and adopt high quality educational standards in the areas of curriculum, finance, transportation, special education, facilities, administrative practices, training of school district board members and administrators, personnel qualifications, professional development and evaluation, student and school performance, a code of conduct for students and employees and other such areas as determined by the state board of education. The standards established in the area of curriculum shall assure that all graduates are prepared for the world of work or for continuing post-secondary education and training. Each school district
shall submit an annual improvement plan designed around locally identified needs showing how the educational program of each school in the district will meet or exceed the high quality standards.

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

(c) On or before the first day of July, one thousand nine hundred ninety-one, the state board of education shall, in accordance with the provisions of article three-b, chapter twenty-nine-a of this code, establish by rule a system which measures the performance of each school based on the following measures of student and school performance: The acquisition of student proficiencies as indicated by student performance by grade level in the various subjects tested under the Statewide Testing of Educational Progress program and other appropriate measures; school attendance rates; the student dropout rate; the percent of students promoted to next grade and the number of waivers of the promotion standard granted; the graduation rate; the average class size; the pupil-teacher ratio; the number of exceptions to pupil-teacher ratio requested by the county board and the number of exceptions granted; the number of split-grade rooms; the percentage of graduating students entering post-secondary education or training; the pupil-administrator ratio; parent involvement; parent, teacher and student satisfaction; and operating expenditures per pupil.

The state board annually shall review the information submitted for each school and shall issue to every school: (1) full accreditation status; or (2) probationary accreditation status.
Full accreditation status shall be given to a school when the school’s performance on the above indicators is at a level which would be expected when all of the high quality educational standards are being met. Probationary accreditation status shall be given to a school when the measure of the school’s performance is below such level.

Whenever a school is given probationary accreditation status, the district board shall implement an improvement plan which is designed to increase the performance of the school to a full accreditation status level within one year.

(d) Whenever the state board of education determines that the quality of education in a school is seriously impaired, the state superintendent, with approval of the state board, shall appoint a team of three improvement consultants to make recommendations within sixty days of appointment for correction of the impairment. Upon approval of the recommendations by the state board, the recommendations shall be made to the district board of education. If progress in correcting the impairment is not made within six months of receipt of the recommendations, the state superintendent shall provide consultation and assistance to the district board to (1) improve personnel management, (2) establish more efficient financial management practices, (3) improve instructional programs and policies or (4) make such other improvements as may be necessary to correct the impairment. If the impairment is not corrected within one year of receipt of the recommendations, the district shall be given probationary approval status or nonapproval status.

(e) Whenever a school is given probationary status or is determined to be seriously impaired and fails to improve its status within one year, any student attending such school may transfer once to the nearest fully accredited school, subject to approval of the fully accredited school and at the expense of the school from which the student transferred.
(f) The state board of education shall issue one of the following accreditation levels to each school district board of education: (1) full approval, (2) probationary approval or (3) nonapproval.

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

Probationary approval shall be given to a district board of education whose educational program has not met the high quality standards, or which has one or more schools in the district given probationary status. Probationary approval is a warning that the district board must make specified improvements. If the high quality standards are not met during the succeeding year, or the number of schools in the district given probationary status is not reduced to a number that would allow full accreditation to be granted in the following year, the district board shall be automatically given nonapproval. In addition, nonapproval shall be given to a district board of education which fails to submit an annual program plan or fails to demonstrate a reasonable effort to meet the high quality standards.

(g) Whenever nonapproval status is given to a district, the state board of education shall declare a state of emergency in the district and may intervene in the operation of the district to (1) limit the authority of the district superintendent and district board of education as to the expenditure of funds, the employment and dismissal of personnel, the establishment and operation of the school calendar, the establishment of instructional programs and policies, and such other areas as may be designated by the state board by rule, (2) take such direct action as may be necessary to correct the impairment and (3) declare that the office of the district superintendent is vacant.

(h) To assist the state board in determinations of the accreditation status of schools and the approval status
of school districts under this section, the state board
shall from time to time appoint an educational stand-
ards compliance review team to make unannounced
on-site reviews of the educational programs in any
school or school district in the state to assess com-
pliance of the school or district with the high quality
standards adopted by the state board, including, but
not limited to, facilities, administrative procedures,
transportation, food services and the audit of all
matters relating to school finance, budgeting and
administration.

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

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

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

ARTICLE 4. COUNTY SUPERINTENDENT OF SCHOOLS.

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

1 On or before the first day of May of the year in
which the superintendent is appointed, the board shall
fix the annual salary of the superintendent for the
period of appointment for the term beginning on the
first day of July following. The board shall pay the
salary from the general current expense fund of the
district: Provided, That the superintendent shall hold
at least a master's degree or its equivalent related to
public school education earned at an accredited insti-
tution of higher education approved to offer graduate
work: Provided, however, That commencing with the
first day of July, one thousand nine hundred ninety-
three, any newly appointed superintendent employed
as a superintendent after the twenty-seventh day of
June, one thousand nine hundred eighty-eight, shall
meet the requirements set forth in section two of this
article and at a minimum shall qualify for an initial
license as a superintendent, hold at least a master's
degree or its equivalent related to public school
education plus twenty-four semester hours related to
public school education earned at an accredited insti-
tution of higher education approved to offer graduate
work, and shall qualify for a superintendent's certifi-
cate within three years of being employed as a
superintendent: Provided further, That any assistant
superintendent or educational administrator employed
in such capacity in this state prior to the twenty-
seventh day of June, one thousand nine hundred
eighty-eight, who was employed as a county superin-
tendent in this state shall not be required to meet the
requirements of the superintendent's initial licensure,
certificate and said twenty-four semester hours
beyond a master's degree: And Provided further, That
after the first day of July, one thousand nine hundred
ninety-four, no person may be issued a superintend-
ent's certificate or have such certificate renewed
unless the state board determines that such person has
successfully completed education and training in
evaluation skills through the center for professional
development, or equivalent education and training in
evaluation skills approved by the state board.
ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-1a. Eligibility of members.

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

2 No member or member-elect of any board of education shall be eligible for nomination, election or appointment to any public office, other than to succeed oneself, or for election or appointment as a member of any political party executive committee, unless and until after that membership on the board, or his status as member-elect to the board, has been terminated at or before the time of his filing for such nomination for, or appointment to, such public office or committee.

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

4 No person elected to a county board of education after the first day of July, one thousand nine hundred ninety, shall assume the duties of board member unless he or she has first attended and completed a course of orientation relating to boardmanship and governance effectiveness which shall be given between the date of election and the beginning of the member’s term of office. Members appointed to the board shall attend and complete the next such course offered following their appointment. Commencing on the effective date of this section, members shall annually receive seven clock hours of training in areas relating to boardmanship and governance effective-
ness. Such orientation and training shall be approved by the state board of education and conducted by the West Virginia school board association or other organization or organizations approved by the state board. Failure to attend and complete such an approved courses of orientation and training relating to boardsmanship and governance effectiveness without good cause shall constitute neglect of duty.

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

(a) The state board shall establish guidelines prior to the first day of January, one thousand nine hundred eighty-nine, for the operation of public kindergarten and elementary schools on a semester basis within the applicable provisions of this article and chapter relating to the school term. Notwithstanding any other provision of this code to the contrary relating to compulsory school attendance, any child required or allowed by proximity to attend a school operated on a semester basis shall be deemed to have reached compulsory school age and shall enroll as follows: (1) For the fall semester, in such year when the sixth birthday is reached on or between the first day of July and the last day of December, and (2) for the spring semester, when the sixth birthday is reached on or between the first day of January and the last day of June of that year: Provided, That the state board shall establish guidelines for enrollment prior to a child’s reaching compulsory school age. Student progress within and between the various grade levels shall be determined on a semester by semester basis, and promotion or assignment to the middle or junior high school grade levels is conditioned upon completion of either of the last two semesters offered at the elementary school.

(b) By the school year one thousand nine hundred eighty-nine—ninety, the state board shall select at least four elementary schools with kindergarten programs which may be operated on a semester basis upon applications submitted, with preference being given in such selection to schools in different regional
educational service agency areas to the extent reasonable and practical based on the applications. The operation of these schools on a semester basis shall be phased in by grade level beginning with kindergarten and progressing by one additional grade level in each successive school year until all of the grade levels offered at that school are operated on a semester basis.

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

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

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

The intent of this article is to facilitate and encourage the involvement of the school community in the operation of the local schools to improve educational quality. This article is intended to establish processes at each school which provide opportunities for involvement of the school community in the operation of the local schools and to support local initiatives to improve school performance. It is not the intent of this article to restrict the ability of the county board of education in its efforts to effect county-wide school improvements.

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

A local school improvement council shall be established at every school consisting of the principal, who shall serve as the ex officio chairman of the council and be entitled to vote, three teachers elected by the faculty senate of the school, two school service personnel elected by the school service personnel employed at the school, three parents or legal guardians of students enrolled at the school elected by the school’s parent teacher organization, and two at-large members appointed by the principal, one of whom resides in the school’s attendance area and one of whom represents business or industry, both of whom are not eligible for membership under any of the other elected classes of members: Provided, That if the
school houses students in grade seven or higher, then
the student body president or other student, elected by
the student body in grade seven or higher, shall also
be a member of the council.

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

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

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

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

In any and all matters which may fall within the
scope of both the school improvement councils and the school curriculum teams authorized in section five of this article, the school curriculum teams shall be deemed to have jurisdiction.

A school improvement council shall receive cooperation from the school in implementing policies and programs it may adopt to:

1. Encourage the involvement of parents in their child’s educational process and in the school;
2. Encourage businesses to provide time for their employees who are parents to meet with teachers concerning their child’s education;
3. Encourage advice and suggestions from the business community;
4. Encourage school volunteer programs and mentorship programs; and
5. Foster utilization of the school facilities and grounds for public community activities.

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

The intent of this section is to establish a mechanism which allows local school level initiatives to be designed and implemented to meet local school needs and circumstances. In accordance with this intent, a local school improvement council established under the provisions of this article may propose alternatives to the operation of the public school which alternatives will meet or exceed the high quality standards established by the state board and will increase administrative efficiency, enhance the delivery of instructional programs, promote community involvement in the local school system or improve the educational performance of the school generally. The proposal of the council shall set forth the objective or objectives to be accomplished under the proposal, how the accomplishment of such objective or objectives will meet or exceed the standards established by the state board,
the indicators upon which the meeting of such standards should be judged and a projection of any funds to be saved by the proposal and how such funds will be reallocated within the school. The alternatives proposed by the council may include matters which require the waiver of policies or rules promulgated by the state or county board of education, state superintendent interpretations and interpretations of the county or state boards of education: Provided, That such request for waiver be submitted to the appropriate board adopting said rule or policy and that board may approve the waiver: Provided, however, That the state superintendent need only be notified that the local council intends to waive the interpretation: Provided further, That notwithstanding any other provisions of the law to the contrary, council is not prohibited from permitting off-site classrooms to be developed in conjunction with local businesses if those sites have met the requirements established by the local board of education and if sites are located off campus. For an alternative to be proposed, at least two-thirds of the members must vote in favor thereof: And provided further, That if the alternative to be proposed relates to a waiver of policies or rules, promulgated by the state or county board of education, state superintendent interpretations and interpretations of the county or state boards of education affecting employees, then prior to the proposal of the alternative, a majority of the local affected employee group involved must agree.

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

When a council decides to propose an alternative, it shall forward a copy of the proposal to the state board of education and the affected local board of education. The state board shall acknowledge receipt of the
proposed alternative, promptly review the proposed alternative in consultation with the county board or their agents and, in its discretion, approve implementation of the alternative or reply to the council within a reasonable time as to its reasons for not approving the proposed alternative. If the state board approves a proposed alternative, the state board shall provide appropriate notice to the local school improvement council and the county board of education and shall establish a process for evaluation of the operation of the alternative. Approval for the operation of the alternative may be continued or revoked at any time based on the results and findings of the evaluation.

The state board shall submit a report to the legislative oversight commission on education accountability and the governor on the first day of July of each year summarizing the proposed alternatives received, approved or rejected, continued or revoked during the preceding school year and the results and findings of the evaluations. The report shall specifically identify all policy, rule, and interpretation waiver requests received during the preceding year and the disposition of each.

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

The state board of education shall promulgate rules, in accordance with the provisions of article three-b, chapter twenty-nine-a of this code, outlining criteria for the identification of schools of excellence. Such criteria shall include, but not be limited to, improvement in student achievement in comparison to state and national norms, improvement in reducing dropout rates, improvement in standardized test scores, implementation of advanced or innovative programs, improvement in parent and community involvement, improvement in parent, teacher and student satisfaction, improvement in student attendance and other factors which promote excellence in education. Such rules shall be promulgated by the first day of January, one thousand nine hundred ninety-one. Such rules
may not prohibit any school from applying for consider-

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

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

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

(a) There is established at every public school in this
state a faculty senate which shall be comprised of all
permanent, full-time professional educators employed
at the school who shall all be voting members. Profes-
sional educators as used in this section means profes-
sional educators as defined in chapter eighteen-a of
this code. A quorum of more than one-half of the
voting members of the faculty shall be present at any
meeting of the faculty senate at which official business
is conducted. Prior to the beginning of the instruc-
tional term each year, but within the employment
term, the principal shall convene a meeting of the
faculty senate to elect a chair, vice chair and secretary
and discuss matters relevant to the beginning of the
school year. The vice chair shall preside at meetings
when the chair is absent. Meetings of the faculty
senate shall be held on a regular basis as determined
by a schedule approved by the faculty senate and
amended from time to time if needed. Emergency
meetings may be held at the call of the chair or a
majority of the voting members by petition submitted
to the chair and vice chair. An agenda of matters to be
considered at a scheduled meeting of the faculty
senate shall be available to the members at least two
employment days prior to the meeting, and in the case of emergency meetings, as soon as possible prior to the meeting. The chair of the faculty senate may appoint such committees as may be desirable to study and submit recommendations to the full faculty senate, but the acts of the faculty senate shall be voted upon by the full body.

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

(1) Each faculty senate shall control funds allocated to the school from legislative appropriations pursuant to section nine, article nine-a of this chapter. From such funds, each classroom teacher and librarian shall be allotted fifty dollars for expenditure during the instructional year for academic materials, supplies or equipment which in the judgement of the teacher or librarian will assist him or her in providing instruction in his or her assigned academic subjects, or shall be returned to the faculty senate. The remainder of funds shall be expended for academic materials, supplies or equipment in accordance with a budget approved by the faculty senate. Notwithstanding any other provisions of the law to the contrary, funds not expended in one school year shall be available for expenditure in the next school year: Provided, That the amount of county funds already budgeted for the fiscal year one thousand nine hundred ninety-nine—ninety-one, shall not be reduced for such materials, supplies and equipment. Accounts shall be maintained of the allocations and expenditures of such funds for the purpose of financial audit. Academic materials, supplies or equip-
ment shall be interpreted broadly, but shall not include materials, supplies or equipment which will be used in or connected with interscholastic athletic events.

(2) A faculty senate may establish a process for faculty members to interview new prospective professional educators and paraprofessional employees at the school and submit recommendations regarding employment to the principal, who may also make independent recommendations, for submission to the county superintendent: Provided, That such process must permit the timely employment of persons to perform necessary duties.

(3) A faculty senate may nominate teachers for recognition as outstanding teachers under state and local teacher recognition programs and other personnel at the school, including parents, for recognition under other appropriate recognition programs and may establish such programs for operation at the school.

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

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

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

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

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

There shall be established at each elementary school in the state a school curriculum team composed of the school principal, the counselor designated to serve that school and three teachers from the kindergarten through fourth grade faculty chosen by that faculty.
The school curriculum team shall establish the programs and methods for implementing a curriculum based on state-approved learning outcomes for kindergarten through fourth grade based on the needs of the individual school with a focus on the basic skills of reading, composition and mathematics. The curriculum thus established shall be submitted to the county board of education for approval or for return to the school for reconsideration.

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

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

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

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

The school building authority shall consist of ten persons, of whom one shall be the state superintendent of schools, ex officio; three shall be members of the state board of education, elected by the state board; and six shall be citizens of the state, appointed by the governor, by and with the advice and consent of the senate, who are knowledgeable in matters relevant to the issues addressed by the authority, one of whom shall be representative of the interests of the construction trades.

The citizen appointments shall be made as soon as possible after the effective date of this section, and no two citizen appointees shall be residents within the same region. Two of the initial appointments shall be for two-year terms, and two shall be for four-year terms, with all successive appointments being for four-
year terms. Until such appointments take effect, the
state board as constituted under the provisions of
section one, article two of this chapter may act as the
authority with such power as was granted them under
the prior enactment of this section.

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

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

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

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

(b) To assure efficiency and productivity in the
project approval process, the facilities plan shall be
submitted only after a preliminary plan, a plan outline
or a proposal for a plan has been submitted to the
authority. Selected members of the authority, which
selection shall include citizen members, shall then
meet promptly with those persons designated by the
regional educational service agency, including one
person from each county within the region, to attend
the facilities plan consultation. The purpose of the
consultation is to assure understanding of the general
goals of the school building authority and the specific
goals encompassed in the following criteria and to
discuss ways the plan may be structured to meet those
goals.

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

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

(1) Student health and safety;

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

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

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

(5) Curriculum improvement and diversification,
including computerization and technology and
advanced senior courses in science, mathematics, language arts and social studies;

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

(7) Adequate space for projected student enrollments.

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

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

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

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

ARTICLE 32. SEVERABILITY.

§18-32-1. Severability.

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

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

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

1 Before entering upon their duties, all teachers shall
2 execute a contract with their boards of education,
3 which contract shall state the salary to be paid and
4 shall be in the form prescribed by the state superin-
5 tendent of schools. Every such contract shall be signed
6 by the teacher and by the president and secretary of
7 the board of education, and when so signed shall be
8 filed, together with the certificate of the teacher, by
9 the secretary of the office of the board.

10 A teacher’s contract, under this section, shall be for
11 a term of not less than one nor more than three years,
12 one of which shall be for completion of a beginning
13 teacher internship pursuant to the provisions of
14 section two-b, article three of this chapter, if applica-
15 ble; and if, after three years of such employment, the
16 teacher who holds a professional certificate, based on
17 at least a bachelor’s degree, has met the qualifications
18 for the same, and the board of education enter into a
19 new contract of employment, it shall be a continuing
20 contract: Provided, That any teacher holding a valid
21 certificate with less than a bachelor’s degree who is
22 employed in a county beyond the said three-year
23 probationary period shall upon qualifying for said
24 professional certificate based upon a bachelor’s degree,
25 if reemployed, be granted continuing contract status:
26 Provided, however, That a teacher holding continuing
27 contract status with one county shall be granted
28 continuing contract status with any other county upon
29 completion of one year of acceptable employment if
30 such employment is during the next succeeding school
31 year or immediately following an approved leave of
The continuing contract of any teacher shall remain in full force and effect except as modified by mutual consent of the school board and the teacher, unless and until terminated (1) by a majority vote of the full membership of the board before the first day of April of the then current year, after written notice, served upon the teacher, return receipt requested, stating cause or causes, and an opportunity to be heard at a meeting of the board prior to the board's action thereon, or (2) by written resignation of the teacher before that date, to initiate termination of a continuing contract. Such termination shall take effect at the close of the school year in which the contract is so terminated: Provided, That the contract may be terminated at any time by mutual consent of the school board and the teacher, and that this section shall not affect the powers of the school board to suspend or dismiss a principal or teacher pursuant to section eight of this article: Provided, however, That a continuing contract for any teacher holding a certificate valid for more than one year and in full force and effect during the school year one thousand nine hundred eighty-four, and one thousand nine hundred eighty-five, shall remain in full force and effect: Provided further, That a continuing contract shall not operate to prevent a teacher's dismissal based upon the lack of need for the teacher's services pursuant to the provisions of law relating to the allocation to teachers and pupil-teacher ratios. But in case of such dismissal, the teachers so dismissed shall be placed upon a preferred list in the order of their length of service with that board, and no teacher shall be employed by the board until each qualified teacher upon the preferred list, in order, shall have been offered the opportunity for reemployment in a position for which they are qualified: And provided further, That he has not accepted a teaching position elsewhere. Such reemployment shall be upon a teacher's preexisting continuing contract and shall have the same effect as though the contract had been suspended during the time the teacher was not
74 employed.
75 In the assignment of position or duties of a teacher
76 under said continuing contract, the board shall have
77 authority to provide for released time of a teacher for
78 any special professional or governmental assignment
79 without jeopardizing the contractual rights of such
teacher or any other rights, privileges or benefits
80 under the provisions of this chapter.
81
82 Any teacher who fails to fulfill his contract with the
83 board, unless prevented from so doing by personal
84 illness or other just cause, or unless released from
85 such contract by the board, or who violates any lawful
86 provision thereof, shall be disqualified to teach in any
87 other public school in the state for a period of the next
88 ensuing school year, and the state department of
89 education or board may hold all papers and credentials
90 of such teacher on file for a period of one year for
91 such violation: Provided, That marriage of a teacher
92 shall not be considered a failure to fulfill, or violation
93 of, the contract.
94
95 Any classroom teacher, as defined in section one,
96 article one of this chapter, who desires to resign
97 employment with a board of education or request a
98 leave of absence, such resignation or leave of absence
99 to become effective on or before the fifteenth day of
100 July of the same year and after completion of the
101 school year by written notification thereof, and any
102 such notification received by a board of education shall
103 automatically extend such teacher's public employee
104 insurance coverage until the thirty-first day of August
105 of the same year.

§18A-2-8. Suspension and dismissal of school personnel by
board; appeal.
1 Notwithstanding any other provisions of law, a board
2 may suspend or dismiss any person in its employment
3 at any time for: Immorality, incompetency, cruelty,
4 insubordination, intemperance, willful neglect of duty,
5 unsatisfactory performance, the conviction of a felony
6 or a guilty plea or a plea of nolo contendere to a felony
A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation pursuant to section twelve of this article. The charges shall be stated in writing served upon the employee within two days of presentation of said charges to the board. The employee so affected shall be given an opportunity, within five days of receiving such written notice, to request, in writing, a level four hearing and appeals pursuant to provisions of article twenty-nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, except that dismissal for the conviction of a felony or guilty plea or plea of nolo contendere to a felony charge is not by itself a grievable dismissal. An employee charged with commission of felony may be reassigned to duties which do not involve direct interaction with pupils pending final disposition of the charges.


Upon the recommendation of the county superintendent of schools, the county board of education shall employ and assign, through written contract, public school principals who shall supervise the management and the operation of the school or schools to which they are assigned. Such principals shall hold valid administrative certificates appropriate for their assignments.

Beginning on the first day of July, one thousand nine hundred ninety-four, the prerequisites for issuance of an administrative certificate for principals shall include that the person has successfully completed at least six credit hours of approved course work in public school management techniques at an accredited institution of higher education and has successfully completed education and training in evaluation skills through the center for professional development, or equivalent education and training in evaluation skills approved by the state board.

Under the supervision of the superintendent and in
accordance with the rules and regulations of the county board of education, the principal shall assume administrative and instructional supervisory responsibility for the planning, management, operation and evaluation of the total educational program of the school or schools to which he is assigned.

The principal may submit recommendations to the superintendent regarding the appointment, assignment, promotion, transfer and dismissal of all personnel assigned to the school or schools under said principal's control. Such recommendation shall be submitted in writing as prescribed by the superintendent.

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

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

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

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

On or before the first day of July, one thousand nine hundred ninety-three and continuing thereafter, each
county board of education shall employ a full-time supervising principal at each school whose net enrollment equals or exceeds one hundred seventy students.

A principal assigned to a school with a net enrollment equal to or greater than one hundred seventy students may not be assigned any teaching duties except on a temporary emergency basis. When a principal is assigned on a full-time basis to a school whose net enrollment is more than seventy-five students but less than one hundred seventy students, such principal shall have a minimum of twenty hours per week for nonteaching duties. A principal assigned on a full-time basis to a school with seventy-five students or less shall have a minimum of ten hours per week for nonteaching duties: Provided, That nothing in this section prohibits a county board of education from assigning a full-time supervising principal to a school with a net enrollment of less than one hundred seventy students.

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

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

(a) The state board of education shall adopt a written system for the evaluation of the employment performance of personnel, which system shall be applied uniformly by county boards of education in the evaluation of the employment performance of personnel employed by the board.

(b) The system adopted by the state board of education for evaluating the employment performance of
professional personnel shall be in accordance with the provisions of this section. Professional personnel means professional personnel as defined in section one, article one of this chapter. In developing the professional personnel performance evaluation system, and amendments thereto, the state board shall consult with the professional development project of the center for professional development created in section three, article three-a of this chapter. The center shall actively participate with the state board in developing written standards for evaluation which clearly specify satisfactory performance and the criteria to be used to determine whether the performance of each professional personnel meets such standards.

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

(1) The professional personnel positions to be evaluated, whether they be teachers, substitute teachers, administrators, principals, or others;

(2) The frequency and duration of the evaluations, which shall be on a regular basis and of such frequency and duration as to insure the collection of a sufficient amount of data from which reliable conclusions and findings may be drawn;

(3) The purposes of the evaluation, which shall serve as a basis for the improvement of the performance of the personnel in their assigned duties, serve as an indicator of satisfactory performance for individual professional personnel and serve as documentation for a dismissal on the grounds of unsatisfactory performance, and serve as a basis for programs to increase the professional growth and development of professional personnel;

(4) The standards for satisfactory performance for professional personnel and the criteria to be used to determine whether the performance of each professional meets such standards and other criteria for evaluation for each professional position evaluated; and
(5) Provisions for a written improvement plan, which shall be specific as to what improvements, if any, are needed in the performance of the professional and shall clearly set forth recommendations for improvements, including recommendations for additional education and training during the professional's recertification process.

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

No person may evaluate professional personnel for the purposes of this section unless such person has an administrative certificate issued by the state superintendent and has successfully completed education and training in evaluation skills through the center for professional development, or equivalent education training approved by the state board, which will enable the person to make fair, professional, and credible evaluations of the personnel whom the person is responsible for evaluating. After the first day of July, one thousand nine hundred ninety-four, no person may be issued an administrative certificate or have an administrative certificate renewed unless the state board determines that such person has successfully completed education and training in evaluation skills through the center for professional development, or equivalent education and training approved by the state board.

Any professional personnel whose performance evaluation includes a written improvement plan shall be given an opportunity to improve his or her performance through the implementation of the plan. If the next performance evaluation shows that the professional is now performing satisfactorily, no further action shall be taken concerning the original perfor-
mance evaluation. If such evaluation shows that the professional is still not performing satisfactorily, the evaluator shall either make additional recommenda-
tions for improvement or may recommend the dis-
missal of such professional in accordance with the provisions of section eight of this article.

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL DEVELOPMENT.

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

(a) The education of professional educators in the state shall be under the general direction and control of the state board of education after consultation with the secretary of education and the arts, who shall represent the board of directors of the state college system and the board of trustees of the university of West Virginia system. The education of professional educators in the state includes all programs leading to certification to teach or serve in the public schools including (1) those programs in all institutions of higher education, including student teaching in the public schools, (2) beginning teacher internship programs, (3) the granting of West Virginia certification to persons who received their preparation to teach outside the boundaries of this state, (4) any alternative preparation programs in this state leading to certification, including programs established pursuant to the provisions of section one-a of this article and programs which are in effect on the effective date of this section, and (5) any continuing professional education, professional development and in-service training programs for professional educators employed in the public schools in the state.

The state board of education, after consultation with the secretary of education and the arts, who shall represent the board of directors of the state college system and the board of trustees of the university of West Virginia system, shall adopt standards for the education of professional educators in the state and for
the awarding of certificates valid in the public schools of this state.

The standards approved by the board for teacher preparation 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 experience needed to demonstrate competence as a prerequisite to certification, 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 the adequacy of the 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.

(c) The state superintendent of schools may issue certificates to graduates of teacher education programs and alternative teacher education programs approved by the state board of education and in accordance with rules adopted by the state board after consultation with the secretary of education and the arts, who shall represent the board of directors of the state college system and the board of trustees of the university of West Virginia system. A certificate to teach shall not be granted to any person who is not a citizen of the United States, is not of good moral character and physically, mentally and emotionally qualified to perform the duties of a teacher and who has not attained the age of eighteen years on or before the
first day of October of the year in which his certificate
is issued; except, that an exchange teacher from a
foreign country, or an alien person who meets the
requirements to teach may be granted a permit to
teach within the public schools of the state.

(d) In consultation with the secretary of education
and the arts, who shall represent the board of direc-
tors of the state college system and the board of
trustees of the university of West Virginia system,
institutions of higher education approved for teacher
preparation may cooperate with each other, with the
center for professional development 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, beginning teacher internship programs,
instruction in methodology and seminar programs for
college students, teachers with provisional certifica-
tion, professional support team members and supervis-
ing teachers.

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

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 mini-
mum 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.

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

(a) By the first day of July, one thousand nine
hundred ninety-one, the state board of education, after consultation with the secretary of education and the arts, shall adopt rules in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for the approval and operation of teacher education programs which are an alternative to the regular college or university programs for the education of teachers. To participate in an approved alternative teacher education program, the candidate must hold an alternative program teacher certificate issued by the superintendent and endorsed for the instructional field in which the candidate seeks certification. An alternative program teacher certificate is a temporary certificate issued for one year to a candidate who does not meet the standard educational requirements for certification. To be eligible for such a certificate, an applicant shall:

1. Possess at least a bachelor’s degree from an accredited institution of higher education in a discipline taught in the public schools, except that the rules established by the board may exempt candidates in selected vocational and technical areas who have at least ten years experience in the subject field from this requirement;

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

3. Be a citizen of the United States, be of good moral character and physically, mentally and emotionally qualified to perform the duties of a teacher, and have attained the age of eighteen years on or before the first day of October of the year in which the alternative program teacher certificate is issued; and

4. Have been offered employment in a school included in an alternative teacher education plan approved by the board to offer an alternative teacher education program.

Persons who pass the the appropriate test as set forth in subdivision (2) above shall be granted a formal
document which will enable them to seek employment as an alternative program teacher in a public school approved to offer an alternative teacher education program.

(b) The rules adopted by the board shall include provisions for the approval of alternative teacher education programs which may be offered by schools, school districts, consortia of schools or regional educational service agency and for the setting of tuition charges to offset the program costs. An approved alternative teacher education program shall be in effect for a school, school district, consortium of schools or regional educational service agency before an alternative program teacher may be employed in that school, school district, consortium of schools or regional educational service agency. Approximately two hundred hours of formal instruction shall be provided in all of the three following phases combined. An approved alternative program shall provide essential knowledge and skills to alternative program teachers through the following phases of training:

(1) A full-time seminar/practicum of no less than twenty and no more than thirty days duration which is accomplished before the alternative program teacher has full responsibility for a classroom. The seminar/practicum shall provide formal instruction in the essential areas for professional study which shall emphasize the topics of student assessment, development and learning, curriculum, classroom management, and the use of educational computers and other technology and shall introduce basic teaching skills through supervised teaching experiences with students. The seminar and practicum components shall be integrated and shall include an orientation to the policies, organization and curriculum of the employing district;

(2) A period of intensive on-the-job supervision beginning the first day on which the alternative program teacher assumes full responsibility for a classroom and continuing for a period of at least ten weeks. During this time, the alternative program
teacher shall be visited and critiqued no less than one
time per week by members of a professional support
team and shall be observed and formally evaluated at
the end of five weeks and at the end of ten weeks by
the appropriately certified members of the team.
During the same period, formal instruction shall be
continued in the essential areas for professional study
which shall emphasize the topics of teaching skills,
student assessment, development and learning, curric-
ulum, classroom management, and the use of educa-
tional computers and other technology. At the end of
the ten-week period, the alternative program teacher
shall receive a formal written progress report from the
chairperson of the support team; and

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

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

(d) The training efforts of the districts shall be
coordinated by the center for professional develop-
ment and the center shall provide an orientation and
training program for professional support team
members.
(e) A school, school district, consortium of schools or regional educational service agency seeking to employ an alternative program teacher must submit a plan to the state board of education and receive approval in accordance with the same procedures used for approval of collegiate preparation programs. Each plan shall describe how the proposed training program will accomplish the key elements of an alternative program for the education of teachers as set forth in this section. Each school, school district, consortium of schools or regional educational service agency shall show evidence in its plan of having sought joint sponsorship of their training program with institutions of higher education.

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

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

2. The comprehensive evaluation report shall include one of the following recommendations:

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

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

   (3) Disapproved: Recommends that a professional certificate not be issued and that the candidate not be allowed to enter into another approved alternative teacher education program in this state, but shall not
be prohibited from pursuing teacher certification through other approved programs for the education of teachers in this state.

The chairperson of the professional support team shall provide the alternative program teacher with a copy of the alternative program teacher’s written evaluation report and certification recommendation before submitting it to the state superintendent. If the alternative program teacher disagrees with the chairperson’s recommendation, the alternative program teacher may, within fifteen days of receipt, request an appeal in accordance with the certification appeals process established by the state board of education.

§18A-3-2. Teacher certification; required; expiration; qualifications; certification of aliens.

Any professional educator, as defined in article one of this chapter, who is employed within the public school system of the state shall hold a valid teaching certificate licensing him or her to teach in the specializations and grade levels as shown on the certificate for the period of his or her employment. If a teacher is employed in good faith on the anticipation that he or she is eligible for a certificate and it is later determined that the teacher was not eligible, the state superintendent of schools may authorize payment by the county board of education to the teacher for a time not exceeding three school months or the date of notification of his or her ineligibility, whichever shall occur first. All certificates shall expire on the thirtieth day of June of the last year of their validity irrespective of the date of issuance.

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

In accordance with state board of education rules for the education of professional educators adopted after consultation with the secretary of education and the arts, the state superintendent of schools may issue certificates valid in the public schools of the state: Provided, That a certificate shall not be issued to any person who is not a citizen of the United States, is not
of good moral character and physically, mentally and emotionally qualified to perform the duties for which the certification would be granted and who has not attained the age of eighteen years on or before the first day of October of the year in which the certificate is issued: Provided, however, That an exchange teacher from a foreign county, or an alien person who meets the requirements to teach may be granted a permit to teach within the public schools of the state.

Certificates authorized to be issued include:

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

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

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

The certificate shall be endorsed to indicate the grade level or levels, or areas of specialization in which the person is certified to teach or to serve in the public schools. The initial professional certificate shall be issued provisionally for a period of three years from
the date of issuance and may be converted to a professional certificate valid for five years subject to successful completion of a beginning teacher internship, if applicable, or renewed subject to rules adopted by the state board.

(2) Professional administrative certificate.—A professional administrative certificate, endorsed for serving in the public schools, may be issued to a person who has completed requirements all to be approved by the state board as follows: for a master's degree in an institution of higher education accredited to offer a master's degree, has successfully completed education and training in evaluation skills through the center for professional development, or equivalent education and training in evaluation skills, and three years of management level experience. Beginning the first day of September, one thousand nine hundred seventy, the initial professional administrative certificate shall be issued provisionally for a period of three years. This certificate may be converted to a professional administrative certificate valid for five years or renewed, subject to the regulations of the state board.

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

(4) Other certificates; permits.—Other certificates and permits may be issued, subject to the approval of the state board, to persons who do not qualify for the professional or paraprofessional certificate. Such certificates or permits shall not be given permanent status and persons holding such shall meet renewal requirements provided by law and by regulation, unless the state board declares certain of these certificates to be the equivalent of the professional certificate.
Within the category of other certificates and permits, the state superintendent may issue certificates for persons to serve, in the public schools as athletic coaches or other extracurricular activities coaches whose duties may include the supervision of students, subject to the following limitations: (i) Such person shall be employed under a contract with the county board of education which specifies the duties to be performed, which specifies a rate of pay equivalent to the rate of pay for professional educators in the district who accept similar duties as extra duty assignments and which provides for liability insurance associated with the activity: Provided, That such persons shall not be considered employees of the board for salary and benefit purposes other than as specified in the contract; (ii) a currently employed certified professional educator has not applied for the position; and (iii) such person completes an orientation program designed and approved in accordance with state board rules which shall be adopted no later than the first day of January, one thousand nine hundred ninety-one.

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

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

The beginning teacher internship program is a school based program intended to provide appropriate staff development activities and supervision to beginning teachers to assure their competency for licensure to teach in the public schools of this state. The beginning teacher internship program shall consist of the following components:

(1) A professional support team comprised of the school principal, who shall be the chair of the professional support team, a member of the county profes-
sional staff development council and an experienced classroom teacher at the school who teaches the same or similar subject and grade level as the beginning teacher and who shall serve as a mentor for the beginning teacher;

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

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

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

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

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

(7) In-service professional development programs provided through the professional development project of the center for professional development for beginning teachers and for mentors both of which will be held in the first half of the school year;

(8) The provision of necessary release time from regular duties for the mentor teacher, as agreed to by the principal and the mentor teacher, and a stipend of at least six hundred dollars for the mentor teacher for duties as a mentor teacher; and
(9) A final evaluation of the performance of the beginning teacher completed by the principal on a form developed by the state board of education.

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

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

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

(3) Discontinue employment: A recommendation to discontinue employment indicates that in the judgement of the principal the beginning teacher has completed two years of employment under supervision in a beginning teacher internship program, has not demonstrated competence as a professional educator and will not benefit from further supervised employment in the district.

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

Until the person qualifies for a permanent certificate, any professional or first class certificate based upon a bachelor's degree shall be renewable provided the holder: (1) Files application on a prescribed form with the state department of education; (2) presents an official transcript of six semester hours of approved credit, as may be prescribed by the state board: Provided, That such renewal is completed after the beginning of the period of validity of the certificate to be renewed and within the five-year period immediately preceding the date of application for renewal; (3) successfully completes a beginning teacher internship
program, if applicable; and (4) submits a recommendation based on successful teaching experience from the county superintendent of schools of the county in which the holder last taught or resides.

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

All certificates and permits, other than the professional certificate, shall be renewed in accordance with state board regulations.

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

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

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

The Legislature finds the professional expertise and
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insight of the classroom teacher to be an invaluable ingredient in the development and delivery of staff development programs which meet the needs of classroom teachers.

Therefore, a professional staff development council comprised of proportional representation from the major school levels and from vocational, special education and other specialties in proportion to their employment numbers in said county shall be established in each school district in the state in accordance with rules adopted by the state board of education. Nominations of instructional personnel to serve on the county staff development council may be submitted by the faculty senates of the district to the county superintendent who shall prepare and distribute ballots and tabulate the votes of the counties instructional personnel voting on the persons nominated. Each county staff development council shall consist of between nine and fifteen members at the discretion of the county superintendent based on the size of the county. Such councils shall have final authority to propose staff development programs for their peers based upon rules established by statute and the council on professional education.

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

The professional staff development project of the center for professional development shall assist in the development and delivery of staff development programs by the county staff development councils and shall coordinate staff development efforts statewide.

ARTICLE 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.

§18A-3A-1. Center for professional development created; intent; advisory council.
(a) Teaching is a profession that directlycorrelates
to the social and economic well-being of a society and
its citizens. Superior teaching is essential to a well
educated and productive populace. The intent of this
article is to recognize the value of professional invol-
vement by experienced educators in building and
maintaining a superior teaching force and to establish
avenues for applying such involvement.

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

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

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

The center for professional development shall meet
at least quarterly, and the appointed members shall be
reimbursed for reasonable and necessary expenses
actually incurred in the performance of their official
duties from funds appropriated or otherwise made
available for such purposes upon submission of an
itemized statement therefor.

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

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

(b) To assist the center for professional development
in the performance of its duties related to teacher
education and professional development, there is
created an advisory council on professional develop-
ment which shall consist of eleven persons as follows:
An employee of the center who shall chair the advi-
sory council; two shall be professors, or associate or
assistant professors, of teacher education, one from a
public institution and one from a private institution of
higher education in this state offering programs
leading to certification to teach in the public schools of
this state; two county school superintendents, one of
whom shall be from a district with a student enroll-
ment above the statewide average and one of whom
shall be from a district with a student enrollment
below such average; two school principals, one of
whom shall be from a school including elementary
grade levels and one of whom shall be from a school
including secondary grade levels; and four professional
instructional personnel, two of whom shall be from a school including elementary grade levels and two of whom shall be from a school including secondary grade levels. To the extent possible, the principals and instructional personnel shall be appointed from the members of county staff development councils. Except for the employee of the center, the members shall be appointed jointly by the secretary of education and the arts and the state superintendent for two year terms which overlap so that one member from each of the classes shall be appointed in each successive year, except that two members from the professional instructional personnel class shall be appointed in each successive year. No two members of the council shall be from the same college or university or school district. Members of the council shall be granted release time from their employment for attending meetings of the council.

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

(a) Through this project the center shall:

(1) Identify the knowledge, skills, attitudes and other such pertinent complements deemed essential for an individual to demonstrate appropriate performance as a professional personnel in the public schools of West Virginia. The center shall review the report of the governor’s committee on the preparation of teachers established in section six of this article, shall participate in the work of, and may contract with, the National Board for Professional Teaching Standards, Inc., to develop processes, procedures and assessment measures for the certification of teachers, and shall consult regularly with active members of the teaching profession in the public schools and higher education teacher preparation programs. The center may make recommendations to the state board of education and the higher education governing boards regarding the adoption of such work for application in the continuing professional development of public school professional educators;

(2) Serve in a coordinating capacity to assure that
the knowledge, skills, attitude and other pertinent complements of appropriate professional performance which evolve over time in the public school environment are appropriately reflected in the programs approved for the education of professional personnel;

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

(4) Provide consultation and assistance to county staff development councils established under the provisions of section eight, article three of this chapter in designing and delivering staff development programs to meet the staff development needs of the professional educators of their county.


Through this project the center shall develop training in the area of developmental instruction with an emphasis in grades kindergarten through grade four.

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

Through this project, the center shall:

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

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

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

Through this project, the center shall:

(1) Determine the most effective and efficient ways to integrate the capabilities of the state for producing, delivering and receiving electronic instruction and establish a comprehensive long-range plan to further the cooperation and coordination of the various agen-
cies of the state, the county boards of education and the regional educational service agencies involved in distance learning technology; and

(2) Encourage the use of technology for educational purposes that will enhance teaching and learning, promote equality in educational offerings, facilitate the delivery of instruction to non-traditional student populations and increase educational system management capabilities, including assisting in the provision of training programs for teachers involved in technology assisted instruction programs.

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

A goal of the project is to create a statewide technology network linking universities and colleges, schools, libraries and, eventually, homes with software, data bases and video learning capabilities.


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

The specific functions of the center include:

(1) Coordinating advanced placement teacher training institutes;

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

(3) Providing follow-up teacher training for advance
placement teachers;

(4) Identifying and obtaining external sources of funding;

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

(6) Serving as a liaison for The College Board and the West Virginia department of education, county boards of education, institutions of higher education, the West Virginia advanced placement advisory council, the Legislature and the governor;

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

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

(9) Serving as a clearing house for advanced placement materials and correspondence; and

(10) Certify individual courses that meet the established standards of advanced placement programs.


The task force on the preparation of teachers appointed by the governor and existing on the effective date of this section shall undertake a comprehensive review of programs to prepare teachers for employment in West Virginia, shall identify ways to improve teacher preparation programs and shall report to the governor and the Legislature on such matters no later than the fifteenth day of December, one thousand nine hundred ninety. The report should address:

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

(2) Streamlining and simplifying certification standards and processes;

(3) Establishing a delivery system in higher educa-
tion for the in-field masters program;

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

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

(6) Upgrading teacher education programs to make the pedagogical area of study reflective of new developments in the classroom such as distance learning, computer assisted instruction and early childhood developmental programs;

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

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

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

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

A county board of education shall make decisions affecting the hiring of new classroom teachers or professional personnel other than classroom teachers, on the basis of the applicant with the highest qualifications. In judging qualifications, consideration shall be given to each of the following: Appropriate certification and/or licensure; amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the subject area and/or grade level; the amount of course work and/or degree level in the relevant field and degree level generally; academic achievement; relevant specialized training; past performance evaluations conducted pursuant to section twelve, article two
of this chapter; and other measures or indicators upon
which the relative qualifications of the applicant may
fairly be judged. If one or more permanently
employed instructional personnel apply for a class-
room teaching position and meet the standards set
forth in the job posting, the county board of education
shall make decisions affecting the filling of such
positions on the basis of the following: Appropriate
certification and/or licensure; amount of experience
relevant to the position; the existence of teaching
experience in the subject area; degree level in the
relevant field; specialized training directly related to
the performance of the job; meeting satisfactory
standards in evaluations over the previous two years;
and seniority. If the applicant with the most seniority
is not selected for the position, upon the request of the
applicant a written statement of reasons shall be given
to the applicant with suggestions for improving the
applicant's qualifications.

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

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

Guidance counselors and all other professional
employees, as defined in section one, article one of this
chapter, except classroom teachers, shall gain seniority
in their non-teaching area of professional employment
on the basis of the length of time the employee has
been employed by the county board of education in
Provided, That if an employee is certified as a classroom teacher, the employee accrues classroom teaching seniority for the time that that employee is employed in another professional area. For the purposes of accruing seniority under this paragraph, employment as principal, supervisor or central office administrator, as defined in section one, article one of this chapter, shall be considered one area of employment.

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

Whenever a county board is required to reduce the number of professional personnel in its employment, the employee with the least amount of seniority shall be properly notified and released from employment pursuant to the provisions of section two, article two of this chapter: Provided, That all persons employed in a certification area to be reduced who are employed under a temporary permit shall be properly notified and released before a fully certified employee in such a position is subject to release: Provided, however, that an employee subject to release shall be employed in any other professional position where such employee is certified and was previously employed or to any lateral area for which such employee is certified and/or licensed, if such employee's seniority is greater than the seniority of any other employee in that area of certification and/or licensure.

After the fifth day prior to the beginning of the instructional term, or after the first day of the second half of the instructional term, no person employed and assigned to a professional position may transfer to another professional position in the county during that half of the instructional term: Provided, That such person may apply for any posted, vacant positions with
the successful applicant assuming the position at the
beginning of the next half of the instructional term:

Provided, however, That professional personnel who
have been on an approved leave of absence may fill
these vacancies prior to the next semester. The
superintendent may fill a position before the next
instructional term when it is determined to be in the
best interest of the students.

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

Boards shall be required to post and date notices of
all openings in established, existing or newly created
positions in conspicuous working places for all profes-
sional personnel to observe for at least five working
days. The notice shall be posted within twenty work-
ing days of such position openings and shall include
the job description. Any special criteria or skills that
are required by the position shall be specifically stated
in the job description and directly related to the
performance of the job. No vacancy shall be filled until after the five-day minimum posting period. For the purposes of this article, a position is deemed vacant when the instructional position could be filled by a certified, full-time professional personnel: Provided, That nothing provided herein shall prevent the county board of education from eliminating a position due to lack of need.

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

When the total number of classroom teaching positions in an elementary school needs to be reduced, such reduction shall be made on the basis of seniority with the least senior classroom teacher being recommended for transfer: Provided, That a specified grade level needs to be reduced and the least senior employee in the school is not in that grade level, the least senior classroom teacher in the grade level that needs to be reduced shall be reassigned to the position made vacant by the transfer of the least senior classroom teacher in the school without that position being posted: Provided, however, That the employee is certified and/or licensed and agrees to the reassignment.

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

A county board of education shall make decisions affecting promotion and filling of any service personnel positions of employment or jobs occurring throughout the school year that are to be performed by service personnel as provided in section eight, article four of this chapter, on the basis of seniority.
7 qualifications and evaluation of past service.

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

20 (1) Regularly employed service personnel;

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

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

28 (4) Substitute service personnel; and

29 (5) New service personnel.

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

34 A promotion shall be defined as any change in his
employment that the employee deems to improve his
working circumstance within his classification cate-
gory of employment and shall include a transfer to
another classification category or place of employment
if the position is not filled by an employee who holds
a title within that classification category of employ-
ment. Each class title listed in section eight, article
four of this chapter shall be considered a separate
classification category of employment for service
personnel, except for those class titles having Roman
numeral designations, which shall be considered a single classification of employment. The cafeteria manager class title shall be included in the same classification category as cooks. The executive secretary class title shall be included in the same classification category as secretaries.

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

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

Boards shall be required to post and date notices of all job vacancies of established existing or newly created positions in conspicuous working places for all school service employees to observe for at least five working days. The notice of such job vacancies shall include the job description, the period of employment, the amount of pay and any benefits and other information that is helpful to the employees to understand the particulars of the job. After the five day minimum posting period all vacancies shall be filled within
twenty working days from the posting date notice of any job vacancies of established existing or newly created positions.

All decisions by county boards of education concerning reduction in work force of service personnel shall be made on the basis of seniority, as hereinafter provided.

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

Should a county board of education be required to reduce the number of employees within a particular job classification, the employee with the least amount of seniority within that classification or grades of classification shall be properly released and employed in a different grade of that classification if there is a job vacancy: Provided, That if there is no job vacancy for employment within such classification or grades of classification, he shall be employed in any other job classification which he previously held with the county board if there is a vacancy and shall retain any seniority accrued in such job classification or grade of classification.

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

All employees whose seniority with the county board is insufficient to allow their retention by the county board during a reduction in work force shall be placed upon a preferred recall list and shall be recalled to employment by the county board on the basis of seniority.
Employees placed upon the preferred list shall be recalled to any position openings by the county board within the classification(s), where they had previously been employed, or to any lateral position for which the employee is qualified or to a lateral area for which an employee has certification and/or licensure.

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

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

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

Any board failing to comply with the provisions of this article may be compelled to do so by mandamus and shall be liable to any party prevailing against the board for court costs and his reasonable attorney fee, as determined and established by the court. Further, employees denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactively to the date of the violation and payable entirely from local funds. Further, the board shall be liable to any party prevailing against the board for any court reporter costs including copies of transcripts.

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

Professional and service personnel employed by a multi-county vocational center shall establish seniority on the basis of the length of time the employee has
been employed by the multi-county vocational center, except that any professional or service personnel whose employment with the multi-county vocational center was immediately preceded by employment with one of the county boards participating in the operation of the center or whose employment contract was with one of the county boards participating in the operation of the center or whose employment contract (1) shall retain any seniority accrued during employment by said county board; (2) shall accrue seniority as a regular employee with said county board during employment with the center; (3) shall attain continuing contract status with both the county and the center if the sum of the years employed by the county and the center equals the statutory number required for continuing contract status; and (4) shall retain and continue to accrue county and center seniority in the event of reemployment by said participating county as a result of direct transfer from the center or recall from the preferred list.

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

The seniority conferred herein shall apply retroactively to all affected professional and service personnel, but the rights incidental thereto shall commence as of the effective date of this section.

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.


A county board of education may approve the attendance of any or all teachers at educational conventions, conferences, or other professional meetings of teachers on school days when in the judgment of the superintendent it is necessary or desirable. Attendance at such meetings may be substituted for an equal amount of teaching or employment and
teachers attending shall not suffer loss of pay. Further, the board is authorized to pay all or any part of expenses of any personnel whom it may designate to represent the board at any such professional or educational meetings or in visitation to another school system.

Every county board of education shall adopt a policy under which professional educators serving as mentor teachers, serving on state and county professional staff development councils, serving on school curriculum teams, and serving on professional support teams will be granted professional time if required for performance of their duties during the instructional day or extra duty compensation if required at other times and for reimbursement for necessary expenses actually incurred in attending meetings of the bodies upon which they serve upon. Such policy shall provide for the coverage of the professional personnel's regular duties during such release times through the use of paraprofessional aides, substitutes and other methods if necessary to avoid the interruption of instruction.

ARTICLE 7. SEVERABILITY.

§18A-7-1. Severability.

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

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 3B. WEST VIRGINIA LITERACY PROJECT.

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

The enactment of this article is based on the finding that many efforts are currently under way in West Virginia to assist citizens in upgrading their literacy skills. These efforts are due to both public sector programs and private sector voluntary initiatives. The
enactment of this section recognizes that these efforts are having a positive impact in addressing literacy needs and that the many persons who have contributed their own time to these efforts deserve the sincere gratitude of the people of West Virginia for their service in this cause.

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

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

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

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

The literacy council shall be under the jurisdiction of the department of education and the arts pursuant to the provisions of article one, chapter five-f of this code, and shall be subject to the supervision of the secretary of the department of education and the arts.
Members of the council shall be reimbursed for reasonable and necessary expenses actually incurred in conducting the business of the council.

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

ARTICLE 15. SEVERABILITY.


Pursuant to section ten, article two, chapter two of this code, if any provision of this chapter or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the chapter, and to this end the provisions of this chapter are declared to be severable.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Governor