WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1992

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ENROLLED

HOUSE BILL No. 975-3

(By Delegates P. White and Brown(s))

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Passed March 7, 1992

In Effect July 1, 1992
AN ACT to amend and reenact sections five-b and five-c, article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend article nine-a of said chapter by adding thereto a new section, designated section thre­a; to amend and reenact sections four, ten and twelve of said article; and to amend and reenact sections one and two, article four, chapter eighteen-a, all relating to county boards of education; requiring the state board to appoint a school health services advisory committee to address the needs of medicaid eligible children; provid­ing for the composition of the advisory committee and authorizing reimbursement of certain expenses; requiring first time public school enrollees to present a copy of the pupil's original birth record certified by vital statistics registrar; relating to setting the total state basic foundation program and foundation allowance for regional educational service agencies for the next fiscal year; prohibiting a county from being penalized if its enrollment increases in certain instances; reallocating certain step seven funds; providing adjustment to the allocated state aid share for counties under court order to refund prior year taxes, unable to collect property tax while court proceedings are pending or where values levied upon are less than those calculated under a certain code section; relating to eliminating in-field masters program; and setting state minimum salaries
for teachers with masters or above degrees effective on a date certain.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5b. Medicaid eligible children; school health services advisory committee.

(a) The state board shall become a medicaid provider and seek out medicaid eligible students for the purpose of providing medicaid and related services to students eligible under the medicaid program and to maximize federal reimbursement for all services available under the Omnibus Budget Reconciliation Act of one thousand nine hundred eighty-nine, as it relates to medicaid expansion and any future expansions in the medicaid program for medicaid and related services for which state dollars are or will be expended: Provided, That the state board may delegate this provider status and subsequent reimbursement to regional educational service agencies (RESA) and/or county boards: Provided, however, That annually the state board shall report to the Legislature the number and age of children eligible for medicaid, the number and age of children with medicaid coverage, the types of medicaid eligible services provided, the frequency of services provided, the medicaid dollars reimbursed; and the problems encountered in the implementation of this system and that this report shall be on a county by county basis and made available no later than the first day of January, one thousand nine hundred ninety-two, and annually thereafter.
(b) The state board shall appoint and convene a school health services advisory committee to advise the secretary of health and human resources and the state superintendent on ways to improve the ability of regional education service agencies, local school boards, and department of health and human resources employees to provide medicaid eligible children with all the school-based medicaid services for which they are eligible and to ensure that the school-based medicaid service providers bill for and receive all the medicaid reimbursement to which they are entitled. The committee shall consist of at least the following individuals: the person within the department of education responsible for coordinating the provision of and billing for school-based medicaid services in schools throughout the state, who shall provide secretarial, administrative and technical support to the advisory committee; the person within the department of health and human resources responsible for coordinating the enrollment of medicaid eligible school children throughout the state; two representatives of regional education services agencies who are experienced with the process of billing medicaid for school-based health services; two department of health and human resources employees responsible for supervising employees, two persons jointly appointed by the secretary of health and human resources and the state superintendent; and one representative of the governor's task force on school health.

The school health services advisory committee shall meet in the first instance at the direction of the state superintendent, select a chairperson from among its members, and meet thereafter at the direction of the chairperson. The committee shall report its findings and recommendations to the state board and department of health and human resources which findings shall then be included in the report to the Legislature by the state board and department of health and human resources provided for in subsection (a) of this section.

All actual and necessary travel expenses of the members of the committee shall be reimbursed by the member's employing agency, for those members not
employed by a state agency, the member's actual and necessary travel expenses shall be paid by the state board. All such expenses shall be reimbursed in the same manner as the expenses of state employees are reimbursed.

§18-2-5c. Birth certificate required upon admission to public school; required notice to local law-enforcement agency of missing children.

(a) No pupil shall be admitted for the first time to any public school in this state unless the person enrolling the pupil presents a copy of the pupil’s original birth record certified by the state registrar of vital statistics confirming the pupil’s identity, age, and state file number of the original birth record. If a certified copy of the pupil’s birth record cannot be obtained, the person so enrolling the pupil shall submit an affidavit explaining the inability to produce a certified copy of the birth record: Provided, That if any person submitting such affidavit is in U.S. military service and is in transit due to military orders, a three week extension shall be granted to such person for providing the birth records.

(b) Upon the failure of any person enrolling a pupil to furnish a certified copy of the pupil’s birth record in conformance with subsection (a) above, the principal of the school in which the pupil is being enrolled or his designee shall immediately notify the local law-enforcement agency. The notice to the local law-enforcement agency shall include copies of the submitted proof of the pupil’s identity and age and the affidavit explaining the inability to produce a certified copy of the birth record.

(c) Within fourteen days after enrolling a transferred pupil, the principal of the school in which the pupil has been enrolled or his designee shall request that the principal or his designee of the school in which the pupil was previously enrolled transfer a certified copy of the pupil’s birth record.

(d) Principals and their designees shall be immune from any civil or criminal liability in connection with any notice to a local law-enforcement agency of a pupil lacking a birth certificate or failure to give such notice.
ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-3a. Total state basic foundation program and foundation allowance for regional educational service agencies for fiscal year 1992-93 only.

(a) Notwithstanding any other provisions of this article to the contrary, the total basic foundation program for the state for the fiscal year one thousand nine hundred ninety-two-ninety-three shall be the sum of the amounts computed in accordance with this section, less the county’s local share:

(1) Allowance for professional educators as determined in accordance with sections four and five-a of this article;

(2) Allowance for service personnel as determined in accordance with sections five and five-a of this article;

(3) Allowance for fixed charges as determined in accordance with the provisions of sections six and six-a of this article;

(4) Allowance for transportation cost in an amount at least equal to the appropriation for such allowance in the fiscal year one thousand nine hundred ninety-one—ninety-two;

(5) Allowance for administrative cost in accordance with the provisions of section eight of this article;

(6) Allowance for other current expense and substitute employees in an amount at least equal to the appropriation for such allowance in the fiscal year one thousand nine hundred ninety-one—ninety-two; and

(7) Allowance to improve instructional programs in an amount at least equal to the appropriation for such allowance in the fiscal year one thousand nine hundred ninety-one—ninety-two.

(b) Notwithstanding the provisions of section eight-a of this article, the foundation allowance for regional educational service agencies for the fiscal year one
thousand nine hundred ninety-two—ninety-three shall be in an amount equal to the appropriation for such allowance in the fiscal year one thousand nine hundred ninety-one—ninety-two, unless a greater amount is appropriated by the Legislature.

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

1. The basic foundation allowance to the county for professional educators shall be the amount of money required to pay the state minimum salaries, in accordance with provisions of article four, chapter eighteen of the code, to such personnel employed: Provided, That in making this computation no county shall receive an allowance for such personnel which number is in excess of fifty-four and thirty-three one-hundredths professional educators to each one thousand students in adjusted enrollment: Provided, however, That for the school year commencing on the first day of July, one thousand nine hundred ninety-one, and thereafter, no county shall receive an allowance for such personnel which number is in excess of fifty-three and one-half professional educators to each one thousand students in adjusted enrollment: Provided further, That any county not qualifying under the provision of section fourteen of this article shall be eligible for a growth rate in professional personnel in any one year not to exceed twenty percent of its total potential increase under this provision, except that in no case shall such limit be fewer than five professionals: And provided further, That the number of and the allowance for personnel paid in part by state and county funds shall be prorated: And provided further, That where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional educators for such school or program may be prorated among the participating counties on the basis of each one's enrollment therein and that such personnel shall be considered within the above-stated limit: And provided further, That in the school year beginning the first day of July, one thousand nine hundred eighty-eight, and in each school year thereafter-
ter, each county board shall establish and maintain a minimum ratio of fifty professional instructional personnel per one thousand students in adjusted enrollment: *And provided further*, That no county shall have less than a total of five principals and central office administrators. Any county board which does not establish and maintain this minimum ratio shall suffer a pro rata reduction in the allowance for professional educators under this section: *And provided further*, That no county shall be penalized if it has increases in enrollment during that school year: *And provided further*, That any county board which does not and maintain this minimum ratio shall utilize any and all allocations to it by provision of section fourteen of this article solely to employ professional instructional personnel until the minimum ratio is attained. Every county shall utilize methods other than reductions in force, such as attrition and early retirement, before implementing their reductions in force policy to comply with the limitations of this section. It is the intent of the Legislature that in planning reductions in force to comply with reduced ratios of professional educators to students in adjusted enrollment, county boards shall consider positions for elimination in the following order: (1) Central office administrators, (2) assistant principals, and (3) principals.

No county shall increase the number of administrative personnel employed as either professional educators or pay grade "H" service personnel above the number which were employed, or for which positions were posted, on the thirtieth day of June, one thousand nine hundred ninety, and, therefore, county boards shall whenever possible utilize classroom teachers for curriculum administrative positions through the use of modified or extended contracts: *Provided*, That the governor shall submit a recommendation to the Legislature at the beginning of the regular session thereof in the year one thousand nine hundred ninety-one, which proposes a method for establishing a responsible level of administrative support for each county school system and a pay scale differentiation on a daily rate between classroom positions and administrative positions when
all other factors are equal.

Every county board of education shall annually determine the number of professional educators employed that exceeds the number allowed by the public school support plan and determine the amount of salary supplement that would be available per state authorized employee if all expenditures for such excess employees were converted to annual salaries for state authorized professional educators within their county. Such information shall be published annually in each school report card of each such county.

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

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

1. Twenty percent of these funds shall be allocated to the counties proportional to adjusted enrollment; and
2. Each county whose allocation in subsection (1) is less than one hundred fifty thousand dollars in any fiscal year shall then receive an amount which equals the difference between such amount received and one hundred fifty thousand dollars.

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

Beginning with the county which has the lowest basic resources per pupil and progressing through the counties successively to and beyond the county with the highest basic resources per pupil, the funds available shall be allocated in amounts necessary to increase moneys available to the county or counties to the basic
resources per pupil level, as nearly as is possible, of the
county having the next higher basic resources per pupil:
Provided, That no county shall lose or gain more than
fifteen percent over the previous year’s allocation:
(c) Any county whose allocation under subsections (a)
and (b) of this section is less than two hundred seventy-
five thousand dollars shall receive an additional
appropriation which equals the difference between such
allocation and two hundred seventy-five thousand
dollars.
(d) To be eligible for its allocation under this section,
a county board shall lay the maximum regular tax rates
set out in section six-c, article eight, chapter eleven of
this code: Provided, That moneys allocated by provision
of this section shall be used to improve instructional
programs according to a plan for instructional improve-
ment which the affected county board shall file with the
state board by the first day of August of each year, to
be approved by the state board by the first day of
September of that year if such plan substantially
complies with standards to be adopted by the state
board: Provided, however, That for the school year
beginning on the first day of July, one thousand nine
hundred ninety-two, up to fifteen percent of this
allocation may be used to employ professional educators
and/or service personnel in counties after all applicable
provisions of sections four and five of this article have
been fully utilized.
Prior to the use of any funds from this section for
personnel costs, the county board must receive author-
ization from the state superintendent of schools. The
state superintendent shall require the district board to
demonstrate: (1) The need for the allocation, (2)
efficiency and fiscal responsibility in staffing, and (3)
sharing of services with adjoining counties and the
regional educational service agency for that county in
the use of the total local district board budget. District
boards shall make application for available funds by the
first day of May, one thousand nine hundred ninety-two.
On or before the first day of June, the state superintend-
ent shall review all applications and notify applying
district boards of the distribution of the allocation. Such funds shall be distributed during the fiscal year as appropriate. The state superintendent shall require the county board to demonstrate the need for an allocation based upon the county's inability to meet the requirements of state law or state board policy: Provided, That the funds available for personnel under this section may not be used to increase the total number of professional noninstructional personnel in the central office beyond four. Such instructional improvement plan shall be made available for distribution to the public at the office of each affected county board.

(e) Commencing with the school year beginning on the first day of July, one thousand nine hundred ninety-two, twenty-one million, four hundred forty thousand, four hundred ninety-three dollars shall be paid into the school building capital improvements fund created by section six, article nine-d of this chapter, and shall be used solely for the purposes of said article nine-d. In each fiscal year thereafter, fifty percent of the funds which accrue due to an increase in local share above that computed for the school year beginning on the first day of July, one thousand nine hundred eighty-seven, shall be paid into the school building capital improvements fund created by section six, article nine-d of this chapter, and shall be used solely for the purposes of said article nine-d: Provided, That if funds are available and appropriated in each such subsequent fiscal year, not less than seven million seven hundred thousand dollars shall be added to the amount of the prior year's appropriation for such fund.

§18-9A-12. County basic foundation; total basic state aid allowance.

(a) The basic foundation program for each county for the fiscal year shall be the sum of the amounts computed in accordance with the provisions of sections four, five, six, seven, eight, nine and ten of this article. On the first working day of July in each year, the state board shall determine the basic foundation program for each county for that fiscal year. Data used in the computations relating to net and adjusted enrollment, and the number
of professional educators, shall be for the second month
of the prior school term. Transportation expenditures
used in these computations shall be for the most recent
year in which data are available. The allocated state aid
share of the county's basic foundation program shall be
the difference between the cost of its basic foundation
program and the county's local share as determined in
section eleven of this article, except as provided in
subsection (b) of this section.

(b) The allocated state aid share shall be adjusted in
the following circumstances in the following manner:
Provided, That prior to such adjustment, the state tax
commissioner shall provide the state board, by the
fifteenth day of January of each year a certified listing
of those counties in which such adjustment shall be
made pursuant to this subsection, together with the
amount of revenue which will not be available to each
county board in the ensuing fiscal year as a result of the
circumstance.

(1) In those instances where the local share as
computed under section eleven of this article is not
reflective of local funds available because the county is
under a final court order to refund or credit property
taxes paid in prior years, the allocated state aid share
shall be the county's basic foundation program, minus
the local share as computed under section eleven of this
article, plus the amount of property tax the county is
unable to collect or must refund due to the final court
order.

(2) In those instances where the local share as
computed under section eleven of this article is not
reflective of local funds available because the county is
collecting tax based upon an assessed value which is less
than that determined by the tax commissioner in the
most recent published survey of property valuations in
the state due to an error in the published survey, which
error is certified to by the tax commissioner, the
allocated state aid share shall be the county's basic
foundation program, minus the local share as computed
under section eleven of this article, plus the amount of
property tax the county is unable to collect based on
differences in the assessed valuation between those in
the most recent published survey of valuation and the
corrected assessed value actually levied upon by the
county.

(3) In instances where a county is unable to collect
property taxes from a taxpayer during the pendency of
any court proceedings, the allocated state aid share shall
be the county's basic foundation program minus the
local share as computed under section eleven of this
article, plus the amount the county is unable to collect
as a result of the pending court proceedings as certified
by the tax commissioner: Provided, That the county is
required to reimburse the amount of allocated state aid
share attributable to the amount of property tax it later
receives upon completion of court proceedings, which
shall be paid into the general revenue fund of the state.

(c) The allocated state aid share shall be adjusted in
any county receiving payments or contributions in lieu
of property taxes. In instances where a county receives
payments or contributions in lieu of property taxes, the
allocated state aid share shall be the county's basic
foundation program minus the local share as computed
under section eleven of this article, plus any amounts
added pursuant to subsection (b) of this section minus
the payments or contributions in lieu of property taxes
which are distributed by the sheriff to the county board
of education. In determining the amount of such
contribution or payment in lieu of taxes, each county
commission shall provide to the state tax commissioner,
by the first day of January of each year, the total
amount of such payments or contributions paid to the
county and the proportion of the total amount that has
been or will be distributed to the county board of
education. The state tax commissioner then shall
provide the state board, by the fifteenth day of January
of each year, a certified listing of those counties in which
an adjustment pursuant to this section shall be made,
together with the amount of revenue which will be
available to each county board in the ensuing fiscal year
as a result of contribution or payment in lieu of taxes.

(d) Total basic state aid to the county shall be the
computed state share of basic foundation support. After such computation is completed, the state board shall immediately certify to each county board the amount of state aid allocated to the county for that fiscal year, subject to any qualifying provisions of this article.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-1. Definitions.

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

12 "Classification of certification" means the class or type of certificate issued by the state superintendent under the statutory provisions of this chapter. "Classification of training" means the number of collegiate or graduate hours necessary to meet the requirements stipulated in the definitions set forth in the next paragraph in items (2) to (11), inclusive.

19 The column heads of the state minimum salary schedule set forth in section two of this article are defined as follows:

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

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

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

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

(5) "A.B." means a bachelor's degree, from an accredited institution of higher education, which has been issued to, or for which the requirements for such have been met by, a person who qualifies for or holds a professional certificate or its equivalent. A registered professional nurse with a bachelor's degree, who is licensed by the West Virginia board of examiners for registered professional nurses and employed by a county board, shall be within this classification for payment in accordance with sections two and two-a of this article.

(6) "A.B. plus 15" means a bachelor's degree as defined above plus fifteen hours of graduate work, from an accredited institution of higher education certified to do graduate work, in an approved planned program at the graduate level which requirements have been met by a person who qualifies for or holds a professional certificate or its equivalent.

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

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

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

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

For purposes of advanced salary classification,
graduate work completed after the first day of July, one
thousand nine hundred ninety-four, shall be related to
the public school program, as prescribed by the state
board.

Notwithstanding the requirements set forth in subdi-
visions (6), (8) and (9) of this section relating to hours
of graduate work at an institution certified to do such
work, fifteen undergraduate credit hours from a
regionally accredited institution of higher education,
earned after the effective date of this section, may be
utilized for advanced salary classification if such hours
are in accordance with: (a) The teacher's current
classification of certification and of training; (b) a
designated instructional shortage area documented by
the employing county superintendent; or (c) an identi-
fied teaching deficiency documented through the state
approved county personnel evaluation system.

Effective the first day of July, one thousand nine
hundred ninety-four, the following definition shall be
applicable.

(11) "M.A. plus 45" means the above-defined master's
degree plus forty-five graduate hours, earned in an
institution approved to do graduate work, if the person
is qualified for or holds a professional certificate or its
110 equivalent.

§18A-4-2. State minimum salaries for teachers.

Effective the first day of July, one thousand nine hundred ninety-two and thereafter, each teacher shall receive the amount prescribed in the "state minimum salary schedule" as set forth in this section, specific additional amounts prescribed in this section or article, and any county supplement in effect in a county pursuant to section five-a of this article during the contract year.

STATE MINIMUM SALARY SCHEDULE

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Six hundred dollars shall be paid annually to each classroom teacher who has at least twenty years of teaching experience. Such payments shall be in addition to any amounts prescribed in the “state minimum salary schedule”, shall be paid in equal monthly installments, and shall be deemed a part of the state minimum salaries for teachers.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect July 1, 1992.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 31st day of ______, 1992.

Governor