

SB 1006

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WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1994



ENROLLED

SENATE BILL NO. 1000

(By Senators Burdette, Mr. President, and
Boley, By Request of the Executive)



PASSED March 20, 1994

In Effect from Passage

E N R O L L E D

Senate Bill No. 1000

(BY SENATORS BURDETTE, MR. PRESIDENT, AND BOLEY,
BY REQUEST OF THE EXECUTIVE)

[Passed March 20, 1994; in effect from passage.]

AN ACT to amend and reenact section eighteen, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend article two-d, chapter five-b of said code by adding thereto a new section, designated section eight; to amend and reenact sections seven and twenty-six, article two, chapter eighteen of said code; to further amend said article by adding thereto three new sections, designated sections seven-b, eight-a and seventeen; to further amend said chapter by adding thereto a new article, designated article two-h; to amend and reenact sections fifteen and eighteen, article five of said chapter; to further amend said article by adding thereto a new section, designated section twenty-two-a; to amend and reenact section five, article five-a of said chapter; to amend article seven-a of said chapter by adding thereto a new section, designated section twenty-six-m; to amend and reenact section ten, article seven-b of said chapter; to amend and reenact sections two, four and eleven, article eight of said chapter; to amend and reenact sections three-a, six, six-a, seven, eight-a, nine, ten and twenty-four, article nine-a of said chapter; to further amend said article by adding thereto

a new section, designated section six-b; to amend and reenact sections three and five, article twenty of said chapter; to further amend said article by adding thereto a new section, designated section one-c; to amend chapter eighteen-a of said code by adding thereto a new article, designated article three-b; to amend and reenact section five, article four of said chapter; to further amend said article by adding thereto a new section, designated section nineteen; and to amend and reenact section one-a, article five of said chapter, all relating to education, school aid formula; changes in public employees insurance agency payments by county boards of education; governor's workforce development council created; makeup of council; reports to Legislature; termination date; accepting American sign language as a credited course of study in foreign language; requiring the state board of education to prescribe programs in drug prevention, violence reduction and firearm safety; requiring the state board of education to conduct a study of staff fluctuations in schools with a high percentage of at-risk students; allowing a county board of education a waiver in implementation of uniform integrated regional computer information system under certain terms and conditions; requiring public notice and hearings prior to state-mandated educational reform; extending the instructional term limit; changing requirement for criterion referenced test for the current school year; deleting certain language relating to excess levy inequities; deleting full-day kindergarten programs for the school year one thousand nine hundred ninety-five; requiring county boards of education to develop a policy for administering medications; requiring certain employees to administer medications and exempting others; requiring faculty senates to develop a strategic plan to manage integration of special needs students; outlining basic elements of the strategic plan; providing supplemental retirement benefits for certain teachers; recalculating employer contributions for the teachers' defined contribution retirement system; compulsory school attendance for children under eighteen; establishing misdemeanor offense for person causing a minor to miss

school without just cause; penalties; establishing misdemeanor offense for person eighteen years of age or older who fails to attend school without just cause; penalties; requiring attendance director to serve notice for school absences; allowing the attendance director to make home visits; requiring attendance director to notify the division of motor vehicles of a school withdrawal within five days; changing total state basic foundation program for the year one thousand nine hundred ninety-four—one thousand nine hundred ninety-five only; changing formula for deriving workers' compensation contribution for certain personnel by county boards; providing for unfunded liability allowance for the teachers' retirement fund allowance; allocation of growth of local share; transportation allowance for the use of alternative fuel; promulgation of rules; foundation allowance for regional education service agencies; change in distribution of foundation allowance share for faculty senates; changes in foundation allowance to improve instructional programs; providing foundation allowance for public employees insurance for state-funded employees; providing for insurance payments for other education employees; providing guidelines for the integration of special needs students into regular classroom; training for regular classroom teachers; individualized education program for special needs students; providing that special education aides cannot be reassigned without their consent; county reports on integrated classrooms; requiring state superintendent to submit a state plan on integrated classrooms; establishing an educators' professional standards board; composition of the board; powers and duties of the board; salary equity funding calculations for nonfiscal agency counties in counties which jointly support a multicounty vocational school; alteration of contract for certain professional and school service personnel under certain circumstances not new positions requiring posting; and extending suspension time to ten school days.

Be it enacted by the Legislature of West Virginia:

That section eighteen, article sixteen, chapter five of the

code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that article two-d, chapter five-b of said code be amended by adding thereto a new section, designated section eight; that sections seven and twenty-six, article two, chapter eighteen of said code be amended and reenacted; that said article be further amended by adding thereto three new sections, designated sections seven-b, eight-a and seventeen; that said chapter be further amended by adding thereto a new article, designated article two-h; that sections fifteen and eighteen, article five of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section twenty-two-a; that section five, article five-a of said chapter be amended and reenacted; that article seven-a of said chapter be amended by adding thereto a new section, designated section twenty-six-m; that section ten, article seven-b of said chapter be amended and reenacted; that sections two, four and eleven, article eight of said chapter be amended and reenacted; that sections three-a, six, six-a, seven, eight-a, nine, ten and twenty-four, article nine-a of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section six-b; that sections three and five, article twenty of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section one-c; that chapter eighteen-a of said code be amended by adding thereto a new article, designated article three-b; that section five, article four of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section nineteen; and that section one-a, article five of said chapter be amended and reenacted, 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 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE
ACT.**

§5-16-18. Payment of costs by employer; schedule of insurance; special funds created; duties of treasurer with respect thereto.

1 All employers operating from state general revenue
2 or special revenue funds or federal funds or any
3 combination thereof shall budget the cost of insurance
4 coverage provided by the public employees insurance
5 agency to current and retired employees of the
6 employer as a separate line item, titled "PEIA", in its
7 respective annual budget and are responsible for the
8 transfer of funds to the director for the cost of
9 insurance for employees covered by the plan. Each
10 spending unit shall pay to the director its proportion-
11 ate share from each source of funds. Any agency
12 wishing to charge general revenue funds for insurance
13 benefits for retirees under section thirteen of this
14 article must provide documentation to the director
15 that the benefits cannot be paid for by any special
16 revenue account or that the retiring employee has
17 been paid solely with general revenue funds for
18 twelve months prior to retirement.

19 If the general revenue appropriation for any
20 employer, excluding county boards of education begin-
21 ning the first day of July, one thousand nine hundred
22 ninety-five, and thereafter, is insufficient to cover the
23 cost of insurance coverage for the employer's partici-
24 pating employees, retired employees and surviving
25 dependents, the employer shall pay the remainder of
26 the cost from its "personal services" or "unclassified"
27 line items. Beginning the first day of July, one
28 thousand nine hundred ninety-five, and thereafter,
29 the amount of such payments for county boards of
30 education shall be determined by the method set forth
31 in section twenty-four, article nine-a, chapter eighteen
32 of this code: *Provided*, That local excess levy funds
33 shall be used only for the purposes for which they
34 were raised: *Provided, however*, That after approval of
35 its annual financial plan, but in no event later than
36 the thirty-first day of December of each year, the
37 finance board shall notify the Legislature and county
38 boards of education of the maximum amount of

39 employer premiums that the county boards of educa-
40 tion will be required to pay for covered employees
41 during the following fiscal year: *Provided further,*
42 That the amount shall not exceed five million, five
43 hundred thousand dollars during fiscal year one
44 thousand nine hundred ninety-four: *And provided*
45 *further,* That the amount shall not exceed four million
46 dollars during fiscal year one thousand nine hundred
47 ninety-five.

48 All other employers not operating from the state
49 general revenue fund shall pay to the director their
50 share of premium costs from their respective budgets.
51 The finance board shall establish the employers' share
52 of premium costs to reflect and pay the actual costs of
53 the coverage including incurred but not reported
54 claims.

55 The contribution of the other employers (namely: A
56 county, city or town in the state; any separate corpo-
57 ration or instrumentality established by one or more
58 counties, cities or towns, as permitted by law; any
59 corporation or instrumentality supported in most part
60 by counties, cities or towns; any public corporation
61 charged by law with the performance of a governmen-
62 tal function and whose jurisdiction is coextensive with
63 one or more counties, cities or towns; any comprehen-
64 sive community mental health center or comprèhen-
65 sive mental retardation facility established, operated
66 or licensed by the secretary of health and human
67 resources pursuant to section one, article two-a,
68 chapter twenty-seven of this code, and which is
69 supported in part by state, county or municipal funds;
70 and a combined city-county health department created
71 pursuant to article two, chapter sixteen of this code for
72 their employees shall be such percentage of the cost of
73 the employees' insurance package as the employers
74 deem reasonable and proper under their own particu-
75 lar circumstances.

76 The employee's proportionate share of the premium
77 or cost shall be withheld or deducted by the employer
78 from the employee's salary or wages as and when paid
79 and the sums shall be forwarded to the director with

80 such supporting data as the director may require.

81 All moneys received by the public employees insur-
82 ance agency shall be deposited in a special fund or
83 funds as are necessary in the state treasury and the
84 treasurer of the state shall be custodian of the fund or
85 funds and shall administer the fund or funds in
86 accordance with the provisions of this article or as the
87 director may from time to time direct. The treasurer
88 shall pay all warrants issued by the state auditor
89 against the fund or funds as the director may direct in
90 accordance with the provisions of this article.

**CHAPTER 5B. ECONOMIC DEVELOPMENT
ACT OF 1985.**

**ARTICLE 2D. WEST VIRGINIA GUARANTEED WORK FORCE
PROGRAM.**

**§5B-2D-8. Governor's work force development council
created; quarterly reports; conclusion of
work and termination date.**

1 The governor's work force development council is
2 hereby created to develop and implement a plan of
3 action to coordinate existing and new jobs training
4 programs in various agencies of state government,
5 including the statewide school-to-work opportunity
6 system, consistent with the needs of local communi-
7 ties, school systems and businesses.

8 The governor's work force development council
9 shall be composed of the governor, who shall be the
10 chair of the council, or the governor's chief of staff
11 serving as the governor's designee; the commissioner
12 of the bureau of employment programs; the director of
13 the West Virginia development office; the secretary of
14 education and the arts, or the assistant director for
15 community colleges in the higher education central
16 office serving as the secretary's designee; the secretary
17 of health and human resources, or the director of the
18 office of work and training serving as the secretary's
19 designee; the state superintendent of schools, or the
20 assistant superintendent for technical and adult educa-
21 tion serving as the superintendent's designee; the

22 chair of the council for community and economic
23 development, or another private sector member of the
24 council serving as the chair's designee; a labor repre-
25 sentative who shall be a member of the joint appren-
26 ticeship and training council appointed by the gover-
27 nor; a small business representative who shall be from
28 a firm with twenty-five or less employees appointed
29 by the governor; a representative of a private propri-
30 etary school; an industry representative appointed by
31 the governor; and the chair of the joint commission for
32 vocational-technical-occupational education, or the
33 executive director of the joint commission serving as
34 the chair's designee. Staff of the joint commission on
35 vocational-technical-occupational education shall serve
36 as staff of the council: *Provided*, That the joint
37 commission on vocational-technical-occupational edu-
38 cation may not hire additional staff unless the Legis-
39 lature expressly appropriates funds therefor: *Provided*,
40 *however*, That the joint commission on vocational-
41 technical-occupational education shall coordinate staff
42 activities performed for the council with the office of
43 the governor in order to draw upon resources present-
44 ly existing in the various state agencies and programs
45 represented on the council. Any vocational or jobs
46 training program receiving state or federal funds for
47 education shall provide data to the council upon
48 request.

49 Beginning in the first quarter of the fiscal year, one
50 thousand nine hundred ninety-five, the governor's
51 work force development council shall make written
52 quarterly reports to the legislative oversight commis-
53 sion on education accountability at such time and in
54 such form as the commission shall direct. Such quar-
55 terly reports shall include preliminary data, conclu-
56 sions and recommendations relating to the plan of
57 action and may include specific recommendations for
58 administrative and statutory change.

59 On or before the thirtieth day of November, one
60 thousand nine hundred ninety-five, the governor's
61 work force development council as created and com-
62 posed under the provisions of this article shall con-

63 clude its work with the issuance of a final report
64 summarizing its plan of action and specific recommen-
65 dations for reallocation of resources, modification of
66 programs, geographic distribution of services, propos-
67 als for administrative change, and any proposals for
68 legislation, in the form of specific bills recommended
69 to the Legislature.

70 The governor's work force development council
71 shall terminate on the first day of July, one thousand
72 nine hundred ninety-six.

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-7. Courses of study; language of instruction.

1 The state board of education shall prescribe mini-
2 mum standards in the courses of study to be offered in
3 elementary schools, high schools, vocational schools
4 and in all other kinds, grades and classes of schools or
5 departments thereof, which may now or hereafter be
6 maintained in the state, in whole or in part, from any
7 state fund or funds: *Provided*, That the courses of
8 study in the public schools in the state shall be
9 prepared by the faculties, teachers or other constituted
10 authority thereof, and shall, before going into effect,
11 be submitted to the state board of education for its
12 approval. The basic language of instruction in all
13 schools, public, private and parochial, shall be the
14 English language only. The state board shall not adopt
15 any policies or rules which set out time requirements
16 within the instructional day for instruction in kinder-
17 garten through fourth grade.

18 The state board of education shall accept American
19 sign language as a credited course of study in a foreign
20 language, elementary schools, high schools, vocational
21 schools and in all other kinds, grades and classes of
22 schools or departments thereof: *Provided*, That noth-
23 ing in this section shall be construed to require the
24 provision of instruction in American sign language
25 that is not otherwise required by state or federal
26 statute or regulation: *Provided, however*, That on or

27 before the sixth day of January, one thousand nine
28 hundred ninety-five, the state board shall provide to
29 the governor and to the president of the Senate and
30 the speaker of the House of Delegates a plan for
31 teaching American sign language in public schools,
32 which plan shall include the form and manner pro-
33 posed by the state board for implementation of the
34 teaching of American sign language in the schools, the
35 time frame for implementation and the projected cost
36 of the implementation.

§18-2-7b. Programs in drug prevention and violence reduction.

1 In order for the schools to become healthy learning
2 environments and to provide a strong defense against
3 drug use and violence, the state board of education
4 shall prescribe programs within the existing health
5 and physical education program which teach resis-
6 tance and life skills to counteract societal and peer
7 pressure to use drugs, alcohol and tobacco, and shall
8 include counselors, teachers and staff in full imple-
9 mentation of the program. The board shall also
10 prescribe programs to coordinate violence reduction
11 efforts in schools and between schools and their
12 communities and to train students, teachers, counse-
13 lers and staff in conflict resolution skills. The program
14 shall be comprehensive, interdisciplinary and shall
15 begin in elementary school. The state board shall
16 report to the legislative oversight commission on
17 education accountability on the status of the programs
18 no later than the first day of July, one thousand nine
19 hundred ninety-five.

§18-2-8a. Course of study in firearms and firearm safety.

1 The state board of education may, with the advice of
2 the state superintendent of schools and the director of
3 the division of natural resources, prescribe an orienta-
4 tion program for use in the public schools of this state
5 in the safety of firearms. The orientation program
6 shall deal with the protection of lives and property
7 against loss or damage as a result of improper use of
8 firearms. The orientation program shall also include

9 instruction about the proper use of firearms in hunt-
10 ing, sport competition and care and safety of firearms
11 in the home and may utilize materials prepared by
12 any national nonprofit membership organization
13 which has as one of its purposes the training of people
14 in marksmanship and the safe handling and use of
15 firearms. The county superintendent may arrange for
16 such orientation program in the safety of firearms and
17 its use in each school in the county.

**§18-2-17. Study on fluctuating staff in schools with a high
percentage of at-risk students.**

1 The West Virginia board of education shall conduct
2 a comprehensive study of staff fluctuations in schools
3 with a high percentage of at-risk students. At-risk
4 students are defined as students with the potential for
5 academic failure, including, but not limited to, the risk
6 of dropping out of school, involvement in delinquent
7 activities and those students with free and reduced
8 lunch status. The state superintendent shall prepare a
9 written report detailing the findings, conclusions and
10 recommendations generated by the study to be pres-
11 ented to the legislative oversight commission on
12 education accountability by the first day of January,
13 one thousand nine hundred ninety-five.

**§18-2-26. Establishment of multicounty regional educational
service agencies; purposes; authority to
implement regional services.**

1 (a) In order to consolidate and administer more
2 effectively existing educational programs and services
3 so individual districts will have more discretionary
4 moneys for educational improvement and in order to
5 equalize and extend educational opportunities, the
6 state board of education shall establish multicounty
7 regional educational service agencies for the purpose
8 of providing high quality, cost effective educational
9 programs and services to the county school systems,
10 and shall make such rules as may be necessary for the
11 effective administration and operation of such agen-
12 cies: *Provided*, That the legislative oversight commis-
13 sion on education accountability shall commission a

14 comprehensive feasibility study of the regional educa-
15 tional service agencies which shall be completed and
16 reported to the legislative oversight commission on
17 education accountability no later than the tenth day of
18 January, one thousand nine hundred ninety-five.

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

33 Technical, operational, programmatic or professional
34 services would be among the types of services appro-
35 priate for delivery on a regional basis.

36 (c) In addition to performing the services and
37 functions required by the provisions of this or any
38 other section of this code, a regional educational
39 service agency may implement regional programs and
40 services by a majority vote of its board of directors.
41 When said vote is not unanimous, the board of direc-
42 tors shall file a plan for the service or program
43 delivery with the state board describing the program
44 or service, the manner of delivery and the projected
45 savings and/or the improved quality of the program or
46 service. The state board shall promulgate rules requir-
47 ing a county board that declines to participate in such
48 programs or services to show just cause for not
49 participating and the estimated savings accruing to the
50 county therefrom. If a county board fails to show that
51 savings will accrue to the county or that the quality of
52 the program will be significantly and positively
53 affected as a result of its decision not to participate,
54 the state board shall withhold from the county's

55 foundation allowance for administrative cost the lesser
56 of the amount of the estimated savings or the alloca-
57 tion for the county's foundation allowance for admin-
58 istrative cost.

59 (d) The state board, in conjunction with the various
60 regional educational service agencies, shall develop an
61 effective model for the regional delivery of instruction
62 in subjects where there exists low student enrollment
63 or a shortage of certified teachers or where such
64 delivery method substantially improves the quality of
65 an instructional program. Such model shall incorpo-
66 rate an interactive electronic classroom approach to
67 instruction. To the extent funds are appropriated or
68 otherwise available, county boards or regional educa-
69 tional service agencies may adopt and utilize the
70 model for the delivery of such instruction.

71 (e) Each regional educational service agency shall
72 conduct a study setting forth how the following
73 services and functions may be performed by the
74 agency for public schools and school districts within
75 the region without terminating the employment of
76 personnel employed by school districts prior to the
77 effective date of this subsection: Accounting, purchas-
78 ing, food service, transportation, delivery of high cost
79 services to low incidence student populations, audiovi-
80 sual material distribution, facilities planning, federal
81 program coordination, personnel recruiting and an
82 integrated regional computer information system. On
83 or before the tenth day of January, one thousand nine
84 hundred ninety, each regional educational service
85 agency shall submit the study to the state board, to the
86 standing committees on education and finance of the
87 West Virginia Senate and House of Delegates and to
88 the secretary of education and the arts: *Provided*, That
89 in the event such study is implemented those individ-
90 uals employed prior to the effective date thereof shall
91 not have their employment terminated as a result of
92 the study.

93 (f) Each regional educational service agency shall
94 commence implementation of a uniform integrated
95 regional computer information system as recom-

96 mended by the state board of education on or before
97 the first day of January, one thousand nine hundred
98 ninety-one. Each county board of education shall use
99 the computer information system for data collection
100 and reporting to the state department of education
101 beginning no later than the first day of July, one
102 thousand nine hundred ninety-four. County boards of
103 education shall bear the cost of and fully participate in
104 the implementation of the system by: (1) Acquiring
105 necessary, compatible equipment to participate in the
106 regional computer information system; or (2) following
107 receipt of a waiver from the state superintendent,
108 operating a comparable management information
109 system at a lower cost which provides at least all
110 uniform integrated regional computer information
111 system software modules and allows on-line, interac-
112 tive access for schools and the county board of educa-
113 tion office onto the statewide communications net-
114 work. All data formats shall be the same as for the
115 uniform integrated regional information system and
116 will reside at the regional computer. Any county
117 granted a waiver shall receive periodic notification of
118 any incompatibility or deficiency in its system. Con-
119 tinued inability of any county to meet the above
120 criteria shall, upon notification to the county no later
121 than the first day of April, one thousand nine hundred
122 ninety-five, require the county to use the uniform
123 integrated regional computer information system no
124 later than the first day of July, one thousand nine
125 hundred ninety-five. No county shall expand any
126 system either through the purchase of additional
127 software or hardware that does not advance the goals
128 and implementation of the uniform integrated region-
129 al computer information system as recommended by
130 the state board: *Provided*, That nothing contained
131 herein shall prevent the state superintendent from
132 granting a one-year extension to those counties pro-
133 jected to have budget deficits for the school year
134 beginning on the first day of July, one thousand nine
135 hundred ninety-four.

136 (g) Each regional educational service agency shall
137 submit a report and evaluation of the services provid-

138 ed and utilized by the schools within each respective
 139 region. Furthermore, each school shall submit an
 140 evaluation of the services provided by the regional
 141 educational service agency, which shall include an
 142 evaluation of the regional educational service agency
 143 program, suggestions as to how to improve utilization
 144 and the individual school's plan as to development of
 145 new programs and enhancement of existing programs.
 146 The reports shall be due by the first day of January
 147 of each year commencing with the year one thousand
 148 nine hundred ninety-one and shall be made available
 149 to the state board of education, standing committees
 150 on education of the West Virginia Senate and House of
 151 Delegates and to the secretary of education and the
 152 arts.

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

156 (i) Notwithstanding any other provision of the code
 157 to the contrary, employees of regional educational
 158 service agencies shall be reimbursed for travel, meals
 159 and lodging at the same rate as state employees under
 160 the travel management office of the department of
 161 administration.

162 (j) Regional educational service agencies shall hold
 163 at least one half of their regular meetings during
 164 hours other than those of a regular school day.

**ARTICLE 2H. PUBLIC NOTICE AND PARTICIPATION IN STATE-
 MANDATED EDUCATIONAL REFORM.**

§18-2H-1. Legislative findings.

1 The Legislature hereby finds and declares that,
 2 while an educated and informed citizenry is essential
 3 to a democratic society, so also is the right, opportunity
 4 and guarantee that the citizenry have the right to
 5 notice and participation in any state-mandated educa-
 6 tional reform which changes, or is intended to change,
 7 statewide data systems, statewide curriculum, or any
 8 state-mandated education reform which constitutes a
 9 significant change in the philosophy or goals of

10 education in the public schools of West Virginia as that
11 is defined by state board rule.

12 In order to ensure the right and opportunity of the
13 citizenry to notice and participation in any proposed
14 state-mandated educational reform, a procedure for
15 notice to the citizenry and public hearings shall be
16 developed.

§18-2H-2. Notice, written comments and public hearing.

1 Prior to the adoption or implementation of any
2 state-mandated education reform which constitutes a
3 significant change in the philosophy or goals of
4 education in the public schools of West Virginia, the
5 state board of education shall give notice and hold
6 public hearings on the proposed education reform.

7 At least sixty days prior to the date set for hearings,
8 the state board shall provide notification of the
9 proposed education reform in the manner specified in
10 section three of this article: *Provided*, That the
11 provisions of this section do not apply to emergency
12 rules promulgated by the state board of education
13 pursuant to section ten, article three-b, chapter
14 twenty-nine-a of this code.

15 From the date of the public notice through the date
16 of the last scheduled public hearing, the state board
17 shall receive written comments to the intended state-
18 mandated education reform constituting a significant
19 change in the philosophy or goals of education in the
20 public schools of West Virginia. After the minimum
21 period of sixty days following the public notice of
22 hearings, the state board, or the state department of
23 education if so delegated by the state board, shall hold
24 not less than four public hearings at various locations
25 in the state, during which hearings the general public
26 and affected citizenry shall have the opportunity to
27 have questions and objections to the proposed educa-
28 tion reform answered and to have their views made
29 part of the public record.

30 If, after receipt of written comments and the public
31 hearings, the state board makes any change in the

32 proposed education reform, it shall make a public
 33 announcement of that change not less than thirty days
 34 prior to its vote on the reform. The affected citizenry
 35 may submit written comments on any such changes.

§18-2H-3. Procedures for hearings and public participation.

1 (a) Prior to the implementation of any state-mandat-
 2 ed educational reform which constitutes a significant
 3 change in the philosophy or goals in the public schools
 4 of this state and the hearings required thereon, the
 5 state board shall provide notice by submitting a copy
 6 of the proposed reform and a press release to public
 7 and private television and radio stations, disseminating
 8 press releases to newspapers of general circulation,
 9 and notifying the parents of students in all schools
 10 which might be affected by sending notices home with
 11 the students, or by distribution to the parents in any
 12 other reasonable manner. The notice and plans shall
 13 be in such form and contain such information as the
 14 state board may require to fully inform the citizenry
 15 of the nature and scope of the educational reform,
 16 including the proposed educational reform and the
 17 date, time and place of the public hearings.

18 (b) The state board shall provide timely written
 19 notice to any person who has asked the state board to
 20 place the person's name on a mailing list maintained
 21 by the state board.

22 (c) The state board shall maintain a verbatim record
 23 of all hearings.

24 (d) The state board may not impose fees or other
 25 charges for such a public hearing.

§18-2H-4. Impact of public participation.

1 The extent of additional information received by the
 2 state board from the general public and the affected
 3 citizenry, with respect to the impact of the proposed
 4 educational reform, may be cause for the state board
 5 to change, alter, amend, implement or rescind the
 6 proposed educational reform.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-15. School term; exception; levies; ages of persons to whom schools are open.

1 (a) The board shall provide a school term for its
2 schools which shall be comprised of: (1) An employ-
3 ment term for teachers; and (2) an instructional term
4 for pupils. Nothing in this section shall prohibit the
5 establishment of year-round schools in accordance
6 with rules to be established by the state board.

7 The employment term for teachers shall be no less
8 than ten months, a month to be defined as twenty
9 employment days exclusive of Saturdays and Sundays:
10 *Provided*, That the board may contract with all or part
11 of the personnel for a longer term. The employment
12 term shall be fixed within such beginning and closing
13 dates as established by the state board: *Provided*,
14 *however*, That the time between the beginning and
15 closing dates does not exceed forty-three weeks.

16 Within the employment term there shall be an
17 instructional term for pupils of not less than one
18 hundred eighty nor more than one hundred eighty-
19 five instructional days: *Provided*, That the minimum
20 instructional term may be decreased, by order of the
21 state superintendent of schools, in any West Virginia
22 county declared to be a federal disaster area by the
23 federal emergency management agency. Instructional
24 and noninstructional activities may be scheduled
25 during the same employment day. Noninstructional
26 interruptions to the instructional day shall be minim-
27 ized to allow the classroom teacher to teach. The
28 instructional term shall commence no earlier than the
29 twenty-sixth day of August and shall terminate no
30 later than the eighth day of June: *Provided, however*,
31 That the state board of education shall evaluate data
32 which shall be submitted by each county by the first
33 of June, one thousand nine hundred ninety-four,
34 regarding the climate control conditions, such as air
35 conditioning and related information at each school in
36 the county, and how these conditions impact on the
37 instructional term.

38 The criterion referenced test mandated in section

39 two, article two-e of this chapter shall not be required
40 to be given during school year one thousand nine
41 hundred ninety-three—ninety-four.

42 Noninstructional days in the employment term may
43 be used for making up canceled instructional days,
44 curriculum development, preparation for opening and
45 closing of the instructional term, in-service and
46 professional training of teachers, teacher-pupil-parent
47 conferences, professional meetings and other related
48 activities. In addition, each board shall designate and
49 schedule for teachers and service personnel six days to
50 be used by the employee outside the school environ-
51 ment. However, no more than eight noninstructional
52 days, except holidays, may be scheduled prior to the
53 first day of January in a school term.

54 Notwithstanding any other provisions of the law to
55 the contrary, if the board has canceled instructional
56 days equal to the difference between the total instruc-
57 tional days scheduled and one hundred seventy-eight,
58 each succeeding instructional day canceled shall be
59 rescheduled, utilizing only the remaining noninstruc-
60 tional days, except holidays, following such cancella-
61 tion, which are available prior to the second day
62 before the end of the employment term established by
63 such county board.

64 Where the employment term overlaps a teacher's or
65 service personnel's participation in a summer institute
66 or institution of higher education for the purpose of
67 advancement or professional growth, the teacher or
68 service personnel may substitute, with the approval of
69 the county superintendent, such participation for not
70 more than five of the noninstructional days of the
71 employment term.

72 The board may extend the instructional term
73 beyond one hundred eighty-five instructional days
74 provided the employment term is extended an equal
75 number of days. If the state revenues and regular
76 levies, as provided by law, are insufficient to enable
77 the board of education to provide for the school term,
78 the board may at any general or special election, if

79 petitioned by at least five percent of the qualified
80 voters in the district, submit the question of additional
81 levies to the voters. If at the election a majority of the
82 qualified voters cast their ballots in favor of the
83 additional levy, the board shall fix the term and lay a
84 levy necessary to pay the cost of the additional term.
85 The additional levy fixed by the election shall not
86 continue longer than five years without submission to
87 the voters. The additional rate shall not exceed by
88 more than one hundred percent the maximum school
89 rate prescribed by article eight, chapter eleven of the
90 code, as amended.

91 (b) The public schools shall be open for the full
92 instructional term to all persons who have attained the
93 entrance age as stated in section five, article two and
94 section eighteen, article five, chapter eighteen of this
95 code: *Provided*, That any student suspended or
96 expelled from public or private school shall only be
97 permitted to enroll in public school upon the approval
98 of the superintendent of the county where the student
99 seeks enrollment: *Provided, however*, That in making
100 such decision, the principal of the school in which the
101 student may enroll shall be consulted by the superin-
102 tendent and the principal may make a recommenda-
103 tion to the superintendent concerning the student's
104 enrollment in his or her new school: *Provided further*,
105 That if enrollment to public school is denied by the
106 superintendent, the student may petition the board of
107 education where the student seeks enrollment.

108 Persons over the age of twenty-one may enter only
109 those programs or classes authorized by the state
110 board of education and deemed appropriate by the
111 county board of education conducting any such pro-
112 gram or class: *Provided*, That authorization for such
113 programs or classes shall in no way serve to affect or
114 eliminate programs or classes offered by county boards
115 of education at the adult level for which fees are
116 charged to support such programs or classes.

§18-5-18. Kindergarten programs.

1 County boards of education shall provide by the

2 school year one thousand nine hundred eighty-three—
3 eighty-four, and continue thereafter, kindergarten
4 programs for all children who shall have attained the
5 age of five prior to the first day of September of the
6 school year in which the pupil enters such kindergar-
7 ten program and may establish kindergarten programs
8 designed for children below the age of five: *Provided,*
9 That beginning with the school year one thousand
10 nine hundred ninety-six—ninety-seven, such programs
11 shall be full-day everyday. Before the first day of
12 November, one thousand nine hundred ninety-four,
13 the state board shall review cost estimates and report
14 to the legislative oversight commission on education
15 accountability on the feasibility of implementing a
16 full-time kindergarten program.

17 Persons employed as kindergarten teachers, as
18 distinguished from paraprofessional personnel, shall be
19 required to hold a certificate valid for teaching at the
20 assigned level as prescribed by regulations established
21 by the state board of education. The state board of
22 education shall establish and prescribe guidelines and
23 criteria setting forth the minimum requirements for
24 all paraprofessional personnel employed in kindergar-
25 ten programs established pursuant to the provisions of
26 this section and no such paraprofessional personnel
27 shall be employed in any kindergarten program unless
28 he meets such minimum requirements.

29 The state board of education with the advice of the
30 state superintendent of free schools shall establish and
31 prescribe guidelines and criteria relating to the
32 establishment, operation and successful completion of
33 kindergarten programs in accordance with the other
34 provisions of this section. Guidelines and criteria so
35 established and prescribed are also intended to serve
36 for the establishment and operation of nonpublic
37 kindergarten programs and shall be used for the
38 evaluation and approval of such programs, provided
39 application for such evaluation and approval is made
40 in writing to the state board by proper authorities in
41 control of such programs. The state superintendent of
42 free schools at intervals not to exceed two years shall

43 publish a list of nonpublic kindergarten programs that
44 have been approved in accordance with the provisions
45 of this section and a list of Montessori kindergartens
46 established and operated in accordance with usual and
47 customary practices for the use of the Montessori
48 method. Teachers who have training or experience in
49 the use of the Montessori method of instruction for
50 kindergartens shall be deemed to be approved to teach
51 in such kindergartens using the Montessori method
52 without additional certification.

53 Pursuant to such guidelines and criteria, and only
54 pursuant to such guidelines and criteria, the county
55 boards may establish programs taking kindergarten to
56 the homes of the children involved, using educational
57 television, paraprofessional personnel in addition to
58 and to supplement regularly certified teachers, mobile
59 or permanent classrooms and other means developed
60 to best carry kindergarten to the child in its home and
61 enlist the aid and involvement of its parent or parents
62 in presenting the program to the child; or may develop
63 programs of a more formal kindergarten type, in
64 existing school buildings, or both, as such county board
65 may determine, taking into consideration the cost, the
66 terrain, the existing available facilities, the distances
67 each child may be required to travel, the time each
68 child may be required to be away from home, the
69 child's health, the involvement of parents and such
70 other factors as each county board may find pertinent.
71 Such determinations by any county board shall be
72 final and conclusive.

73 Funds for implementing the kindergarten programs
74 during the fiscal year one thousand nine hundred
75 seventy-two, and thereafter, shall be allocated to
76 counties from a special appropriation to the state
77 department of education from the general revenue
78 fund: *Provided*, That except for expenditures from the
79 general revenue funds for regional kindergarten
80 demonstration centers, in no event shall any state
81 money from the general fund be expended under the
82 provisions of this section unless federal funds are
83 available for the purposes of this section.

84 Allocations to counties will be made on the basis of
85 approved kindergarten programs. The West Virginia
86 board of education shall establish criteria and stand-
87 ards necessary to guide counties in developing approv-
88 able kindergarten programs and shall determine
89 funding levels of said programs on local operating
90 costs.

91 An additional appropriation shall be made to the
92 state department of education from the general reve-
93 nue fund to establish and operate during the fiscal
94 year one thousand nine hundred seventy-two, regional
95 kindergarten demonstration centers in educational
96 regions three, four, five, six and seven, and thereafter
97 in regions one through seven. Said funds shall be
98 allocated to said regions for establishing and operating
99 regional demonstration centers in accordance with
100 criteria and standards established by the West Virginia
101 board of education. Said regional centers shall be
102 established to provide exemplary and innovative
103 kindergarten programs, to provide laboratory expe-
104 riences for preservice and in-service education for
105 professional personnel and staff development pro-
106 grams for training paraprofessional personnel, to
107 establish organizational and administrative machinery
108 designed to promote cooperation between and among
109 all agencies involved in the education and develop-
110 ment of young children and to promote cooperation
111 between counties in providing high cost supervisory,
112 developmental, research and evaluative services not
113 currently available to individual counties.

§18-5-22a. Policy for the administration of medications.

1 All county boards of education shall develop a
2 specific medication administration policy which estab-
3 lishes the procedure to be followed for the administra-
4 tion of medication at each school.

5 No school employee shall be required to administer
6 medications: *Provided*, That nothing herein shall
7 prevent any school employee to elect to administer
8 medication after receiving training as provided herein:
9 *Provided, however*, That any school employee in the

10 field of special education whose employment com-
11 menced on or after the first day of July, one thousand
12 nine hundred eighty-nine, may be required to admin-
13 ister medications after receiving training as provided
14 herein.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

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

1 (a) There is established at every public school in this
2 state a faculty senate which shall be comprised of all
3 permanent, full-time professional educators employed
4 at the school who shall all be voting members. Profes-
5 sional educators as used in this section means profes-
6 sional educators as defined in chapter eighteen-a of
7 this code. A quorum of more than one half of the
8 voting members of the faculty shall be present at any
9 meeting of the faculty senate at which official business
10 is conducted. Prior to the beginning of the instruction-
11 al term each year, but within the employment term,
12 the principal shall convene a meeting of the faculty
13 senate to elect a chair, vice chair and secretary and
14 discuss matters relevant to the beginning of the school
15 year. The vice chair shall preside at meetings when
16 the chair is absent. Meetings of the faculty senate shall
17 be held on a regular basis as determined by a schedule
18 approved by the faculty senate and amended from
19 time to time if needed. Emergency meetings may be
20 held at the call of the chair or a majority of the voting
21 members by petition submitted to the chair and vice
22 chair. An agenda of matters to be considered at a
23 scheduled meeting of the faculty senate shall be
24 available to the members at least two employment
25 days prior to the meeting, and in the case of emergen-
26 cy meetings, as soon as possible prior to the meeting.
27 The chair of the faculty senate may appoint such
28 committees as may be desirable to study and submit
29 recommendations to the full faculty senate, but the
30 acts of the faculty senate shall be voted upon by the
31 full body.

32 (b) In addition to any other powers and duties

33 conferred by law, or authorized by policies adopted by
34 the state or county board of education or bylaws which
35 may be adopted by the faculty senate not inconsistent
36 with law, the powers and duties listed in this subsection
37 are specifically reserved for the faculty senate.
38 The intent of these provisions is neither to restrict nor
39 to require the activities of every faculty senate to the
40 enumerated items except as otherwise stated. Each
41 faculty senate shall organize its activities as it deems
42 most effective and efficient based on school size,
43 departmental structure and other relevant factors.

44 (1) Each faculty senate shall control funds allocated
45 to the school from legislative appropriations pursuant
46 to section nine, article nine-a of this chapter. From
47 such funds, each classroom teacher and librarian shall
48 be allotted fifty dollars for expenditure during the
49 instructional year for academic materials, supplies or
50 equipment which in the judgment of the teacher or
51 librarian will assist him or her in providing instruction
52 in his or her assigned academic subjects, or shall be
53 returned to the faculty senate: *Provided*, That nothing
54 contained herein shall prohibit such funds from being
55 used for programs and materials that, in the opinion of
56 the teacher, enhance student behavior, increase
57 academic achievement, improve self-esteem and
58 address the problems of students at-risk. The remain-
59 der of funds shall be expended for academic materials,
60 supplies or equipment in accordance with a budget
61 approved by the faculty senate. Notwithstanding any
62 other provisions of the law to the contrary, funds not
63 expended in one school year shall be available for
64 expenditure in the next school year: *Provided, however*,
65 That the amount of county funds budgeted in a
66 fiscal year, shall not be reduced throughout the year
67 as a result of the faculty appropriations in the same
68 fiscal year for such materials, supplies and equipment.
69 Accounts shall be maintained of the allocations and
70 expenditures of such funds for the purpose of financial
71 audit. Academic materials, supplies or equipment shall
72 be interpreted broadly, but shall not include materials,
73 supplies or equipment which will be used in or
74 connected with interscholastic athletic events.

75 (2) A faculty senate may establish a process for
76 faculty members to interview new prospective profes-
77 sional educators and paraprofessional employees at the
78 school and submit recommendations regarding
79 employment to the principal, who may also make
80 independent recommendations, for submission to the
81 county superintendent: *Provided*, That such process
82 must permit the timely employment of persons to
83 perform necessary duties.

84 (3) A faculty senate may nominate teachers for
85 recognition as outstanding teachers under state and
86 local teacher recognition programs and other person-
87 nel at the school, including parents, for recognition
88 under other appropriate recognition programs and
89 may establish such programs for operation at the
90 school.

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

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

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

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

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

110 (9) Each faculty senate shall have an opportunity to
111 make recommendations on the selection of faculty to
112 serve as mentors for beginning teachers under begin-
113 ning teacher internship programs at the school.

114 (10) A faculty senate may solicit, accept and expend
115 any grants, gifts, bequests, donations and any other
116 funds made available to the faculty senate: *Provided,*
117 That the faculty senate shall select a member who
118 shall have the duty of maintaining a record of all
119 funds received and expended by the faculty senate,
120 which record shall be kept in the school office and
121 shall be subject to normal auditing procedures.

122 (11) On or after the first day of January, one
123 thousand nine hundred ninety-two, any faculty senate
124 may review the evaluation procedure as conducted in
125 their school to ascertain whether such evaluations
126 were conducted in accordance with the written system
127 required pursuant to section twelve, article two,
128 chapter eighteen-a of this code and the general intent
129 of this Legislature regarding meaningful performance
130 evaluations of school personnel. If a majority of
131 members of the faculty senate determine that such
132 evaluations were not so conducted, they shall submit
133 a report in writing to the state board of education:
134 *Provided,* That nothing herein shall create any new
135 right of access to or review of any individual's
136 evaluations.

137 (12) Each faculty senate shall be provided by its local
138 board of education at least a two-hour per month block
139 of noninstructional time within the school day: *Provid-*
140 *ed,* That any such designated day shall constitute a full
141 instructional day. This time may be utilized and
142 determined at the local school level and shall include,
143 but not be limited to, faculty senate meetings.

144 (13) Each faculty senate shall develop a strategic
145 plan to manage the integration of special needs
146 students into the regular classroom at their respective
147 schools and submit said strategic plan to the superin-
148 tendent of the county board of education by the first
149 day of March, one thousand nine hundred ninety-five,
150 and periodically thereafter pursuant to guidelines
151 developed by the state department of education. Each
152 faculty senate shall encourage the participation of local
153 school improvement councils, parents and the commu-
154 nity at large in the development of the strategic plan

155 for each school.

156 Each strategic plan developed by the faculty senate
157 shall include at least: (A) A mission statement; (B)
158 goals; (C) needs; (D) objectives and activities to
159 implement plans relating to each goal; (E) work in
160 progress to implement the strategic plan; (F) guide-
161 lines for the placement of additional staff into integrat-
162 ed classrooms to meet the needs of exceptional needs
163 students without diminishing the services rendered to
164 the other students in integrated classrooms; (G)
165 guidelines for implementation of collaborative plan-
166 ning and instruction; and (H) training for all regular
167 classroom teachers who serve students with exception-
168 al needs in integrated classrooms.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-26m. Supplemental benefits for certain teachers.

1 (a) As an additional supplement to other retirement
2 allowances provided, each annuitant whose annuity
3 was approved by the retirement board prior to the
4 first day of January, one thousand nine hundred
5 seventy-one, and who is receiving a monthly pension
6 of three hundred dollars or less, shall receive a
7 monthly amount equal to one dollar multiplied by his
8 or her total service credit.

9 (b) As an additional supplement to other retirement
10 allowances provided, each annuitant whose annuity
11 was approved on or after the first day of July, one
12 thousand nine hundred eighty-two, and before the
13 first day of July, one thousand nine hundred eighty-
14 four, shall receive a monthly amount equal to two
15 dollars multiplied by his or her total service credit.

ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.

§18-7B-10. Employer contributions.

1 Each participating employer shall annually make a
2 contribution equal to seven and one-half percent of
3 each member's gross compensation. The pro rata share
4 of this amount shall be paid upon each date that a

5 member contribution is made and shall be remitted as
6 provided for in section nine of this article for credit to
7 the member's annuity account. Each participating
8 employer has a fiduciary duty to its employees to
9 ensure that the employer contributions are timely
10 made. In the case of an officer or employee of the
11 state, any unpaid contribution shall be a state debt,
12 contracted as a result of a casual deficit in state
13 revenues, to be accorded preferred status over other
14 expenditures.

15 In the event that any payment is not timely made,
16 the participating employer shall immediately give to
17 the employee and the state auditor notice in writing of
18 the nonpayment, in such form and accompanied by
19 such documentation as may be required by the audi-
20 tor. Notice to the auditor shall operate in the manner
21 of a requisition, and the auditor shall transmit a
22 warrant to the treasurer. At such time as funds are
23 available in the appropriate account, the treasurer
24 shall pay the employer contribution, together with
25 appropriate daily interest.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-2. Offenses; penalties; cost of prosecution.

1 Any person who, after receiving due notice, shall fail
2 to cause a child or children under eighteen years of
3 age in that person's legal or actual charge to attend
4 school in violation of the provisions of this article or
5 without just cause, shall be guilty of a misdemeanor,
6 and shall, upon conviction of a first offense, be fined
7 not less than fifty nor more than one hundred dollars
8 together with the costs of prosecution, or required to
9 accompany the child to school and remain through the
10 school day for so long as the magistrate or judge may
11 determine is appropriate. The magistrate or judge,
12 upon conviction and pronouncing sentence, may delay
13 the sentence for a period of sixty school days provided
14 the child is in attendance everyday during said sixty-
15 day period. Following the sixty-day period, if said child
16 was present at school for every school day, the delayed
17 sentence may be suspended and not enacted. Upon

18 conviction of a second offense, a fine may be imposed
19 of not less than fifty dollars nor more than one
20 hundred dollars together with the costs of prosecution
21 and the person may be required to accompany the
22 child to school and remain throughout the school day
23 until such time as the magistrate or judge may
24 determine is appropriate or confined in jail not less
25 than five or more than twenty days. Every day a child
26 is out of school contrary to the provisions of this article
27 shall constitute a separate offense. Magistrates shall
28 have concurrent jurisdiction with circuit courts for the
29 trial of offenses arising under this section.

30 Any person eighteen years of age or older who is
31 enrolled in school who, after receiving due notice, fails
32 to attend school in violation of the provisions of this
33 article or without just cause, shall be guilty of a
34 misdemeanor and shall, upon conviction of a first
35 offense, be fined not less than fifty dollars nor more
36 than one hundred dollars together with the costs of
37 prosecution and required to attend school and remain
38 throughout the school day. The magistrate or judge,
39 upon conviction and pronouncing sentence, may delay
40 the imposition of a fine for a period of sixty school
41 days provided the person is in attendance every day
42 during said sixty-day period. Following the sixty-day
43 period, if said student was present at school everyday,
44 the delayed sentence may be suspended and not
45 enacted. Upon conviction of a second offense, a fine
46 may be imposed of not less than fifty dollars nor more
47 than one hundred dollars together with the costs of
48 prosecution and the person may be required to go to
49 school and remain throughout the school day until
50 such time as the person graduates or withdraws from
51 school or confined in jail not less than five or more
52 than twenty days. Every day a student is out of school
53 contrary to the provisions of this article shall consti-
54 tute a separate offense. Magistrates shall have concur-
55 rent jurisdiction with circuit courts for the trial of
56 offenses arising under this section.

57 Upon conviction of a third offense, any person
58 eighteen years of age or older who is enrolled in school

59 shall be withdrawn from school during the remainder
60 of that school year. Enrollment of that person in school
61 during the next school year or years thereafter shall
62 be conditional upon all absences being excused as
63 defined in law, state board policy and county board of
64 education policy. More than one unexcused absence of
65 such a student shall be grounds for the director of
66 attendance to authorize the school to withdraw the
67 person for the remainder of the school year. Magis-
68 trates shall have concurrent jurisdiction with circuit
69 courts for the trial of offenses arising under this
70 section.

**§18-8-4. Duties of attendance director and assistant direc-
tors; complaints, warrants and hearings.**

1 The county attendance director and the assistants
2 shall diligently promote regular school attendance.
3 They shall ascertain reasons for inexcusable absences
4 from school of pupils of compulsory school age as
5 defined under this article and shall take such steps as
6 are, in their discretion, best calculated to correct
7 attitudes of parents and pupils which results in
8 absences from school even though not clearly in
9 violation of law.

10 In the case of five consecutive or ten total unexcused
11 absences of a child during a single semester, the
12 attendance director or assistant shall serve written
13 notice to the parent, guardian or custodian of such
14 child that the attendance of such child at school is
15 required and that within ten days of receipt of such
16 notice the parent, guardian or custodian, accompanied
17 by the child, shall report in person to the school the
18 child attends for a conference with the principal or
19 other designated representative of the school in order
20 to discuss and correct the circumstances causing the
21 inexcusable absences of the child; and if the parent,
22 guardian or custodian does not comply with the
23 provisions of this article, then the attendance director
24 or assistant shall make complaint against such parent,
25 guardian or custodian before a magistrate of the
26 county. The attendance director or assistant shall
27 serve such notice for other absences from school found

28 to be in violation of law. For any similar subsequent
29 offense in any school year no notice shall be required.
30 If it appears from the complaint that there is probable
31 cause to believe that an offense has been committed
32 and that the accused has committed it, a warrant for
33 the arrest of the accused shall issue to any officer
34 authorized by law to arrest persons charged with
35 offenses against the state. More than one warrant may
36 be issued on the same complaint. The warrant shall be
37 executed within ten days of its issuance.

38 The magistrate court clerk, or the clerk of the circuit
39 court performing the duties of the magistrate court as
40 authorized in section eight, article one, chapter fifty of
41 this code, shall assign the case to a magistrate within
42 ten days of execution of the warrant. The hearing
43 shall be held within twenty days of the assignment to
44 the magistrate, subject to lawful continuance. The
45 magistrate shall provide to the accused at least ten
46 days' advance notice of the date, time and place of the
47 hearing.

48 When any doubt exists as to the age of a child absent
49 from school, the attendance director shall have author-
50 ity to require a properly attested birth certificate or an
51 affidavit from the parent, guardian or custodian of
52 such child, stating age of such child. The county
53 attendance director or assistant shall, in the perfor-
54 mance of his duties, have authority to take without
55 warrant any child absent from school in violation of
56 the provisions of this article and to place such child in
57 the school in which such child is or should be enrolled.

58 The county attendance director shall devote such
59 time as is required by section three of this article to
60 the duties of attendance director in accordance with
61 this section during the instructional term and at such
62 other times as the duties of an attendance director are
63 required. All attendance directors hired for more than
64 two hundred days may be assigned other duties
65 determined by the superintendent during the period
66 in excess of two hundred days. The county attendance
67 director shall be responsible under direction of the
68 county superintendent for the efficient administration

69 of school attendance in the county.

70 In addition to those duties directly relating to the
71 administration of attendance, the county attendance
72 director and assistant directors shall also perform the
73 following duties:

74 (a) Assist in directing the taking of the school census
75 to see that it is taken at the time and in the manner
76 provided by law;

77 (b) Confer with principals and teachers on the
78 comparison of school census and enrollment for the
79 detection of possible nonenrollees;

80 (c) Cooperate with existing state and federal agen-
81 cies charged with enforcement of child labor laws;

82 (d) Prepare a report for submission by the county
83 superintendent to the state superintendent of schools
84 on school attendance, at such times and in such detail
85 as may be required; also, file with the county super-
86 intendent and county board of education at the close
87 of each month a report showing activities of the school
88 attendance office and the status of attendance in the
89 county at the time;

90 (e) Promote attendance in the county by the compi-
91 lation of data for schools and by furnishing suggestions
92 and recommendations for publication through school
93 bulletins and the press, or in such manner as the
94 county superintendent may direct;

95 (f) Participate in school teachers' conferences with
96 parents and students;

97 (g) Assist in such other ways as the county superin-
98 tendent may direct for improving school attendance;

99 (h) Make home visits of students who have excessive
100 unexcused absences, as provided above, or if requested
101 by the chief administrator, principal or assistant
102 principal.

**§18-8-11. School attendance as condition of licensing for
privilege of operation of motor vehicle.**

1 (a) In accordance with the provisions of sections

2 three and five, article two, chapter seventeen-b of this
3 code, the department of motor vehicles shall deny a
4 license or instruction permit for the operation of a
5 motor vehicle to any person under the age of eighteen
6 who does not at the time of application present a
7 diploma or other certificate of graduation issued to the
8 person from a secondary high school of this state or
9 any other state or documentation that the person: (1)
10 Is enrolled and making satisfactory progress in a
11 course leading to a general educational development
12 certificate (GED) from a state approved institution or
13 organization, or has obtained such certificate; (2) is
14 enrolled in a secondary school of this state or any
15 other state; or (3) is excused from such requirement
16 due to circumstances beyond his or her control.

17 (b) The attendance director or chief administrator
18 shall provide documentation of enrollment status on a
19 form approved by the department of education to any
20 student sixteen years of age or older upon request who
21 is properly enrolled in a school under the jurisdiction
22 of said official for presentation to the department of
23 motor vehicles on application for or reinstatement of
24 an instruction permit or license to operate a motor
25 vehicle. Whenever a student sixteen years of age or
26 older withdraws from school, except as provided in
27 subsection (d) of this section, the attendance director
28 or chief administrator shall notify the department of
29 motor vehicles of such withdrawal not later than five
30 days from the withdrawal date. Within five days of
31 receipt of such notice, the department of motor
32 vehicles shall send notice to the licensee that the
33 license will be suspended under the provisions of
34 section three, article two, chapter seventeen-b of this
35 code on the thirtieth day following the date the notice
36 was sent unless documentation of compliance with the
37 provisions of this section is received by the depart-
38 ment of motor vehicles before such time.

39 (c) For the purposes of this section, withdrawal shall
40 be defined as more than ten consecutive or fifteen
41 days total unexcused absences during a single semes-
42 ter. For the purposes of this section, suspension or

43 expulsion from school or imprisonment in a jail or a
44 penitentiary is not a circumstance beyond the control
45 of such person.

46 (d) Whenever the withdrawal from school of such
47 student, or such student's failure to enroll in a course
48 leading to or to obtain a GED or high school diploma,
49 is beyond the control of such student, or is for the
50 purpose of transfer to another school as confirmed in
51 writing by the student's parent or guardian, no such
52 notice shall be sent to the department of motor
53 vehicles to suspend the student's motor vehicle oper-
54 ator's license, and if the student is applying for a
55 license, the attendance director or chief administrator
56 shall provide the student with documentation to
57 present to the department of motor vehicles to excuse
58 such student from the provisions of this section. The
59 school district superintendent (or the appropriate
60 school official of any private secondary school) with
61 the assistance of the county attendance director and
62 any other staff or school personnel, shall be the sole
63 judge of whether such withdrawal is due to circum-
64 stances beyond the control of such person.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-3a. Total state basic foundation program for fiscal year one thousand nine hundred ninety- four—ninety-five only.

1 Notwithstanding any other provisions of this article
2 to the contrary, the total basic foundation program for
3 the state for the fiscal year one thousand nine hun-
4 dred ninety-four—ninety-five shall be the sum of the
5 amounts computed in accordance with this section,
6 less the county's local share:

7 (1) Allowance for professional educators as deter-
8 mined in accordance with sections four and five-a of
9 this article;

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

12 (3) Allowance for fixed charges as determined in
13 accordance with the provisions of sections six and six-

14 a of this article;

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

19 (5) Allowance for administrative cost in accordance
20 with the provisions of sections eight and eight-a of this
21 article;

22 (6) Allowance for other current expense and substi-
23 tute employees in an amount at least equal to the
24 appropriation for such allowance in the fiscal year one
25 thousand nine hundred ninety-three—ninety-four:
26 *Provided*, That the allocation of such funds for expen-
27 diture by faculty senates shall be in accordance with
28 the provisions of section nine of this article;

29 (7) Allowance to improve instructional programs in
30 an amount at least equal to the appropriation for such
31 allowance in the fiscal year one thousand nine hun-
32 dred ninety-three—ninety-four.

§18-9A-6. Foundation allowance for fixed charges.

1 The total allowance for fixed charges shall be the
2 sum of the following:

3 (1) The sum of the foundation allowance for profes-
4 sional educators and the foundation allowance for
5 other personnel, as determined in sections four and
6 five above, multiplied by the current social security
7 rate of contribution; plus

8 (2) The sum of the foundation allowance for profes-
9 sional educators and the foundation allowance for
10 other personnel, as determined in sections four and
11 five above, multiplied by four hundredths of one
12 percent as an allowance for unemployment compensa-
13 tion contribution; plus

14 (3) The sum of the foundation allowance for profes-
15 sional educators and the foundation allowance for
16 other personnel, as determined in sections four and
17 five above, multiplied by the rate which is derived by
18 dividing the total estimated contributions for workers'

19 compensation for all county boards by the sum of the
 20 foundation allowance for professional educators and
 21 other personnel, as determined in sections four and
 22 five above. The total estimated contribution for
 23 workers compensation is determined by multiplying
 24 each county board's allowance for professional educa-
 25 tors and other personnel, as determined by sections
 26 four and five above, by the county's actual contribu-
 27 tion rate by using data of the most recent year for
 28 which it is available; plus

29 (4) The teachers retirement fund allowance as
 30 determined in section six-a of this article.

§18-9A-6a. Teachers retirement fund allowance; unfunded liability allowance.

1 (a) The total teachers retirement fund allowance
 2 shall be the sum of the basic foundation allowance for
 3 professional educators and the basic foundation allow-
 4 ance for service personnel, as provided in sections four
 5 and five of this article; all salary equity appropriations
 6 authorized in section five, article four of chapter
 7 eighteen-a; and such amounts as are to be paid by the
 8 counties pursuant to sections five-a and five-b of said
 9 article to the extent such county salary supplements
 10 are equal to the amount distributed for salary equity
 11 among the counties, multiplied by fifteen percent.

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

21 (c) In addition to the teachers retirement fund
 22 allowance provided for in subsection (a) of this section,
 23 there shall be an allowance for the reduction of any
 24 unfunded liability of the teachers retirement fund in
 25 accordance with the following provisions of this
 26 subsection. On or before the thirty-first day of Decem-

27 ber of each year, the actuary or actuarial firm
28 employed in accordance with the provisions of section
29 four, article ten-d, chapter five of this code shall
30 submit a report to the president of the Senate and the
31 speaker of the House of Delegates which sets forth an
32 actuarial valuation of the teachers retirement fund as
33 of the preceding thirtieth day of June. Each annual
34 report shall recommend the actuary's best estimate, at
35 that time, of the funding necessary to both eliminate
36 the unfunded liability over a forty-year period begin-
37 ning on the first day of July, one thousand nine
38 hundred ninety-four, and to meet the cash flow
39 requirements of the fund in fulfilling its future
40 anticipated obligations to its members. In determining
41 the amount of funding required, the actuary shall take
42 into consideration all funding otherwise available to
43 the fund for that year from any source: *Provided*, That
44 the appropriation and allocation to the teachers'
45 retirement fund made pursuant to the provisions of
46 sections six-b of this article shall not be included in the
47 determination of the requisite funding amount. In any
48 year in which the actuary determines that the
49 teachers retirement fund is not being funded in such
50 a manner, the allowance made for the unfunded
51 liability for the next fiscal year shall be not less than
52 the amount of the actuary's best estimate of the
53 amount necessary to conform to the funding require-
54 ments set forth in this subsection.

§18-9A-6b. Allocation of growth of local share.

1 Beginning with the first day of July, one thousand
2 nine hundred ninety-five, and thereafter, an appropri-
3 ation and allocation due to the increase in local share
4 not to exceed seven million dollars above that comput-
5 ed for the previous year, which increase may be
6 attributable to any increase in the tax rate as enacted
7 by the Legislature in accordance with the provisions of
8 subsection (b) of section six-f, article eight, chapter
9 eleven of this code, shall be allocated to the state
10 teachers' retirement system, which appropriation and
11 allocation shall be in addition to the amounts required
12 by section six-a of this article or any other retirement

13 contributions as may be required to the state teachers
14 retirement system set forth in article seven-a of this
15 chapter and which shall be accumulated in the
16 employers accumulation fund created in section
17 eighteen of said article seven-a.

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

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

4 (1) Eighty percent of the transportation cost within
5 each county for maintenance, operation and related
6 costs, exclusive of all salaries: *Provided*, That for the
7 school year beginning the first day of July, one
8 thousand nine hundred ninety-four, and thereafter, in
9 the event a county uses an alternative fuel such as
10 compressed natural gas or other acceptable alternative
11 fuel for the operation of all or any portion of its school
12 bus system, then the allowance in the foundation
13 school program for each such county for that portion
14 of its school bus system shall be ninety percent of the
15 transportation cost for maintenance, operation and
16 related costs, exclusive of all salaries, incurred by the
17 use of the alternatively fueled school buses: *Provided*,
18 *however*, That any county using an alternative fuel
19 and qualifying for the additional allowance shall
20 submit a plan regarding the intended future use of
21 alternatively fueled school buses: *Provided further*,
22 That the state board shall distribute the additional
23 allowance to qualifying counties only until such time
24 as the state board has distributed in the then current
25 fiscal year one hundred thousand dollars of transpor-
26 tation allowance, in the statewide aggregate, above the
27 eighty percent to qualifying counties, after which the
28 additional ten percent shall no longer be available to
29 any county;

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

34 (3) For the school year beginning the first day of

35 July, one thousand nine hundred eighty-nine, and
36 thereafter, an amount equal to ten percent of the
37 current replacement value of the bus fleet within each
38 county as determined by the state board, such amount
39 to be used only for the replacement of buses. In
40 addition, in any school year in which its net enroll-
41 ment increases when compared to the net enrollment
42 the year immediately preceding, a school district may
43 apply to the state superintendent for funding for an
44 additional bus. Furthermore, large, sparsely populated
45 counties may also apply to the state superintendent for
46 funding for additional mini-buses. The state superin-
47 tendent shall make a decision regarding each applica-
48 tion based upon an analysis of the individual school
49 district's net enrollment history and transportation
50 needs or, in the case of a large, sparsely populated
51 county, the population of the county: *Provided*, That
52 the superintendent shall not consider any application
53 which fails to document that the county has applied
54 for federal funding for additional buses. If the state
55 superintendent finds that a need exists, a request for
56 funding shall be included in the budget request
57 submitted by the state board for the upcoming fiscal
58 year;

59 (4) Eighty percent of the cost of contracted transpor-
60 tation services and public utility transportation with
61 each county;

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

65 (6) Ninety percent of the total cost of transportation
66 operations and related expenses, excluding salaries
67 and maintenance for transporting students to and
68 from classes at a multicounty vocational center.

69 The total state share for this purpose shall be the
70 sum of the county shares and shall be distributed in
71 accordance with rules to be promulgated by the state
72 board: *Provided*, That no county shall receive an
73 allowance which is greater than one third above the
74 computed state average allowance per mile multiplied

75 by the total mileage in the county.

§18-9A-8a. Foundation allowance for regional educational service agencies.

1 For the fiscal year beginning on the first day of July,
2 one thousand nine hundred ninety-one, and for each
3 fiscal year thereafter, the foundation allowance for
4 regional educational service agencies shall be equal to
5 sixty-three one-hundredths percent of the allocation
6 for professional educators as determined in section
7 four of this article: *Provided*, That for the fiscal year
8 beginning on the first day of July, one thousand nine
9 hundred ninety-four only, the foundation allowance
10 for regional educational service agencies shall be at
11 least equal to fifty-five one-hundredths percent of the
12 allocation for professional educators as determined in
13 section four of this article. The allowance shall be
14 distributed to the regional educational service agencies
15 in accordance with rules adopted by the state board.
16 The allowance for regional educational service agen-
17 cies shall be excluded from the computation of total
18 basic state aid as provided for in section twelve of this
19 article.

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

1 The total allowance for other current expense and
2 substitute employees shall be the sum of the following:
3 *Provided*, That each of the three amounts set forth in
4 subdivisions (1), (2) and (3) of this section shall not
5 exceed the preceding year's allowance by more than
6 four percent:

7 (1) For current expense, for the year one thousand
8 nine hundred ninety—ninety-one and thereafter, ten
9 percent of the sum of the computed state allocation for
10 professional educators and service personnel as deter-
11 mined in sections four and five of this article. Distri-
12 bution to the counties shall be made proportional to
13 the average of each county's average daily attendance
14 for the preceding year and the county's second month
15 net enrollment; plus

16 (2) For professional educator substitutes or current
17 expense, two and five-tenths percent of the computed
18 state allocation for professional educators as deter-
19 mined in section four of this article. Distribution to the
20 counties shall be made proportional to the number of
21 professional educators authorized for the county in
22 compliance with sections four and five-a of this article;
23 plus

24 (3) For service personnel substitutes or current
25 expense, two and five-tenths percent of the computed
26 state allocation for service personnel as determined in
27 section five of this article. Distribution to the counties
28 shall be made proportional to the number of service
29 personnel authorized for the county in compliance
30 with sections five and five-a of this article; plus

31 (4) For academic materials, supplies and equipment
32 for use in instructional programs, two hundred dollars
33 multiplied by the number of professional instructional
34 personnel employed in the schools of the county.
35 Distribution shall be made to each county for alloca-
36 tion to the faculty senate of each school in the county
37 on the basis of two hundred dollars per professional
38 instructional personnel employed at the school. Facul-
39 ty senate means a faculty senate created pursuant to
40 section five, article five-a of this chapter. Decisions for
41 the expenditure of such funds shall be made at the
42 school level by the faculty senate in accordance with
43 the provisions of said section five, article five-a and
44 shall not be used to supplant the current expense
45 expenditures of the county. Beginning on the first day
46 of September, one thousand nine hundred ninety-four,
47 and every September thereafter, county boards shall
48 forward to each school for the use by faculty senates
49 the appropriation specified in this section. Each school
50 shall be responsible for keeping accurate records of
51 expenditures.

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

1 (a) For the school year beginning on the first day of
2 July, one thousand nine hundred ninety-four, and

3 thereafter, the sum of the allocations shall be in an
4 amount at least equal to the amount appropriated by
5 the Legislature, in addition to funds which accrue
6 from balances in the general school fund, or from
7 appropriations for such purposes:

8 (1) One hundred fifty thousand dollars shall be
9 allocated to each county;

10 (2) Distribution to the counties of the remainder of
11 these funds shall be made proportional to the average
12 of each county's average daily attendance for the
13 preceding year and the county's second month net
14 enrollment. Moneys allocated by provision of this
15 section shall be used to improve instructional pro-
16 grams according to a plan for instructional improve-
17 ment which the affected county board shall file with
18 the state board by the first day of August of each year,
19 to be approved by the state board by the first day of
20 September of that year if such plan substantially
21 complies with standards to be adopted by the state
22 board: *Provided*, That notwithstanding any other
23 provision of the code to the contrary, moneys allocated
24 by provision of this section may also be used in the
25 implementation and maintenance of the uniform
26 integrated regional computer information system; and

27 (3) Up to twenty-five percent of this allocation may
28 be used to employ professional educators and/or
29 service personnel in counties after all applicable
30 provisions of sections four and five of this article have
31 been fully utilized.

32 Prior to the use of any funds from this section for
33 personnel costs, the county board must receive autho-
34 rization from the state superintendent of schools. The
35 state superintendent shall require the district board to
36 demonstrate: (1) The need for the allocation; (2)
37 efficiency and fiscal responsibility in staffing; and (3)
38 sharing of services with adjoining counties and the
39 regional educational service agency for that county in
40 the use of the total local district board budget. District
41 boards shall make application for available funds for
42 the next fiscal year by the first day of May of each

43 year. On or before the first day of June, the state
44 superintendent shall review all applications and notify
45 applying district boards of the distribution of the
46 allocation: *Provided*, That for the school year begin-
47 ning on the first day of July, one thousand nine
48 hundred ninety-three, only, the state superintendent
49 shall review all applications and notify applying
50 district boards of the distribution of the allocation on
51 or before the first day of July, one thousand nine
52 hundred ninety-three. Such funds shall be distributed
53 during the fiscal year as appropriate. The state super-
54 intendent shall require the county board to demon-
55 strate the need for an allocation for personnel based
56 upon the county's inability to meet the requirements
57 of state law or state board policy: *Provided, however*,
58 That the funds available for personnel under this
59 section may not be used to increase the total number
60 of professional noninstructional personnel in the
61 central office beyond four. Such instructional
62 improvement plan shall be made available for distri-
63 bution to the public at the office of each affected
64 county board.

65 (b) Commencing with the school year beginning on
66 the first day of July, one thousand nine hundred
67 ninety-three, an amount not less than the amount
68 required to meet debt service requirements on any
69 revenue bonds issued prior to the first day of January,
70 one thousand nine hundred ninety-four, and the debt
71 service requirements on any revenue bonds issued for
72 the purpose of refunding revenue bonds issued prior
73 to the first day of January, one thousand nine hun-
74 dred ninety-four, shall be paid into the school building
75 capital improvements fund created by section six,
76 article nine-d of this chapter, and shall be used solely
77 for the purposes of said article. The school building
78 capital improvements fund shall not be utilized to
79 meet the debt services requirement on any revenue
80 bonds or revenue refunding bonds for which moneys
81 contained within the school building debt service fund
82 have been pledged for repayment pursuant to said
83 section.

§18-9A-24. Foundation allowance for public employees insurance fund.

1 (a) Beginning the first day of July, one thousand
2 nine hundred ninety-five, and every year thereafter,
3 the allowance to the public employees insurance
4 agency for school employees shall be made in accor-
5 dance with the following: The number of individuals
6 employed by county boards of education as profession-
7 al educators pursuant to section four or five-a of this
8 article, whichever is less, plus the number of individ-
9 uals employed by county boards of education as
10 service personnel pursuant to section five or five-a of
11 this article, whichever is less, multiplied by the
12 average premium rate for all county board of educa-
13 tion employees established by the public employees
14 insurance agency finance board. The average premi-
15 um rate for all county board of education employees
16 shall be incorporated into each financial plan devel-
17 oped by the finance board in accordance with section
18 five, article sixteen, chapter five of this code. Such
19 premiums shall include any proportionate share of
20 retirees subsidy established by the finance board and
21 the difference, if any, between the previous year's
22 actual premium costs and the previous year's appro-
23 priation, if the actual cost was greater than the
24 appropriation.

25 (b) County boards of education shall be responsible
26 for payments to the public employees insurance
27 agency for individuals who are employed as profes-
28 sional employees above and beyond those authorized
29 by section four or five-a, whichever is less, and
30 individuals who are employed as service personnel
31 above and beyond those authorized by section five and
32 five-a whichever is less. For each such employee, the
33 county board of education shall forward to the public
34 employees insurance agency an amount equal to the
35 average premium rate established by the finance
36 board in accordance with subsection (a) of this section:
37 *Provided*, That the county board shall pay the actual
38 employer premium costs for any county board
39 employee paid from special revenues, federal or state

40 grants, or sources other than state general revenue or
41 county funds.

42 (c) Prior to the first day of July, one thousand nine
43 hundred ninety-five, nothing in this article shall be
44 construed to limit the ability of county boards of
45 education to use funds appropriated to county boards
46 of education pursuant to this article to pay employer
47 premiums to the public employees insurance agency
48 for employees whose positions are funded pursuant to
49 this article. Funds appropriated to county boards of
50 education pursuant to this article shall not be used to
51 pay employer premiums for employees of such boards
52 whose positions are not, or will not be within twenty
53 months, funded by funds appropriated pursuant to this
54 article.

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-1c. Integrated classrooms serving students with exceptional needs; and requirements as to the assistance, training and information to be provided to the affected classroom teacher.

1 The regular classroom teacher shall be entitled to
2 the following when placing a student with exceptional
3 needs into an integrated classroom when the student's
4 individualized education program requires an adjust-
5 ment in either the curriculum, instruction or service
6 to be provided by the regular classroom teacher:

7 (1) Training provided pursuant to the integrated
8 classroom program and additional individualized
9 training, pursuant to the rules developed by the state
10 board of education, if requested by the regular class-
11 room teacher to prepare the teacher to meet the
12 exceptional needs of individual students. Whenever
13 possible, such training shall be provided prior to such
14 placement. Where prior training is not possible, such
15 training shall be commenced no later than ten days
16 following the placement of said student into the
17 regular classroom. Unavoidable delays in the provision
18 of training shall not result in the exclusion of a special
19 needs student from any class in the event said training
20 cannot be provided in said ten days;

21 (2) A signed copy of the individualized education
22 program for the special needs student prior to or at
23 the time of the placement of the student into the
24 regular classroom. The receiving and referring
25 teachers shall participate in the development of that
26 student's individualized education plan and shall also
27 sign the individualized education plan as developed. In
28 all cases the teacher shall receive a copy of the
29 individualized education plan for the special needs
30 student prior to or at the time of the placement of the
31 student into the regular classroom. Any teacher
32 disagreeing with the individualized education plan
33 committee's recommendation shall file a written
34 explanation outlining his or her disagreement or
35 recommendation;

36 (3) Participation by both receiving and referring
37 teachers, upon the receiving teacher being identified,
38 in all eligibility committees and individualized educa-
39 tion program committees which involve possible
40 placement of an exceptional student in an integrated
41 classroom;

42 (4) Opportunity to reconvene the committee respon-
43 sible for the individualized education program of the
44 student with special needs assigned to the regular
45 classroom teacher. The meeting shall include all
46 persons involved in a student's individualized educa-
47 tion program and shall be held within twenty-one days
48 of the time the request is made;

49 (5) Assistance from persons trained or certified to
50 deal with a student's exceptional needs whenever such
51 assistance is part of the student's individualized
52 education program as necessary to ensure the stu-
53 dent's exceptional needs can be met: *Provided*, That
54 aides in the area of special education cannot be
55 reassigned to more than one school without the
56 employee's consent.

§18-20-3. County reports.

1 Counties maintaining special schools, classes, regular
2 class programs, integrated classroom strategic plans
3 and training related to integrated education, basic and

4 specialized health care procedures including the
5 administration of medications, home-teaching or
6 visiting services and receiving or requesting reimburse-
7 sement from state appropriated funds shall file with
8 the state superintendent of schools on forms supplied
9 by his office, applications, annual reports and such
10 other reports as he may require.

§18-20-5. Powers and duties of state superintendent.

1 The state superintendent of schools shall organize,
2 promote, administer and be responsible for:

3 (1) Stimulating and assisting county boards of
4 education in establishing, organizing and maintaining
5 special schools, classes, regular class programs, home-
6 teaching and visiting-teacher services.

7 (2) Cooperating with all other public and private
8 agencies engaged in relieving, caring for, curing,
9 educating and rehabilitating exceptional children, and
10 in helping coordinate the services of such agencies.

11 (3) Preparing the necessary rules, regulations,
12 formula for distribution of available appropriated
13 funds, reporting forms and procedures necessary to
14 define minimum standards in providing suitable
15 facilities for education of exceptional children and
16 ensuring the employment, certification and approval
17 of qualified teachers and therapists subject to approval
18 by the state board of education.

19 (4) Receiving from county boards of education their
20 applications, annual reports and claims for reimburse-
21 ment from such moneys as are appropriated by the
22 Legislature, auditing such claims and preparing
23 vouchers to reimburse said counties the amounts
24 reimbursable to them.

25 (5) Assuring that all exceptional children in the
26 state, including children in mental health facilities,
27 residential institutions, private schools, and correction-
28 al facilities as provided in section thirteen-f, article
29 two, chapter eighteen of this code, receive an educa-
30 tion in accordance with state and federal laws: *Provid-*
31 *ed,* That the state superintendent shall also assure that

32 adults in correctional facilities shall receive an educa-
33 tion to the extent funds are provided therefor.

34 (6) Performing such other duties and assuming such
35 other responsibilities in connection with this program
36 as may be needed.

37 (7) Receive the county plan for integrated classroom
38 submitted by the county boards of education, and
39 submit a state plan, approved by the state board of
40 education, to the legislative oversight commission on
41 education accountability no later than the thirtieth
42 day of November, one thousand nine hundred ninety-
43 four.

44 Nothing herein contained shall be construed to
45 prevent any county board of education from establish-
46 ing and maintaining special schools, classes, regular
47 class programs, home-teaching or visiting-teacher
48 services out of funds available from local revenue.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 3B. EDUCATORS' PROFESSIONAL STANDARDS BOARD.

§18A-3B-1. Establishment of educators' professional stand- ards board.

1 The Legislature hereby finds and declares that in
2 order to more fully provide for a thorough and
3 efficient system of free schools within the state it is
4 necessary to establish an educators' professional
5 standards board. The board will be responsible for
6 governing the education profession, including the
7 establishment of standards for entering the education
8 profession, and remaining a member of the education
9 profession. The board shall also establish standards for
10 institutions of higher education engaged in teacher
11 preparation programs.

§18A-3B-2. Educators' professional standards board; compo- sition; appointment; terms of members.

1 (a) There is created an educators' professional
2 standards board consisting of nine members appointed
3 by the governor, with the advice and consent of the
4 Senate.

5 (b) The term of office for each member is three
6 years except that the original term of three members,
7 including not more than one teacher, shall be for one
8 year, and the original term of three members, includ-
9 ing not more than two teachers, shall be for two years.

10 (c) Any member who, through change of employ-
11 ment standing or other circumstances, no longer meets
12 the criteria for the position to which the member was
13 appointed shall no longer be eligible to serve in that
14 position, and the position on the commission shall
15 become vacant sixty days following the member's
16 change in circumstances.

17 (d) The membership of the educators' professional
18 standards board shall consist of: One classroom teacher
19 currently employed by a county board of education
20 teaching vocational education; one classroom teacher
21 currently employed by a county board of education
22 teaching in an elementary school; one classroom
23 teacher currently employed by a county board of
24 education teaching in a middle school; one classroom
25 teacher currently employed by a county board of
26 education teaching in a secondary school; one class-
27 room teacher currently employed by a county board of
28 education teaching special education; the state super-
29 intendent of schools or his or her designee; one
30 elementary school or secondary school principal
31 currently employed by a county board of education;
32 one county superintendent of schools currently
33 employed by a county board of education; and one
34 administrator or faculty member representing a public
35 college or university in West Virginia.

36 No more than five members of the board may
37 belong to the same political party nor reside in the
38 same congressional district. Members of the board
39 must have been actively engaged in teaching, super-
40 vising or administering in the public schools or in
41 approved teacher education institutions in West Vir-
42 ginia for the period of five years immediately preced-
43 ing appointment. In addition, members appointed to
44 represent classroom teachers under this section must
45 hold valid West Virginia teaching certificates other

46 than permits.

47 ^E
 (A) A member of the board shall receive no compen-
 48 sation for his or her services as a member, but subject
 49 to any other applicable law regulating travel and other
 50 expenses for state officer, he or she shall receive his or
 51 her actual and necessary travel and other expenses
 52 incurred in the performance of his or her official
 53 duties: *Provided*, That any member who is an employ-
 54 ee of a county board of education shall be released by
 55 his or her employer to attend board meetings without
 56 loss of salary or personal leave.

§18A-3B-3. Powers and duties.

1 Prior to the first day of January, one thousand nine
 2 hundred ninety-five, the professional standards board
 3 shall develop a plan and propose legislation which will
 4 expand the powers and duties of the professional
 5 standards board to include the following: (1) Establish
 6 and maintain standards and requirements for obtain-
 7 ing and maintaining a license for teaching; (2) issue,
 8 renew, suspend, and revoke teaching licenses; (3) hear
 9 appeals regarding application, renewal, suspension or
 10 revocation of licenses; (4) enter into reciprocity
 11 agreements to provide for licensing of applicants from
 12 other states or nations; (5) set standards, approve, and
 13 evaluate teacher preparation programs; (6) adopt
 14 standards for examinations and assessments to assure
 15 eligibility for licenses to enter the profession of
 16 teaching; (7) create other actions that relate to the
 17 improvement of instruction through teacher education
 18 and professional development and to attract qualified
 19 candidates for teacher training from among the
 20 citizens of West Virginia; and (8) perform other actions
 21 that relate to the improvement of instruction through
 22 teacher education and professional development and to
 23 attract qualified candidates for teacher training from
 24 among the citizens of West Virginia.

25 On or before the first day of January, one thousand
 26 nine hundred ninety-five, the board shall submit
 27 copies of the proposed legislation to the governor,
 28 president of the Senate, speaker of the House of

29 Delegates and the legislative oversight commission on
30 education accountability.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-5. Salary equity among the counties; state salary supplement.

1 (a) For the purposes of this section, salary equity
2 among the counties means that the salary potential of
3 school employees employed by the various districts
4 throughout the state does not differ by greater than
5 ten percent between those offering the highest salaries
6 and those offering the lowest salaries. In the case of
7 professional educators, the difference shall be calculat-
8 ed utilizing the average of the professional educator
9 salary schedules, degree classifications B.A. through
10 doctorate and years of experience zero through
11 twenty, in effect in the five counties offering the
12 highest salary schedules compared to the lowest salary
13 schedule in effect among the fifty-five counties. In the
14 case of school service personnel, the difference shall be
15 calculated utilizing the average of the school service
16 personnel salary schedules, pay grades "A" through
17 "H" and years of experience zero through thirty, in
18 effect in the five counties offering the highest salary
19 schedules compared to the lowest salary schedule in
20 effect among the fifty-five counties.

21 For the school year beginning the first day of July,
22 one thousand nine hundred ninety-four, and thereaf-
23 ter, in the counties that jointly support a multicounty
24 vocational school, salary equity funding shall be
25 distributed to nonfiscal agent counties based on: (1)
26 Calculating the amount of salary equity funding each
27 nonfiscal agent county would receive for the
28 employees for which it is charged in the public school
29 support program, as provided in section four, article
30 nine-a, chapter eighteen of this code, if this salary
31 equity funding were distributed to nonfiscal agent
32 counties; and (2) deducting the salary equity funding
33 to be received by the fiscal agent county in the public
34 school support program for those employees for which
35 the nonfiscal agent county is charged in the public

36 school support program.

37 (b) To assist the state in meeting its objective of
38 salary equity among the counties, as defined in
39 subsection (a) of this section, on and after the first day
40 of July, one thousand nine hundred eighty-four,
41 subject to available state appropriations and the
42 conditions set forth herein, each teacher and school
43 service personnel shall receive a supplemental amount
44 in addition to the amount from the state minimum
45 salary schedules provided for in this article.

46 State funds for this purpose shall be paid within the
47 West Virginia public school support plan in accordance
48 with article nine-a, chapter eighteen of this code. The
49 amount allocated for salary equity shall be apporti-
50 oned between teachers and school service personnel in
51 direct proportion to that amount necessary to support
52 the professional salaries and service personnel salaries
53 statewide under sections four and five, article nine-a,
54 chapter eighteen of this code: *Provided*, That in
55 making this division an adequate amount of state
56 equity funds shall be reserved to finance the appropri-
57 ate foundation allowances and staffing incentives
58 provided for in article nine-a, chapter eighteen of this
59 code.

60 Pursuant to this section, each teacher and school
61 service personnel shall receive the amount that is the
62 difference between their authorized state minimum
63 salary and ninety-five percent of the maximum salary
64 schedules prescribed in sections five-a and five-b of
65 this article, reduced by any amount provided by the
66 county as a salary supplement for teachers and school
67 service personnel on the first day of January of the
68 fiscal year immediately preceding that in which the
69 salary equity appropriation is distributed: *Provided*,
70 That the amount received pursuant to this section
71 shall not be decreased as a result of any county
72 supplement increase instituted after the first day of
73 January, one thousand nine hundred eighty-four, until
74 the objective of salary equity is reached: *Provided*,
75 *however*, That any amount received pursuant to this
76 section may be reduced proportionately based upon

77 the amount of funds appropriated for this purpose.

78 No county may reduce any salary supplement that
79 was in effect on the first day of January, one thousand
80 nine hundred eighty-four, except as permitted by
81 sections five-a and five-b of this article.

§18A-4-19. Alteration of contract.

1 (a) Notwithstanding the provisions of section seven-
2 a of this article relating to professional personnel or
3 any other section of this code to contrary, any alter-
4 ation of an employment contract of a professional
5 educator who is employed for more than two hundred
6 days, which alteration changes the number of days in
7 the employment term, shall not be deemed a creation
8 of a new position, nor shall such alteration require the
9 posting of the position.

10 Notwithstanding the provisions of section seven-a of
11 this article relating to professional personnel or any
12 other section of this code to contrary, any alteration of
13 an employment contract of a professional educator
14 which reduces or eliminates the local salary supple-
15 ment or the benefits provided to such employee due to
16 a defeat of a special levy, or a loss in assessed values
17 or events over which it has no control and for which
18 the county board has received approval from the state
19 board prior to making such reduction or elimination in
20 accordance with section five-a of this article, shall not
21 be deemed a creation of a new position, nor shall such
22 alteration require the posting of the position.

23 (b) Notwithstanding the provisions of section eight-
24 b of this article relating to school service personnel or
25 any other section of this code to contrary, any alter-
26 ation of an employment contract of a service personnel
27 employee who is employed for more than two hun-
28 dred days, which alteration changes the number of
29 days in the employment term, shall not be deemed a
30 creation of a new position, nor shall such alteration
31 require the posting of the position.

32 Notwithstanding the provisions of section eight-b of
33 this article relating to school service personnel or any

34 other section of this code to contrary, any alteration of
 35 an employment contract of a service personnel
 36 employee which reduces or eliminates the local salary
 37 supplement or the benefits provided to such employee
 38 due to a defeat of a special levy, or a loss in assessed
 39 values or events over which it has no control and for
 40 which the county board has received approval from
 41 the state board prior to making such reduction or
 42 elimination in accordance with section five-b of this
 43 article, shall not be deemed a creation of a new
 44 position, nor shall such alteration require the posting
 45 of the position.

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

**§18A-5-1a. Assaults by pupils upon teachers or other school
 personnel; temporary suspension, hearing;
 procedure, notice and formal hearing;
 extended suspension; expulsion; exception.**

1 (a) Any pupil who threatens to cause, attempts to
 2 cause, or causes a bodily injury to a school employee
 3 may be suspended or expelled from school in accor-
 4 dance with the provisions of this section.

5 (b) The actions of any pupil which may be grounds
 6 for his suspension or expulsion under the provisions of
 7 this section shall be reported immediately to the
 8 principal of the school in which such pupil is enrolled.
 9 If the principal determines that the alleged actions of
 10 the pupil would be grounds for suspension, he shall
 11 conduct an informal hearing for the pupil as soon as
 12 practicable after the alleged actions have occurred.
 13 The hearing shall be held before the pupil is sus-
 14 pended unless the principal believes that the con-
 15 tinued presence of the pupil in the school poses a
 16 continuing danger to persons or property or an ongo-
 17 ing threat of disrupting the academic process, in which
 18 case the pupil may be suspended immediately and a
 19 hearing held as soon as practicable after the suspension.

20 The pupil and his parent or parents or custodial
 21 guardian, as the case may be, shall be given written
 22 notice by certified mail, return receipt requested, of
 23 this informal hearing, which notice shall briefly state

24 the grounds for suspension.

25 At the commencement of the informal hearing, the
26 principal shall inquire of the pupil as to whether he
27 admits or denies the charges. If the pupil does not
28 admit the charges, he shall be given an explanation of
29 the evidence possessed by the principal and an oppor-
30 tunity to present his version of the occurrence. At the
31 conclusion of the hearing or upon the failure of the
32 noticed persons to appear, the principal may suspend
33 the pupil for a maximum of ten school days, including
34 the time prior to such hearing, if any, for which the
35 pupil has been excluded from school. If the principal
36 believes a longer suspension or expulsion of the pupil
37 is warranted in addition to a ten-day suspension, he
38 shall so advise the parents and pupil, if present, and
39 recommend such action to the superintendent of
40 schools of the county in which the school where the
41 pupil is enrolled is located.

42 (c) Any suspension shall be reported by the principal
43 the same day it has been decided upon, in writing, to
44 the county superintendent of schools of the county in
45 which the school where the pupil is enrolled is located.

46 (d) If the principal recommends and the superinten-
47 dent agrees that the suspension should be extended for
48 beyond ten school days or that the pupil should be
49 expelled from school, the superintendent shall imme-
50 diately notify the county board of education of this
51 recommendation. Upon receipt of such recommenda-
52 tion, the county board of education shall cause a
53 written notice, which states the charges and the
54 recommended disposition, to be served upon the pupil
55 and his parent or parents or custodial guardian, as the
56 case may be, advising such persons that unless a
57 timely request is made for hearing, the recommended
58 disposition shall become final. Such notice shall set
59 forth a date and time at which such hearing, if
60 requested, shall be held, which date shall be within
61 the ten-day period of suspension imposed by the
62 principal. The notice shall further advise the persons
63 to be noticed thereby that a request for hearing will
64 not be granted unless received by the board more than

65 twenty-four hours before the time proposed for
66 hearing in the notice.

67 Upon timely receipt of a hearing request, the board
68 of education shall hold the scheduled hearing to
69 determine if the pupil should be reinstated or should
70 have his suspension extended or should be expelled
71 from school. At this hearing, the pupil may be repres-
72 ented by counsel, may call his own witnesses to verify
73 his version of the incident and may confront and
74 cross-examine witnesses supporting the charge against
75 him. The hearing may be postponed for good cause
76 shown by the pupil but he shall remain under suspen-
77 sion until after the hearing. The state board of
78 education may adopt other supplementary rules of
79 procedure to be followed in these hearings. At the
80 conclusion of the hearing the county board of educa-
81 tion either shall order the pupil reinstated immediate-
82 ly or at the end of his initial suspension or shall
83 suspend the pupil for a further designated number of
84 days or shall expel the pupil from the public schools of
85 such county for a period of time not to exceed one
86 school year.

87 (e) Notwithstanding the preceding provisions of this
88 section, if a pupil has prior to the actions complained
89 of being classified as or is eligible to be classified as an
90 exceptional child, other than gifted, under the provi-
91 sions of section one, article twenty, chapter eighteen of
92 this code, special consideration shall be given to such
93 pupil as hereinafter provided.

94 In any hearing held pursuant to this section, a pupil,
95 his parent or custodial guardian may show an expla-
96 nation of the actions complained of that such actions
97 were the proximate result of a condition which has
98 qualified or would qualify the pupil for a special
99 educational program other than gifted. If the principal
100 or board finds that such actions were the proximate
101 result of such a condition, the pupil shall not be
102 suspended or expelled pursuant to this section but the
103 pupil shall be forthwith referred to the appropriate
104 personnel within the county school system for devel-
105 opment of an individual learning program: *Provided,*

106 That such pupil may be temporarily removed from
107 school according to procedures employed by the school
108 system for special education pupils if, in the opinion of
109 the principal, such removal is necessary for his or her
110 own protection or the protection of other pupils,
111 teachers, school personnel or school property during
112 all or some part of the time required to prepare such
113 individual learning program.

114 (f) In all hearings under this section, facts shall be
115 found by a preponderance of the evidence.

116 (g) For the purpose of this section, "school employ-
117 ee" means a person employed by a county board of
118 education whether employed on a regular full-time
119 basis, an hourly basis or otherwise if, at the time of
120 the commission of an act which would be grounds for
121 suspension or expulsion under this section, such
122 person is engaged in the performance of his duties or
123 is commuting to or from his place of employment. For
124 the purposes of this section, a "school employee" shall
125 be deemed to include a student teacher.

126 (h) The remedies provided for in this section are
127 cumulative.

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

[Signature]
.....
Chairman Senate Committee

[Signature]
..... Ernest C. Moore
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *6th*
day of *April*, 1994.

[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 4/5/94

Time 1:35pm

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