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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
Regular Session, 2002

ENROLLED

Committee Substitute for
SENATE BILL NO. 247

(By Senator Tomblin, Mr. President, and
Sprouse, By Request of the Executive)

PASSED March 9, 2002

In Effect July 1, 2002 Passage

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 247

(BY SENATORS TOMBLIN, MR. PRESIDENT, AND SPROUSE,
BY REQUEST OF THE EXECUTIVE)

[Passed March 9, 2002; to take effect July 1, 2002.]

AN ACT to amend and reenact section five, article twenty-six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section nine; to amend article two-e, chapter eighteen of said code by adding thereto a new section, designated section three-e; to amend and reenact sections thirteen, fifteen, eighteen and twenty-two, article five of said chapter; to further amend said article by adding thereto three new sections, designated sections eighteen-e, forty-four and forty-five; to amend and reenact section five, article five-a of said chapter; to amend and reenact section five, article nine-a of said chapter; to further amend said article by adding thereto a new section,

designated section five-b; to amend article nine-d of said chapter by adding thereto a new section, designated section nineteen; to amend article twenty-eight of said chapter by adding thereto a new section, designated section seven; to amend and reenact section two, article two, chapter eighteen-a of said code; to amend and reenact sections six and nine, article three of said chapter; to amend and reenact sections two, three, five, seven-a, eight, eight-a, eight-b and sixteen, article four of said chapter; and to further amend said article by adding thereto a new section, designated section fourteen-a, all relating to education generally; prohibiting the governor's cabinet on children, youth and families from transferring funds; prohibiting the governor's cabinet on children, youth and families from being service provider; creating the West Virginia science education enhancement initiative competitive grant program and providing procedures for grant application and selection; requiring board minutes to reflect student transfers across county lines; establishing conditions for kindergarten programs for children below age five and removing obsolete language; requiring a study of the pupil teacher ratio in grade levels included in elementary and middle schools; including secretaries in definition of school employees who provide certain specialized health procedures; requiring provision of early childhood education programs for children attaining age of four and specifying implementation process, provisions for standards and enrollment; report to legislative committee and specifying intent; providing further specification for school calendar; providing for faculty senate meeting times; including transportation of students to county and multi-county vocational-technical centers as consideration for service personnel ratio waiver; creating foundation allowance for increasing net enrollment ratios; providing certain considerations, assistance and criteria for funding of comprehensive high schools by the school building authority; authorizing state superintendent to waive assessment requirement for parochial schools under certain conditions; requiring county boards to provide released time for certain

professional educators for certain purposes without jeopardizing certain rights, privileges, benefits or accrual of experience; allowing superintendent to designate commission for professional teaching standards or members thereof to conduct hearings in proceedings related to the denial or revocation of certificates; requiring county service personnel staff development council chair to be member elected by council and requiring certain reports regarding council and account; increasing salaries of professional and service personnel; increasing principal's index; updating references to salary schedules used in calculation of salary equity; requiring a board to rescind a transfer of professional personnel in certain instances; creating new service personnel class title of West Virginia education information system data entry and administrative clerk and assigning pay grade; including mechanics, mechanic assistants and chief mechanics in the same classification category; study on daily planning periods; and right of service personnel to retain extracurricular assignment.

Be it enacted by the Legislature of West Virginia:

That section five, article twenty-six, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said article be further amended by adding thereto a new section, designated section nine; that article two-e, chapter eighteen of said code be amended by adding thereto a new section, designated section three-e; that sections thirteen, fifteen, eighteen and twenty-two, article five of said chapter be amended and reenacted; that said article be further amended by adding thereto three new sections, designated sections eighteen-e, forty-four and forty-five; that section five, article five-a of said chapter be amended and reenacted; that section five, article nine-a of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section five-b; that article nine-d of said chapter be amended by adding thereto a new section, designated section nineteen; that article twenty-eight of said chapter be amended by adding thereto a new

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

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

ARTICLE 26. WEST VIRGINIA CHILDREN, YOUTH AND FAMILIES ACT.

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

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

12 (b) Any legislative recommendation shall be accompa-
13 nied by a proposal or plan for sufficient funding. In
14 exploring all aspects of funding possibilities, the cabinet
15 shall consider innovative, flexible funding such as inter-
16 agency funding, joint funding pools, interagency reim-
17 bursement, and funding by the families serviced based on
18 ability to pay.

19 (c) The cabinet shall develop fiscal incentives for the
20 establishment of family resource networks and for pro-

21 grams resulting in substantial cost savings, such as
22 programs which keep children at home and which thereby
23 avoid unnecessary out-of-home care. Any savings result-
24 ing from the coordination of programs and services for
25 children and families shall be reinvested for expenditure
26 in areas directly benefitting children and families.

§5-26-9. Prohibition of providing services.

1 It is the cabinet's primary duty to coordinate services
2 and resources but not to become a provider of services.
3 Beginning on the first day of July, two thousand three, the
4 cabinet may not provide services other than coordination
5 of services provided by other entities.

CHAPTER 18. EDUCATION.

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-3e. West Virginia Science Education Enhancement Initiative grant program created; legislative findings and purpose of section.

1 (a) The Legislature hereby finds and acknowledges that,
2 if remediation is necessary, it should be provided when
3 students are younger and before patterns of failure are
4 established. The Legislature further acknowledges that
5 the people of West Virginia would be better served if the
6 state acted to ensure that all public school students were
7 able to execute science skills at or above grade level upon
8 exiting grade eight, that county boards are in the best
9 position to determine if remediation is necessary for
10 students in grades four through eight and that the counties
11 should have the option of providing summer school for
12 students and may consider student attendance as a factor
13 in determining whether a child is eligible to be promoted
14 to the next grade.

15 The Legislature further finds that not all students are
16 financially able to pay for summer school, nor do all
17 county schools hold summer school. It is, therefore, the
18 purpose of this section to help the county boards to

19 provide, either individually or cooperatively, free summer
20 school and summer school transportation for those stu-
21 dents in grades four through eight who did not perform at
22 grade level during the regular school year. It also is the
23 purpose of this section to help students in grades four
24 through eight who are identified as being in danger of
25 failing to execute science skills at grade level by the end of
26 the school year to receive intensive science instruction
27 during their regularly scheduled science time throughout
28 the regular school year.

29 (b) Subject to appropriation by the Legislature therefor,
30 the state board shall establish a competitive grant pro-
31 gram as set forth in this section to provide science pro-
32 grams for students in grades four through eight who are
33 not performing at grade level. The program shall be
34 designated and known as the "West Virginia Science
35 Education Enhancement Initiative" program.

36 (c) Priorities for awarding the grants shall include, but
37 are not limited to:

38 (1) Schools that have science test scores below the state
39 averages; or

40 (2) Schools that receive federal funds for the improve-
41 ment of science.

42 (d) Competitive grant applications must be submitted by
43 the county boards, or by a community collaborative with
44 the county board as a partner with leadership responsibil-
45 ity, and shall describe how the program will:

46 (1) Employ strategies, proven methods and innovative
47 techniques for student learning, teaching and school
48 management that are based on reliable research and
49 effective practices, and can be replicated in other schools
50 to improve the science skills of students;

51 (2) Contain measurable goals for the improvement of
52 student science skills and benchmarks for meeting those
53 goals;

54 (3) Include a plan for the evaluation of student progress
55 toward achieving the state's high standards;

56 (4) Identify how other federal, state, local and private
57 resources, including volunteers, will be utilized to further
58 the intent of this section;

59 (5) Link summer improvement programs for science with
60 science instruction and remediation throughout the school
61 year;

62 (6) Determine the feasibility of collaborating with
63 colleges of education for the purpose of providing educa-
64 tional experiences for prospective teachers;

65 (7) Identify the use of technology, including computers
66 and calculators, and demonstrate how technology will be
67 integrated into the program; and

68 (8) Accomplish other objectives as deemed necessary by
69 the state board.

70 (e) Any county receiving a grant should encourage
71 students in grades four through eight who did not perform
72 at grade level during the regular school year to attend
73 summer school and may consider summer school atten-
74 dance as a factor in determining whether a child is eligible
75 to be promoted to the next grade. The county board shall
76 provide intensive science instruction during regularly
77 scheduled science time throughout the regular school year
78 to students in grades four through eight who are identified
79 by the classroom teacher as being in danger of failing to
80 execute science skills at grade level by the end of the
81 school year. Nothing in this section prohibits county
82 boards from permitting students to participate in science
83 programs on a student fee basis.

84 (f) The state board shall approve procedures for the
85 implementation of this section. To assist the state board
86 in developing procedures for the implementation of this
87 section, including the grant application and the grant

88 review and selection process, the state board shall appoint
89 an advisory board consisting of the science education
90 coordinator from the state department of education, a
91 college or university professor of science, a county science
92 curriculum specialist, an elementary teacher and an
93 elementary principal, a middle school teacher with a
94 science certification and a middle school principal, a
95 science teacher with a certificate issued by the national
96 board of professional teaching standards, if available, and
97 a representative from the West Virginia science teachers
98 association, or a representative of the like successor
99 organization should this named organization cease to
100 exist. The procedures shall provide for:

101 (1) The appointment of a grant review and selection
102 panel by the state board consisting of persons with exper-
103 tise and practical experience in delivering programs to
104 increase the science skills of young students, not more than
105 one half of whom may be employees of the state depart-
106 ment of education, or the state board may designate the
107 advisory board as the grant review and selection panel;

108 (2) Notice to all schools of the grant competition and the
109 availability of applications on or before the thirtieth day
110 of September, in each fiscal year for which grant funds are
111 available;

112 (3) A grant application deadline postmarked on or before
113 the fifteenth day of December, in each fiscal year for
114 which grant funds are available;

115 (4) Notice of grant awards on or before the first day of
116 March, in each fiscal year for which grant funds are
117 available; and

118 (5) Other such requirements as deemed necessary by the
119 state board.

120 (g) The state board may fund, from any other funds
121 available for such purposes, the programs required by this
122 section for students in grades four through eight and any

123 programs required by state board rules such as, but not
124 limited to, the following:

125 (1) Tutoring;

126 (2) Summer school educational services;

127 (3) Additional certified personnel to provide intensive
128 instruction in science throughout the school year;

129 (4) Staff development for teachers; and

130 (5) Hot meal programs.

131 (h) Nothing in this section supersedes the individualized
132 education program (IEP) of any student.

133 (i) Nothing in this section requires any specific level of
134 funding by the Legislature.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

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

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

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

16 (b) To establish schools, from preschool through high
17 school, inclusive of vocational schools; and to establish

18 schools and programs, or both, for post high school
19 instruction, subject to approval of the state board of
20 education;

21 (c) To close any school which is unnecessary and to
22 assign the pupils of the school to other schools: *Provided*,
23 That the closing shall be officially acted upon and teachers
24 and service personnel involved notified on or before the
25 first Monday in April, in the same manner as provided in
26 section four of this article, except in an emergency, subject
27 to the approval of the state superintendent, or under
28 subdivision (e) of this section;

29 (d) To consolidate schools;

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

36 (f) (1) To provide at public expense adequate means of
37 transportation, including transportation across county
38 lines for students whose transfer from one district to
39 another is agreed to by both boards as reflected in the
40 minutes of their respective meetings, for all children of
41 school age who live more than two miles distance from
42 school by the nearest available road; to provide at public
43 expense and according to such rules as the board may
44 establish, adequate means of transportation for school
45 children participating in board-approved curricular and
46 extracurricular activities; and to provide in addition
47 thereto at public expense, by rules and within the avail-
48 able revenues, transportation for those within two miles
49 distance; to provide in addition thereto, at no cost to the
50 board and according to rules established by the board,
51 transportation for participants in projects operated,
52 financed, sponsored or approved by the commission on
53 aging: *Provided*, That all costs and expenses incident in

54 any way to transportation for projects connected with the
55 commission on aging shall be borne by the commission, or
56 the local or county chapter of the commission: *Provided,*
57 *however,* That in all cases the school buses owned by the
58 board of education shall be driven or operated only by
59 drivers regularly employed by the board of education:
60 *Provided further,* That the county board may provide,
61 under rules established by the state board, for the certifi-
62 cation of professional employees as drivers of
63 board-owned vehicles with a seating capacity of less than
64 ten passengers used for the transportation of pupils for
65 school-sponsored activities other than transporting
66 students between school and home: *And provided further,*
67 That the use of the vehicles shall be limited to one for each
68 school-sponsored activity: *And provided further,* That
69 buses shall be used for extracurricular activities as
70 provided in this section only when the insurance provided
71 for by this section is in effect;

72 (2) To enter into agreements with one another as re-
73 flected in the minutes of their respective meetings to
74 provide, on a cooperative basis, adequate means of trans-
75 portation across county lines for children of school age
76 subject to the conditions and restrictions of subdivisions
77 (6) and (8) of this section;

78 (g) (1) To lease school buses operated only by drivers
79 regularly employed by the board to public and private
80 nonprofit organizations or private corporations to trans-
81 port school-age children to and from camps or educational
82 activities in accordance with rules established by the
83 board. All costs and expenses incurred by or incidental to
84 the transportation of the children shall be borne by the
85 lessee;

86 (2) To contract with any college or university or offi-
87 cially recognized campus organizations to provide trans-
88 portation for college or university students, faculty or staff
89 to and from the college or university: *Provided,* That only
90 college and university students, faculty and staff are being

91 transported. The contract shall include consideration and
92 compensation for bus operators, repairs and other costs of
93 service, insurance and any rules concerning student
94 behavior;

95 (h) To provide at public expense for insurance against
96 the negligence of the drivers of school buses, trucks or
97 other vehicles operated by the board; and if the transpor-
98 tation of pupils is contracted, then the contract for the
99 transportation shall provide that the contractor shall carry
100 insurance against negligence in an amount specified by the
101 board;

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

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

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

121 (l) To employ legal counsel;

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

124 (n) To provide at public expense and under rules as
125 established by any county board of education for the

126 payment of traveling expenses incurred by any person
127 invited to appear to be interviewed concerning possible
128 employment by the county board of education;

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

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

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

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

156 (s) To enter into agreements with one another, with the
157 approval of the state board, for the transfer and receipt of
158 any and all funds determined to be fair when students are
159 permitted or required to attend school in a county other
160 than the county of their residence; and

161 (t) To enter into job-sharing arrangements, as defined in
162 section one, article one, chapter eighteen-a of this code,
163 with its professional employees: *Provided*, That a job
164 sharing arrangement shall meet all the requirements
165 relating to posting, qualifications and seniority, as pro-
166 vided for in article four, chapter eighteen-a of this code:
167 *Provided, however*, That, notwithstanding any provisions
168 of this code or legislative rule and specifically the provi-
169 sions of article fifteen, chapter five of this code to the
170 contrary, a county board which enters into a job-sharing
171 arrangement wherein two or more professional employees
172 voluntarily share an authorized full-time position shall
173 provide the mutually agreed upon employee coverage but
174 shall not offer insurance coverage to more than one of the
175 job sharing employees, including any group plan or group
176 plans available under the state public employees insurance
177 act: *Provided further*, That all employees involved in the
178 job-sharing agreement meet the requirements of subdivi-
179 sion (4), section two, article sixteen, chapter five of this
180 code.

181 “Quasi-public funds” as used in this section means any
182 money received by any principal, teacher, student or other
183 person for the benefit of the school system as a result of
184 curricular or noncurricular activities.

185 The board of each county shall expend under rules it
186 establishes for each child an amount not to exceed the
187 proportion of all school funds of the district that each
188 child would be entitled to receive if all the funds were
189 distributed equally among all the children of school age in
190 the district upon a per capita basis.

**§18-5-15. Ages of persons to whom schools are open; enrollment
of suspended or expelled student.**

1 (a) The public schools shall be open for the full instruc-
2 tional term to all persons who have attained the entrance
3 age as stated in section five, article two and section
4 eighteen, article five, chapter eighteen of this code:

5 *Provided*, That any student suspended or expelled from
6 public or private school shall only be permitted to enroll
7 in public school upon the approval of the superintendent
8 of the county where the student seeks enrollment: *Pro-*
9 *vided, however*, That in making such decision, the princi-
10 pal of the school in which the student may enroll shall be
11 consulted by the superintendent and the principal may
12 make a recommendation to the superintendent concerning
13 the student's enrollment in his or her new school: *Provided*
14 *further*, That if enrollment to public school is denied by
15 the superintendent, the student may petition the board of
16 education where the student seeks enrollment.

17 (b) Persons over the age of twenty-one may enter only
18 those programs or classes authorized by the state board of
19 education and deemed appropriate by the county board of
20 education conducting any such program or class: *Provided*,
21 That authorization for such programs or classes shall in no
22 way serve to affect or eliminate programs or classes
23 offered by county boards of education at the adult level for
24 which fees are charged to support such programs or
25 classes.

§18-5-18. Kindergarten programs.

1 (a) County boards shall provide kindergarten programs
2 for all children who have attained the age of five prior to
3 the first day of September of the school year in which the
4 pupil enters the kindergarten program and may, pursuant
5 to the provisions of section forty-four, article five, chapter
6 eighteen of this code, establish kindergarten programs
7 designed for children below the age of five. The programs
8 for children who shall have attained the age of five shall
9 be full-day everyday programs.

10 (b) Persons employed as kindergarten teachers, as
11 distinguished from paraprofessional personnel, shall be
12 required to hold a certificate valid for teaching at the
13 assigned level as prescribed by regulations established by
14 the state board. The state board shall establish and

15 prescribe guidelines and criteria setting forth the mini-
16 mum requirements for all paraprofessional personnel
17 employed in kindergarten programs established pursuant
18 to the provisions of this section and no such
19 paraprofessional personnel shall be employed in any
20 kindergarten program unless he meets such minimum
21 requirements.

22 (c) The state board with the advice of the state superin-
23 tendent shall establish and prescribe guidelines and
24 criteria relating to the establishment, operation and
25 successful completion of kindergarten programs in accor-
26 dance with the other provisions of this section. Guidelines
27 and criteria so established and prescribed also are in-
28 tended to serve for the establishment and operation of
29 nonpublic kindergarten programs and shall be used for the
30 evaluation and approval of such programs by the state
31 superintendent, provided application for such evaluation
32 and approval is made in writing by proper authorities in
33 control of such programs. The state superintendent,
34 annually, shall publish a list of nonpublic kindergarten
35 programs, including Montessori kindergartens that have
36 been approved in accordance with the provisions of this
37 section. Montessori kindergartens established and oper-
38 ated in accordance with usual and customary practices for
39 the use of the Montessori method which have teachers who
40 have training or experience, regardless of additional
41 certification, in the use of the Montessori method of
42 instruction for kindergartens shall be considered to be
43 approved.

44 (d) Pursuant to such guidelines and criteria, and only
45 pursuant to such guidelines and criteria, the county boards
46 may establish programs taking kindergarten to the homes
47 of the children involved, using educational television,
48 paraprofessional personnel in addition to and to supple-
49 ment regularly certified teachers, mobile or permanent
50 classrooms and other means developed to best carry
51 kindergarten to the child in its home and enlist the aid and

52 involvement of its parent or parents in presenting the
53 program to the child; or may develop programs of a more
54 formal kindergarten type, in existing school buildings, or
55 both, as such county board may determine, taking into
56 consideration the cost, the terrain, the existing available
57 facilities, the distances each child may be required to
58 travel, the time each child may be required to be away
59 from home, the child's health, the involvement of parents
60 and such other factors as each county board may find
61 pertinent. Such determinations by any county board shall
62 be final and conclusive.

**§18-5-18e. Study of limits on the number of pupils per teacher
in a classroom in elementary and middle schools.**

1 (a) The legislative oversight commission on education
2 accountability shall conduct a study of the effect of limits
3 on the number of pupils per teacher in a classroom. The
4 commission may conduct the study as a whole or may
5 appoint a subcommittee to conduct the study under its
6 direction. The study includes, but is not limited to, an
7 examination of the following issues:

8 (1) The effect on student learning of limits on the
9 number of pupils per teacher in a classroom in elementary
10 classes and in a middle school format in which students
11 have different teachers for different subject matter
12 instruction;

13 (2) The effect on the equity among teachers in a middle
14 school in which the number of pupils per teacher in a
15 classroom is limited for some teachers and not for others,
16 including the additional pay for certain teachers in whose
17 classrooms the limits are exceeded; and

18 (3) The effect limits on the number of pupils per teacher
19 in a classroom have on the ability of school systems to
20 offer elective courses in secondary schools.

21 (b) The legislative oversight commission on education
22 accountability shall issue a report of its findings and

23 recommendations, together with any legislation necessary
24 to effectuate its recommendations, on or before the second
25 day of January, two thousand three. In making its find-
26 ings and recommendations the commission:

27 (1) Shall include, at a minimum, a recommendation on
28 whether the limits on the number of pupils per teacher in
29 a classroom in a middle school format should be removed
30 or capped on a county-wide or individual school basis; and

31 (2) May not include as a recommendation consideration
32 of imposing limits on the number of pupils per teacher at
33 grade levels above the sixth grade.

**§18-5-22. Medical and dental inspection; school nurses; special-
ized health procedures; establishment of council of
school nurses.**

1 (a) County boards shall provide proper medical and
2 dental inspections for all pupils attending the schools of
3 their county and have the authority to take any other
4 action necessary to protect the pupils from infectious
5 diseases, including the authority to require from all school
6 personnel employed in their county, certificates of good
7 health and of physical fitness.

8 (b) Each county board shall employ full time at least one
9 school nurse for every one thousand five hundred kinder-
10 garten through seventh grade pupils in net enrollment or
11 major fraction thereof: *Provided*, That each county shall
12 employ full time at least one school nurse: *Provided*,
13 *however*, That a county board may contract with a public
14 health department for services considered equivalent to
15 those required by this section in accordance with a plan to
16 be approved by the state board: *Provided, further*, That the
17 state board shall promulgate rules requiring the employ-
18 ment of school nurses in excess of the number required by
19 this section to ensure adequate provision of services to
20 severely handicapped pupils.

21 (c) Any person employed as a school nurse must be a
22 registered professional nurse properly licensed by the West

23 Virginia board of examiners for registered professional
24 nurses in accordance with article seven, chapter thirty of
25 this code.

26 (d) Specialized health procedures that require the skill,
27 knowledge and judgment of a licensed health professional,
28 may be performed only by school nurses, other licensed
29 school health care providers as provided for in this section,
30 or school employees who have been trained and retrained
31 every two years who are subject to the supervision and
32 approval by school nurses. After assessing the health
33 status of the individual student, a school nurse, in collabo-
34 ration with the student's physician, parents and in some
35 instances an individualized education program team, may
36 delegate certain health care procedures to a school em-
37 ployee who shall be trained pursuant to this section,
38 considered competent, have consultation with, and be
39 monitored or supervised by the school nurse: *Provided*,
40 That nothing in this section prohibits any school employee
41 from providing specialized health procedures or any other
42 prudent action to aid any person who is in acute physical
43 distress or requires emergency assistance. For the pur-
44 poses of this section "specialized health procedures"
45 means, but is not limited to, catheterization, suctioning of
46 tracheostomy, naso-gastric tube feeding or gastrostomy
47 tube feeding. "School employee" means "teachers", as
48 defined in section one, article one of this chapter and
49 "aides", as defined in section eight, article four, chapter
50 eighteen-a of this code. Commencing with the school year
51 beginning on the first day of July, two thousand two,
52 "school employee" also means "secretary I", "secretary II"
53 and "secretary III", as defined in section eight, article four,
54 chapter eighteen-a of this code: *Provided*, That a "secre-
55 tary I", "secretary II" and "secretary III" shall be limited
56 to the dispensing of medications.

57 (e) Any school service employee who elects, or is required
58 by this section, to undergo training or retraining to
59 provide, in the manner specified in this section, the

60 specialized health care procedures for those students for
61 which the selection has been approved by both the princi-
62 pal and the county board, shall receive additional pay of
63 at least one pay grade higher than the highest pay grade
64 for which the employee is paid: *Provided*, That any
65 training required in this section may be considered in lieu
66 of required in-service training of the school employee and
67 a school employee may not be required to elect to undergo
68 the training or retraining: *Provided, however*, That
69 commencing with the first day of July, one thousand nine
70 hundred eighty-nine any newly employed school employee
71 in the field of special education is required to undergo the
72 training and retraining as provided for in this section:
73 *Provided further*, That if an employee who holds a class
74 title of an aide is employed in a school and the aide has
75 received the training, pursuant to this section, then an
76 employee in the field of special education is not required
77 to perform the specialized health care procedures.

78 (f) Each county school nurse, as designated and defined
79 by this section, shall perform a needs assessment. These
80 nurses shall meet on the basis of the area served by their
81 regional educational service agency, prepare recommenda-
82 tions and elect a representative to serve on the council of
83 school nurses established under this section.

84 (g) There shall be a council of school nurses which shall
85 be convened by the state board of education. This council
86 shall prepare a procedural manual and shall provide
87 recommendations regarding a training course to the
88 commissioner of the bureau for public health who shall
89 consult with the state department of education. The
90 commissioner then has the authority to promulgate a rule
91 in accordance with the provisions of article three, chapter
92 twenty-nine-a of this code, to implement the training and
93 to create standards used by those school nurses and school
94 employees performing specialized health procedures. The
95 council shall meet every two years to review the certifica-
96 tion and training program regarding school employees.

97 (h) The state board of education shall work in conjunc-
98 tion with county boards to provide training and retraining
99 every two years as recommended by the council of school
100 nurses and implemented by the rule promulgated by the
101 commissioner.

§18-5-44. Early childhood education programs.

1 (a) For the purposes of this section, “early childhood
2 education” means programs for children who have at-
3 tained the age of four prior to the first day of September
4 of the school year in which the pupil enters the program
5 created in this section.

6 (b) *Findings.* –

7 (1) Among other positive outcomes, early childhood
8 education programs have been determined to:

9 (A) Improve overall readiness when children enter
10 school;

11 (B) Decrease behavioral problems;

12 (C) Improve student attendance;

13 (D) Increase scores on achievement tests;

14 (E) Decrease the percentage of students repeating a
15 grade; and

16 (F) Decrease the number of students placed in special
17 education programs.

18 (2) Quality early childhood education programs improve
19 school performance and low-quality early childhood
20 education programs may have negative effects, especially
21 for at-risk children;

22 (3) West Virginia has the lowest percentage of its adult
23 population with a college degree and the education level of
24 parents is a strong indicator of how their children will
25 perform in school;

26 (4) West Virginia currently ranks forty-fourth among the
27 fifty states in the percentage of school children eligible for
28 free and reduced lunches and this percentage is a strong
29 indicator of how the children will perform in school;

30 (5) For the school year two thousand one - two thousand
31 two, six thousand eight hundred fifty-three students less
32 than five years of age were enrolled in the public schools,
33 a number equal to approximately thirty-three percent of
34 the number of five-year-old students enrolled in kinder-
35 garten;

36 (6) Projections indicate that total student enrollment in
37 West Virginia will decline by as much as eighteen percent,
38 or by approximately fifty thousand students, by the school
39 year two thousand twelve - two thousand thirteen;

40 (7) In part, because of the dynamics of the state aid
41 formula, county boards will continue to enroll four-year-
42 old students to offset the declining enrollments;

43 (8) West Virginia has a comprehensive kindergarten
44 program for five-year olds but the program was estab-
45 lished in a manner that resulted in unequal implementa-
46 tion among the counties which helped create deficit
47 financial situations for several county school boards;

48 (9) Expansion of current efforts to implement a compre-
49 hensive early childhood education program should avoid
50 the problems encountered in kindergarten implementation;

51 (10) Because of the dynamics of the state aid formula,
52 counties experiencing growth are at a disadvantage in
53 implementing comprehensive early childhood education
54 programs; and

55 (11) West Virginia citizens will benefit from the estab-
56 lishment of quality comprehensive early childhood educa-
57 tion programs.

58 (c) Beginning no later than the school year two thousand
59 twelve - two thousand thirteen, and continuing thereafter,

60 county boards shall provide early childhood education
61 programs for all children who have attained the age of
62 four prior to the first day of September of the school year
63 in which the pupil enters the early childhood education
64 program.

65 (d) The program shall meet the following criteria:

66 (1) It shall be voluntary, except, upon enrollment, the
67 provisions of section one, article eight of this chapter shall
68 apply to an enrolled student; and

69 (2) It may be for fewer than five days per week and may
70 be less than full day.

71 (e) Enrollment of students in head start, or in any other
72 program approved by the state superintendent as provided
73 in subsection (k) of this section, shall be counted toward
74 satisfying the requirement of subsection (c) of this section.

75 (f) For the purposes of implementation financing, all
76 counties are encouraged to make use of funds from exist-
77 ing sources, including:

78 (1) Federal funds provided under the Elementary and
79 Secondary Education Act pursuant to 20 U.S.C. § 6301, *et*
80 *seq.*;

81 (2) Federal funds provided for head start pursuant to 42
82 U.S.C. § 9831, *et seq.*;

83 (3) Federal funds for temporary assistance to needy
84 families pursuant to 42 U.S.C. § 601, *et seq.*;

85 (4) Funds provided by the school building authority
86 pursuant to article nine-d of this chapter;

87 (5) In the case of counties with declining enrollments,
88 funds from the state aid formula above the amount
89 indicated for the number of students actually enrolled in
90 any school year; and

91 (6) Any other public or private funds.

92 (g) Prior to the school year beginning two thousand
93 three, each county shall develop a plan for implementing
94 the program required by this section. The plan shall
95 include the following elements:

96 (1) An analysis of the demographics of the county related
97 to early childhood education program implementation;

98 (2) An analysis of facility and personnel needs;

99 (3) Financial requirements for implementation and
100 potential sources of funding to assist implementation;

101 (4) Details of how the county board will cooperate and
102 collaborate with other early childhood education pro-
103 grams, including, but not limited to head start, to maxi-
104 mize federal and other sources of revenue;

105 (5) Specific time lines for implementation; and

106 (6) Such other items as the state board by policy may
107 require.

108 (h) Prior to the school year beginning two thousand
109 three, a county board shall submit its plan to the secretary
110 of the department of health and human resources. The
111 secretary shall approve the plan if the following conditions
112 are met:

113 (1) The county has maximized the use of federal and
114 other available funds for early childhood programs;

115 (2) The county has provided for the maximum implemen-
116 tation of head start programs and other public and private
117 programs approved by the state superintendent pursuant
118 to the terms of subsection (k) of this section; and

119 (3) If the secretary of the department of health and
120 human resources finds that the county has not met one or
121 more of the requirements of this subsection, but that the
122 county has acted in good faith and the failure to comply
123 was not the primary fault of the county board, then the

124 secretary shall approve the plan. Any denial by the
125 secretary may be appealed to the circuit court of the
126 county in which the county board is located.

127 (i) Prior to the school year beginning two thousand three,
128 the county board shall submit its plan for approval to the
129 state board. The state board shall approve the plan if the
130 county board has complied substantially with the require-
131 ments of subsection (g) of this section and has obtained the
132 approval required in subsection (h) of this section.

133 (j) Every county board shall submit its plan for reproval
134 by the secretary of the department of health and human
135 resources and by the state board at least every two years
136 after the initial approval of the plan and until full imple-
137 mentation of the early childhood education program in the
138 county. As part of the submission, the county board shall
139 provide a detailed statement of the progress made in
140 implementing its plan. The standards and procedures
141 provided for the original approval of the plan apply to any
142 reproval.

143 (k) Commencing with the school year beginning on the
144 first day of July, two thousand four, and thereafter, no
145 county board may increase the total number of students
146 enrolled in the county in an early childhood program until
147 its program is approved by the secretary of the department
148 of health and human resources and the state board has
149 been granted.

150 (l) The state board annually may grant a county board a
151 waiver for total or partial implementation if the state
152 board finds that all of the following conditions exist:

153 (1) The county board is unable to comply either because:

154 (A) It does not have sufficient facilities available; or

155 (B) It does not and has not had available funds sufficient
156 to implement the program;

157 (2) The county has not experienced a decline in enroll-
158 ment at least equal to the total number of students to be
159 enrolled; and

160 (3) Other agencies of government have not made suffi-
161 cient funds or facilities available to assist in implementa-
162 tion.

163 Any county seeking a waiver must apply with the
164 supporting data to meet the criteria for which they are
165 eligible on or before the twenty-fifth day of March for the
166 following school year. The state superintendent shall
167 grant or deny the requested waiver on or before the
168 fifteenth day of April of that same year.

169 (m) The provisions of subsections (b), (c) and (d), section
170 eighteen of this article relating to kindergarten shall apply
171 to early childhood education programs in the same manner
172 in which they apply to kindergarten programs.

173 (n) On or before the first day of December, two thousand
174 four, and each year thereafter, the state board shall report
175 to the legislative oversight commission on education
176 accountability on the progress of implementation of this
177 section.

178 (o) During or after the school year beginning in two
179 thousand four, and except as may be required by federal
180 law or regulation, no county shall enroll students who will
181 be less than four years of age prior to the first day of
182 September for the year they enter school.

183 (p) Neither the state board nor the state department may
184 provide any funds to any county for the purpose of imple-
185 menting this section unless the county board has a plan
186 approved pursuant to subsections (h), (i), and (j) of this
187 section.

188 (q) The state board shall promulgate a rule in accordance
189 with the provisions of article three-b, chapter twenty-
190 nine-a of this code for the purposes of implementing the

191 provisions of this section. The state board shall consult
192 with the secretary of the department of health and human
193 resources in the preparation of the rule. The rule shall
194 contain the following:

195 (1) Standards for curriculum;

196 (2) Standards for preparing students;

197 (3) Attendance requirements;

198 (4) Standards for personnel; and

199 (5) Such other terms as may be necessary to implement
200 the provisions of this section.

201 (r) The rule shall include the following elements relating
202 to curriculum standards:

203 (1) A requirement that the curriculum be designed to
204 address the developmental needs of four-year-old children,
205 consistent with prevailing research on how children learn;

206 (2) A requirement that the curriculum be designed to
207 achieve long range goals for the social, emotional, physical
208 and academic development of young children;

209 (3) A method for including a broad range of content that
210 is relevant, engaging and meaningful to young children;

211 (4) A requirement that the curriculum incorporate a wide
212 variety of learning experiences, materials and equipment,
213 and instructional strategies to respond to differences in
214 prior experience, maturation rates and learning styles that
215 young children bring to the classroom;

216 (5) A requirement that the curriculum be designed to
217 build on what children already know in order to consoli-
218 date their learning and foster their acquisition of new
219 concepts and skills;

220 (6) A requirement that the curriculum meet the recog-
221 nized standards of the relevant subject matter disciplines;

222 (7) A requirement that the curriculum engage children
223 actively in the learning process and provide them with
224 opportunities to make meaningful choices;

225 (8) A requirement that the curriculum emphasize the
226 development of thinking, reasoning, decision-making and
227 problem-solving skills;

228 (9) A set of clear guidelines for communicating with
229 parents and involving them in decisions about the instruc-
230 tional needs of their children; and

231 (10) A systematic plan for evaluating program success in
232 meeting the needs of young children and for helping them
233 to be ready to succeed in school.

234 (s) On or before the second day of January, two thousand
235 four, the secretary and the state superintendent submit a
236 report to the legislative oversight commission on education
237 accountability and the joint committee on government and
238 finance which address, at a minimum, the following issues:

239 (1) A summary of the approved county plans for provid-
240 ing the early childhood education programs pursuant to
241 this section;

242 (2) An analysis of the total cost to the state and counties
243 of implementing the plans;

244 (3) An separate analysis of the impact of the plans on
245 counties with increasing enrollment; and

246 (4) An analysis of the affect of the programs on the
247 maximization of the use of federal funds for early child-
248 hood programs.

249 The intent of this subsection is to enable the Legislature
250 to proceed in a fiscally responsible manner and make any
251 program improvements as may be necessary based on
252 reported information prior to implementation of the early
253 childhood education programs.

§18-5-45. School calendar.

1 (a) As used in this section, the following terms have the
2 following meanings:

3 (1) Instructional day means a day within the instruc-
4 tional term which meets the following criteria:

5 (A) Instruction is offered to students for the amounts of
6 time provided by state board rule;

7 (B) A minimum percentage of students, as defined by
8 state board rule, is present in the county schools;

9 (C) Instructional time is used for instruction,
10 cocurricular activities and approved extra-curricular
11 activities, and pursuant to the provisions of subdivision
12 (12), subsection (b), section five, article five-a of this
13 chapter, faculty senates;

14 (D) Such other criteria as the state board determines
15 appropriate.

16 (2) Bank time means time added beyond the required
17 instructional day which may be accumulated and used in
18 larger blocks of time during the school year for instruc-
19 tional or non-instructional activities, as further defined by
20 the state board.

21 (3) Extra-curricular activities are activities under the
22 supervision of the school such as athletics, nonin-
23 structional assemblies, social programs, entertainment and
24 other similar activities, as further defined by the state
25 board.

26 (4) Cocurricular activities are activities that are closely
27 related to identifiable academic programs or areas of
28 study that serve to complement academic curricula as
29 further defined by the state board.

30 (b) *Findings.* -

31 (1) The primary purpose of the school system is to
32 provide instruction for students.

33 (2) The school calendar, as defined in this section, is
34 designed to define the school term both for employees and
35 for instruction.

36 (3) The school calendar traditionally has provided for
37 one hundred eighty actual days of instruction but numer-
38 ous circumstances have combined to cause the actual
39 number of instructional days to be less than one hundred
40 eighty.

41 (4) The quality and amount of instruction offered during
42 the instructional term is affected by the extra-curricular
43 and cocurricular activities allowed to occur during sched-
44 uled instructional time.

45 (5) Within reasonable guidelines, the school calendar
46 should be designed at least to guarantee that one hundred
47 eighty actual days of instruction are possible.

48 (c) The county board shall provide a school term for its
49 schools that contains the following:

50 (1) An employment term for teachers of no less than two
51 hundred days, exclusive of Saturdays and Sundays; and

52 (2) Within the employment term, an instructional term
53 for students of no less than one hundred eighty separate
54 instructional days.

55 (d) The instructional term shall commence no earlier
56 than the twenty-sixth day of August and terminate no
57 later than the eighth day of June.

58 (e) Non-instructional days shall total twenty and shall be
59 comprised of the following:

60 (1) Seven holidays as specified in section two, article
61 five, chapter eighteen-a of this code;

62 (2) Election day as specified in section two, article five,
63 chapter eighteen-a of this code;

64 (3) Six days to be designated by the county board to be
65 used by the employees outside the school environment; and

66 (4) Six days to be designated by the county board for any
67 of the following purposes:

68 (A) Curriculum development;

69 (B) Preparation for opening and closing school;

70 (C) Professional development;

71 (D) Teacher-pupil-parent conferences;

72 (E) Professional meetings; and

73 (F) Making up days when instruction was scheduled but
74 not conducted.

75 (f) Three of the days described in subdivision (4), subsec-
76 tion (e) of this section shall be scheduled prior to the
77 twenty-sixth day of August for the purposes of preparing
78 for the opening of school and staff development.

79 (g) At least one of the days described in subdivision (4),
80 subsection (e) of this section shall be scheduled after the
81 eighth day of June for the purpose of preparing for the
82 closing of school. If one hundred eighty separate instruc-
83 tion days occur prior to the eighth day of June, this day
84 may be scheduled on or before the eighth day of June.

85 (h) At least four of the days described in subdivision (3),
86 subsection (e) of this section shall be scheduled after the
87 first day of March.

88 (i) At least two of the days described in subdivision (4),
89 subsection (e) of this section, will be scheduled for profes-
90 sional development. The professional development
91 conducted on these days will be consistent with the goals
92 established by the state board pursuant to the provisions

93 of section twenty-three-a, article two, chapter eighteen of
94 this code.

95 (j) Subject to the provisions of subsection (g) of this
96 section, all non-instructional days will be scheduled prior
97 to the eighth day of June.

98 (k) The state board may not schedule the primary
99 statewide assessment program prior to the fifteenth day of
100 May of the instructional year unless the state board
101 determines that the nature of the test mandates an earlier
102 testing date.

103 (l) If, on or after the first day of March, the county board
104 determines that it is not possible to complete one hundred
105 eighty separate days of instruction, the county board shall
106 schedule instruction on any available non-instructional
107 day, regardless of the purpose for which the day originally
108 was scheduled, and the day will be used for instruction.
109 The provisions of this subsection do not apply to: (1)
110 Holidays; and (2) election day.

111 (m) The following applies to bank time:

112 (1) Bank time may not be used to avoid one hundred
113 eighty separate days of instruction;

114 (2) Bank time may not be used to lengthen the time
115 provided in law for faculty senates;

116 (3) The use of bank time for extra-curricular activities
117 will be limited by the state board; and

118 (4) Such other requirements or restrictions as the state
119 board may provide in the rule required to be promulgated
120 by this section.

121 (n) The following applies to co-curricular activities:

122 (1) The state board shall determine what activities may
123 be considered co-curricular;

124 (2) The state board shall determine the amount of
125 instructional time that may be consumed by co-curricular
126 activities; and

127 (3) Such other requirements or restrictions as the state
128 board may provide in the rule required to be promulgated
129 by this section.

130 (o) The following applies to extra-curricular activities:

131 (1) Except as provided by subdivision (3) of this subsec-
132 tion, extra-curricular activities may not be scheduled
133 during instructional time;

134 (2) The use of bank time for extra-curricular activities
135 will be limited by the state board; and

136 (3) The state board shall provide for the attendance by
137 students of certain activities sanctioned by the secondary
138 schools activities commission when those activities are
139 related to statewide tournaments or playoffs or are
140 programs required for secondary schools activities com-
141 mission approval.

142 (p) Noninstructional interruptions to the instructional
143 day shall be minimized to allow the classroom teacher to
144 teach.

145 (q) Nothing in this section prohibits establishing year-
146 round schools in accordance with rules to be established
147 by the state board.

148 (r) Prior to implementing the school calendar, the county
149 board shall secure approval of its proposed calendar from
150 the state board or, if so designated by the state board, from
151 the state superintendent.

152 (s) The county board may contract with all or part of the
153 personnel for a longer term.

154 (t) The minimum instructional term may be decreased by
155 order of the state superintendent in any county declared a

156 federal disaster area and where the event causing the
157 declaration is substantially related to a reduction of
158 instructional days.

159 (u) Where the employment term overlaps a teacher's or
160 service personnel's participation in a summer institute or
161 institution of higher education for the purpose of advance-
162 ment or professional growth, the teacher or service person-
163 nel may substitute, with the approval of the county
164 superintendent, the participation for up to five of the non-
165 instructional days of the employment term.

166 (v) The state board shall promulgate a rule in accordance
167 with the provisions of article three-b, chapter twenty-
168 nine-a of this code for the purpose of implementing the
169 provisions of this section.

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 is comprised of all permanent,
3 full-time professional educators employed at the school
4 who shall all be voting members. Professional educators,
5 as used in this section, means professional educators as
6 defined in chapter eighteen-a of this code. A quorum of
7 more than one half of the voting members of the faculty
8 shall be present at any meeting of the faculty senate at
9 which official business is conducted. Prior to the begin-
10 ning of the instructional term each year, but within the
11 employment term, the principal shall convene a meeting of
12 the faculty senate to elect a chair, vice chair and secretary
13 and discuss matters relevant to the beginning of the school
14 year. The vice chair shall preside at meetings when the
15 chair is absent. Meetings of the faculty senate shall be
16 held on a regular basis as determined by a schedule
17 approved by the faculty senate and amended periodically
18 if needed. Emergency meetings may be held at the call of
19 the chair or a majority of the voting members by petition

20 submitted to the chair and vice chair. An agenda of
21 matters to be considered at a scheduled meeting of the
22 faculty senate shall be available to the members at least
23 two employment days prior to the meeting. For emergency
24 meetings the agenda shall be available as soon as possible
25 prior to the meeting. The chair of the faculty senate may
26 appoint such committees as may be desirable to study and
27 submit recommendations to the full faculty senate, but the
28 acts of the faculty senate shall be voted upon by the full
29 body.

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

42 (1) Each faculty senate shall control funds allocated to
43 the school from legislative appropriations pursuant to
44 section nine, article nine-a of this chapter. From such
45 funds, each classroom teacher and librarian shall be
46 allotted fifty dollars for expenditure during the instruc-
47 tional year for academic materials, supplies or equipment
48 which, in the judgment of the teacher or librarian, will
49 assist him or her in providing instruction in his or her
50 assigned academic subjects or shall be returned to the
51 faculty senate: *Provided*, That nothing contained herein
52 prohibits the funds from being used for programs and
53 materials that, in the opinion of the teacher, enhance
54 student behavior, increase academic achievement, improve
55 self-esteem and address the problems of students at-risk.
56 The remainder of funds shall be expended for academic

57 materials, supplies or equipment in accordance with a
58 budget approved by the faculty senate. Notwithstanding
59 any other provisions of the law to the contrary, funds not
60 expended in one school year are available for expenditure
61 in the next school year: *Provided, however,* That the
62 amount of county funds budgeted in a fiscal year may not
63 be reduced throughout the year as a result of the faculty
64 appropriations in the same fiscal year for such materials,
65 supplies and equipment. Accounts shall be maintained of
66 the allocations and expenditures of such funds for the
67 purpose of financial audit. Academic materials, supplies
68 or equipment shall be interpreted broadly, but does not
69 include materials, supplies or equipment which will be
70 used in or connected with interscholastic athletic events.

71 (2) A faculty senate may establish a process for faculty
72 members to interview new prospective professional
73 educators and paraprofessional employees at the school
74 and submit recommendations regarding employment to
75 the principal, who may also make independent recommen-
76 dations, for submission to the county superintendent:
77 *Provided,* That such process shall be chaired by the school
78 principal and must permit the timely employment of
79 persons to perform necessary duties.

80 (3) A faculty senate may nominate teachers for recogni-
81 tion as outstanding teachers under state and local teacher
82 recognition programs and other personnel at the school,
83 including parents, for recognition under other appropriate
84 recognition programs and may establish such programs for
85 operation at the school.

86 (4) A faculty senate may submit recommendations to the
87 principal regarding the assignment scheduling of secretar-
88 ies, clerks, aides and paraprofessionals at the school.

89 (5) A faculty senate may submit recommendations to the
90 principal regarding establishment of the master curricu-
91 lum schedule for the next ensuing school year.

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

96 (7) Each faculty senate shall elect three faculty represen-
97 tatives to the local school improvement council established
98 pursuant to section two of this article.

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

103 (9) Each faculty senate shall have an opportunity to
104 make recommendations on the selection of faculty to serve
105 as mentors for beginning teachers under beginning teacher
106 internship programs at the school.

107 (10) A faculty senate may solicit, accept and expend any
108 grants, gifts, bequests, donations and any other funds
109 made available to the faculty senate: *Provided*, That the
110 faculty senate shall select a member who has the duty of
111 maintaining a record of all funds received and expended
112 by the faculty senate, which record shall be kept in the
113 school office and is subject to normal auditing procedures.

114 (11) Any faculty senate may review the evaluation
115 procedure as conducted in their school to ascertain
116 whether the evaluations were conducted in accordance
117 with the written system required pursuant to section
118 twelve, article two, chapter eighteen-a of this code and the
119 general intent of this Legislature regarding meaningful
120 performance evaluations of school personnel. If a majority
121 of members of the faculty senate determine that such
122 evaluations were not so conducted, they shall submit a
123 report in writing to the state board of education: *Provided*,
124 That nothing herein creates any new right of access to or
125 review of any individual's evaluations.

126 (12) A local board shall provide to each faculty senate
127 either: (A) A two-hour per month block of instructional
128 time within the instructional day; or (B) an unlimited
129 block of time per month during noninstructional days. A
130 faculty senate scheduled on a noninstructional day shall be
131 considered as part of the purpose for which the
132 noninstructional day is scheduled. This time may be
133 utilized and determined at the local school level and
134 includes, but is not limited to, faculty senate meetings.

135 (13) Each faculty senate shall develop a strategic plan to
136 manage the integration of special needs students into the
137 regular classroom at their respective schools and submit
138 the strategic plan to the superintendent of the county
139 board of education periodically pursuant to guidelines
140 developed by the state department of education. Each
141 faculty senate shall encourage the participation of local
142 school improvement councils, parents and the community
143 at large in developing the strategic plan for each school.

144 Each strategic plan developed by the faculty senate shall
145 include at least: (A) A mission statement; (B) goals; (C)
146 needs; (D) objectives and activities to implement plans
147 relating to each goal; (E) work in progress to implement
148 the strategic plan; (F) guidelines for placing additional
149 staff into integrated classrooms to meet the needs of
150 exceptional needs students without diminishing the
151 services rendered to the other students in integrated
152 classrooms; (G) guidelines for implementation of collabo-
153 rative planning and instruction; and (H) training for all
154 regular classroom teachers who serve students with
155 exceptional needs in integrated classrooms.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

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

1 The basic foundation allowance to the county for service
2 personnel shall be the amount of money required to pay
3 the annual state minimum salaries in accordance with the
4 provisions of article four, chapter eighteen-a of this code,

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

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

43 the limit be fewer than two service personnel until the
44 county attains the maximum ratio set forth: *Provided,*
45 *however,* That where two or more counties join together in
46 support of a vocational or comprehensive high school or
47 any other program or service, the service personnel for the
48 school or program may be prorated among the participat-
49 ing counties on the basis of each one's enrollment therein
50 and that the personnel shall be considered within the
51 above-stated limit.

**§18-9A-5b. Foundation allowance for increasing professional
and service personnel positions.**

1 Commencing with the school year beginning on the first
2 day of July, two thousand five, two million five hundred
3 thousand dollars shall be appropriated for the purpose of
4 increasing the ratios of professional and service personnel
5 per one thousand students in net enrollment. For each of
6 the eleven following school years, an additional two
7 million five hundred thousand dollars shall be added to
8 the appropriation for this purpose. The increases in the
9 ratios of professional and service personnel per one
10 thousand students in net enrollment shall be made in a
11 manner which reflects the greater need of counties with a
12 low student population density for additional personnel.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.

§18-9D-19. Comprehensive high schools.

- 1 (a) The Legislature finds the following:
- 2 (1) The decline in student enrollment over the last twenty
3 years has necessitated consolidation of schools in many
4 counties;
- 5 (2) It is projected that the decline in student enrollment
6 during the period two thousand two through two thousand
7 twelve may be as great as eighteen percent and will
8 continue the necessity to consolidate schools;
- 9 (3) The new consolidated school buildings now being
10 built across the state provide an opportunity for communi-

11 ties to have comprehensive high schools that include space
12 for vocational-technical courses, community college
13 courses and other workforce related courses for the
14 students and the public at large;

15 (4) Requiring students to be bused to remote vocational
16 centers has sometimes deterred student participation in
17 vocational courses and has sometimes been considered a
18 stigma upon those students attending vocational courses;

19 (5) Offering vocational, community college and
20 workforce programs in close proximity to each other
21 compliment the high school and the programs; and

22 (6) The change in the season for girls' basketball to
23 coincide with boys' basketball has placed significant
24 pressures on the availability of gymnasium space and often
25 has caused practices to be scheduled late in the evenings
26 and on weekends, interfering with time needed for study-
27 ing and rest.

28 (b) When planning the construction of a high school
29 which has been approved by the authority and which
30 meets the required authority efficiencies, the authority
31 shall provide funding for comprehensive vocational
32 facilities to be located, when feasible, on the same site as
33 the high school and may, in cooperation with the higher
34 education policy commission, established in section one,
35 article one-b, chapter eighteen-b, provide funding for
36 facilities for community and technical college education.
37 When building in conjunction with the higher education
38 policy commission, an educational specification shall be
39 developed for the proposed new facility by the appropriate
40 institutional governing board as defined in section two,
41 article one, chapter eighteen-b of this code. The county
42 board is the fiscal agent for construction. All planning,
43 design, bidding and construction shall be completed with
44 authority guidelines and under the supervision of the
45 authority.

46 (c) When planning the construction of a high school
47 which has been approved by the authority and meets the
48 required authority efficiencies, the authority shall provide
49 funding sufficient for the construction of at least one
50 auxiliary gymnasium. The authority may establish
51 standards for the auxiliary gymnasium.

52 (d) Upon application of a county board to construct
53 comprehensive vocational facilities at an existing high
54 school, the authority will provide technical assistance to
55 the county in developing a plan for construction of the
56 comprehensive vocational facility. Upon development of
57 the plan, the authority shall consider funding based on the
58 following criteria:

59 (1) The distance of any existing vocational facilities from
60 the high schools it serves;

61 (2) The time required to travel to and from the voca-
62 tional facility to the high schools it serves;

63 (3) The ability of the county board to provide local funds
64 for the construction of new comprehensive vocational
65 facilities;

66 (4) The size of the existing high schools and the demand
67 for vocational technical courses;

68 (5) The age and physical condition of the existing
69 vocational facilities; and

70 (6) Such other criteria as the authority shall consider
71 appropriate.

**ARTICLE 28. PRIVATE, PAROCHIAL OR CHURCH SCHOOLS, OR SCHOOLS
OF A RELIGIOUS ORDER.**

**§18-28-7. Waiver of required assessment for certain students
attending parochial school.**

1 The state superintendent may waive the assessment
2 requirement for parochial schools set forth in section three
3 of this article if the state superintendent determines that

4 a court of law has held that the assessment requirement
5 would violate a provision of the state or federal constitu-
6 tion.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

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

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

9 (b) A teacher's contract, under this section, shall be for
10 a term of not less than one nor more than three years, one
11 of which shall be for completion of a beginning teacher
12 internship pursuant to the provisions of section two-b,
13 article three of this chapter, if applicable; and if, after
14 three years of such employment, the teacher who holds a
15 professional certificate, based on at least a bachelor's
16 degree, has met the qualifications for the same and the
17 board of education enter into a new contract of employ-
18 ment, it shall be a continuing contract: *Provided*, That any
19 teacher holding a valid certificate with less than a bache-
20 lor's degree who is employed in a county beyond the said
21 three-year probationary period shall upon qualifying for
22 said professional certificate based upon a bachelor's
23 degree, if reemployed, be granted continuing contract
24 status: *Provided, however*, That a teacher holding continu-
25 ing contract status with one county shall be granted
26 continuing contract status with any other county upon
27 completion of one year of acceptable employment if such

28 employment is during the next succeeding school year or
29 immediately following an approved leave of absence
30 extending no more than one year.

31 (c) The continuing contract of any teacher shall remain
32 in full force and effect except as modified by mutual
33 consent of the school board and the teacher, unless and
34 until terminated: (1) By a majority vote of the full mem-
35 bership of the board on or before the first Monday of April
36 of the then current year, after written notice, served upon
37 the teacher, return receipt requested, stating cause or
38 causes and an opportunity to be heard at a meeting of the
39 board prior to the board's action thereon; or (2) by written
40 resignation of the teacher before that date, to initiate
41 termination of a continuing contract. Such termination
42 shall take effect at the close of the school year in which the
43 contract is so terminated: *Provided*, That the contract may
44 be terminated at any time by mutual consent of the school
45 board and the teacher and that this section shall not affect
46 the powers of the school board to suspend or dismiss a
47 principal or teacher pursuant to section eight of this
48 article: *Provided, however*, That a continuing contract for
49 any teacher holding a certificate valid for more than one
50 year and in full force and effect during the school year one
51 thousand nine hundred eighty-four and one thousand nine
52 hundred eighty-five shall remain in full force and effect:
53 *Provided further*, That a continuing contract shall not
54 operate to prevent a teacher's dismissal based upon the
55 lack of need for the teacher's services pursuant to the
56 provisions of law relating to the allocation to teachers and
57 pupil-teacher ratios. The written notification of teachers
58 being considered for dismissal for lack of need shall be
59 limited to only those teachers whose consideration for
60 dismissal is based upon known or expected circumstances
61 which will require dismissal for lack of need. An employee
62 who was not provided notice and an opportunity for a
63 hearing pursuant to subsection (a) of this section may not
64 be included on the list. In case of such dismissal, the
65 teachers so dismissed shall be placed upon a preferred list
66 in the order of their length of service with that board, and

67 no teacher shall be employed by the board until each
68 qualified teacher upon the preferred list, in order, shall
69 have been offered the opportunity for reemployment in a
70 position for which they are qualified: *And provided*
71 *further*, That he or she has not accepted a teaching posi-
72 tion elsewhere. Such reemployment shall be upon a
73 teacher's preexisting continuing contract and shall have
74 the same effect as though the contract had been suspended
75 during the time the teacher was not employed.

76 (d) In the assignment of position or duties of a teacher
77 under said continuing contract, the board may provide for
78 released time of a teacher for any special professional or
79 governmental assignment without jeopardizing the
80 contractual rights of such teacher or any other rights,
81 privileges or benefits under the provisions of this chapter.
82 Released time shall be provided for any professional
83 educator while serving as a member of the Legislature
84 during any duly constituted session of that body and its
85 interim and statutory committees and commissions
86 without jeopardizing his or her contractual rights or any
87 other rights, privileges, benefits or accrual of experience
88 for placement on the state minimum salary schedule in the
89 following school year under the provisions of this chapter,
90 board policy and law.

91 (e) Any teacher who fails to fulfill his contract with the
92 board, unless prevented from so doing by personal illness
93 or other just cause or unless released from such contract
94 by the board, or who violates any lawful provision thereof,
95 shall be disqualified to teach in any other public school in
96 the state for a period of the next ensuing school year and
97 the state department of education or board may hold all
98 papers and credentials of such teacher on file for a period
99 of one year for such violation: *Provided*, That marriage of
100 a teacher shall not be considered a failure to fulfill, or
101 violation of, the contract.

102 (f) Any classroom teacher, as defined in section one,
103 article one of this chapter, who desires to resign employ-
104 ment with a board of education or request a leave of

105 absence, such resignation or leave of absence to become
106 effective on or before the fifteenth day of July of the same
107 year and after completion of the employment term, may do
108 so at any time during the school year by written notifica-
109 tion thereof and any such notification received by a board
110 of education shall automatically extend such teacher's
111 public employee insurance coverage until the thirty-first
112 day of August of the same year.

113 (g) Any classroom teacher who gives written notice to
114 the county board of education on or before the first day of
115 February of the school year of their resignation or retire-
116 ment from employment with the board at the conclusion of
117 the school year shall be paid five hundred dollars from the
118 "Early Notification of Retirement" line item established
119 for the department of education for this purpose, subject
120 to appropriation by the Legislature. If the appropriations
121 to the department of education for this purpose are
122 insufficient to compensate all applicable teachers, the
123 department of education shall request a supplemental
124 appropriation in an amount sufficient to compensate all
125 such teachers. Additionally, if funds are still insufficient
126 to compensate all applicable teachers, the priority of
127 payment is for teachers who give written notice the
128 earliest. This payment shall not be counted as part of the
129 final average salary for the purpose of calculating retire-
130 ment.

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

**§18A-3-6. Grounds for revocation of certificates; recalling
certificates for correction.**

1 The state superintendent may, after ten days' notice and
2 upon proper evidence, revoke the certificates of any
3 teacher for drunkenness, untruthfulness, immorality, or
4 for any physical, mental or moral defect which would
5 render him unfit for the proper performance of his duties
6 as a teacher, or for any neglect of duty or refusal to
7 perform the same, or for using fraudulent, unapproved, or

8 insufficient credit, or for any other cause which would
9 have justified the withholding of a certificate when the
10 same was issued. The state superintendent may designate
11 the West Virginia commission for professional teaching
12 standards or members thereof to conduct hearings on
13 revocations or licensure denials and make recommenda-
14 tions for action by the state superintendent.

15 It shall be the duty of any county superintendent who
16 knows of any immorality or neglect of duty on the part of
17 any teacher to report the same, together with all the facts
18 and evidence, to the state superintendent for such action
19 as in his judgment may be proper.

20 If a certificate has been granted through an error,
21 oversight, or misinformation, the state superintendent of
22 schools shall have authority to recall the certificate and
23 make such corrections as will conform to the requirements
24 of law and the state board of education.

§18A-3-9. County service personnel staff development councils.

1 (a) The Legislature finds the professional expertise and
2 insight of service personnel to be an invaluable ingredient
3 in the development and delivery of staff development
4 programs which meet the needs of service personnel.

5 (b) Therefore, a service personnel staff development
6 council comprised of representation from the various
7 categories of service personnel employment shall be
8 established in each school district in the state in accor-
9 dance with rules adopted by the state board of education.
10 Nominations of service personnel to serve on the county
11 service personnel staff development council may be
12 submitted by the six groups, as defined in subsection (e),
13 section one, article one of this chapter, of the district to the
14 county superintendent who shall prepare and distribute
15 ballots and tabulate the votes of the counties service
16 personnel voting on the persons nominated. Each county
17 staff service personnel development council shall consist

18 of two employees from each category of employment one
19 of whom shall be elected as chairperson by the staff
20 development council members. The councils have final
21 authority to propose staff development programs for their
22 peers based upon rules established by statute and the
23 council on service personnel education. The county
24 superintendent or a designee has an advisory, nonvoting
25 role on the council. The county board shall make available
26 an amount equal to one tenth of one percent of the
27 amounts provided in accordance with section five, article
28 nine-a, chapter eighteen of this code and credit the funds
29 to an account to be used by the council to fulfill its objec-
30 tives. The local board has the final approval of all pro-
31 posed disbursements. Any funds credited to the council
32 during a fiscal year, but not used by the council, shall be
33 carried over in the council account for use in the next
34 fiscal year. Any carried-over funds shall be separate and
35 apart from, and in addition to, the funds to be credited to
36 the council pursuant to this section.

37 (c) At the end of each fiscal year, the county board of
38 education shall report to the staff development chairper-
39 son the total amount and balance of the staff development
40 council account, the amount appropriated for the recent
41 fiscal year, the amount of funds requested and used by the
42 staff development council, and the amount of funds
43 carried over into the next fiscal year. The county board of
44 education shall further provide to the state superintendent
45 of schools at the end of each fiscal year the names of the
46 service personnel staff development council members, the
47 name of the chairperson, the number of meetings the
48 service personnel staff development council held to plan
49 staff development programs and the number of hours
50 service employees were provided during their employment
51 terms to implement their staff development programs.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

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

1 (a) Each teacher shall receive the amount prescribed in
 2 the "state minimum salary schedule I" as set forth in this
 3 section, specific additional amounts prescribed in this
 4 section or article, and any county supplement in effect in
 5 a county pursuant to section five-a of this article during
 6 the contract year: *Provided*, That beginning on the first
 7 day of July, two thousand two, and thereafter, each
 8 teacher shall receive the amount prescribed in "state
 9 minimum salary schedule II" as set forth in this section,
 10 specific additional amounts prescribed in this section or
 11 article, and any county supplement in effect in a county
 12 pursuant to section five-a of this article during the con-
 13 tract year.

STATE MINIMUM SALARY SCHEDULE I

(1) Years Exp.	(2) 4th Class	(3) 3rd Class	(4) 2nd Class	(5) A.B.	(6) A.B. +15	(7) M.A.	(8) M.A. +15	(9) M.A. +30	(10) M.A. +45	(11) Doc- torate
0	21,084	21,721	21,976	23,186	23,921	25,629	26,364	27,099	27,834	28,834
1	21,365	22,002	22,257	23,651	24,386	26,094	26,829	27,564	28,299	29,299
2	21,646	22,284	22,539	24,116	24,851	26,559	27,294	28,029	28,764	29,764
3	21,928	22,565	22,820	24,581	25,316	27,024	27,759	28,494	29,229	30,229
4	22,445	23,082	23,338	25,282	26,017	27,725	28,460	29,195	29,930	30,930
5	22,726	23,364	23,619	25,747	26,482	28,190	28,925	29,660	30,395	31,395
6	23,008	23,645	23,900	26,212	26,947	28,655	29,390	30,125	30,860	31,860
7		23,926	24,182	26,677	27,412	29,120	29,855	30,590	31,325	32,325
8		24,208	24,463	27,142	27,877	29,585	30,320	31,055	31,790	32,790
9			24,744	27,607	28,342	30,050	30,785	31,520	32,255	33,255
10			25,025	28,073	28,808	30,516	31,251	31,986	32,721	33,721
11				28,538	29,273	30,981	31,716	32,451	33,186	34,186
12				29,003	29,738	31,446	32,181	32,916	33,651	34,651
13				29,468	30,203	31,911	32,646	33,381	34,116	35,116
14						32,376	33,111	33,846	34,581	35,581
15						32,841	33,576	34,311	35,046	36,046
16						33,306	34,041	34,776	35,511	36,511
17								35,241	35,976	36,976
18								35,706	36,441	37,441
19								36,171	36,906	37,906

STATE MINIMUM SALARY SCHEDULE II

(1) Years Exp.	(2) 4th Class	(3) 3rd Class	(4) 2nd Class	(5) A.B. +15	(6) A.B. +15	(7) M.A.	(8) M.A. +15	(9) M.A. +30	(10) M.A. +45	(11) Doc- torate
0	21,888	22,525	22,780	23,990	24,725	26,433	27,168	27,903	28,638	29,638
1	22,205	22,842	23,097	24,491	25,226	26,934	27,669	28,404	29,139	30,139
2	22,522	23,160	23,415	24,992	25,727	27,435	28,170	28,905	29,640	30,640
3	22,840	23,477	23,732	25,493	26,228	27,936	28,671	29,406	30,141	31,141
4	23,393	24,030	24,286	26,230	26,965	28,673	29,408	30,143	30,878	31,878
5	23,710	24,348	24,603	26,731	27,466	29,174	29,909	30,644	31,379	32,379
6	24,028	24,665	24,920	27,232	27,967	29,675	30,410	31,145	31,880	32,880
7		24,982	25,238	27,733	28,468	30,176	30,911	31,646	32,381	33,381
8		25,300	25,555	28,234	28,969	30,677	31,412	32,147	32,882	33,882
9			25,872	28,735	29,470	31,178	31,913	32,648	33,383	34,383
10			26,189	29,237	29,972	31,680	32,415	33,150	33,885	34,885
11				29,738	30,473	32,181	32,916	33,651	34,386	35,386
12				30,239	30,974	32,682	33,417	34,152	34,887	35,887
13				30,740	31,475	33,183	33,918	34,653	35,388	36,388
14						3,3684	34,419	35,154	35,889	36,889
15						34,185	34,920	35,655	36,390	37,390
16						34,686	35,421	36,156	36,891	37,891
17								36,657	37,392	38,392
18								37,158	37,893	38,893
19								37,659	38,394	39,394

14 (b) Six hundred dollars shall be paid annually to each
 15 classroom teacher who has at least twenty years of teach-
 16 ing experience. The payments: (i) Shall be in addition to
 17 any amounts prescribed in the applicable state minimum
 18 salary schedule; (ii) shall be paid in equal monthly install-
 19 ments; and (iii) shall be considered a part of the state
 20 minimum salaries for teachers.

21 (c) Effective until the first day of July, two thousand two,
 22 in addition to any amounts prescribed in the applicable
 23 state minimum salary schedule, each professional educator
 24 shall be paid annually the following incremental increases
 25 in accordance with their years of experience. The pay-
 26 ments shall be paid in equal monthly installments and

27 shall be considered a part of the state minimum salaries for
 28 teachers.

29	Years of Experience	Increment
30	31	534
31	32	534
32	33	534
33	34	534
34	35	534

35 (d) On and after the first day of July, two thousand two,
 36 in addition to any amounts prescribed in the applicable
 37 state minimum salary schedule, each professional educator
 38 shall be paid annually the following incremental increases
 39 in accordance with their years of experience. The pay-
 40 ments shall be paid in equal monthly installments and
 41 shall be considered a part of the state minimum salaries for
 42 teachers.

43	Years of Experience	Increment
44	29	570
45	30	570
46	31	570
47	32	570
48	33	570
49	34	570
50	35	570

§18A-4-3. State minimum annual salary increments for principals and assistant principals.

1 In addition to any salary increments for principals and
 2 assistant principals, in effect on the first day of January,
 3 two thousand two, and paid from local funds, and in
 4 addition to the county schedule in effect for teachers, the
 5 county board shall pay each principal, a principal's salary
 6 increment and each assistant principal an assistant principal's
 7 salary increment as prescribed by this section from
 8 state funds appropriated for the salary increments.

9 State funds for this purpose shall be paid within the
10 West Virginia public school support plan in accordance
11 with article nine-a, chapter eighteen of this code.

12 The salary increment in this section for each principal
13 shall be determined by multiplying the basic salary for
14 teachers in accordance with the classification of certifica-
15 tion and of training of the principal as prescribed in this
16 article, by the appropriate percentage rate prescribed in
17 this section according to the number of teachers super-
18 vised.

19 STATE MINIMUM SALARY INCREMENT
20 RATES FOR PRINCIPALS
21 EFFECTIVE UNTIL JULY 1, 2002

22	No. of Teachers	
23	Supervised	Rates
24	1-7	9.0%
25	8-14	9.5%
26	15-24	10.0%
27	25-38	10.5%
28	39-57	11.0%
29	58 and up	11.5%

30 STATE MINIMUM SALARY INCREMENT
31 RATES FOR PRINCIPALS
32 EFFECTIVE ON AND AFTER JULY 1, 2002

33	No. of Teachers	
34	Supervised	Rates
35	1-7	10.0%
36	8-14	10.5%
37	15-24	11.0%
38	25-38	11.5%
39	39-57	12.0%
40	58 and up	12.5%

41 The salary increment in this section for each assistant
42 principal shall be determined in the same manner as that

43 for principals, utilizing the number of teachers supervised
44 by the principal under whose direction the assistant
45 principal works, except that the percentage rate shall be
46 fifty percent of the rate prescribed for the principal.

47 Salaries for employment beyond the minimum employ-
48 ment term shall be at the same daily rate as the salaries for
49 the minimum employment terms.

50 For the purpose of determining the number of teachers
51 supervised by a principal, the county board shall use data
52 for the second school month of the prior school term and
53 the number of teachers shall be interpreted to mean the
54 total number of professional educators assigned to each
55 school on a full-time equivalency basis: *Provided*, That if
56 there is a change in circumstances because of consolidation
57 or catastrophe, the county board shall determine what is a
58 reasonable number of supervised teachers in order to
59 establish the appropriate increment percentage rate.

60 No county may reduce local funds allocated for salary
61 increments for principals and assistant principals in effect
62 on the first day of January, two thousand two, and used in
63 supplementing the state minimum salaries as provided for
64 in this article, unless forced to do so by defeat of a special
65 levy, or a loss in assessed values or events over which it has
66 no control and for which the county board has received
67 approval from the state board prior to making the reduc-
68 tion.

69 Nothing in this section prevents a county board from
70 providing, in a uniform manner, salary increments greater
71 than those required by this section.

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

1 (a) For the purposes of this section, salary equity among
2 the counties means that the salary potential of school
3 employees employed by the various districts throughout
4 the state does not differ by greater than ten percent

5 between those offering the highest salaries and those
6 offering the lowest salaries. In the case of professional
7 educators, the difference shall be calculated utilizing the
8 average of the professional educator salary schedules,
9 degree classifications B.A. through doctorate and the
10 years of experience provided for in the most recent state
11 minimum salary schedule for teachers, in effect in the five
12 counties offering the highest salary schedules compared to
13 the lowest salary schedule in effect among the fifty-five
14 counties. In the case of school service personnel, the
15 difference shall be calculated utilizing the average of the
16 school service personnel salary schedules, pay grades "A"
17 through "H" and the years of experience provided for in
18 the most recent state minimum pay scale pay grade for
19 service personnel, in effect in the five counties offering the
20 highest salary schedules compared to the lowest salary
21 schedule in effect among the fifty-five counties.

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

37 (b) To assist the state in meeting its objective of salary
38 equity among the counties, as defined in subsection (a) of
39 this section, on and after the first day of July, one thou-
40 sand nine hundred eighty-four, subject to available state
41 appropriations and the conditions set forth herein, each

42 teacher and school service personnel shall receive a
43 supplemental amount in addition to the amount from the
44 state minimum salary schedules provided for in this
45 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 apportioned
50 between teachers and school service personnel in direct
51 proportion to that amount necessary to support the
52 professional salaries and service personnel salaries state-
53 wide under sections four and five, article nine-a, chapter
54 eighteen of this code: *Provided*, That in making this
55 division an adequate amount of state equity funds shall be
56 reserved to finance the appropriate foundation allowances
57 and staffing incentives provided for in article nine-a,
58 chapter eighteen of this code.

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

76 No county may reduce any salary supplement that was
77 in effect on the first day of January, one thousand nine

78 hundred eighty-four, except as permitted by sections five-a
79 and five-b of this article.

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

1 (a) A county board of education shall make decisions
2 affecting the hiring of professional personnel other than
3 classroom teachers on the basis of the applicant with the
4 highest qualifications.

5 (b) The county board shall make decisions affecting the
6 hiring of new classroom teachers on the basis of the
7 applicant with the highest qualifications.

8 (c) In judging qualifications for hiring employees
9 pursuant to subsections (a) and (b) of this section, consid-
10 eration shall be given to each of the following:

11 (1) Appropriate certification and/or licensure;

12 (2) Amount of experience relevant to the position; or, in
13 the case of a classroom teaching position, the amount of
14 teaching experience in the subject area;

15 (3) The amount of course work and/or degree level in the
16 relevant field and degree level generally;

17 (4) Academic achievement;

18 (5) Relevant specialized training;

19 (6) Past performance evaluations conducted pursuant to
20 section twelve, article two of this chapter; and

21 (7) Other measures or indicators upon which the relative
22 qualifications of the applicant may fairly be judged.

23 (d) If one or more permanently employed instructional
24 personnel apply for a classroom teaching position and meet
25 the standards set forth in the job posting, the county board
26 of education shall make decisions affecting the filling of
27 such positions on the basis of the following criteria:

- 28 (1) Appropriate certification and/or licensure;
- 29 (2) Total amount of teaching experience;
- 30 (3) The existence of teaching experience in the required
31 certification area;
- 32 (4) Degree level in the required certification area;
- 33 (5) Specialized training directly related to the perfor-
34 mance of the job as stated in the job description;
- 35 (6) Receiving an overall rating of satisfactory in evalua-
36 tions over the previous two years; and
- 37 (7) Seniority.

38 (e) In filling positions pursuant to subsection (d) of this
39 section, consideration shall be given to each criterion with
40 each criterion being given equal weight. If the applicant
41 with the most seniority is not selected for the position,
42 upon the request of the applicant a written statement of
43 reasons shall be given to the applicant with suggestions for
44 improving the applicant's qualifications.

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

53 (g) Upon completion of one hundred thirty-three days of
54 employment in any one school year, substitute teachers,
55 except retired teachers and other retired professional
56 educators employed as substitutes, shall accrue seniority
57 exclusively for the purpose of applying for employment as
58 a permanent, full-time professional employee. One
59 hundred thirty-three days or more of said employment

60 shall be prorated and shall vest as a fraction of the school
61 year worked by the permanent, full-time teacher.

62 (h) Guidance counselors and all other professional
63 employees, as defined in section one, article one of this
64 chapter, except classroom teachers, shall gain seniority in
65 their nonteaching area of professional employment on the
66 basis of the length of time the employee has been employed
67 by the county board of education in that area: *Provided*,
68 That if an employee is certified as a classroom teacher, the
69 employee accrues classroom teaching seniority for the time
70 that that employee is employed in another professional
71 area. For the purposes of accruing seniority under this
72 paragraph, employment as principal, supervisor or central
73 office administrator, as defined in section one, article one
74 of this chapter, shall be considered one area of employ-
75 ment.

76 (i) Employment for a full employment term shall equal
77 one year of seniority, but no employee may accrue more
78 than one year of seniority during any given fiscal year.
79 Employment for less than the full employment term shall
80 be prorated. A random selection system established by the
81 employees and approved by the board shall be used to
82 determine the priority if two or more employees accumu-
83 late identical seniority: *Provided*, That when two or more
84 principals have accumulated identical seniority, decisions
85 on reductions in force shall be based on qualifications.

86 (j) Whenever a county board is required to reduce the
87 number of professional personnel in its employment, the
88 employee with the least amount of seniority shall be
89 properly notified and released from employment pursuant
90 to the provisions of section two, article two of this chapter.
91 The provisions of this subsection are subject to the follow-
92 ing:

93 (1) All persons employed in a certification area to be
94 reduced who are employed under a temporary permit shall

95 be properly notified and released before a fully certified
96 employee in such a position is subject to release;

97 (2) An employee subject to release shall be employed in
98 any other professional position where such employee is
99 certified and was previously employed or to any lateral
100 area for which such employee is certified and/or licensed,
101 if such employee's seniority is greater than the seniority of
102 any other employee in that area of certification and/or
103 licensure;

104 (3) If an employee subject to release holds certification
105 and/or licensure in more than one lateral area and if such
106 employee's seniority is greater than the seniority of any
107 other employee in one or more of those areas of certifica-
108 tion and/or licensure, the employee subject to release shall
109 be employed in the professional position held by the
110 employee with the least seniority in any of those areas of
111 certification and/or licensure; and

112 (4) If, prior to the first day of August of the year a
113 reduction in force is approved, the reason for any particu-
114 lar reduction in force no longer exists as determined by the
115 county board in its sole and exclusive judgment, the board
116 shall rescind the reduction in force or transfer and shall
117 notify the released employee in writing of his or her right
118 to be restored to his or her position of employment. Within
119 five days of being so notified, the released employee shall
120 notify the board, in writing, of his or her intent to resume
121 his or her position of employment or the right to be
122 restored shall terminate. Notwithstanding any other
123 provision of this subdivision, if there is another employee
124 on the preferred recall list with proper certification and
125 higher seniority, that person shall be placed in the position
126 restored as a result of the reduction in force being re-
127 scinded.

128 (k) For the purpose of this article, all positions which
129 meet the definition of classroom teacher as defined in
130 section one, article one of this chapter shall be lateral

131 positions. For all other professional positions the county
132 board of education shall adopt a policy by the thirty-first
133 day of October, one thousand nine hundred ninety-three,
134 and may modify said policy thereafter as necessary, which
135 defines which positions shall be lateral positions. The
136 board shall submit a copy of its policy to the state board
137 within thirty days of adoption or any modification, and the
138 state board shall compile a report and submit same to the
139 legislative oversight commission on education accountabil-
140 ity by the thirty-first day of December, one thousand nine
141 hundred ninety-three, and by such date in any succeeding
142 year in which any county board submits a modification of
143 its policy relating to lateral positions. In adopting such a
144 policy, the board shall give consideration to the rank of
145 each position in terms of title, nature of responsibilities,
146 salary level, certification and/or licensure and days in the
147 period of employment.

148 (1) After the fifth day prior to the beginning of the
149 instructional term, no person employed and assigned to a
150 professional position may transfer to another professional
151 position in the county during that instructional term unless
152 the person holding that position does not have valid
153 certification. The provisions of this subsection are subject
154 to the following:

155 (1) The person may apply for any posted, vacant posi-
156 tions with the successful applicant assuming the position
157 at the beginning of the next instructional term;

158 (2) Professional personnel who have been on an ap-
159 proved leave of absence may fill these vacancies upon their
160 return from the approved leave of absence; and

161 (3) The county board, upon recommendation of the
162 superintendent may fill a position before the next instruc-
163 tional term when it is determined to be in the best interest
164 of the students: *Provided*, That the county superintendent
165 shall notify the state board of each transfer of a person
166 employed in a professional position to another professional

167 position after the fifth day prior to the beginning of the
168 instructional term. The Legislature finds that it is not in
169 the best interest of the students particularly in the elemen-
170 tary grades to have multiple teachers for any one grade
171 level or course during the instructional term. It is the
172 intent of the Legislature that the filling of positions
173 through transfers of personnel from one professional
174 position to another after the fifth day prior to the begin-
175 ning of the instructional term should be kept to a mini-
176 mum.

177 (m) All professional personnel whose seniority with the
178 county board is insufficient to allow their retention by the
179 county board during a reduction in work force shall be
180 placed upon a preferred recall list. As to any professional
181 position opening within the area where they had previ-
182 ously been employed or to any lateral area for which they
183 have certification and/or licensure, the employee shall be
184 recalled on the basis of seniority if no regular, full-time
185 professional personnel, or those returning from leaves of
186 absence with greater seniority, are qualified, apply for and
187 accept such position.

188 (n) Before position openings that are known or expected
189 to extend for twenty consecutive employment days or
190 longer for professional personnel may be filled by the
191 board, the board shall be required to notify all qualified
192 professional personnel on the preferred list and give them
193 an opportunity to apply, but failure to apply shall not
194 cause the employee to forfeit any right to recall. The
195 notice shall be sent by certified mail to the last known
196 address of the employee, and it shall be the duty of each
197 professional personnel to notify the board of continued
198 availability annually, of any change in address or of any
199 change in certification and/or licensure.

200 (o) Openings in established, existing or newly created
201 positions shall be processed as follows:

202 (1) Boards shall be required to post and date notices
203 which shall be subject to the following:

204 (A) The notices shall be posted in conspicuous working
205 places for all professional personnel to observe for at least
206 five working days;

207 (B) The notice shall be posted within twenty working
208 days of the position openings and shall include the job
209 description;

210 (C) Any special criteria or skills that are required by the
211 position shall be specifically stated in the job description
212 and directly related to the performance of the job;

213 (D) Postings for vacancies made pursuant to this section
214 shall be written so as to ensure that the largest possible
215 pool of qualified applicants may apply; and

216 (E) Job postings may not require criteria which are not
217 necessary for the successful performance of the job and
218 may not be written with the intent to favor a specific
219 applicant;

220 (2) No vacancy shall be filled until after the five-day
221 minimum posting period;

222 (3) If one or more applicants meets the qualifications
223 listed in the job posting, the successful applicant to fill the
224 vacancy shall be selected by the board within thirty
225 working days of the end of the posting period;

226 (4) A position held by a certified and/or licensed teacher
227 who has been issued a permit for full-time employment
228 and is working toward certification in the permit area
229 shall not be subject to posting if the certificate is awarded
230 within five years; and

231 (5) Nothing provided herein shall prevent the county
232 board of education from eliminating a position due to lack
233 of need.

234 (p) Notwithstanding any other provision of the code to
235 the contrary, where the total number of classroom teaching
236 positions in an elementary school does not increase from

237 one school year to the next, but there exists in that school
238 a need to realign the number of teachers in one or more
239 grade levels, kindergarten through six, teachers at the
240 school may be reassigned to grade levels for which they are
241 certified without that position being posted: *Provided*,
242 That the employee and the county board of education
243 mutually agree to the reassignment.

244 (q) Reductions in classroom teaching positions in
245 elementary schools shall be processed as follows:

246 (1) When the total number of classroom teaching
247 positions in an elementary school needs to be reduced, the
248 reduction shall be made on the basis of seniority with the
249 least senior classroom teacher being recommended for
250 transfer; and

251 (2) When a specified grade level needs to be reduced and
252 the least senior employee in the school is not in that grade
253 level, the least senior classroom teacher in the grade level
254 that needs to be reduced shall be reassigned to the position
255 made vacant by the transfer of the least senior classroom
256 teacher in the school without that position being posted:
257 *Provided*, That the employee is certified and/or licensed
258 and agrees to the reassignment.

259 (r) Any board failing to comply with the provisions of
260 this article may be compelled to do so by mandamus and
261 shall be liable to any party prevailing against the board for
262 court costs and reasonable attorney fees as determined and
263 established by the court. Further, employees denied
264 promotion or employment in violation of this section shall
265 be awarded the job, pay and any applicable benefits
266 retroactive to the date of the violation and payable entirely
267 from local funds. Further, the board shall be liable to any
268 party prevailing against the board for any court reporter
269 costs including copies of transcripts.

270 (s) The county board shall compile, update annually on
271 the first day of July and make available by electronic or

272 other means to all employees a list of all professional
273 personnel employed by the county, their areas of certifica-
274 tion and their seniority.

**§18A-4-8. Employment term and class titles of service person-
nel; definitions.**

1 (a) The purpose of this section is to establish an employ-
2 ment term and class titles for service personnel. The
3 employment term for service personnel may be no less than
4 ten months. A month is defined as twenty employment
5 days: *Provided*, That the county board may contract with
6 all or part of these service personnel for a longer term. The
7 beginning and closing dates of the ten-month employment
8 term may not exceed forty-three weeks.

9 (b) Service personnel employed on a yearly or twelve-
10 month basis may be employed by calendar months.
11 Whenever there is a change in job assignment during the
12 school year, the minimum pay scale and any county
13 supplement are applicable.

14 (c) Service personnel employed in the same classification
15 for more than the two hundred day minimum employment
16 term shall be paid for additional employment at a daily
17 rate of not less than the daily rate paid for the two hun-
18 dred day minimum employment term.

19 (d) No service employee, without his or her agreement,
20 may be required to report for work more than five days per
21 week and no part of any working day may be accumulated
22 by the employer for future work assignments, unless the
23 employee agrees thereto.

24 (e) If an employee whose regular work week is scheduled
25 from Monday through Friday agrees to perform any work
26 assignments on a Saturday or Sunday, the employee shall
27 be paid for at least one-half day of work for each day he or
28 she reports for work, and if the employee works more than
29 three and one-half hours on any Saturday or Sunday, he or

30 she shall be paid for at least a full day of work for each
31 day.

32 (f) Custodians, aides, maintenance, office and school
33 lunch employees required to work a daily work schedule
34 that is interrupted, that is, who do not work a continuous
35 period in one day, shall be paid additional compensation
36 equal to at least one eighth of their total salary as provided
37 by their state minimum salary and any county pay supple-
38 ment, and payable entirely from county funds: *Provided*,
39 That when engaged in duties of transporting students
40 exclusively, aides shall not be regarded as working an
41 interrupted schedule. Maintenance personnel are defined
42 as personnel who hold a classification title other than in a
43 custodial, aide, school lunch, office or transportation
44 category as provided in section one, article one of this
45 chapter.

46 (g) Upon the change in classification or upon meeting
47 the requirements of an advanced classification of or by any
48 employee, the employee's salary shall be made to comply
49 with the requirements of this article, and to any county
50 salary schedule in excess of the minimum requirements of
51 this article, based upon the employee's advanced classifi-
52 cation and allowable years of employment.

53 (h) An employee's contract as provided in section five,
54 article two of this chapter shall state the appropriate
55 monthly salary the employee is to be paid, based on the
56 class title as provided in this article and any county salary
57 schedule in excess of the minimum requirements of this
58 article.

59 (i) The column heads of the state minimum pay scale and
60 class titles, set forth in section eight-a of this article, are
61 defined as follows:

62 (1) "Pay grade" means the monthly salary applicable to
63 class titles of service personnel;

64 (2) "Years of employment" means the number of years
65 which an employee classified as service personnel has been
66 employed by a board in any position prior to or subsequent
67 to the effective date of this section and including service in
68 the armed forces of the United States, if the employee were
69 employed at the time of his or her induction. For the
70 purpose of section eight-a of this article, years of employ-
71 ment shall be limited to the number of years shown and
72 allowed under the state minimum pay scale as set forth in
73 section eight-a of this article;

74 (3) "Class title" means the name of the position or job
75 held by service personnel;

76 (4) "Accountant I" means personnel employed to
77 maintain payroll records and reports and perform one or
78 more operations relating to a phase of the total payroll;

79 (5) "Accountant II" means personnel employed to
80 maintain accounting records and to be responsible for the
81 accounting process associated with billing, budgets,
82 purchasing and related operations;

83 (6) "Accountant III" means personnel who are employed
84 in the county board office to manage and supervise
85 accounts payable and/or payroll procedures;

86 (7) "Accounts payable supervisor" means personnel who
87 are employed in the county board office who have primary
88 responsibility for the accounts payable function, which
89 may include the supervision of other personnel, and who
90 have either completed twelve college hours of accounting
91 courses from an accredited institution of higher education
92 or have at least eight years of experience performing
93 progressively difficult accounting tasks;

94 (8) "Aide I" means those personnel selected and trained
95 for teacher-aide classifications such as monitor aide,
96 clerical aide, classroom aide or general aide;

97 (9) "Aide II" means those personnel referred to in the
98 "Aide I" classification who have completed a training

99 program approved by the state board, or who hold a high
100 school diploma or have received a general educational
101 development certificate. Only personnel classified in an
102 Aide II class title may be employed as an aide in any
103 special education program;

104 (10) "Aide III" means those personnel referred to in the
105 "Aide I" classification who hold a high school diploma or
106 a general educational development certificate and have
107 completed six semester hours of college credit at an
108 institution of higher education or are employed as an aide
109 in a special education program and have one year's experi-
110 ence as an aide in special education;

111 (11) "Aide IV" means personnel referred to in the "Aide
112 I" classification who hold a high school diploma or a
113 general educational development certificate and who have
114 completed eighteen hours of state board-approved college
115 credit at a regionally accredited institution of higher
116 education, or who have completed fifteen hours of state
117 board-approved college credit at a regionally accredited
118 institution of higher education and successfully completed
119 an in-service training program determined by the state
120 board to be the equivalent of three hours of college credit;

121 (12) "Audiovisual technician" means personnel em-
122 ployed to perform minor maintenance on audiovisual
123 equipment, films, supplies and the filling of requests for
124 equipment;

125 (13) "Auditor" means personnel employed to examine
126 and verify accounts of individual schools and to assist
127 schools and school personnel in maintaining complete and
128 accurate records of their accounts;

129 (14) "Autism mentor" means personnel who work with
130 autistic students and who meet standards and experience
131 to be determined by the state board: *Provided*, That if any
132 employee has held or holds an aide title and becomes
133 employed as an autism mentor, the employee shall hold a

134 multiclassification status that includes aide and autism
135 mentor titles, in accordance with section eight-b of this
136 article;

137 (15) "Braille or sign language specialist" means person-
138 nel employed to provide braille and/or sign language
139 assistance to students: *Provided*, That if any employee has
140 held or holds an aide title and becomes employed as a
141 braille or sign language specialist, the employee shall hold
142 a multiclassification status that includes aide and braille
143 or sign language specialist title, in accordance with section
144 eight-b of this article;

145 (16) "Bus operator" means personnel employed to
146 operate school buses and other school transportation
147 vehicles as provided by the state board;

148 (17) "Buyer" means personnel employed to review and
149 write specifications, negotiate purchase bids and recom-
150 mend purchase agreements for materials and services that
151 meet predetermined specifications at the lowest available
152 costs;

153 (18) "Cabinetmaker" means personnel employed to
154 construct cabinets, tables, bookcases and other furniture;

155 (19) "Cafeteria manager" means personnel employed to
156 direct the operation of a food services program in a school,
157 including assigning duties to employees, approving requisitions
158 for supplies and repairs, keeping inventories, inspecting
159 areas to maintain high standards of sanitation, preparing
160 financial reports and keeping records pertinent to food
161 services of a school;

162 (20) "Carpenter I" means personnel classified as a
163 carpenter's helper;

164 (21) "Carpenter II" means personnel classified as a
165 journeyman carpenter;

166 (22) "Chief mechanic" means personnel employed to be
167 responsible for directing activities which ensure that

168 student transportation or other board-owned vehicles are
169 properly and safely maintained;

170 (23) "Clerk I" means personnel employed to perform
171 clerical tasks;

172 (24) "Clerk II" means personnel employed to perform
173 general clerical tasks, prepare reports and tabulations and
174 operate office machines;

175 (25) "Computer operator" means qualified personnel
176 employed to operate computers;

177 (26) "Cook I" means personnel employed as a cook's
178 helper;

179 (27) "Cook II" means personnel employed to interpret
180 menus, to prepare and serve meals in a food service
181 program of a school and shall include personnel who have
182 been employed as a "Cook I" for a period of four years, if
183 the personnel have not been elevated to this classification
184 within that period of time;

185 (28) "Cook III" means personnel employed to prepare
186 and serve meals, make reports, prepare requisitions for
187 supplies, order equipment and repairs for a food service
188 program of a school system;

189 (29) "Crew leader" means personnel employed to
190 organize the work for a crew of maintenance employees to
191 carry out assigned projects;

192 (30) "Custodian I" means personnel employed to keep
193 buildings clean and free of refuse;

194 (31) "Custodian II" means personnel employed as a
195 watchman or groundsman;

196 (32) "Custodian III" means personnel employed to keep
197 buildings clean and free of refuse, to operate the heating or
198 cooling systems and to make minor repairs;

199 (33) "Custodian IV" means personnel employed as head
200 custodians. In addition to providing services as defined in
201 "custodian III," their duties may include supervising other
202 custodian personnel;

203 (34) "Director or coordinator of services" means person-
204 nel who are assigned to direct a department or division.
205 Nothing in this subdivision may prohibit professional
206 personnel or professional educators as defined in section
207 one, article one of this chapter, from holding this class
208 title, but professional personnel may not be defined or
209 classified as service personnel unless the professional
210 personnel held a service personnel title under this section
211 prior to holding class title of "director or coordinator of
212 services." Directors or coordinators of service positions
213 shall be classified as either a professional personnel or
214 service personnel position for state aid formula funding
215 purposes and funding for directors or coordinators of
216 service positions shall be based upon the employment
217 status of the director or coordinator either as a profes-
218 sional personnel or service personnel;

219 (35) "Draftsman" means personnel employed to plan,
220 design and produce detailed architectural/engineering
221 drawings;

222 (36) "Electrician I" means personnel employed as an
223 apprentice electrician helper or who holds an electrician
224 helper license issued by the state fire marshal;

225 (37) "Electrician II" means personnel employed as an
226 electrician journeyman or who holds a journeyman electri-
227 cian license issued by the state fire marshal;

228 (38) "Electronic technician I" means personnel employed
229 at the apprentice level to repair and maintain electronic
230 equipment;

231 (39) "Electronic technician II" means personnel em-
232 ployed at the journeyman level to repair and maintain
233 electronic equipment;

234 (40) "Executive secretary" means personnel employed as
235 the county school superintendent's secretary or as a
236 secretary who is assigned to a position characterized by
237 significant administrative duties;

238 (41) "Food services supervisor" means qualified person-
239 nel not defined as professional personnel or professional
240 educators in section one, article one of this chapter,
241 employed to manage and supervise a county school sys-
242 tem's food service program. The duties would include
243 preparing in-service training programs for cooks and food
244 service employees, instructing personnel in the areas of
245 quantity cooking with economy and efficiency and keeping
246 aggregate records and reports;

247 (42) "Foremen" means skilled persons employed for
248 supervision of personnel who work in the areas of repair
249 and maintenance of school property and equipment;

250 (43) "General maintenance" means personnel employed
251 as helpers to skilled maintenance employees and to per-
252 form minor repairs to equipment and buildings of a county
253 school system;

254 (44) "Glazier" means personnel employed to replace
255 glass or other materials in windows and doors and to do
256 minor carpentry tasks;

257 (45) "Graphic artist" means personnel employed to
258 prepare graphic illustrations;

259 (46) "Groundsmen" means personnel employed to
260 perform duties that relate to the appearance, repair and
261 general care of school grounds in a county school system.
262 Additional assignments may include the operation of a
263 small heating plant and routine cleaning duties in build-
264 ings;

265 (47) "Handyman" means personnel employed to perform
266 routine manual tasks in any operation of the county school
267 system;

268 (48) "Heating and air conditioning mechanic I" means
269 personnel employed at the apprentice level to install,
270 repair and maintain heating and air conditioning plants
271 and related electrical equipment;

272 (49) "Heating and air conditioning mechanic II" means
273 personnel employed at the journeyman level to install,
274 repair and maintain heating and air conditioning plants
275 and related electrical equipment;

276 (50) "Heavy equipment operator" means personnel
277 employed to operate heavy equipment;

278 (51) "Inventory supervisor" means personnel who are
279 employed to supervise or maintain operations in the
280 receipt, storage, inventory and issuance of materials and
281 supplies;

282 (52) "Key punch operator" means qualified personnel
283 employed to operate key punch machines or verifying
284 machines;

285 (53) "Locksmith" means personnel employed to repair
286 and maintain locks and safes;

287 (54) "Lubrication man" means personnel employed to
288 lubricate and service gasoline or diesel-powered equipment
289 of a county school system;

290 (55) "Machinist" means personnel employed to perform
291 machinist tasks which include the ability to operate a
292 lathe, planer, shaper, threading machine and wheel press.
293 These personnel should also have, the ability to work from
294 blueprints and drawings;

295 (56) "Mail clerk" means personnel employed to receive,
296 sort, dispatch, deliver or otherwise handle letters, parcels
297 and other mail;

298 (57) "Maintenance clerk" means personnel employed to
299 maintain and control a stocking facility to keep adequate

300 tools and supplies on hand for daily withdrawal for all
301 school maintenance crafts;

302 (58) "Mason" means personnel employed to perform
303 tasks connected with brick and block laying and carpentry
304 tasks related to such laying;

305 (59) "Mechanic" means personnel employed who can
306 independently perform skilled duties in the maintenance
307 and repair of automobiles, school buses and other mechan-
308 ical and mobile equipment to use in a county school
309 system;

310 (60) "Mechanic assistant" means personnel employed as
311 a mechanic apprentice and helper;

312 (61) "Multiclassification" means personnel employed to
313 perform tasks that involve the combination of two or more
314 class titles in this section. In these instances the minimum
315 salary scale shall be the higher pay grade of the class titles
316 involved;

317 (62) "Office equipment repairman I" means personnel
318 employed as an office equipment repairman apprentice or
319 helper;

320 (63) "Office equipment repairman II" means personnel
321 responsible for servicing and repairing all office machines
322 and equipment. Personnel are responsible for parts being
323 purchased necessary for the proper operation of a program
324 of continuous maintenance and repair;

325 (64) "Painter" means personnel employed to perform
326 duties of painting, finishing and decorating of wood, metal
327 and concrete surfaces of buildings, other structures,
328 equipment, machinery and furnishings of a county school
329 system;

330 (65) "Paraprofessional" means a person certified
331 pursuant to section two-a, article three of this chapter to
332 perform duties in a support capacity including, but not
333 limited to, facilitating in the instruction and direct or

334 indirect supervision of pupils under the direction of a
335 principal, a teacher or another designated professional
336 educator: *Provided*, That no person employed on the
337 effective date of this section in the position of an aide may
338 be reduced in force or transferred to create a vacancy for
339 the employment of a paraprofessional: *Provided, however*,
340 That if any employee has held or holds an aide title and
341 becomes employed as a paraprofessional, the employee
342 shall hold a multiclassification status that includes aide
343 and paraprofessional titles in accordance with section
344 eight-b of this article: *Provided further*, That once an
345 employee who holds an aide title becomes certified as a
346 paraprofessional and is required to perform duties that
347 may not be performed by an aide without paraprofessional
348 certification, he or she shall receive the paraprofessional
349 title pay grade;

350 (66) "Payroll supervisor" means personnel who are
351 employed in the county board office who have primary
352 responsibility for the payroll function, which may include
353 the supervision of other personnel, and who have either
354 completed twelve college hours of accounting from an
355 accredited institution of higher education or have at least
356 eight years of experience performing progressively difficult
357 accounting tasks;

358 (67) "Plumber I" means personnel employed as an
359 apprentice plumber and helper;

360 (68) "Plumber II" means personnel employed as a
361 journeyman plumber;

362 (69) "Printing operator" means personnel employed to
363 operate duplication equipment, and as required, to cut,
364 collate, staple, bind and shelve materials;

365 (70) "Printing supervisor" means personnel employed to
366 supervise the operation of a print shop;

367 (71) "Programmer" means personnel employed to design
368 and prepare programs for computer operation;

369 (72) "Roofing/sheet metal mechanic" means personnel
370 employed to install, repair, fabricate and maintain roofs,
371 gutters, flashing and duct work for heating and ventila-
372 tion;

373 (73) "Sanitation plant operator" means personnel
374 employed to operate and maintain a water or sewage
375 treatment plant to ensure the safety of the plant's effluent
376 for human consumption or environmental protection;

377 (74) "School bus supervisor" means qualified personnel
378 employed to assist in selecting school bus operators and
379 routing and scheduling of school buses, operate a bus when
380 needed, relay instructions to bus operators, plan emergency
381 routing of buses and promoting good relationships with
382 parents, pupils, bus operators and other employees;

383 (75) "Secretary I" means personnel employed to tran-
384 scribe from notes or mechanical equipment, receive callers,
385 perform clerical tasks, prepare reports and operate office
386 machines;

387 (76) "Secretary II" means personnel employed in any
388 elementary, secondary, kindergarten, nursery, special
389 education, vocational or any other school as a secretary.
390 The duties may include performing general clerical tasks,
391 transcribing from notes or stenotype or mechanical
392 equipment or a sound-producing machine, preparing
393 reports, receiving callers and referring them to proper
394 persons, operating office machines, keeping records and
395 handling routine correspondence. There is nothing implied
396 in this subdivision that would prevent the employees from
397 holding or being elevated to a higher classification;

398 (77) "Secretary III" means personnel assigned to the
399 county board office administrators in charge of various
400 instructional, maintenance, transportation, food services,
401 operations and health departments, federal programs or
402 departments with particular responsibilities of purchasing
403 and financial control or any personnel who have served in

404 a position which meets the definition of "secretary II" or
405 "secretary III" in this section for eight years;

406 (78) "Supervisor of maintenance" means skilled person-
407 nel not defined as professional personnel or professional
408 educators as in section one, article one of this chapter. The
409 responsibilities would include directing the upkeep of
410 buildings and shops, issuing instructions to subordinates
411 relating to cleaning, repairs and maintenance of all
412 structures and mechanical and electrical equipment of a
413 board;

414 (79) "Supervisor of transportation" means qualified
415 personnel employed to direct school transportation
416 activities, properly and safely, and to supervise the mainte-
417 nance and repair of vehicles, buses and other mechanical
418 and mobile equipment used by the county school system;

419 (80) "Switchboard operator-receptionist" means person-
420 nel employed to refer incoming calls, to assume contact
421 with the public, to direct and to give instructions as
422 necessary, to operate switchboard equipment and to
423 provide clerical assistance;

424 (81) "Truck driver" means personnel employed to
425 operate light or heavy duty gasoline and diesel-powered
426 vehicles;

427 (82) "Warehouse clerk" means personnel employed to be
428 responsible for receiving, storing, packing and shipping
429 goods;

430 (83) "Watchman" means personnel employed to protect
431 school property against damage or theft. Additional
432 assignments may include operation of a small heating
433 plant and routine cleaning duties;

434 (84) "Welder" means personnel employed to provide
435 acetylene or electric welding services for a school system;
436 and

437 (85) "WVEIS data entry and administrative clerk"
438 means personnel employed to work under the direction of

439 a school principal to assist the school counselor or counsel-
440 ors in the performance of administrative duties, to perform
441 data entry tasks on the West Virginia education informa-
442 tion system, and to perform other administrative duties
443 assigned by the principal.

444 (j) In addition to the compensation provided for in
445 section eight-a of this article, for service personnel, each
446 service employee is, notwithstanding any provisions in this
447 code to the contrary, entitled to all service personnel
448 employee rights, privileges and benefits provided under
449 this or any other chapter of this code without regard to the
450 employee's hours of employment or the methods or sources
451 of compensation.

452 (k) Service personnel whose years of employment exceed
453 the number of years shown and provided for under the
454 state minimum pay scale set forth in section eight-a of this
455 article may not be paid less than the amount shown for the
456 maximum years of employment shown and provided for in
457 the classification in which he or she is employed.

458 (l) The county boards shall review each service personnel
459 employee job classification annually and shall reclassify all
460 service employees as required by the job classifications.
461 The state superintendent of schools may withhold state
462 funds appropriated pursuant to this article for salaries for
463 service personnel who are improperly classified by the
464 county boards. Further, the state superintendent shall
465 order county boards to correct immediately any improper
466 classification matter and with the assistance of the attor-
467 ney general shall take any legal action necessary against
468 any county board to enforce the order.

469 (m) No service employee, without his or her written
470 consent, may be reclassified by class title, nor may a
471 service employee, without his or her written consent, be
472 relegated to any condition of employment which would
473 result in a reduction of his or her salary, rate of pay,
474 compensation or benefits earned during the current fiscal

475 year or which would result in a reduction of his or her
476 salary, rate of pay, compensation or benefits for which he
477 or she would qualify by continuing in the same job position
478 and classification held during that fiscal year and subse-
479 quent years.

480 (n) Any board failing to comply with the provisions of
481 this article may be compelled to do so by mandamus, and
482 is liable to any party prevailing against the board for court
483 costs and the prevailing party's reasonable attorney fee, as
484 determined and established by the court.

485 (o) Notwithstanding any provisions in this code to the
486 contrary, service personnel who hold a continuing contract
487 in a specific job classification and who are physically
488 unable to perform the job's duties as confirmed by a
489 physician chosen by the employee shall be given priority
490 status over any employee not holding a continuing contract
491 in filling other service personnel job vacancies if qualified
492 as provided in section eight-e of this article.

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

1 (1) Until the first day of July, two thousand two, the
2 minimum monthly pay for each service employee whose
3 employment is for a period of more than three and one-half
4 hours a day shall be at least the amounts indicated in the
5 "state minimum pay scale pay grade I" and the minimum
6 monthly pay for each service employee whose employment
7 is for a period of three and one-half hours or less a day
8 shall be at least one-half the amount indicated in the
9 "state minimum pay scale pay grade I" set forth in this
10 section. Beginning the first day of July, two thousand two,
11 the minimum monthly pay for each service employee
12 whose employment is for a period of more than three and
13 one-half hours a day shall be at least the amounts indi-
14 cated in the "state minimum pay scale pay grade II" and
15 the minimum monthly pay for each service employee
16 whose employment is for a period of three and one-half
17 hours or less a day shall be at least one-half the amount

- 18 indicated in the "state minimum pay scale pay grade II"
 19 set forth in this section.

STATE MINIMUM PAY SCALE PAY GRADE I

Years of Employment	Pay Grade							
	A	B	C	D	E	F	G	H
0	1,295	1,315	1,355	1,405	1,455	1,515	1,545	1,615
1	1,325	1,345	1,385	1,435	1,485	1,545	1,575	1,645
2	1,355	1,375	1,415	1,465	1,515	1,575	1,605	1,675
3	1,385	1,405	1,445	1,495	1,545	1,605	1,635	1,705
4	1,415	1,435	1,475	1,525	1,575	1,635	1,665	1,735
5	1,445	1,465	1,505	1,555	1,605	1,665	1,695	1,765
6	1,475	1,495	1,535	1,585	1,635	1,695	1,725	1,795
7	1,505	1,525	1,565	1,615	1,665	1,725	1,755	1,825
8	1,535	1,555	1,595	1,645	1,695	1,755	1,785	1,855
9	1,565	1,585	1,625	1,675	1,725	1,785	1,815	1,885
10	1,595	1,615	1,655	1,705	1,755	1,815	1,845	1,915
11	1,625	1,645	1,685	1,735	1,785	1,845	1,875	1,945
12	1,655	1,675	1,715	1,765	1,815	1,875	1,905	1,975
13	1,685	1,705	1,745	1,795	1,845	1,905	1,935	2,005
14	1,715	1,735	1,775	1,825	1,875	1,935	1,965	2,035
15	1,745	1,765	1,805	1,855	1,905	1,965	1,995	2,065
16	1,775	1,795	1,835	1,885	1,935	1,995	2,025	2,095
17	1,805	1,825	1,865	1,915	1,965	2,025	2,055	2,125
18	1,835	1,855	1,895	1,945	1,995	2,055	2,085	2,155
19	1,865	1,885	1,925	1,975	2,025	2,085	2,115	2,185
20	1,895	1,915	1,955	2,005	2,055	2,115	2,145	2,215
21	1,925	1,945	1,985	2,035	2,085	2,145	2,175	2,245
22	1,955	1,975	2,015	2,065	2,115	2,175	2,205	2,275
23	1,985	2,005	2,045	2,095	2,145	2,205	2,235	2,305
24	2,015	2,035	2,075	2,125	2,175	2,235	2,265	2,335
25	2,045	2,065	2,105	2,155	2,205	2,265	2,295	2,365
26	2,075	2,095	2,135	2,185	2,235	2,295	2,325	2,395
27	2,105	2,125	2,165	2,215	2,265	2,325	2,355	2,425
28	2,135	2,155	2,195	2,245	2,295	2,355	2,385	2,455
29	2,165	2,185	2,225	2,275	2,325	2,385	2,415	2,485
30	2,195	2,215	2,255	2,305	2,355	2,415	2,445	2,515

31	2,225	2,245	2,285	2,335	2,385	2,445	2,475	2,545
32	2,255	2,275	2,315	2,365	2,415	2,475	2,505	2,575
33	2,285	2,305	2,345	2,395	2,445	2,505	2,535	2,605
34	2,315	2,335	2,375	2,425	2,475	2,535	2,565	2,635
35	2,345	2,365	2,405	2,455	2,505	2,565	2,595	2,665
36	2,375	2,395	2,435	2,485	2,535	2,595	2,625	2,695
37	2,405	2,425	2,465	2,515	2,565	2,625	2,655	2,725
38	2,435	2,455	2,495	2,545	2,595	2,655	2,685	2,755
39	2,465	2,485	2,525	2,575	2,625	2,685	2,715	2,785
40	2,495	2,515	2,555	2,605	2,655	2,715	2,745	2,815

STATE MINIMUM PAY SCALE PAY GRADE II

Years of Employment	Pay Grade							
	A	B	C	D	E	F	G	H
0	1,366	1,386	1,426	1,476	1,526	1,586	1,616	1,686
1	1,397	1,417	1,457	1,507	1,557	1,617	1,647	1,717
2	1,428	1,448	1,488	1,538	1,588	1,648	1,678	1,748
3	1,459	1,479	1,519	1,569	1,619	1,679	1,709	1,779
4	1,490	1,510	1,550	1,600	1,650	1,710	1,740	1,810
5	1,521	1,541	1,581	1,631	1,681	1,741	1,771	1,841
6	1,552	1,572	1,612	1,662	1,712	1,772	1,802	1,872
7	1,583	1,603	1,643	1,693	1,743	1,803	1,833	1,903
8	1,614	1,634	1,674	1,724	1,774	1,834	1,864	1,934
9	1,645	1,665	1,705	1,755	1,805	1,865	1,895	1,965
10	1,676	1,696	1,736	1,786	1,836	1,896	1,926	1,996
11	1,707	1,727	1,767	1,817	1,867	1,927	1,957	2,027
12	1,738	1,758	1,798	1,848	1,898	1,958	1,988	2,058
13	1,769	1,789	1,829	1,879	1,929	1,989	2,019	2,089
14	1,800	1,820	1,860	1,910	1,960	2,020	2,050	2,120
15	1,831	1,851	1,891	1,941	1,991	2,051	2,081	2,151
16	1,862	1,882	1,922	1,972	2,022	2,082	2,112	2,182
17	1,893	1,913	1,953	2,003	2,053	2,113	2,143	2,213
18	1,924	1,944	1,984	2,034	2,084	2,144	2,174	2,244
19	1,955	1,975	2,015	2,065	2,115	2,175	2,205	2,275
20	1,986	2,006	2,046	2,096	2,146	2,206	2,236	2,306
21	2,017	2,037	2,077	2,127	2,177	2,237	2,267	2,337

22	2,048	2,068	2,108	2,158	2,208	2,268	2,298	2,368
23	2,079	2,099	2,139	2,189	2,239	2,299	2,329	2,399
24	2,110	2,130	2,170	2,220	2,270	2,330	2,360	2,430
25	2,141	2,161	2,201	2,251	2,301	2,361	2,391	2,461
26	2,172	2,192	2,232	2,282	2,332	2,392	2,422	2,492
27	2,203	2,223	2,263	2,313	2,363	2,423	2,453	2,523
28	2,234	2,254	2,294	2,344	2,394	2,454	2,484	2,554
29	2,265	2,285	2,325	2,375	2,425	2,485	2,515	2,585
30	2,296	2,316	2,356	2,406	2,456	2,516	2,546	2,616
31	2,327	2,347	2,387	2,437	2,487	2,547	2,577	2,647
32	2,358	2,378	2,418	2,468	2,518	2,578	2,608	2,678
33	2,389	2,409	2,449	2,499	2,549	2,609	2,639	2,709
34	2,420	2,440	2,480	2,530	2,580	2,640	2,670	2,740
35	2,451	2,471	2,511	2,561	2,611	2,671	2,701	2,771
36	2,482	2,502	2,542	2,592	2,642	2,702	2,732	2,802
37	2,513	2,533	2,573	2,623	2,673	2,733	2,763	2,833
38	2,544	2,564	2,604	2,654	2,704	2,764	2,794	2,864
39	2,575	2,595	2,635	2,685	2,735	2,795	2,825	2,895
40	2,606	2,626	2,666	2,716	2,766	2,826	2,856	2,926

20	CLASSTITLE	PAY GRADE
21	Accountant I	D
22	Accountant II	E
23	Accountant III	F
24	Accounts Payable Supervisor	G
25	Aide I	A
26	Aide II	B
27	Aide III	C
28	Aide IV	D
29	Audiovisual Technician	C
30	Auditor	G
31	Autism Mentor	E
32	Braille or Sign Language Specialist	E
33	Bus Operator	D
34	Buyer	F
35	Cabinetmaker	G
36	Cafeteria Manager	D
37	Carpenter I	E

38	Carpenter II	F
39	Chief Mechanic	G
40	Clerk I	B
41	Clerk II	C
42	Computer Operator	E
43	Cook I	A
44	Cook II	B
45	Cook III	C
46	Crew Leader	F
47	Custodian I	A
48	Custodian II	B
49	Custodian III	C
50	Custodian IV	D
51	Director or Coordinator of Services	H
52	Draftsman	D
53	Electrician I	F
54	Electrician II	G
55	Electronic Technician I	F
56	Electronic Technician II	G
57	Executive Secretary	G
58	Food Services Supervisor	G
59	Foreman	G
60	General Maintenance	C
61	Glazier	D
62	Graphic Artist	D
63	Groundsman	B
64	Handyman	B
65	Heating and Air Conditioning Mechanic I	E
66	Heating and Air Conditioning Mechanic II	G
67	Heavy Equipment Operator	E
68	Inventory Supervisor	D
69	Key Punch Operator	B
70	Locksmith	G
71	Lubrication Man	C
72	Machinist	F
73	Mail Clerk	D
74	Maintenance Clerk	C
75	Mason	G

76	Mechanic	F
77	Mechanic Assistant	E
78	Office Equipment Repairman I	F
79	Office Equipment Repairman II	G
80	Painter	E
81	Paraprofessional	F
82	Payroll Supervisor	G
83	Plumber I	E
84	Plumber II	G
85	Printing Operator	B
86	Printing Supervisor	D
87	Programmer	H
88	Roofing/Sheet Metal Mechanic	F
89	Sanitation Plant Operator	F
90	School Bus Supervisor	E
91	Secretary I	D
92	Secretary II	E
93	Secretary III	F
94	Supervisor of Maintenance	H
95	Supervisor of Transportation	H
96	Switchboard Operator-Receptionist	D
97	Truck Driver	D
98	Warehouse Clerk	C
99	Watchman	B
100	Welder	F
101	WVEIS Data Entry and Administrative Clerk	B

102 (2) An additional twelve dollars per month shall be
 103 added to the minimum monthly pay of each service
 104 employee who holds a high school diploma or its equiva-
 105 lent.

106 (3) Until the first day of July, two thousand two, an
 107 additional ten dollars per month also shall be added to the
 108 minimum monthly pay of each service employee for each
 109 of the following, and beginning the first day of July, two
 110 thousand two, the ten dollars per month shall be increased
 111 to an additional eleven dollars per month for each of
 112 subdivisions (A) through (J), inclusive, of this subsection

113 only, and beginning the first day of July, two thousand
114 two, the ten dollars per month shall be increased to an
115 additional forty dollars per month for each of subdivisions
116 (K) through (N), inclusive, of this subsection only:

117 (A) A service employee who holds twelve college hours
118 or comparable credit obtained in a trade or vocational
119 school as approved by the state board;

120 (B) A service employee who holds twenty-four college
121 hours or comparable credit obtained in a trade or voca-
122 tional school as approved by the state board;

123 (C) A service employee who holds thirty-six college
124 hours or comparable credit obtained in a trade or voca-
125 tional school as approved by the state board;

126 (D) A service employee who holds forty-eight college
127 hours or comparable credit obtained in a trade or voca-
128 tional school as approved by the state board;

129 (E) A service employee who holds sixty college hours or
130 comparable credit obtained in a trade or vocational school
131 as approved by the state board;

132 (F) A service employee who holds seventy-two college
133 hours or comparable credit obtained in a trade or voca-
134 tional school as approved by the state board;

135 (G) A service employee who holds eighty-four college
136 hours or comparable credit obtained in a trade or voca-
137 tional school as approved by the state board;

138 (H) A service employee who holds ninety-six college
139 hours or comparable credit obtained in a trade or voca-
140 tional school as approved by the state board;

141 (I) A service employee who holds one hundred eight
142 college hours or comparable credit obtained in a trade or
143 vocational school as approved by the state board;

144 (J) A service employee who holds one hundred twenty
145 college hours or comparable credit obtained in a trade or
146 vocational school as approved by the state board;

147 (K) A service employee who holds an associate's degree;

148 (L) A service employee who holds a bachelor's degree;

149 (M) A service employee who holds a master's degree;

150 (N) A service employee who holds a doctorate degree.

151 (4) Effective the first day of July, two thousand two, an
152 additional eleven dollars per month shall be added to the
153 minimum monthly pay of each service employee for each
154 of the following:

155 (A) A service employee who holds a bachelor's degree
156 plus fifteen college hours;

157 (B) A service employee who holds a master's degree plus
158 fifteen college hours;

159 (C) A service employee who holds a master's degree plus
160 thirty college hours;

161 (D) A service employee who holds a master's degree plus
162 forty-five college hours; and

163 (E) A service employee who holds a master's degree plus
164 sixty college hours.

165 (5) When any part of a school service employee's daily
166 shift of work is performed between the hours of six o'clock
167 p.m. and five o'clock a.m. the following day, the employee
168 shall be paid no less than an additional ten dollars per
169 month and one half of the pay shall be paid with local
170 funds.

171 (6) Any service employee required to work on any legal
172 school holiday shall be paid at a rate one and one-half
173 times the employee's usual hourly rate.

174 (7) Any full-time service personnel required to work in
175 excess of their normal working day during any week which
176 contains a school holiday for which they are paid shall be
177 paid for the additional hours or fraction of the additional

178 hours at a rate of one and one-half times their usual hourly
179 rate and paid entirely from county board funds.

180 (8) No service employee may have his or her daily work
181 schedule changed during the school year without the
182 employee's written consent and the employee's required
183 daily work hours may not be changed to prevent the
184 payment of time and one-half wages or the employment of
185 another employee.

186 (9) The minimum hourly rate of pay for extra duty
187 assignments as defined in section eight-b of this article
188 shall be no less than one seventh of the employee's daily
189 total salary for each hour the employee is involved in
190 performing the assignment and paid entirely from local
191 funds: *Provided*, That an alternative minimum hourly rate
192 of pay for performing extra duty assignments within a
193 particular category of employment may be utilized if the
194 alternate hourly rate of pay is approved both by the county
195 board and by the affirmative vote of a two-thirds majority
196 of the regular full-time employees within that classifica-
197 tion category of employment within that county: *Provided*,
198 *however*, That the vote shall be by secret ballot if re-
199 quested by a service personnel employee within that
200 classification category within that county. The salary for
201 any fraction of an hour the employee is involved in per-
202 forming the assignment shall be prorated accordingly.
203 When performing extra duty assignments, employees who
204 are regularly employed on a one-half day salary basis shall
205 receive the same hourly extra duty assignment pay com-
206 puted as though the employee were employed on a full-day
207 salary basis.

208 (10) The minimum pay for any service personnel employ-
209 ees engaged in the removal of asbestos material or related
210 duties required for asbestos removal shall be their regular
211 total daily rate of pay and no less than an additional three
212 dollars per hour or no less than five dollars per hour for
213 service personnel supervising asbestos removal responsibil-
214 ities for each hour these employees are involved in asbestos

215 related duties. Related duties required for asbestos
216 removal include, but are not limited to, travel, preparation
217 of the work site, removal of asbestos decontamination of
218 the work site, placing and removal of equipment and
219 removal of structures from the site. If any member of an
220 asbestos crew is engaged in asbestos related duties outside
221 of the employee's regular employment county, the daily
222 rate of pay shall be no less than the minimum amount as
223 established in the employee's regular employment county
224 for asbestos removal and an additional thirty dollars per
225 each day the employee is engaged in asbestos removal and
226 related duties. The additional pay for asbestos removal
227 and related duties shall be payable entirely from county
228 funds. Before service personnel employees may be utilized
229 in the removal of asbestos material or related duties, they
230 shall have completed a federal Environmental Protection
231 Act approved training program and be licensed. The
232 employer shall provide all necessary protective equipment
233 and maintain all records required by the Environmental
234 Protection Act.

235 (11) For the purpose of qualifying for additional pay as
236 provided in section eight, article five of this chapter, an
237 aide shall be considered to be exercising the authority of a
238 supervisory aide and control over pupils if the aide is
239 required to supervise, control, direct, monitor, escort or
240 render service to a child or children when not under the
241 direct supervision of certificated professional personnel
242 within the classroom, library, hallway, lunchroom, gymna-
243 sium, school building, school grounds or wherever supervi-
244 sion is required. For purposes of this section, "under the
245 direct supervision of certificated professional personnel"
246 means that certificated professional personnel is present,
247 with and accompanying the aide.

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

1 (a) A county board shall make decisions affecting
2 promotions and the filling of any service personnel posi-
3 tions of employment or jobs occurring throughout the

4 school year that are to be performed by service personnel
5 as provided in section eight of this article, on the basis of
6 seniority, qualifications and evaluation of past service.

7 (b) Qualifications shall mean that the applicant holds a
8 classification title in his category of employment as
9 provided in this section and must be given first opportu-
10 nity for promotion and filling vacancies. Other employees
11 then must be considered and shall qualify by meeting the
12 definition of the job title as defined in section eight of this
13 article, that relates to the promotion or vacancy. If
14 requested by the employee, the board must show valid
15 cause why an employee with the most seniority is not
16 promoted or employed in the position for which he or she
17 applies. Applicants shall be considered in the following
18 order:

19 (1) Regularly employed service personnel;

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

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

26 (4) Substitute service personnel; and

27 (5) New service personnel.

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

32 (d) A promotion shall be defined as any change in his
33 employment that the employee deems to improve his
34 working circumstance within his classification category of
35 employment and shall include a transfer to another
36 classification category or place of employment if the
37 position is not filled by an employee who holds a title

38 within that classification category of employment. Each
39 class title listed in section eight of this article shall be
40 considered a separate classification category of employ-
41 ment for service personnel, except for those class titles
42 having Roman numeral designations, which shall be
43 considered a single classification of employment. The
44 cafeteria manager class title shall be included in the same
45 classification category as cooks. The executive secretary
46 class title shall be included in the same classification
47 category as secretaries. Paraprofessional, autism mentor
48 and braille or sign language specialist class titles shall be
49 included in the same classification category as aides. The
50 mechanic assistant and chief mechanic class titles shall be
51 included in the same classification category as mechanics.

52 (e) For purposes of determining seniority under this
53 section an employee's seniority begins on the date that he
54 or she enters into his assigned duties.

55 (f) Notwithstanding any other provisions of this chapter
56 to the contrary, decisions affecting service personnel with
57 respect to extra-duty assignments shall be made in the
58 following manner: An employee with the greatest length of
59 service time in a particular category of employment shall
60 be given priority in accepting extra duty assignments,
61 followed by other fellow employees on a rotating basis
62 according to the length of their service time until all such
63 employees have had an opportunity to perform similar
64 assignments. The cycle then shall be repeated: *Provided,*
65 That an alternative procedure for making extra-duty
66 assignments within a particular classification category of
67 employment may be utilized if the alternative procedure is
68 approved both by the county board and by an affirmative
69 vote of two thirds of the employees within that classifica-
70 tion category of employment. For the purpose of this
71 section, "extra-duty assignments" are defined as irregular
72 jobs that occur periodically or occasionally such as, but not
73 limited to, field trips, athletic events, proms, banquets and
74 band festival trips.

75 (g) Boards shall post and date notices of all job vacancies
76 of established existing or newly created positions in
77 conspicuous places for all school service employees to
78 observe for at least five working days. The notice of the
79 job vacancies shall include the job description, the period
80 of employment, the amount of pay and any benefits and
81 other information that is helpful to the employees to
82 understand the particulars of the job. After the five-day
83 minimum posting period all vacancies shall be filled within
84 twenty working days from the posting date notice of any
85 job vacancies of established existing or newly created
86 positions. Job postings for vacancies made pursuant to
87 this section shall be written so as to ensure that the largest
88 possible pool of qualified applicants may apply. Job
89 postings may not require criteria which are not necessary
90 for the successful performance of the job and may not be
91 written with the intent to favor a specific applicant.

92 (h) All decisions by county boards concerning reduction
93 in work force of service personnel shall be made on the
94 basis of seniority, as provided in this section.

95 (i) The seniority of any service personnel shall be deter-
96 mined on the basis of the length of time the employee has
97 been employed by the county board within a particular job
98 classification. For the purpose of establishing seniority for
99 a preferred recall list as provided in this section, when an
100 employee has been employed in one or more classifications,
101 the seniority accrued in each previous classification shall
102 be retained by the employee.

103 (j) If a county board is required to reduce the number of
104 employees within a particular job classification, the
105 employee with the least amount of seniority within that
106 classification or grades of classification shall be properly
107 released and employed in a different grade of that classifi-
108 cation if there is a job vacancy: *Provided*, That if there is
109 no job vacancy for employment within the classification or
110 grades of classification, he or she shall be employed in any
111 other job classification which he or she previously held

112 with the county board if there is a vacancy and shall retain
113 any seniority accrued in the job classification or grade of
114 classification.

115 (k) If, prior to the first day of August after a reduction in
116 force or transfer is approved, the reason for any particular
117 reduction in force or transfer no longer exists as deter-
118 mined by the county board in its sole and exclusive
119 judgment, the board shall rescind the reduction in force or
120 transfer and shall notify the affected employee in writing
121 of his or her right to be restored to his or her former
122 position of employment. Within five days of being so
123 notified, the affected employee shall notify the board of his
124 or her intent to return to his or her former position of
125 employment or the right of restoration to the former
126 position shall terminate: *Provided*, That the board shall
127 not rescind the reduction in force of an employee until all
128 employees with more seniority in the classification cate-
129 gory on the preferred recall list have been offered the
130 opportunity for recall to regular employment as provided
131 in this section. If there are insufficient vacant positions to
132 permit reemployment of all more senior employees on the
133 preferred recall list within the classification category of
134 the employee who was subject to reduction in force, the
135 position of the released employee shall be posted and filled
136 in accordance with this section.

137 (l) If two or more employees accumulate identical
138 seniority, the priority shall be determined by a random
139 selection system established by the employees and ap-
140 proved by the county board.

141 (m) All employees whose seniority with the county board
142 is insufficient to allow their retention by the county board
143 during a reduction in work force shall be placed upon a
144 preferred recall list and shall be recalled to employment by
145 the county board on the basis of seniority.

146 (n) Employees placed upon the preferred list shall be
147 recalled to any position openings by the county board

148 within the classification(s), where they had previously been
149 employed, or to any lateral position for which the em-
150 ployee is qualified or to a lateral area for which an em-
151 ployee has certification and/or licensure.

152 (o) Employees on the preferred recall list shall not forfeit
153 their right to recall by the county board if compelling
154 reasons require an employee to refuse an offer of
155 reemployment by the county board.

156 (p) The county board shall notify all employees on the
157 preferred recall list of all position openings that from time
158 to time exist. The notice shall be sent by certified mail to
159 the last known address of the employee; it is the duty of
160 each such employee to notify the county board of any
161 change in the address of the employee.

162 (q) No position openings may be filled by the county
163 board, whether temporary or permanent, until all employ-
164 ees on the preferred recall list have been properly notified
165 of existing vacancies and have been given an opportunity
166 to accept reemployment.

167 (r) An employee released from employment for lack of
168 need as provided in section eight-a or six, article two of
169 this chapter shall be accorded preferred recall status on the
170 first day of July of the succeeding school year if the
171 employee has not been reemployed as a regular employee.

172 (s) Any board failing to comply with the provisions of
173 this article may be compelled to do so by mandamus and is
174 liable to any party prevailing against the board for court
175 costs and the prevailing party's reasonable attorney fee, as
176 determined and established by the court. Further, employ-
177 ees denied promotion or employment in violation of this
178 section shall be awarded the job, pay and any applicable
179 benefits retroactively to the date of the violation and shall
180 be paid entirely from local funds. Further, the board is
181 liable to any party prevailing against the board for any
182 court reporter costs including copies of transcripts.

§18A-4-14a. Study on daily planning periods.

1 (a) The legislative oversight commission on education
2 accountability shall conduct a study of the length of time
3 within the instructional day needed by teachers to plan.
4 The commission may conduct the study as a whole or may
5 appoint a subcommittee to conduct the study under its
6 direction. The study shall include, but is not limited to, an
7 examination of the following issues:

8 (1) The length of planning periods in different grade
9 levels and under different class period schedules;

10 (2) A comparison of the amount and difficulty of the
11 subject matter to be covered during the instructional day
12 and the length of the planning period in different grade
13 levels and under different class period schedules; and

14 (3) An analysis of the appropriate use of planning period
15 time and actual practices; and

16 (4) An analysis of the cost to the state and the counties of
17 daily planning periods of different lengths and the poten-
18 tial for savings through appropriate measures for stan-
19 dardization.

20 (b) The legislative oversight commission on education
21 accountability shall issue a report of its findings and
22 recommendations, together with any legislation necessary
23 to effectuate its recommendations, on or before the second
24 day of January, two thousand three. In making its findings
25 and recommendations, the commission shall:

26 (1) Consider measures for standardization in the length
27 of planning periods for teachers in similar grade levels;

28 (2) Consider appropriate uses of any non scheduled
29 teacher time which becomes available if the standardiza-
30 tion of planning period length results in planning periods
31 which are less than the usual class period at a school,
32 including, but not limited to, mentoring, tutoring, provid-

33 ing additional supervision, meetings and other
34 noninstructional activities; and

35 (3) Consider adjustments or restructuring of the require-
36 ments for planning periods that do not result in any
37 additional cost to the state or counties.

§18A-4-16. Extracurricular assignments.

1 (1) The assignment of teachers and service personnel to
2 extracurricular assignments shall be made only by mutual
3 agreement of the employee and the superintendent, or
4 designated representative, subject to board approval.
5 Extracurricular duties shall mean, but not be limited to,
6 any activities that occur at times other than regularly
7 scheduled working hours, which include the instructing,
8 coaching, chaperoning, escorting, providing support
9 services or caring for the needs of students, and which
10 occur on a regularly scheduled basis: *Provided*, That all
11 school service personnel assignments shall be considered
12 extracurricular assignments, except such assignments as
13 are considered either regular positions, as provided by
14 section eight of this article, or extra-duty assignments, as
15 provided by section eight-b of this article.

16 (2) The employee and the superintendent, or a designated
17 representative, subject to board approval, shall mutually
18 agree upon the maximum number of hours of extracurricu-
19 lar assignment in each school year for each extracurricular
20 assignment.

21 (3) The terms and conditions of the agreement between
22 the employee and the board shall be in writing and signed
23 by both parties.

24 (4) An employee's contract of employment shall be
25 separate from the extracurricular assignment agreement
26 provided for in this section and shall not be conditioned
27 upon the employee's acceptance or continuance of any
28 extracurricular assignment proposed by the superinten-
29 dent, a designated representative, or the board.

30 (5) The board shall fill extracurricular school service
31 personnel assignments and vacancies in accordance with
32 section eight-b of this article: *Provided*, That an alterna-
33 tive procedure for making extracurricular school service
34 personnel assignments within a particular classification
35 category of employment may be utilized if the alternative
36 procedure is approved both by the county board and by an
37 affirmative vote of two thirds of the employees within that
38 classification category of employment.

39 (6) An employee who was employed in any service
40 personnel extracurricular assignment during the previous
41 school year shall have the option of retaining the assign-
42 ment if it continues to exist in any succeeding school year.
43 A county board of education may terminate any school
44 service personnel extracurricular assignment for lack of
45 need pursuant to section seven, article two of this chapter.
46 If an extracurricular contract has been terminated and is
47 reestablished in any succeeding school year, it shall be
48 offered to the employee who held the assignment at the
49 time of its termination. If the employee declines the
50 assignment, the extracurricular assignment shall be posted
51 and filled pursuant to section eight-b of this article.

Enr. Com. Sub. for S. B. No. 247] 96

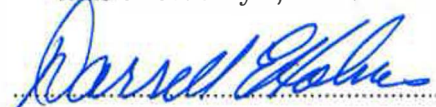
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


.....
Chairman Senate Committee


.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2002.


.....
Clerk of the Senate


.....
Clerk of the House of Delegates


.....
President of the Senate


.....
Speaker House of Delegates

The within *is approved* this the *2nd*
Day of *April* 2002.


.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/26/02

Time 2:57 pm