WEST VIRGINIA LEGISLATURE
Regular Session, 2002

ENROLLED
Committee Substitute for
SENATE BILL NO. 247

(By Senator Tomblin, Mr. President, and Spouse, by request of the Executive)

PASSED March 9, 2002

In Effect July 1, 2002, Passage
ENROLLED

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.

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

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

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

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

1 It is the cabinet's primary duty to coordinate services and resources but not to become a provider of services. Beginning on the first day of July, two thousand three, the cabinet may not provide services other than coordination 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, if remediation is necessary, it should be provided when students are younger and before patterns of failure are established. The Legislature further acknowledges that the people of West Virginia would be better served if the state acted to ensure that all public school students were able to execute science skills at or above grade level upon exiting grade eight, that county boards are in the best position to determine if remediation is necessary for students in grades four through eight and that the counties should have the option of providing summer school for students and may consider student attendance as a factor in determining whether a child is eligible to be promoted to the next grade.

15 The Legislature further finds that not all students are financially able to pay for summer school, nor do all county schools hold summer school. It is, therefore, the purpose of this section to help the county boards to
provide, either individually or cooperatively, free summer
school and summer school transportation for those stu-
dents in grades four through eight who did not perform at
grade level during the regular school year. It also is the
purpose of this section to help students in grades four
through eight who are identified as being in danger of
failing to execute science skills at grade level by the end of
the school year to receive intensive science instruction
during their regularly scheduled science time throughout
the regular school year.

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

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

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

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

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

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

(2) Contain measurable goals for the improvement of
student science skills and benchmarks for meeting those
goals;
(3) Include a plan for the evaluation of student progress toward achieving the state's high standards;

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

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

(6) Determine the feasibility of collaborating with colleges of education for the purpose of providing educational experiences for prospective teachers;

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

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

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

(f) The state board shall approve procedures for the implementation of this section. To assist the state board in developing procedures for the implementation of this section, including the grant application and the grant
review and selection process, the state board shall appoint
an advisory board consisting of the science education
coordinator from the state department of education, a
college or university professor of science, a county science
curriculum specialist, an elementary teacher and an
elementary principal, a middle school teacher with a
science certification and a middle school principal, a
science teacher with a certificate issued by the national
board of professional teaching standards, if available, and
a representative from the West Virginia science teachers
association, or a representative of the like successor
organization should this named organization cease to
exist. The procedures shall provide for:

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

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

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

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

5. Other such requirements as deemed necessary by the
   state board.

(g) The state board may fund, from any other funds
available for such purposes, the programs required by this
section for students in grades four through eight and any
programs required by state board rules such as, but not limited to, the following:

(1) Tutoring;
(2) Summer school educational services;
(3) Additional certified personnel to provide intensive instruction in science throughout the school year;
(4) Staff development for teachers; and
(5) Hot meal programs.

(h) Nothing in this section supersedes the individualized education program (IEP) of any student.
(i) Nothing in this section requires any specific level of funding by the Legislature.

ARTICLE 5. COUNTY BOARD OF EDUCATION.


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

(a) To control and manage all of the schools and school interests for all school activities and upon all school property, whether owned or leased by the county, including the authority to require that records be kept of all receipts and disbursements of all funds collected or received by any principal, teacher, student or other person in connection with the schools and school interests, any programs, activities or other endeavors of any nature operated or carried on by or in the name of the school, or any organization or body directly connected with the school, to audit the records and to conserve the funds, which shall be considered quasi-public moneys, including securing surety bonds by expenditure of board moneys;
(b) To establish schools, from preschool through high 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
any way to transportation for projects connected with the
commission on aging shall be borne by the commission, or
the local or county chapter of the commission: Provided,
however, That in all cases the school buses owned by the
board of education shall be driven or operated only by
drivers regularly employed by the board of education:
Provided further, That the county board may provide,
under rules established by the state board, for the certifi-
cation of professional employees as drivers of
board-owned vehicles with a seating capacity of less than
ten passengers used for the transportation of pupils for
school-sponsored activities other than transporting
students between school and home: And provided further,
That the use of the vehicles shall be limited to one for each
school-sponsored activity: And provided further, That
buses shall be used for extracurricular activities as
provided in this section only when the insurance provided
for by this section is in effect;
(2) To enter into agreements with one another as re-
ferred in the minutes of their respective meetings to
provide, on a cooperative basis, adequate means of trans-
portation across county lines for children of school age
subject to the conditions and restrictions of subdivisions
(6) and (8) of this section;
(g) (1) To lease school buses operated only by drivers
regularly employed by the board to public and private
nonprofit organizations or private corporations to trans-
port school-age children to and from camps or educational
activities in accordance with rules established by the
board. All costs and expenses incurred by or incidental to
the transportation of the children shall be borne by the
lessee;
(2) To contract with any college or university or offi-
cially recognized campus organizations to provide trans-
portation for college or university students, faculty or staff
to and from the college or university: Provided, That only
college and university students, faculty and staff are being
transported. The contract shall include consideration and
compensation for bus operators, repairs and other costs of
service, insurance and any rules concerning student
behavior;

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

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

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

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

(l) To employ legal counsel;

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

(n) To provide at public expense and under rules as
established by any county board of education for the
payment of traveling expenses incurred by any person invited to appear to be interviewed concerning possible employment by the county board of education;

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

(p) To provide, at public expense, adequate public liability insurance, including professional liability insurance for board employees;

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

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

(s) To enter into agreements with one another, with the approval of the state board, for the transfer and receipt of any and all funds determined to be fair when students are permitted or required to attend school in a county other than the county of their residence; and
(t) To enter into job-sharing arrangements, as defined in section one, article one, chapter eighteen-a of this code, with its professional employees: Provided, That a job sharing arrangement shall meet all the requirements relating to posting, qualifications and seniority, as provided for in article four, chapter eighteen-a of this code: Provided, however, That, notwithstanding any provisions of this code or legislative rule and specifically the provisions of article fifteen, chapter five of this code to the contrary, a county board which enters into a job-sharing arrangement wherein two or more professional employees voluntarily share an authorized full-time position shall provide the mutually agreed upon employee coverage but shall not offer insurance coverage to more than one of the job sharing employees, including any group plan or group plans available under the state public employees insurance act: Provided further, That all employees involved in the job-sharing agreement meet the requirements of subdivision (4), section two, article sixteen, chapter five of this code.

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

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

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

(a) The public schools shall be open for the full instructional term to all persons who have attained the entrance age as stated in section five, article two and section eighteen, article five, chapter eighteen of this code:
Provided, That any student suspended or expelled from public or private school shall only be permitted to enroll in public school upon the approval of the superintendent of the county where the student seeks enrollment: Provided, however, That in making such decision, the principal of the school in which the student may enroll shall be consulted by the superintendent and the principal may make a recommendation to the superintendent concerning the student's enrollment in his or her new school: Provided further, That if enrollment to public school is denied by the superintendent, the student may petition the board of education where the student seeks enrollment.

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

§18-5-18. Kindergarten programs.

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

(b) Persons employed as kindergarten teachers, as distinguished from paraprofessional personnel, shall be required to hold a certificate valid for teaching at the assigned level as prescribed by regulations established by the state board. The state board shall establish and
prescribe guidelines and criteria setting forth the minimum requirements for all paraprofessional personnel employed in kindergarten programs established pursuant to the provisions of this section and no such paraprofessional personnel shall be employed in any kindergarten program unless he meets such minimum requirements.

(c) The state board with the advice of the state superintendent shall establish and prescribe guidelines and criteria relating to the establishment, operation and successful completion of kindergarten programs in accordance with the other provisions of this section. Guidelines and criteria so established and prescribed also are intended to serve for the establishment and operation of nonpublic kindergarten programs and shall be used for the evaluation and approval of such programs by the state superintendent, provided application for such evaluation and approval is made in writing by proper authorities in control of such programs. The state superintendent, annually, shall publish a list of nonpublic kindergarten programs, including Montessori kindergartens that have been approved in accordance with the provisions of this section. Montessori kindergartens established and operated in accordance with usual and customary practices for the use of the Montessori method which have teachers who have training or experience, regardless of additional certification, in the use of the Montessori method of instruction for kindergartens shall be considered to be approved.

(d) Pursuant to such guidelines and criteria, and only pursuant to such guidelines and criteria, the county boards may establish programs taking kindergarten to the homes of the children involved, using educational television, paraprofessional personnel in addition to and to supplement regularly certified teachers, mobile or permanent classrooms and other means developed to best carry kindergarten to the child in its home and enlist the aid and
involvement of its parent or parents in presenting the
program to the child; or may develop programs of a more
formal kindergarten type, in existing school buildings, or
both, as such county board may determine, taking into
consideration the cost, the terrain, the existing available
facilities, the distances each child may be required to
travel, the time each child may be required to be away
from home, the child's health, the involvement of parents
and such other factors as each county board may find
pertinent. Such determinations by any county board shall
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.

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

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

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

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

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

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

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

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

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

(b) Each county board shall employ full time at least one school nurse for every one thousand five hundred kindergarten through seventh grade pupils in net enrollment or major fraction thereof: Provided, That each county shall employ full time at least one school nurse: Provided, however, That a county board may contract with a public health department for services considered equivalent to those required by this section in accordance with a plan to be approved by the state board: Provided, further, That the state board shall promulgate rules requiring the employment of school nurses in excess of the number required by this section to ensure adequate provision of services to severely handicapped pupils.

(c) Any person employed as a school nurse must be a registered professional nurse properly licensed by the West
Virginia board of examiners for registered professional nurses in accordance with article seven, chapter thirty of this code.

(d) Specialized health procedures that require the skill, knowledge and judgment of a licensed health professional, may be performed only by school nurses, other licensed school health care providers as provided for in this section, or school employees who have been trained and retrained every two years who are subject to the supervision and approval by school nurses. After assessing the health status of the individual student, a school nurse, in collaboration with the student's physician, parents and in some instances an individualized education program team, may delegate certain health care procedures to a school employee who shall be trained pursuant to this section, considered competent, have consultation with, and be monitored or supervised by the school nurse: Provided, That nothing in this section prohibits any school employee from providing specialized health procedures or any other prudent action to aid any person who is in acute physical distress or requires emergency assistance. For the purposes of this section "specialized health procedures" means, but is not limited to, catheterization, suctioning of tracheostomy, naso-gastric tube feeding or gastrostomy tube feeding. "School employee" means "teachers", as defined in section one, article one of this chapter and "aides", as defined in section eight, article four, chapter eighteen-a of this code. Commencing with the school year beginning on the first day of July, two thousand two, "school employee" also means "secretary I", "secretary II" and "secretary III", as defined in section eight, article four, chapter eighteen-a of this code: Provided, That a "secretary I", "secretary II" and "secretary III" shall be limited to the dispensing of medications.

(e) Any school service employee who elects, or is required by this section, to undergo training or retraining to provide, in the manner specified in this section, the
specialized health care procedures for those students for which the selection has been approved by both the principal and the county board, shall receive additional pay of at least one pay grade higher than the highest pay grade for which the employee is paid: Provided, That any training required in this section may be considered in lieu of required in-service training of the school employee and a school employee may not be required to elect to undergo the training or retraining: Provided, however, That commencing with the first day of July, one thousand nine hundred eighty-nine any newly employed school employee in the field of special education is required to undergo the training and retraining as provided for in this section: Provided further, That if an employee who holds a class title of an aide is employed in a school and the aide has received the training, pursuant to this section, then an employee in the field of special education is not required to perform the specialized health care procedures.

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

(g) There shall be a council of school nurses which shall be convened by the state board of education. This council shall prepare a procedural manual and shall provide recommendations regarding a training course to the commissioner of the bureau for public health who shall consult with the state department of education. The commissioner then has the authority to promulgate a rule in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the training and to create standards used by those school nurses and school employees performing specialized health procedures. The council shall meet every two years to review the certification and training program regarding school employees.
(h) The state board of education shall work in conjunction with county boards to provide training and retraining every two years as recommended by the council of school nurses and implemented by the rule promulgated by the commissioner.

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

(a) For the purposes of this section, "early childhood education" means programs for children who have attained the age of four prior to the first day of September of the school year in which the pupil enters the program created in this section.

(b) Findings. –

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

(A) Improve overall readiness when children enter school;

(B) Decrease behavioral problems;

(C) Improve student attendance;

(D) Increase scores on achievement tests;

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

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

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

(3) West Virginia has the lowest percentage of its adult population with a college degree and the education level of parents is a strong indicator of how their children will perform in school;
(4) West Virginia currently ranks forty-fourth among the fifty states in the percentage of school children eligible for free and reduced lunches and this percentage is a strong indicator of how the children will perform in school;

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

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

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

(8) West Virginia has a comprehensive kindergarten program for five-year olds but the program was established in a manner that resulted in unequal implementation among the counties which helped create deficit financial situations for several county school boards;

(9) Expansion of current efforts to implement a comprehensive early childhood education program should avoid the problems encountered in kindergarten implementation;

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

(11) West Virginia citizens will benefit from the establishment of quality comprehensive early childhood education programs.

(c) Beginning no later than the school year two thousand twelve - two thousand thirteen, and continuing thereafter,
county boards shall provide early childhood education programs for all children who have attained the age of four prior to the first day of September of the school year in which the pupil enters the early childhood education program.

(d) The program shall meet the following criteria:

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

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

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

(f) For the purposes of implementation financing, all counties are encouraged to make use of funds from existing sources, including:

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

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

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

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

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

(6) Any other public or private funds.
(g) Prior to the school year beginning two thousand ninety-three, each county shall develop a plan for implementing the program required by this section. The plan shall include the following elements:

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

(2) An analysis of facility and personnel needs;

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

(4) Details of how the county board will cooperate and collaborate with other early childhood education programs, including, but not limited to head start, to maximize federal and other sources of revenue;

(5) Specific time lines for implementation; and

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

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

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

(2) The county has provided for the maximum implementation of head start programs and other public and private programs approved by the state superintendent pursuant to the terms of subsection (k) of this section; and

(3) If the secretary of the department of health and human resources finds that the county has not met one or more of the requirements of this subsection, but that the county has acted in good faith and the failure to comply was not the primary fault of the county board, then the
secretary shall approve the plan. Any denial by the
secretary may be appealed to the circuit court of the
county in which the county board is located.

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

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

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

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

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

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

(B) It does not and has not had available funds sufficient
to implement the program;
(2) The county has not experienced a decline in enrollment at least equal to the total number of students to be enrolled; and

(3) Other agencies of government have not made sufficient funds or facilities available to assist in implementation.

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

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

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

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

(p) Neither the state board nor the state department may provide any funds to any county for the purpose of implementing this section unless the county board has a plan approved pursuant to subsections (h), (i), and (j) of this section.

(q) The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for the purposes of implementing the
provisions of this section. The state board shall consult with the secretary of the department of health and human resources in the preparation of the rule. The rule shall contain the following:

(1) Standards for curriculum;
(2) Standards for preparing students;
(3) Attendance requirements;
(4) Standards for personnel; and
(5) Such other terms as may be necessary to implement the provisions of this section.

The rule shall include the following elements relating to curriculum standards:

(1) A requirement that the curriculum be designed to address the developmental needs of four-year-old children, consistent with prevailing research on how children learn;
(2) A requirement that the curriculum be designed to achieve long range goals for the social, emotional, physical and academic development of young children;
(3) A method for including a broad range of content that is relevant, engaging and meaningful to young children;
(4) A requirement that the curriculum incorporate a wide variety of learning experiences, materials and equipment, and instructional strategies to respond to differences in prior experience, maturation rates and learning styles that young children bring to the classroom;
(5) A requirement that the curriculum be designed to build on what children already know in order to consolidate their learning and foster their acquisition of new concepts and skills;
(6) A requirement that the curriculum meet the recognized standards of the relevant subject matter disciplines;
(7) A requirement that the curriculum engage children actively in the learning process and provide them with opportunities to make meaningful choices;

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

(9) A set of clear guidelines for communicating with parents and involving them in decisions about the instructional needs of their children; and

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

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

(1) A summary of the approved county plans for providing the early childhood education programs pursuant to this section;

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

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

(4) An analysis of the affect of the programs on the maximization of the use of federal funds for early childhood programs.

The intent of this subsection is to enable the Legislature to proceed in a fiscally responsible manner and make any program improvements as may be necessary based on reported information prior to implementation of the early childhood education programs.
§18-5-45. School calendar.

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

(1) Instructional day means a day within the instructional term which meets the following criteria:

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

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

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

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

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

(3) Extra-curricular activities are activities under the supervision of the school such as athletics, non-instructional assemblies, social programs, entertainment and other similar activities, as further defined by the state board.

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

(b) Findings. —
(1) The primary purpose of the school system is to provide instruction for students.

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

(3) The school calendar traditionally has provided for one hundred eighty actual days of instruction but numerous circumstances have combined to cause the actual number of instructional days to be less than one hundred eighty.

(4) The quality and amount of instruction offered during the instructional term is affected by the extra-curricular and cocurricular activities allowed to occur during scheduled instructional time.

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

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

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

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

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

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

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

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

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

(A) Curriculum development;

(B) Preparation for opening and closing school;

(C) Professional development;

(D) Teacher-pupil-parent conferences;

(E) Professional meetings; and

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

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

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

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

(i) At least two of the days described in subdivision (4), subsection (e) of this section, will be scheduled for professional development. The professional development conducted on these days will be consistent with the goals established by the state board pursuant to the provisions
of section twenty-three-a, article two, chapter eighteen of
this code.

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

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

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

(m) The following applies to bank time:

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

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

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

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

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

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

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

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

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

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

(3) The state board shall provide for the attendance by students of certain activities sanctioned by the secondary schools activities commission when those activities are related to statewide tournaments or playoffs or are programs required for secondary schools activities commission approval.

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

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

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

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

(t) The minimum instructional term may be decreased by order of the state superintendent in any county declared a
Enr. Com. Sub. for S. B. No. 247] 34

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

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

(1) Each faculty senate shall control funds allocated to the school from legislative appropriations pursuant to section nine, article nine-a of this chapter. From such funds, each classroom teacher and librarian shall be allotted fifty dollars for expenditure during the instructional year for academic materials, supplies or equipment which, in the judgment of the teacher or librarian, will assist him or her in providing instruction in his or her assigned academic subjects or shall be returned to the faculty senate: Provided, That nothing contained herein prohibits the funds from being used for programs and materials that, in the opinion of the teacher, enhance student behavior, increase academic achievement, improve self-esteem and address the problems of students at-risk. The remainder of funds shall be expended for academic
materials, supplies or equipment in accordance with a budget approved by the faculty senate. Notwithstanding any other provisions of the law to the contrary, funds not expended in one school year are available for expenditure in the next school year: Provided, however, That the amount of county funds budgeted in a fiscal year may not be reduced throughout the year as a result of the faculty appropriations in the same fiscal year for such materials, supplies and equipment. Accounts shall be maintained of the allocations and expenditures of such funds for the purpose of financial audit. Academic materials, supplies or equipment shall be interpreted broadly, but does not include materials, supplies or equipment which will be used in or connected with interscholastic athletic events.

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

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

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

(5) A faculty senate may submit recommendations to the principal regarding establishment of the master curriculum schedule for the next ensuing school year.
(6) A faculty senate may establish a process for the review and comment on sabbatical leave requests submitted by employees at the school pursuant to section eleven, article two of this chapter.

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

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

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

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

(11) Any faculty senate may review the evaluation procedure as conducted in their school to ascertain whether the evaluations were conducted in accordance with the written system required pursuant to section twelve, article two, chapter eighteen-a of this code and the general intent of this Legislature regarding meaningful performance evaluations of school personnel. If a majority of members of the faculty senate determine that such evaluations were not so conducted, they shall submit a report in writing to the state board of education: Provided, That nothing herein creates any new right of access to or review of any individual's evaluations.
(12) A local board shall provide to each faculty senate either: (A) A two-hour per month block of instructional time within the instructional day; or (B) an unlimited block of time per month during noninstructional days. A faculty senate scheduled on a noninstructional day shall be considered as part of the purpose for which the noninstructional day is scheduled. This time may be utilized and determined at the local school level and includes, but is not limited to, faculty senate meetings.

(13) Each faculty senate shall develop a strategic plan to manage the integration of special needs students into the regular classroom at their respective schools and submit the strategic plan to the superintendent of the county board of education periodically pursuant to guidelines developed by the state department of education. Each faculty senate shall encourage the participation of local school improvement councils, parents and the community at large in developing the strategic plan for each school. Each strategic plan developed by the faculty senate shall include at least: (A) A mission statement; (B) goals; (C) needs; (D) objectives and activities to implement plans relating to each goal; (E) work in progress to implement the strategic plan; (F) guidelines for placing additional staff into integrated classrooms to meet the needs of exceptional needs students without diminishing the services rendered to the other students in integrated classrooms; (G) guidelines for implementation of collaborative planning and instruction; and (H) training for all regular classroom teachers who serve students with exceptional needs in integrated classrooms.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

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

The basic foundation allowance to the county for service personnel shall be the amount of money required to pay the annual state minimum salaries in accordance with the provisions of article four, chapter eighteen-a of this code,
to such service personnel employed: *Provided*, That no

county shall receive an allowance for an amount in excess

of thirty-four service personnel per one thousand students

in adjusted enrollment: *Provided, however*, That the state

superintendent of schools is authorized in accordance with

rules and regulations established by the state board and

upon request of a county superintendent to waive the

maximum ratio of thirty-four service personnel per one

thousand students in adjusted enrollment and the twenty

percent per year growth cap provided in this section, to the

extent appropriations are provided, in those cases where

the state superintendent determines that student popula-

tion density and miles of bus route driven or the transpor-
tation of students to a county or a multi-county

vocational-technical center justify the waiver, except that

no waiver shall be granted to any county whose financial

statement shows a net balance in general current expense

funds greater than three percent at the end of the previous

fiscal year: *Provided further*, That on or before the first

day of each regular session of the Legislature, the state

board, through the state superintendent, shall make to the

Legislature a full report concerning the number of waivers

granted and the fiscal impact related thereto. Every

county shall utilize methods other than reduction in force,

such as attrition and early retirement, before implement-
ing their reductions in force policy to comply with the

limitations of this section.

For any county which has in excess of thirty-four service

personnel per one thousand students in adjusted enroll-

ment, the allowance shall be computed based upon the

average state minimum pay scale salary of all service

personnel in the county: *Provided*, That for any county

having fewer than thirty-four service personnel per one

thousand students in adjusted enrollment, in any one year,

the number of service personnel used in making this

computation may be increased the succeeding years by no

more than twenty percent per year of its total potential

increase under this provision, except that in no case shall

the limit be fewer than two service personnel until the county attains the maximum ratio set forth: Provided, however, That where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the service personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and that the personnel shall be considered within the 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 day of July, two thousand five, two million five hundred thousand dollars shall be appropriated for the purpose of increasing the ratios of professional and service personnel per one thousand students in net enrollment. For each of the eleven following school years, an additional two million five hundred thousand dollars shall be added to the appropriation for this purpose. The increases in the ratios of professional and service personnel per one thousand students in net enrollment shall be made in a manner which reflects the greater need of counties with a low student population density for additional personnel.

ARTICLE 9D. SCHOOL BUILDING AUTHORITY.


1 (a) The Legislature finds the following:

2 (1) The decline in student enrollment over the last twenty years has necessitated consolidation of schools in many counties;

3 (2) It is projected that the decline in student enrollment during the period two thousand two through two thousand twelve may be as great as eighteen percent and will continue the necessity to consolidate schools;

9 (3) The new consolidated school buildings now being built across the state provide an opportunity for communi-
ties to have comprehensive high schools that include space for vocational-technical courses, community college courses and other workforce related courses for the students and the public at large;

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

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

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

(b) When planning the construction of a high school which has been approved by the authority and which meets the required authority efficiencies, the authority shall provide funding for comprehensive vocational facilities to be located, when feasible, on the same site as the high school and may, in cooperation with the higher education policy commission, established in section one, article one-b, chapter eighteen-b, provide funding for facilities for community and technical college education. When building in conjunction with the higher education policy commission, an educational specification shall be developed for the proposed new facility by the appropriate institutional governing board as defined in section two, article one, chapter eighteen-b of this code. The county board is the fiscal agent for construction. All planning, design, bidding and construction shall be completed with authority guidelines and under the supervision of the authority.
(c) When planning the construction of a high school which has been approved by the authority and meets the required authority efficiencies, the authority shall provide funding sufficient for the construction of at least one auxiliary gymnasium. The authority may establish standards for the auxiliary gymnasium.

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

1. The distance of any existing vocational facilities from the high schools it serves;
2. The time required to travel to and from the vocational facility to the high schools it serves;
3. The ability of the county board to provide local funds for the construction of new comprehensive vocational facilities;
4. The size of the existing high schools and the demand for vocational technical courses;
5. The age and physical condition of the existing vocational facilities; and
6. Such other criteria as the authority shall consider 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.

The state superintendent may waive the assessment requirement for parochial schools set forth in section three 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
employment is during the next succeeding school year or immediately following an approved leave of absence extending no more than one year.

(c) The continuing contract of any teacher shall remain in full force and effect except as modified by mutual consent of the school board and the teacher, unless and until terminated: (1) By a majority vote of the full membership of the board on or before the first Monday of April of the then current year, after written notice, served upon the teacher, return receipt requested, stating cause or causes and an opportunity to be heard at a meeting of the board prior to the board's action thereon; or (2) by written resignation of the teacher before that date, to initiate termination of a continuing contract. Such termination shall take effect at the close of the school year in which the contract is so terminated: Provided, That the contract may be terminated at any time by mutual consent of the school board and the teacher and that this section shall not affect the powers of the school board to suspend or dismiss a principal or teacher pursuant to section eight of this article: Provided, however, That a continuing contract for any teacher holding a certificate valid for more than one year and in full force and effect during the school year one thousand nine hundred eighty-four and one thousand nine hundred eighty-five shall remain in full force and effect: Provided further, That a continuing contract shall not operate to prevent a teacher's dismissal based upon the lack of need for the teacher's services pursuant to the provisions of law relating to the allocation to teachers and pupil-teacher ratios. The written notification of teachers being considered for dismissal for lack of need shall be limited to only those teachers whose consideration for dismissal is based upon known or expected circumstances which will require dismissal for lack of need. An employee who was not provided notice and an opportunity for a hearing pursuant to subsection (a) of this section may not be included on the list. In case of such dismissal, the teachers so dismissed shall be placed upon a preferred list in the order of their length of service with that board, and
no teacher shall be employed by the board until each qualified teacher upon the preferred list, in order, shall have been offered the opportunity for reemployment in a position for which they are qualified: And provided further, That he or she has not accepted a teaching position elsewhere. Such reemployment shall be upon a teacher's preexisting continuing contract and shall have the same effect as though the contract had been suspended during the time the teacher was not employed.

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

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

(f) Any classroom teacher, as defined in section one, article one of this chapter, who desires to resign employment with a board of education or request a leave of
absence, such resignation or leave of absence to become effective on or before the fifteenth day of July of the same year and after completion of the employment term, may do so at any time during the school year by written notification thereof and any such notification received by a board of education shall automatically extend such teacher's public employee insurance coverage until the thirty-first day of August of the same year.

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

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 upon proper evidence, revoke the certificates of any teacher for drunkenness, untruthfulness, immorality, or for any physical, mental or moral defect which would render him unfit for the proper performance of his duties as a teacher, or for any neglect of duty or refusal to perform the same, or for using fraudulent, unapproved, or
insufficient credit, or for any other cause which would have justified the withholding of a certificate when the same was issued. The state superintendent may designate the West Virginia commission for professional teaching standards or members thereof to conduct hearings on revocations or licensure denials and make recommendations for action by the state superintendent.

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

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

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

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

(b) Therefore, a service personnel staff development council comprised of representation from the various categories of service personnel employment shall be established in each school district in the state in accordance with rules adopted by the state board of education. Nominations of service personnel to serve on the county service personnel staff development council may be submitted by the six groups, as defined in subsection (e), section one, article one of this chapter, of the district to the county superintendent who shall prepare and distribute ballots and tabulate the votes of the counties service personnel voting on the persons nominated. Each county staff service personnel development council shall consist
of two employees from each category of employment one
of whom shall be elected as chairperson by the staff
development council members. The councils have final
authority to propose staff development programs for their
peers based upon rules established by statute and the
council on service personnel education. The county
superintendent or a designee has an advisory, nonvoting
role on the council. The county board shall make available
an amount equal to one tenth of one percent of the
amounts provided in accordance with section five, article
nine-a, chapter eighteen of this code and credit the funds
to an account to be used by the council to fulfill its objec-
tives. The local board has the final approval of all pro-
posed disbursements. Any funds credited to the council
during a fiscal year, but not used by the council, shall be
carried over in the council account for use in the next fiscal year. Any carried-over funds shall be separate and
apart from, and in addition to, the funds to be credited to
the council pursuant to this section.

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

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.
§18A-4-2. State minimum salaries for teachers.
(a) Each teacher shall receive the amount prescribed in the "state minimum salary schedule I" as set forth in this section, specific additional amounts prescribed in this section or article, and any county supplement in effect in a county pursuant to section five-a of this article during the contract year: Provided, That beginning on the first day of July, two thousand two, and thereafter, each teacher shall receive the amount prescribed in "state minimum salary schedule II" as set forth in this section, specific additional amounts prescribed in this section or article, and any county supplement in effect in a county pursuant to section five-a of this article during the contract year.

### STATE MINIMUM SALARY SCHEDULE I

<table>
<thead>
<tr>
<th>Years Exp.</th>
<th>4th Class</th>
<th>3rd Class</th>
<th>2nd Class A.B.</th>
<th>A.B. M.A.</th>
<th>M.A.</th>
<th>M.A.</th>
<th>M.A.</th>
<th>M.A.</th>
<th>Doctorate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>21,084</td>
<td>21,721</td>
<td>21,976</td>
<td>23,186</td>
<td>23,921</td>
<td>25,629</td>
<td>26,364</td>
<td>27,099</td>
<td>27,834</td>
</tr>
<tr>
<td>1</td>
<td>21,365</td>
<td>22,002</td>
<td>22,257</td>
<td>23,651</td>
<td>24,386</td>
<td>26,094</td>
<td>26,829</td>
<td>27,564</td>
<td>28,299</td>
</tr>
<tr>
<td>2</td>
<td>21,646</td>
<td>22,284</td>
<td>22,539</td>
<td>24,116</td>
<td>24,851</td>
<td>26,559</td>
<td>27,294</td>
<td>28,029</td>
<td>28,764</td>
</tr>
<tr>
<td>3</td>
<td>21,928</td>
<td>22,565</td>
<td>22,820</td>
<td>24,581</td>
<td>25,316</td>
<td>27,024</td>
<td>27,759</td>
<td>28,494</td>
<td>29,229</td>
</tr>
<tr>
<td>4</td>
<td>22,445</td>
<td>23,082</td>
<td>23,338</td>
<td>25,282</td>
<td>26,017</td>
<td>27,725</td>
<td>28,460</td>
<td>29,195</td>
<td>29,930</td>
</tr>
<tr>
<td>5</td>
<td>22,726</td>
<td>23,364</td>
<td>23,619</td>
<td>25,747</td>
<td>26,482</td>
<td>28,190</td>
<td>28,925</td>
<td>29,660</td>
<td>30,395</td>
</tr>
<tr>
<td>6</td>
<td>23,008</td>
<td>23,645</td>
<td>23,900</td>
<td>26,212</td>
<td>26,947</td>
<td>28,655</td>
<td>29,390</td>
<td>30,125</td>
<td>30,860</td>
</tr>
<tr>
<td>7</td>
<td>23,926</td>
<td>24,182</td>
<td>26,677</td>
<td>27,412</td>
<td>29,120</td>
<td>29,855</td>
<td>30,590</td>
<td>31,325</td>
<td>32,025</td>
</tr>
<tr>
<td>8</td>
<td>24,208</td>
<td>24,463</td>
<td>27,142</td>
<td>27,877</td>
<td>29,585</td>
<td>30,320</td>
<td>31,055</td>
<td>31,790</td>
<td>32,490</td>
</tr>
<tr>
<td>9</td>
<td>24,744</td>
<td>27,607</td>
<td>28,342</td>
<td>30,050</td>
<td>30,785</td>
<td>31,520</td>
<td>32,255</td>
<td>32,995</td>
<td>33,735</td>
</tr>
<tr>
<td>10</td>
<td>25,025</td>
<td>28,073</td>
<td>28,808</td>
<td>30,516</td>
<td>31,251</td>
<td>31,986</td>
<td>32,721</td>
<td>33,462</td>
<td>34,212</td>
</tr>
<tr>
<td>11</td>
<td>28,538</td>
<td>29,733</td>
<td>30,981</td>
<td>31,716</td>
<td>32,451</td>
<td>33,186</td>
<td>34,212</td>
<td>34,948</td>
<td>35,684</td>
</tr>
<tr>
<td>12</td>
<td>29,003</td>
<td>29,738</td>
<td>31,446</td>
<td>32,181</td>
<td>32,916</td>
<td>33,651</td>
<td>34,687</td>
<td>35,424</td>
<td>36,160</td>
</tr>
<tr>
<td>13</td>
<td>29,468</td>
<td>30,203</td>
<td>31,911</td>
<td>32,646</td>
<td>33,381</td>
<td>34,116</td>
<td>35,116</td>
<td>36,046</td>
<td>36,972</td>
</tr>
<tr>
<td>14</td>
<td>32,376</td>
<td>33,111</td>
<td>33,846</td>
<td>34,581</td>
<td>35,311</td>
<td>36,046</td>
<td>36,972</td>
<td>37,906</td>
<td>38,938</td>
</tr>
<tr>
<td>15</td>
<td>32,841</td>
<td>33,576</td>
<td>34,311</td>
<td>35,046</td>
<td>35,766</td>
<td>36,496</td>
<td>37,424</td>
<td>38,387</td>
<td>39,323</td>
</tr>
<tr>
<td>16</td>
<td>33,306</td>
<td>34,041</td>
<td>34,776</td>
<td>35,511</td>
<td>36,247</td>
<td>37,087</td>
<td>38,023</td>
<td>39,000</td>
<td>39,938</td>
</tr>
<tr>
<td>17</td>
<td>35,241</td>
<td>35,976</td>
<td>36,712</td>
<td>37,551</td>
<td>38,387</td>
<td>39,223</td>
<td>40,163</td>
<td>41,100</td>
<td>42,038</td>
</tr>
<tr>
<td>18</td>
<td>35,706</td>
<td>36,441</td>
<td>37,176</td>
<td>38,011</td>
<td>38,847</td>
<td>39,683</td>
<td>40,623</td>
<td>41,560</td>
<td>42,496</td>
</tr>
<tr>
<td>19</td>
<td>36,171</td>
<td>36,906</td>
<td>37,641</td>
<td>38,487</td>
<td>39,323</td>
<td>40,163</td>
<td>41,000</td>
<td>41,937</td>
<td>42,874</td>
</tr>
</tbody>
</table>
Enr. Com. Sub. for S. B. No. 247]

STATE MINIMUM SALARY SCHEDULE II

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>21,888</td>
<td>22,525</td>
<td>22,780</td>
<td>23,990</td>
<td>24,725</td>
<td>26,433</td>
<td>27,168</td>
<td>27,903</td>
<td>28,638</td>
</tr>
<tr>
<td>1</td>
<td>22,205</td>
<td>22,842</td>
<td>23,097</td>
<td>24,491</td>
<td>25,226</td>
<td>26,934</td>
<td>27,669</td>
<td>28,404</td>
<td>29,139</td>
</tr>
<tr>
<td>4</td>
<td>23,393</td>
<td>24,030</td>
<td>24,286</td>
<td>26,065</td>
<td>26,795</td>
<td>28,503</td>
<td>29,237</td>
<td>30,072</td>
<td>30,878</td>
</tr>
<tr>
<td>5</td>
<td>23,710</td>
<td>24,348</td>
<td>24,603</td>
<td>26,321</td>
<td>27,051</td>
<td>28,763</td>
<td>29,497</td>
<td>30,332</td>
<td>31,137</td>
</tr>
<tr>
<td>6</td>
<td>24,028</td>
<td>24,665</td>
<td>24,920</td>
<td>26,677</td>
<td>27,467</td>
<td>29,174</td>
<td>29,908</td>
<td>30,743</td>
<td>31,543</td>
</tr>
<tr>
<td>7</td>
<td>24,982</td>
<td>25,238</td>
<td>27,332</td>
<td>28,468</td>
<td>30,176</td>
<td>30,911</td>
<td>31,646</td>
<td>32,381</td>
<td>33,381</td>
</tr>
<tr>
<td>8</td>
<td>25,300</td>
<td>25,555</td>
<td>28,234</td>
<td>28,469</td>
<td>30,677</td>
<td>31,412</td>
<td>32,147</td>
<td>32,882</td>
<td>33,882</td>
</tr>
<tr>
<td>10</td>
<td>26,189</td>
<td>29,237</td>
<td>32,972</td>
<td>31,680</td>
<td>32,415</td>
<td>33,150</td>
<td>33,885</td>
<td>34,885</td>
<td>35,885</td>
</tr>
<tr>
<td>11</td>
<td>29,738</td>
<td>30,473</td>
<td>32,181</td>
<td>32,916</td>
<td>33,651</td>
<td>34,386</td>
<td>35,386</td>
<td>36,386</td>
<td>37,386</td>
</tr>
<tr>
<td>12</td>
<td>30,239</td>
<td>30,974</td>
<td>32,682</td>
<td>33,417</td>
<td>34,152</td>
<td>34,887</td>
<td>35,887</td>
<td>36,887</td>
<td>37,887</td>
</tr>
<tr>
<td>13</td>
<td>30,740</td>
<td>31,475</td>
<td>33,183</td>
<td>33,918</td>
<td>34,653</td>
<td>35,388</td>
<td>36,388</td>
<td>37,388</td>
<td>38,388</td>
</tr>
<tr>
<td>14</td>
<td>3,3684</td>
<td>34,419</td>
<td>35,154</td>
<td>35,889</td>
<td>36,624</td>
<td>37,359</td>
<td>38,389</td>
<td>39,389</td>
<td>40,389</td>
</tr>
<tr>
<td>15</td>
<td>34,185</td>
<td>34,920</td>
<td>35,655</td>
<td>36,390</td>
<td>37,125</td>
<td>37,856</td>
<td>38,586</td>
<td>39,386</td>
<td>40,386</td>
</tr>
<tr>
<td>16</td>
<td>34,686</td>
<td>35,421</td>
<td>36,156</td>
<td>36,891</td>
<td>37,626</td>
<td>38,357</td>
<td>39,087</td>
<td>39,887</td>
<td>40,687</td>
</tr>
<tr>
<td>17</td>
<td>36,657</td>
<td>37,392</td>
<td>38,127</td>
<td>38,862</td>
<td>39,597</td>
<td>40,328</td>
<td>41,058</td>
<td>41,858</td>
<td>42,658</td>
</tr>
<tr>
<td>18</td>
<td>37,158</td>
<td>37,893</td>
<td>38,628</td>
<td>39,363</td>
<td>40,098</td>
<td>40,829</td>
<td>41,560</td>
<td>42,360</td>
<td>43,160</td>
</tr>
<tr>
<td>19</td>
<td>37,659</td>
<td>38,394</td>
<td>39,129</td>
<td>39,864</td>
<td>40,599</td>
<td>41,330</td>
<td>42,061</td>
<td>42,861</td>
<td>43,661</td>
</tr>
</tbody>
</table>

(b) Six hundred dollars shall be paid annually to each classroom teacher who has at least twenty years of teaching experience. The payments: (i) Shall be in addition to any amounts prescribed in the applicable state minimum salary schedule; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

(c) Effective until the first day of July, two thousand two, in addition to any amounts prescribed in the applicable state minimum salary schedule, each professional educator shall be paid annually the following incremental increases in accordance with their years of experience. The payments shall be paid in equal monthly installments and
shall be considered a part of the state minimum salaries for teachers.

<table>
<thead>
<tr>
<th>Years of Experience</th>
<th>Increment</th>
</tr>
</thead>
<tbody>
<tr>
<td>30</td>
<td>534</td>
</tr>
<tr>
<td>31</td>
<td>534</td>
</tr>
<tr>
<td>32</td>
<td>534</td>
</tr>
<tr>
<td>33</td>
<td>534</td>
</tr>
<tr>
<td>34</td>
<td>534</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Years of Experience</th>
<th>Increment</th>
</tr>
</thead>
<tbody>
<tr>
<td>44</td>
<td>570</td>
</tr>
<tr>
<td>45</td>
<td>570</td>
</tr>
<tr>
<td>46</td>
<td>570</td>
</tr>
<tr>
<td>47</td>
<td>570</td>
</tr>
<tr>
<td>48</td>
<td>570</td>
</tr>
<tr>
<td>49</td>
<td>570</td>
</tr>
<tr>
<td>50</td>
<td>570</td>
</tr>
</tbody>
</table>

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

In addition to any salary increments for principals and assistant principals, in effect on the first day of January, two thousand two, and paid from local funds, and in addition to the county schedule in effect for teachers, the county board shall pay each principal, a principal's salary increment and each assistant principal an assistant principal's salary increment as prescribed by this section from state funds appropriated for the salary increments.
State funds for this purpose shall be paid within the West Virginia public school support plan in accordance with article nine-a, chapter eighteen of this code.

The salary increment in this section for each principal shall be determined by multiplying the basic salary for teachers in accordance with the classification of certification and of training of the principal as prescribed in this article, by the appropriate percentage rate prescribed in this section according to the number of teachers supervised.

### STATE MINIMUM SALARY INCREMENT RATES FOR PRINCIPALS
#### EFFECTIVE UNTIL JULY 1, 2002

<table>
<thead>
<tr>
<th>No. of Teachers Supervised</th>
<th>Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-7</td>
<td>9.0%</td>
</tr>
<tr>
<td>8-14</td>
<td>9.5%</td>
</tr>
<tr>
<td>15-24</td>
<td>10.0%</td>
</tr>
<tr>
<td>25-38</td>
<td>10.5%</td>
</tr>
<tr>
<td>39-57</td>
<td>11.0%</td>
</tr>
<tr>
<td>58 and up</td>
<td>11.5%</td>
</tr>
</tbody>
</table>

### STATE MINIMUM SALARY INCREMENT RATES FOR PRINCIPALS
#### EFFECTIVE ON AND AFTER JULY 1, 2002

<table>
<thead>
<tr>
<th>No. of Teachers Supervised</th>
<th>Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-7</td>
<td>10.0%</td>
</tr>
<tr>
<td>8-14</td>
<td>10.5%</td>
</tr>
<tr>
<td>15-24</td>
<td>11.0%</td>
</tr>
<tr>
<td>25-38</td>
<td>11.5%</td>
</tr>
<tr>
<td>39-57</td>
<td>12.0%</td>
</tr>
<tr>
<td>58 and up</td>
<td>12.5%</td>
</tr>
</tbody>
</table>

The salary increment in this section for each assistant principal shall be determined in the same manner as that
for principals, utilizing the number of teachers supervised
by the principal under whose direction the assistant
principal works, except that the percentage rate shall be
fifty percent of the rate prescribed for the principal.

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

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

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

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

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

(a) For the purposes of this section, salary equity among
the counties means that the salary potential of school
employees employed by the various districts throughout
the state does not differ by greater than ten percent
between those offering the highest salaries and those offering the lowest salaries. In the case of professional educators, the difference shall be calculated utilizing the average of the professional educator salary schedules, degree classifications B.A. through doctorate and the years of experience provided for in the most recent state minimum salary schedule for teachers, in effect in the five counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty-five counties. In the case of school service personnel, the difference shall be calculated utilizing the average of the school service personnel salary schedules, pay grades “A” through “H” and the years of experience provided for in the most recent state minimum pay scale pay grade for service personnel, in effect in the five counties offering the highest salary schedules compared to the lowest salary schedule in effect among the fifty-five counties.

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

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

State funds for this purpose shall be paid within the
West Virginia public school support plan in accordance
with article nine-a, chapter eighteen of this code. The
amount allocated for salary equity shall be apportioned
between teachers and school service personnel in direct
proportion to that amount necessary to support the
professional salaries and service personnel salaries state-
wide under sections four and five, article nine-a, chapter
eighteen of this code: Provided, That in making this
division an adequate amount of state equity funds shall be
reserved to finance the appropriate foundation allowances
and staffing incentives provided for in article nine-a,
chapter eighteen of this code.

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

No county may reduce any salary supplement that was
in effect on the first day of January, one thousand nine
§18A-4-7a. Employment, promotion and transfer of professional personnel; seniority.

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

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

(c) In judging qualifications for hiring employees pursuant to subsections (a) and (b) of this section, consideration shall be given to each of the following:

(1) Appropriate certification and/or licensure;

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

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

(4) Academic achievement;

(5) Relevant specialized training;

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

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

(d) If one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, the county board of education shall make decisions affecting the filling of such positions on the basis of the following criteria:
(1) Appropriate certification and/or licensure;
(2) Total amount of teaching experience;
(3) The existence of teaching experience in the required certification area;
(4) Degree level in the required certification area;
(5) Specialized training directly related to the performance of the job as stated in the job description;
(6) Receiving an overall rating of satisfactory in evaluations over the previous two years; and
(7) Seniority.

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

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

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

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

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

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

(1) All persons employed in a certification area to be reduced who are employed under a temporary permit shall
be properly notified and released before a fully certified employee in such a position is subject to release;

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

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

(4) If, prior to the first day of August of the year a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released employee shall notify the board, in writing, of his or her intent to resume his or her position of employment or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is another employee on the preferred recall list with proper certification and higher seniority, that person shall be placed in the position restored as a result of the reduction in force being rescinded.

(k) For the purpose of this article, all positions which meet the definition of classroom teacher as defined in section one, article one of this chapter shall be lateral
positions. For all other professional positions the county board of education shall adopt a policy by the thirty-first day of October, one thousand nine hundred ninety-three, and may modify said policy thereafter as necessary, which defines which positions shall be lateral positions. The board shall submit a copy of its policy to the state board within thirty days of adoption or any modification, and the state board shall compile a report and submit same to the legislative oversight commission on education accountability by the thirty-first day of December, one thousand nine hundred ninety-three, and by such date in any succeeding year in which any county board submits a modification of its policy relating to lateral positions. In adopting such a policy, the board shall give consideration to the rank of each position in terms of title, nature of responsibilities, salary level, certification and/or licensure and days in the period of employment.

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

(1) The person may apply for any posted, vacant positions with the successful applicant assuming the position at the beginning of the next instructional term;

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

(3) The county board, upon recommendation of the superintendent may fill a position before the next instructional term when it is determined to be in the best interest of the students: Provided, That the county superintendent shall notify the state board of each transfer of a person employed in a professional position to another professional
position after the fifth day prior to the beginning of the instructional term. The Legislature finds that it is not in the best interest of the students particularly in the elementary grades to have multiple teachers for any one grade level or course during the instructional term. It is the intent of the Legislature that the filling of positions through transfers of personnel from one professional position to another after the fifth day prior to the beginning of the instructional term should be kept to a minimum.

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

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

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

(1) Boards shall be required to post and date notices which shall be subject to the following:
(A) The notices shall be posted in conspicuous working places for all professional personnel to observe for at least five working days;

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

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

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

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

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

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

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

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

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

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

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

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

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

(s) The county board shall compile, update annually on
the first day of July and make available by electronic or
other means to all employees a list of all professional personnel employed by the county, their areas of certification and their seniority.

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

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

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

(c) Service personnel employed in the same classification for more than the two hundred day minimum employment term shall be paid for additional employment at a daily rate of not less than the daily rate paid for the two hundred day minimum employment term.

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

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

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

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

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

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

(1) "Pay grade" means the monthly salary applicable to class titles of service personnel;
(2) "Years of employment" means the number of years which an employee classified as service personnel has been employed by a board in any position prior to or subsequent to the effective date of this section and including service in the armed forces of the United States, if the employee were employed at the time of his or her induction. For the purpose of section eight-a of this article, years of employment shall be limited to the number of years shown and allowed under the state minimum pay scale as set forth in section eight-a of this article;

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

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

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

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

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

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

(9) "Aide II" means those personnel referred to in the "Aide I" classification who have completed a training
program approved by the state board, or who hold a high
school diploma or have received a general educational
development certificate. Only personnel classified in an
Aide II class title may be employed as an aide in any
special education program;

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

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

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

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

(14) "Autism mentor" means personnel who work with
autistic students and who meet standards and experience
to be determined by the state board: Provided, That if any
employee has held or holds an aide title and becomes
employed as an autism mentor, the employee shall hold a
multiclassification status that includes aide and autism mentor titles, in accordance with section eight-b of this article;

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

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

(17) "Buyer" means personnel employed to review and write specifications, negotiate purchase bids and recommend purchase agreements for materials and services that meet predetermined specifications at the lowest available costs;

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

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

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

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

(22) "Chief mechanic" means personnel employed to be responsible for directing activities which ensure that
(23) "Clerk I" means personnel employed to perform clerical tasks;

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

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

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

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

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

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

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

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

(32) "Custodian III" means personnel employed to keep buildings clean and free of refuse, to operate the heating or cooling systems and to make minor repairs;
(33) "Custodian IV" means personnel employed as head custodians. In addition to providing services as defined in "custodian III," their duties may include supervising other custodian personnel;

(34) "Director or coordinator of services" means personnel who are assigned to direct a department or division. Nothing in this subdivision may prohibit professional personnel or professional educators as defined in section one, article one of this chapter, from holding this class title, but professional personnel may not be defined or classified as service personnel unless the professional personnel held a service personnel title under this section prior to holding class title of "director or coordinator of services." Directors or coordinators of service positions shall be classified as either a professional personnel or service personnel position for state aid formula funding purposes and funding for directors or coordinators of service positions shall be based upon the employment status of the director or coordinator either as a professional personnel or service personnel;

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

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

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

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

(39) "Electronic technician II" means personnel employed at the journeyman level to repair and maintain electronic equipment;
(40) "Executive secretary" means personnel employed as the county school superintendent's secretary or as a secretary who is assigned to a position characterized by significant administrative duties;

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

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

(43) "General maintenance" means personnel employed as helpers to skilled maintenance employees and to perform minor repairs to equipment and buildings of a county school system;

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

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

(46) "Groundsmen" means personnel employed to perform duties that relate to the appearance, repair and general care of school grounds in a county school system. Additional assignments may include the operation of a small heating plant and routine cleaning duties in buildings;

(47) "Handyman" means personnel employed to perform routine manual tasks in any operation of the county school system;
(48) "Heating and air conditioning mechanic I" means personnel employed at the apprentice level to install, repair and maintain heating and air conditioning plants and related electrical equipment;

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

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

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

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

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

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

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

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

(57) "Maintenance clerk" means personnel employed to maintain and control a stocking facility to keep adequate
tools and supplies on hand for daily withdrawal for all school maintenance crafts;

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

(59) "Mechanic" means personnel employed who can independently perform skilled duties in the maintenance and repair of automobiles, school buses and other mechanical and mobile equipment to use in a county school system;

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

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

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

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

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

(65) "Paraprofessional" means a person certified pursuant to section two-a, article three of this chapter to perform duties in a support capacity including, but not limited to, facilitating in the instruction and direct or
indirect supervision of pupils under the direction of a principal, a teacher or another designated professional educator: Provided, That no person employed on the effective date of this section in the position of an aide may be reduced in force or transferred to create a vacancy for the employment of a paraprofessional: Provided, however, that if any employee has held or holds an aide title and becomes employed as a paraprofessional, the employee shall hold a multiclassification status that includes aide and paraprofessional titles in accordance with section eight-b of this article: Provided further, That once an employee who holds an aide title becomes certified as a paraprofessional and is required to perform duties that may not be performed by an aide without paraprofessional certification, he or she shall receive the paraprofessional title pay grade; (66) "Payroll supervisor" means personnel who are employed in the county board office who have primary responsibility for the payroll function, which may include the supervision of other personnel, and who have either completed twelve college hours of accounting from an accredited institution of higher education or have at least eight years of experience performing progressively difficult accounting tasks; (67) "Plumber I" means personnel employed as an apprentice plumber and helper; (68) "Plumber II" means personnel employed as a journeyman plumber; (69) "Printing operator" means personnel employed to operate duplication equipment, and as required, to cut, collate, staple, bind and shelve materials; (70) "Printing supervisor" means personnel employed to supervise the operation of a print shop; (71) "Programmer" means personnel employed to design and prepare programs for computer operation;
(72) "Roofing/sheet metal mechanic" means personnel employed to install, repair, fabricate and maintain roofs, gutters, flashing and duct work for heating and ventilation;

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

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

(75) "Secretary I" means personnel employed to transcribe from notes or mechanical equipment, receive callers, perform clerical tasks, prepare reports and operate office machines;

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

(77) "Secretary III" means personnel assigned to the county board office administrators in charge of various instructional, maintenance, transportation, food services, operations and health departments, federal programs or departments with particular responsibilities of purchasing and financial control or any personnel who have served in
(78) "Supervisor of maintenance" means skilled personnel not defined as professional personnel or professional educators as in section one, article one of this chapter. The responsibilities would include directing the upkeep of buildings and shops, issuing instructions to subordinates relating to cleaning, repairs and maintenance of all structures and mechanical and electrical equipment of a board;

(79) "Supervisor of transportation" means qualified personnel employed to direct school transportation activities, properly and safely, and to supervise the maintenance and repair of vehicles, buses and other mechanical and mobile equipment used by the county school system;

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

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

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

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

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

(85) "WVEIS data entry and administrative clerk" means personnel employed to work under the direction of
(j) In addition to the compensation provided for in section eight-a of this article, for service personnel, each service employee is, notwithstanding any provisions in this code to the contrary, entitled to all service personnel employee rights, privileges and benefits provided under this or any other chapter of this code without regard to the employee’s hours of employment or the methods or sources of compensation.

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

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

(m) No service employee, without his or her written consent, may be reclassified by class title, nor may a service employee, without his or her written consent, be relegated to any condition of employment which would result in a reduction of his or her salary, rate of pay, compensation or benefits earned during the current fiscal
year or which would result in a reduction of his or her salary, rate of pay, compensation or benefits for which he or she would qualify by continuing in the same job position and classification held during that fiscal year and subsequent years.

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

(o) Notwithstanding any provisions in this code to the contrary, service personnel who hold a continuing contract in a specific job classification and who are physically unable to perform the job's duties as confirmed by a physician chosen by the employee shall be given priority status over any employee not holding a continuing contract in filling other service personnel job vacancies if qualified 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 minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the "state minimum pay scale pay grade I" and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the "state minimum pay scale pay grade I" set forth in this section. Beginning the first day of July, two thousand two, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the "state minimum pay scale pay grade II" and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount
indicated in the “state minimum pay scale pay grade II” set forth in this section.

### STATE MINIMUM PAY SCALE PAY GRADE I

<table>
<thead>
<tr>
<th>Years of Employment</th>
<th>Pay Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
</tr>
<tr>
<td>0</td>
<td>1,295</td>
</tr>
<tr>
<td>1</td>
<td>1,325</td>
</tr>
<tr>
<td>2</td>
<td>1,355</td>
</tr>
<tr>
<td>3</td>
<td>1,385</td>
</tr>
<tr>
<td>4</td>
<td>1,415</td>
</tr>
<tr>
<td>5</td>
<td>1,445</td>
</tr>
<tr>
<td>6</td>
<td>1,475</td>
</tr>
<tr>
<td>7</td>
<td>1,505</td>
</tr>
<tr>
<td>8</td>
<td>1,535</td>
</tr>
<tr>
<td>9</td>
<td>1,565</td>
</tr>
<tr>
<td>10</td>
<td>1,595</td>
</tr>
<tr>
<td>11</td>
<td>1,625</td>
</tr>
<tr>
<td>12</td>
<td>1,655</td>
</tr>
<tr>
<td>13</td>
<td>1,685</td>
</tr>
<tr>
<td>14</td>
<td>1,715</td>
</tr>
<tr>
<td>15</td>
<td>1,745</td>
</tr>
<tr>
<td>16</td>
<td>1,775</td>
</tr>
<tr>
<td>17</td>
<td>1,805</td>
</tr>
<tr>
<td>18</td>
<td>1,835</td>
</tr>
<tr>
<td>19</td>
<td>1,865</td>
</tr>
<tr>
<td>20</td>
<td>1,895</td>
</tr>
<tr>
<td>21</td>
<td>1,925</td>
</tr>
<tr>
<td>22</td>
<td>1,955</td>
</tr>
<tr>
<td>23</td>
<td>1,985</td>
</tr>
<tr>
<td>24</td>
<td>2,015</td>
</tr>
<tr>
<td>25</td>
<td>2,045</td>
</tr>
<tr>
<td>26</td>
<td>2,075</td>
</tr>
<tr>
<td>27</td>
<td>2,105</td>
</tr>
<tr>
<td>28</td>
<td>2,135</td>
</tr>
<tr>
<td>29</td>
<td>2,165</td>
</tr>
<tr>
<td>30</td>
<td>2,195</td>
</tr>
</tbody>
</table>
### STATE MINIMUM PAY SCALE PAY GRADE II

<table>
<thead>
<tr>
<th>Years of Employment</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>1,366</td>
<td>1,386</td>
<td>1,426</td>
<td>1,476</td>
<td>1,526</td>
<td>1,586</td>
<td>1,616</td>
<td>1,686</td>
</tr>
<tr>
<td>1</td>
<td>1,397</td>
<td>1,417</td>
<td>1,457</td>
<td>1,507</td>
<td>1,557</td>
<td>1,617</td>
<td>1,647</td>
<td>1,717</td>
</tr>
<tr>
<td>2</td>
<td>1,428</td>
<td>1,448</td>
<td>1,488</td>
<td>1,528</td>
<td>1,588</td>
<td>1,648</td>
<td>1,678</td>
<td>1,748</td>
</tr>
<tr>
<td>3</td>
<td>1,459</td>
<td>1,479</td>
<td>1,519</td>
<td>1,569</td>
<td>1,619</td>
<td>1,679</td>
<td>1,709</td>
<td>1,779</td>
</tr>
<tr>
<td>4</td>
<td>1,490</td>
<td>1,510</td>
<td>1,550</td>
<td>1,600</td>
<td>1,650</td>
<td>1,710</td>
<td>1,740</td>
<td>1,810</td>
</tr>
<tr>
<td>5</td>
<td>1,521</td>
<td>1,541</td>
<td>1,581</td>
<td>1,631</td>
<td>1,681</td>
<td>1,741</td>
<td>1,771</td>
<td>1,841</td>
</tr>
<tr>
<td>6</td>
<td>1,552</td>
<td>1,572</td>
<td>1,612</td>
<td>1,662</td>
<td>1,712</td>
<td>1,772</td>
<td>1,802</td>
<td>1,872</td>
</tr>
<tr>
<td>7</td>
<td>1,583</td>
<td>1,603</td>
<td>1,643</td>
<td>1,693</td>
<td>1,743</td>
<td>1,803</td>
<td>1,833</td>
<td>1,903</td>
</tr>
<tr>
<td>8</td>
<td>1,614</td>
<td>1,634</td>
<td>1,674</td>
<td>1,724</td>
<td>1,774</td>
<td>1,834</td>
<td>1,864</td>
<td>1,934</td>
</tr>
<tr>
<td>9</td>
<td>1,645</td>
<td>1,665</td>
<td>1,705</td>
<td>1,755</td>
<td>1,805</td>
<td>1,865</td>
<td>1,895</td>
<td>1,965</td>
</tr>
<tr>
<td>10</td>
<td>1,676</td>
<td>1,696</td>
<td>1,736</td>
<td>1,786</td>
<td>1,836</td>
<td>1,896</td>
<td>1,926</td>
<td>1,996</td>
</tr>
<tr>
<td>11</td>
<td>1,707</td>
<td>1,727</td>
<td>1,767</td>
<td>1,817</td>
<td>1,867</td>
<td>1,927</td>
<td>1,957</td>
<td>2,027</td>
</tr>
<tr>
<td>12</td>
<td>1,738</td>
<td>1,758</td>
<td>1,798</td>
<td>1,848</td>
<td>1,898</td>
<td>1,958</td>
<td>1,988</td>
<td>2,058</td>
</tr>
<tr>
<td>13</td>
<td>1,769</td>
<td>1,789</td>
<td>1,829</td>
<td>1,879</td>
<td>1,929</td>
<td>1,989</td>
<td>2,019</td>
<td>2,089</td>
</tr>
<tr>
<td>14</td>
<td>1,800</td>
<td>1,820</td>
<td>1,860</td>
<td>1,910</td>
<td>1,960</td>
<td>2,020</td>
<td>2,050</td>
<td>2,120</td>
</tr>
<tr>
<td>15</td>
<td>1,831</td>
<td>1,851</td>
<td>1,891</td>
<td>1,941</td>
<td>1,991</td>
<td>2,051</td>
<td>2,081</td>
<td>2,151</td>
</tr>
<tr>
<td>16</td>
<td>1,862</td>
<td>1,882</td>
<td>1,922</td>
<td>1,972</td>
<td>2,022</td>
<td>2,082</td>
<td>2,112</td>
<td>2,182</td>
</tr>
<tr>
<td>17</td>
<td>1,893</td>
<td>1,913</td>
<td>1,953</td>
<td>2,003</td>
<td>2,053</td>
<td>2,113</td>
<td>2,143</td>
<td>2,213</td>
</tr>
<tr>
<td>18</td>
<td>1,924</td>
<td>1,944</td>
<td>1,984</td>
<td>2,034</td>
<td>2,084</td>
<td>2,144</td>
<td>2,174</td>
<td>2,244</td>
</tr>
<tr>
<td>19</td>
<td>1,955</td>
<td>1,975</td>
<td>2,015</td>
<td>2,065</td>
<td>2,115</td>
<td>2,175</td>
<td>2,205</td>
<td>2,275</td>
</tr>
<tr>
<td>20</td>
<td>1,986</td>
<td>2,006</td>
<td>2,046</td>
<td>2,096</td>
<td>2,146</td>
<td>2,206</td>
<td>2,236</td>
<td>2,306</td>
</tr>
<tr>
<td>21</td>
<td>2,017</td>
<td>2,037</td>
<td>2,077</td>
<td>2,127</td>
<td>2,177</td>
<td>2,237</td>
<td>2,267</td>
<td>2,337</td>
</tr>
<tr>
<td></td>
<td>CLASS TITLE</td>
<td>PAY GRADE</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>-------------------------------------------</td>
<td>-----------</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>20</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>21</td>
<td>Accountant I</td>
<td>D</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>22</td>
<td>Accountant II</td>
<td>E</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>23</td>
<td>Accountant III</td>
<td>F</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>24</td>
<td>Accounts Payable Supervisor</td>
<td>G</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>25</td>
<td>Aide I</td>
<td>A</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>26</td>
<td>Aide II</td>
<td>B</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>27</td>
<td>Aide III</td>
<td>C</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>28</td>
<td>Aide IV</td>
<td>D</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>29</td>
<td>Audiovisual Technician</td>
<td>C</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>30</td>
<td>Auditor</td>
<td>G</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>31</td>
<td>Autism Mentor</td>
<td>E</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>32</td>
<td>Braille or Sign Language Specialist</td>
<td>E</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>33</td>
<td>Bus Operator</td>
<td>D</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>34</td>
<td>Buyer</td>
<td>F</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>35</td>
<td>Cabinetmaker</td>
<td>G</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>36</td>
<td>Cafeteria Manager</td>
<td>D</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>37</td>
<td>Carpenter I</td>
<td>E</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
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
(2) An additional twelve dollars per month shall be added to the minimum monthly pay of each service employee who holds a high school diploma or its equivalent.

(3) Until the first day of July, two thousand two, an additional ten dollars per month also shall be added to the minimum monthly pay of each service employee for each of the following, and beginning the first day of July, two thousand two, the ten dollars per month shall be increased to an additional eleven dollars per month for each of subdivisions (A) through (J), inclusive, of this subsection
only, and beginning the first day of July, two thousand two, the ten dollars per month shall be increased to an additional forty dollars per month for each of subdivisions (K) through (N), inclusive, of this subsection only:

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

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

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

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

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

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

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

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

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

(J) A service employee who holds one hundred twenty college hours or comparable credit obtained in a trade or vocational school as approved by the state board;
(K) A service employee who holds an associate's degree;  
(L) A service employee who holds a bachelor's degree;  
(M) A service employee who holds a master's degree;  
(N) A service employee who holds a doctorate degree.  

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

(A) A service employee who holds a bachelor's degree  
plus fifteen college hours;  
(B) A service employee who holds a master's degree plus  
fifteen college hours;  
(C) A service employee who holds a master's degree plus  
thirty college hours;  
(D) A service employee who holds a master's degree plus  
forty-five college hours; and  
(E) A service employee who holds a master's degree plus  
sixty college hours.  

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

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

(7) Any full-time service personnel required to work in  
excess of their normal working day during any week which  
contains a school holiday for which they are paid shall be  
paid for the additional hours or fraction of the additional
hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

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

(9) The minimum hourly rate of pay for extra duty assignments as defined in section eight-b of this article shall be no less than one seventh of the employee's daily total salary for each hour the employee is involved in performing the assignment and paid entirely from local funds: Provided, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be utilized if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time employees within that classification category of employment within that county: Provided, however, That the vote shall be by secret ballot if requested by a service personnel employee within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment shall be prorated accordingly. When performing extra duty assignments, employees who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the employee were employed on a full-day salary basis.

(10) The minimum pay for any service personnel employees engaged in the removal of asbestos material or related duties required for asbestos removal shall be their regular total daily rate of pay and no less than an additional three dollars per hour or no less than five dollars per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos removal.
related duties. Related duties required for asbestos
removal include, but are not limited to, travel, preparation
of the work site, removal of asbestos decontamination of
the work site, placing and removal of equipment and
removal of structures from the site. If any member of an
asbestos crew is engaged in asbestos related duties outside
of the employee's regular employment county, the daily
rate of pay shall be no less than the minimum amount as
established in the employee's regular employment county
for asbestos removal and an additional thirty dollars per
each day the employee is engaged in asbestos removal and
related duties. The additional pay for asbestos removal
and related duties shall be payable entirely from county
funds. Before service personnel employees may be utilized
in the removal of asbestos material or related duties, they
shall have completed a federal Environmental Protection
Act approved training program and be licensed. The
employer shall provide all necessary protective equipment
and maintain all records required by the Environmental
Protection Act.

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

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

(a) A county board shall make decisions affecting
promotions and the filling of any service personnel posi-
tions of employment or jobs occurring throughout the
school year that are to be performed by service personnel
as provided in section eight of this article, on the basis of
seniority, qualifications and evaluation of past service.

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

(1) Regularly employed service personnel;
(2) Service personnel whose employment has been
discontinued in accordance with this section;
(3) Professional personnel who held temporary service
personnel jobs or positions prior to the ninth day of June,
one thousand nine hundred eighty-two, and who apply
only for such temporary jobs or positions;
(4) Substitute service personnel; and
(5) New service personnel.

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

(d) A promotion shall be defined as any change in his
employment that the employee deems to improve his
working circumstance within his classification category of
employment and shall include a transfer to another
classification category or place of employment if the
position is not filled by an employee who holds a title
89  [Enr. Com. Sub. for S. B. No. 247

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

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

(f) Notwithstanding any other provisions of this chapter
to the contrary, decisions affecting service personnel with
respect to extra-duty assignments shall be made in the
following manner: An employee with the greatest length of
service time in a particular category of employment shall
be given priority in accepting extra duty assignments,
followed by other fellow employees on a rotating basis
according to the length of their service time until all such
employees have had an opportunity to perform similar
assignments. The cycle then shall be repeated: Provided,
That an alternative procedure for making extra-duty
assignments within a particular classification category of
employment may be utilized if the alternative procedure is
approved both by the county board and by an affirmative
vote of two thirds of the employees within that classifica-
tion category of employment. For the purpose of this
section, "extra-duty assignments" are defined as irregular
jobs that occur periodically or occasionally such as, but not
limited to, field trips, athletic events, proms, banquets and
band festival trips.
(g) Boards shall post and date notices of all job vacancies of established existing or newly created positions in conspicuous places for all school service employees to observe for at least five working days. The notice of the job vacancies shall include the job description, the period of employment, the amount of pay and any benefits and other information that is helpful to the employees to understand the particulars of the job. After the five-day minimum posting period all vacancies shall be filled within twenty working days from the posting date notice of any job vacancies of established existing or newly created positions. Job postings for vacancies made pursuant to this section shall be written so as to ensure that the largest possible pool of qualified applicants may apply. Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant.

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

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

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

(k) If, prior to the first day of August after a reduction in force or transfer is approved, the reason for any particular reduction in force or transfer no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the affected employee in writing of his or her right to be restored to his or her former position of employment. Within five days of being so notified, the affected employee shall notify the board of his or her intent to return to his or her former position of employment or the right of restoration to the former position shall terminate: Provided, That the board shall not rescind the reduction in force of an employee until all employees with more seniority in the classification category on the preferred recall list have been offered the opportunity for recall to regular employment as provided in this section. If there are insufficient vacant positions to permit reemployment of all more senior employees on the preferred recall list within the classification category of the employee who was subject to reduction in force, the position of the released employee shall be posted and filled in accordance with this section.

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

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

(n) Employees placed upon the preferred list shall be recalled to any position openings by the county board
within the classification(s), where they had previously been employed, or to any lateral position for which the employee is qualified or to a lateral area for which an employee has certification and/or licensure.

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

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

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

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

(s) Any board failing to comply with the provisions of this article may be compelled to do so by mandamus and is liable to any party prevailing against the board for court costs and the prevailing party's reasonable attorney fee, as determined and established by the court. Further, employees denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactively to the date of the violation and shall be paid entirely from local funds. Further, the board is liable to any party prevailing against the board for any court reporter costs including copies of transcripts.
§18A-4-14a. Study on daily planning periods.

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

1. The length of planning periods in different grade levels and under different class period schedules;
2. A comparison of the amount and difficulty of the subject matter to be covered during the instructional day and the length of the planning period in different grade levels and under different class period schedules; and
3. An analysis of the appropriate use of planning period time and actual practices; and
4. An analysis of the cost to the state and the counties of daily planning periods of different lengths and the potential for savings through appropriate measures for standardization.

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

1. Consider measures for standardization in the length of planning periods for teachers in similar grade levels;
2. Consider appropriate uses of any non scheduled teacher time which becomes available if the standardization of planning period length results in planning periods which are less than the usual class period at a school, including, but not limited to, mentoring, tutoring, provid-
ing additional supervision, meetings and other noninstructional activities; and

(3) Consider adjustments or restructuring of the requirements for planning periods that do not result in any additional cost to the state or counties.

§18A-4-16. Extracurricular assignments.

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

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

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

4 (4) An employee’s contract of employment shall be separate from the extracurricular assignment agreement provided for in this section and shall not be conditioned upon the employee’s acceptance or continuance of any extracurricular assignment proposed by the superintendent, a designated representative, or the board.
(5) The board shall fill extracurricular school service personnel assignments and vacancies in accordance with section eight-b of this article: Provided, That an alternative procedure for making extracurricular school service personnel assignments within a particular classification category of employment may be utilized if the alternative procedure is approved both by the county board and by an affirmative vote of two thirds of the employees within that classification category of employment.

(6) An employee who was employed in any service personnel extracurricular assignment during the previous school year shall have the option of retaining the assignment if it continues to exist in any succeeding school year. A county board of education may terminate any school service personnel extracurricular assignment for lack of need pursuant to section seven, article two of this chapter. If an extracurricular contract has been terminated and is reestablished in any succeeding school year, it shall be offered to the employee who held the assignment at the time of its termination. If the employee declines the assignment, the extracurricular assignment shall be posted and filled pursuant to section eight-b of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signatures]

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 bill approved this the 3rd Day of April, 2002.

Governor