

**Green Book
Education Bills
Enacted in
Regular Session**

2002



**West Virginia Board of Education
2002-2003**

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FOREWORD

The West Virginia Department of Education is pleased to present the annual Green Book of Public Education Bills Enacted in the Regular Session - 2002 as a resource to assist educators and others in understanding and implementing education bills enacted by this year's Legislature.

We suggest placing this document with your most current copy of the School Laws of West Virginia as it contains new language/laws that must be reviewed in conjunction with the School Law book.

For each act contained in the publication, a copy of the enrolled bill, its effective date, the date signed by the Governor, code reference, topic and major new provisions are included. As time constraints have not permitted an in-depth analysis of these bills from the Regular Session, it must be emphasized that the information provided in this document must not be considered as official interpretations of the State Superintendent of Schools. Formal interpretations to specific questions will be provided upon request.

With several pieces of legislation enacted this year, public education remained a top priority with the Legislature. Included in the acts was HB 4319, establishing a process for improving education. This measure touches on a variety of issues, including amending the duties of the Office of Educational Performance Audits and restructuring the Regional Education Service Agencies. Also passed was SB 247, which also affected several areas of education. The bill includes provisions regarding the school calendar, faculty senate time and it established an early childhood education program. School safety remained a concern with the Legislature and passed SB 4. The bill changed the definition of a "dangerous student" and it redefined "alternative education." The definition of a dangerous weapon was expanded to include a knife with a blade of any size, as well as explosive, chemical, biological and radiological materials.

The Green Book will prove to be of considerable value during the coming school year. Suggestions for improving this document as a service to the Department's clientele are always welcome. This resource is also available on-line at <http://wvde.state.wv.us>.

Our appreciation is extended to several people in the education community. We would not have been able to assemble this document without the assistance of the staff members of the House and Senate Education Committees and Howard O'Cull, executive director of the West Virginia School Boards Association.

Should you need additional information regarding bills enacted during the 2002 Regular Session of the West Virginia Legislature, please do not hesitate to contact the Department of Education.

David Stewart
State Superintendent of Schools

Education Measures 2002 Session

The 2002 Session of the West Virginia Legislature was a very productive session for both public education (K-12) and higher education. The Legislature significantly strengthened the standards-based accountability system implemented for public education and higher education received the funding necessary to continue its efforts to address more directly the economic needs of the state.

In a difficult financial year across the nation, the state budget reflects the strong support this Legislature has for education. Importantly, the budget items are closely aligned with the policies this Legislature has put in place over the past decade.

Following are some of the measures taken by the Legislature to address the needs of education in West Virginia. Where indicated, a brief explanation of the measure is included. They are divided into two sections, one for public education and one for higher education. Inevitably, there is some overlap.

Public Education

Salaries

Teacher salaries in West Virginia reached 30th in the nation in the early 1990's. Salaries have slipped to a ranking in the low 30's and the need was present to reverse that trend. In a year when most states are struggling to avoid cuts, West Virginia will give what probably will be the second largest percentage raise of the SREB states and one of the largest percentage raises in the nation.

1. Teacher pay raise averaging \$1,484.00.
2. Service Personnel pay raise averaging \$873.00.

School Calendar

Significant criticism has arisen over the attendance of our students. The use of bank time and faculty senate time had effectively allowed counties to reduce the actual days students would be in school to 170 or less. To address this concern, the school calendar provisions were amended.

3. Rewrote school calendar to assure that every county will schedule at least 180 separate days of instruction.
 - a. Limits faculty senates to 2 hours of instructional time each month. (If held during non-instructional time may be any length.)
 - b. Limits use of bank time for extracurricular activities.
 - c. Tightens definition of co-curricular activities that may be conducted during instructional time.

Standards-Based Accountability

One of the key elements of West Virginia's standards-based accountability system is the accreditation of schools and county school systems. HB 4306 (1998 RS) established the Office of Education Performance Audits (OEPA) to provide for an independent review of our schools and school systems. Legislation passed this year tightens and clarifies the duties of the OEPA.

Another key element of the system is assessment, or testing. The state budget reflects the commitment to the new assessment package to be introduced in 2004

Legislation passed also more tightly aligns the Regional Education Service Agencies and the Principals Academy with the state's standards-based accountability effort.

4. Tightens the school accreditation process:
 - a. Limits duplicitous inspections in areas where other agencies of government conduct inspections.
 - b. Clarifies that the Office of Education Performance Audits is to focus primarily on student performance and items directly related to student performance.
 - c. Requires that audit teams be headed by persons from the state level who are knowledgeable in the field they are auditing.
 - d. Allows takeover of individual schools if a monitor is not able to achieve the results desired.
5. The budget contains an additional \$1.5 million for assessments (testing). This brings the state total to over \$5 million and, when combined with new federal money of \$4.2 million, brings us close to the final amount needed for the full assessment package, \$11 million.
6. Refocuses the efforts of the Regional Education Service Agencies (RESA):
 - a. Clarifies the role of RESA's in the education system to place special emphasis on regional staff development and assistance to low performing schools.
 - b. Requires the State Board to rewrite rules relating to RESA's which reflect the clarified priorities.
7. Clarified priorities for Principal's Academy.
 - a. Requires programs better aligned to a principal's needs.
 - b. Restricts academies to the school term.

Early Childhood Programs

Research clearly indicates that early childhood programs for 4-year olds have a

beneficial effect on young children. Of the almost 20,000 4-year olds in West Virginia, over 6,800 already are in public school programs and over 3,000 are in Head Start. Unfortunately, some competition has arisen between public programs and Head Start, causing the loss of federal dollars. Additionally, growth counties are unable to start programs because they do not have available space and cannot take advantage of the extra school aid funds other counties receive as a result of declining student enrollments.

To address all these concerns, the Legislature formalized the early childhood program.

8. Requires establishment of Early Childhood Programs for 4-year olds by the school year 2012.
 - a. Voluntary attendance and less than full day programs.
 - b. Requires maximization of all federal funds, especially Head Start funds.
 - c. Requires approval of all county plans by the Secretary of DHHR as well as the State Board.
 - d. Requires a statewide plan to be filed jointly by the Secretary of DHHR and the State Board.
 - e. Establishes standards for early childhood education.

Safe Schools

9. Adds to existing Safe Schools law these provisions:
 - a. Provides for subpoenaing of witnesses at expulsion hearings.
 - b. Clarifies that knives of any length are not allowed at schools.
 - c. Gives guidance to superintendents when determining whether or not to reduce an expulsion where a dangerous weapon is involved.
 - d. Places in law standards relating to dangerous students as outlined in recent Supreme Court decisions.

Paperwork Reduction

10. Makes significant reductions in paperwork requirements;
 - a. Mandates a consolidation of various school and county plans.
 - b. Reduces and restricts the items that may be required in lesson plans.
 - C. Provides that an annual teacher evaluation is not necessary if a teacher has received satisfactory evaluations for 5 consecutive years.

Education Technology

11. Fully funds existing technology programs, an amount of almost \$20 million.
12. Increases funding to the virtual school program which provides access to high-quality internet-based courses, especially for rural schools.

College Ed Program (The College Board)

13. Provides \$200,000 for the College Ed program sponsored by The College Board.

The program helps educate 7th graders in several areas:

- a. The importance of post-secondary education;
- b. How best to prepare academically for post-secondary education;
- c. Financial resources available for post-secondary education;
- d. Other necessary areas to understand post-secondary education.

Student Transfers

As enrollments decline and school consolidations occur, more students find that they live closer to schools in adjacent counties than in their county of residence. Since significant money follows students to the county systems they attend, problems have arisen concerning students who want to attend school in a county where they do not reside. Legislation was passed to begin addressing these issues:

14. Establishes a procedure for county boards to follow relating to student transfers and provides an appeals process where transfers are denied.

School Uniforms

15. Establishes a procedure whereby county boards may adopt a policy for school uniforms.

School Closure Hearings

16. Addresses the issues raised in Fayette County surrounding hearings for school closings.

Indoor Air Quality

17. Amends the Air Quality in New Schools Act by setting forth procedures for the independent testing, adjusting and balancing of heating, ventilating and air conditioning (HVAC) systems. Additionally, requires training for county maintenance personnel on the HVAC equipment and its controls.

Net Enrollment Caps

One of the criticisms by the plaintiffs in the long-running school finance case known as the Recht decision is that the state aid formula contains caps that work to prevent enough personnel being funded in the formula.

18. Beginning in 2005, provides an additional \$2.5 million to adjust the net enrollment cap.

Moving Expenses

Some areas of our state have declining student enrollments resulting in a declining number of teachers, while other areas have increasing enrollments and need teachers.

19. Establishes a fund to provide up to \$2,500 in moving expenses for teachers who lose their jobs because of declining enrollments and who transfer to a county that is hiring new teachers because of increased enrollments.

Higher Education

Higher Education Funding

The restructuring of higher education contained in SB 653 and SB 704 means that most higher education policy will be made by the Higher Education Policy Commission and the budget will be the primary tool of Legislative support. The 2002 budget provides significant support for higher education.

20. Provides over \$18 million in new funding for higher education. Among the items of new funding:
 - a. \$4.3 million - Replaces one-half of the 3% cut, reducing the need to make up the cut through tuition increases.
 - b. \$4.5 million - Peer equity and sustained quality support.
 - c. \$2.5 million - Research funding.
 - d. \$2.5 million - Community College Funding.
 - e. \$2.8 million - Special projects as outlined by the Policy Commission.
 - f. \$650,000 - State Priorities
21. Approves the rule establishing benchmarks and indicators by which institutions of higher education will be measured for partial receipt of new funding.
22. Clarifies the funding for the Rural Health Initiative and provided for establishment of rural residency programs.

Scholarships and Grants

23. Finalizes the rules for the P.R.O.M.I.S.E. Scholarship.
24. Increases the amounts that can be given for the Health Science Scholarship to help relieve the debt load of physicians who choose to practice in West Virginia. Expands the scholarships to masters level nurses.
25. Increases funding by 50% to the Higher Education Adult Part-Time Students Grant (HEAPS) program.
26. Creates the Financial Aid Coordinating Council to review all grant and scholarship programs and make recommendations regarding the effective and efficient use of all state funds.
27. Expands the current program providing reimbursements to teachers taking courses

needed for certification to include teachers seeking additional endorsements in shortage subject matter areas.

28. Adds \$400,000 to the Health Sciences and Technology Academy (HSTA) to help prepare West Virginia students for careers in health science fields.

Teacher Preparation

29. The budget includes \$600,000 to begin implementing the Professional Development School model of teacher preparation piloted over the past several years at WVU through a grant from the Benedum Foundation.

Research Corporations

30. Authorizes institutions of higher education and their research corporations to transfer property to attract research and development projects to the state.

Remarks by
Senator Lloyd G. Jackson II
Chair, Senate Education

Delivered to the Senate
March 17, 2002

Mr. Speaker, I have distributed a synopsis of what I consider to be, with the exception of one legislative session during the term of former Governor Gaston Caperton, the most comprehensive and best session for education that I have ever seen. That message should ring throughout West Virginia.

Each of you has a brief synopsis of bills before you, and in the next three to four weeks the staff of the House and Senate Education Committees will be distributing to you, as they do each year, a report detailing the accomplishments in education through legislation passed this session.

This year, under very difficult budget constraints, the Speaker and Chairman of Finance again made education a number one priority in West Virginia. Take a look and be proud of what was accomplished in this session and tell your constituents when you go home.

One thing I would like to point out to you in particular, is that it is all based on accountability. It is all based on what the President of the United States, the Congress and the citizens demand of education: Accountability.

An abstract of remarks by Chairman Mezzatesta made in an address to the Delegates on the floor of the House, March 17, 2003, Extended Session.

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<p>H.B. 4022 - Passed 3/6/02; in effect 90 days from passage.</p> <ul style="list-style-type: none"> • New §18-2-35. Program to strengthen student learning (Bridges). • New §18A-2-6a. Released time for service personnel.
<p>H.B. 4054 - Passed 3/9/02; in effect July 1, 2002.</p> <ul style="list-style-type: none"> • Amend §18A-3-3a. Payment of tuition, registration and other fees for teachers; maximum payment per teacher. • New §18A-4-20. Moving expenses allowed for teachers laid off in counties due to lack of need.
<p>H.B. 4095 - Passed 3/6/02; in effect 90 days from passage.</p> <ul style="list-style-type: none"> • Amend §18-5A-6. Establishment of school curriculum team.
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<p>H.B. 4362 - Passed 3/8/02; in effect July 1, 2002.</p> <ul style="list-style-type: none"> • Amend §18b-1A-5 and 18B-2A. Expanding the powers and duties of the higher education policy commission.
<p>H.B. 4428 - Passed 3/7/02; in effect 7/1/02.</p> <ul style="list-style-type: none"> • Amend §18-5-16. Student transfer, appeals.
<p>H.B. 4484 - Passed 3/8/02; in effect from passage.</p> <ul style="list-style-type: none"> • Amend §18-7A-26. Relating to the teachers retirement system.
<p>H.B. 4507 - Passed 3/8/02; in effect 90 days from passage.</p> <ul style="list-style-type: none"> • Amend §30-21-3. License/permits school psychologist.
<p>H.B. 4534 - Passed 3/9/02; in effect from passage.</p> <ul style="list-style-type: none"> • Amend §18c-8-1, 2, 3. Financial Aid Coordinating Council.
<p>H.B. 4579 - Passed 3/9/02; in effect 90 days from passage.</p> <ul style="list-style-type: none"> • Amend §18-7A-13a. Relating to teachers retirement.
<p>S.B. 4 - Passed 3/9/02; in effect 90 days from passage.</p> <ul style="list-style-type: none"> • Amend §18A-1-1. Definitions (Dangerous student, alternative education) • Amend §18A-5-1a, possessing deadly weapons on premises of education facilities; suspension; hearing; procedures; expulsion; alternative education. • Amend §61-7-2 Definition (Dangerous Weapons).
<p>S.B. 32 - Passed 3/9/02; in effect 90 days from passage.</p> <ul style="list-style-type: none"> • Amend §18-9E-3. Air quality in new schools.

S.B. 177 - Passed 1/29/02; in effect 90 days from passage.

- **New §18-2-35.** Dress codes requiring school uniforms for students.

S.B. 423 - Passed 3/9/02; in effect 90 days from passage.

- **New §18-7a-38.** Calculating days worked for retirants engaged in substitute teaching.

S.B. 438 - Passed 3/9/02; in effect 90 days from passage.

- **New §17B 2A-1.** Requirement of compliance with selective service registration.
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S.B. 563 - Passed 3/9/02; in effect 90 days from passage.

- **Amend §18-6-3.** State Board to establish minimum course standards (Motorcycle safety).

S.B. 727 - Passed 3/6/02; in effect 90 days from passage.

- **New §16-5K-6.** Creating birth-to-three fund within state treasury.

H.B. 4319 - Passed 3/6/02; in effect July 1, 2002.

- **Amend §18-2-5a.** Board rules to be filed with the legislature.
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- **Amend §18-2-26.** Establishment of multicounty regional educational service agencies; purpose; authority of state board; governance; annual performance standards.
- **Amend §18-2E-5.** Process for improving education; education standards and accountability measures; office of education performance audits; school accreditation and school system approval; intervention to correct impairment.
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- **Amend §18-5-18b.** School counselors in public schools.
- **New §18-20-1d.** Adoption of a state model for individualized education program.
- **Amend §18A-2-12.** Performance evaluations of school personnel; professional personnel evaluation process.
- **Amend §18A-3-1.** Teacher preparation programs; program approval and standards; authority to issue teaching certificate.
- **Amend §18A-3-2c.** Training through the principals academy.
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- **Amend §18A-3A-2.** Professional development project.
- **Amend §18A-3A-2b.** Principals Academy.
- **Amend §29A-3B-9.** Submission of legislative rules to the legislative oversight commission on education accountability.

S.B. 247- Passed 3/9/02; in effect July 1, 2002.

- **Amend §5-26-5.** Powers and duties relating to funding and budgetary needs for children and families.
- **New §5-26-9.** Prohibition of providing services.
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- **Amend §18-5-22.** Medical and dental inspection; school nurses; specialized health procedures; establishment of council of school nurses.
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- **New §18-5-45.** School calendar.
- **Amend §18-5A-5.** Public school faculty senates established; election of offices; powers and duties.
- **Amend §18-9A-5.** Foundation allowance for service personnel.
- **Amend §18-5A-5b.** Foundation allowance for increasing professional and service personnel positions.
- **New §18-9D-19.** Comprehensive high schools.
- **New §18-28-7.** Waiver of required assessment for certain students attending parochial school.
- **Amend §18A-2-2.** Employment of teachers; contracts; continuing contracts status; how terminated; dismissal for lack of need; released time; failure of teacher to perform contract or violation thereof.
- **Amend §18A-3-6.** Grounds for revocation of certificates; recalling certificates for correction.
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- **Amend §18A-4-2.** State minimum salaries for teachers.
- **Amend §18A-4-3.** State minimum annual salary increments for principals and assistant principals.
- **Amend §18A-4-5.** Salary equity among the counties; state salaries supplement.
- **Amend §18A-4-7a.** Employment, promotion and transfer of professional personnel; seniority.
- **Amend §18A-4-8.** Employment term and class titles of service personnel.
- **Amend §18A-4-8a.** Service personnel minimum monthly salaries.
- **Amend §18A-4-8b.** Seniority rights for school service personnel.
- **Amend §18A-4-14a.** Study on daily planning periods.
- **Amend §18A-4-16.** Extracurricular assignments.

HOUSE AND SENATE RESOLUTIONS

House Concurrent Resolution No. 53

- Directing the Joint Committee on Government and Finance to make a study on technical and adult education services.

Senate Concurrent Resolution No. 18

- Directing the Joint Committee on Government and Finance make a study of requiring as a condition of admittance, that every child entering elementary school receive a comprehensive vision examination from a licensed optometrist or ophthalmologist.

House Bill #2374

Effective Date: Passed March 8, 2002; in effect July 1, 2002.

Signed by Governor: April 2, 2002.

Code Reference: New §18-2-5e.

Title: Relating to social security numbers.

Major Provisions:

- S Relating to restricting the use of student social security numbers.
- S Effective July 1, 2003, the appropriate county board shall request the parent, guardian, or other responsible person to furnish the social security number of each child who is currently enrolled in a public school under the jurisdiction of the county board.
- S The county board shall inform the parent, guardian or other responsible person that, if he or she declines to provide a social security number for a child who is currently enroll or for a child to be enrolled, the county board shall assign to the child a nine-digit number as designated by the state board.

**ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 2374**

(By Delegates Staton, Manuel, Stemple, Williams,
Hubbard and Fleischauer)

[Passed March 8, 2002; in effect July 1, 2002.]

AN ACT to amend article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section five-e, relating to restricting the use of student social security numbers; providing exceptions; and requiring social security number or alternative for enrollment or attendance in public school.

Be it enacted by the Legislature of West Virginia:

That article two, chapter eighteen KEYBOARD(Enacting Section) of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section five-e, to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5e. Use of student social security numbers.

(a) *Restrictions on use of student social security numbers* - No public or private elementary or secondary school or college or university shall display any student's social security number to identify students for posting or public listing of grades, on class rosters or other lists provided to teachers, on student identification cards, in student directories or similar listings, or, unless specifically authorized or required by law, for any public identification purpose: *Provided*, That any student identification cards, directories or similar listings produced prior to July 1, 2002 shall not be subject to the provisions of this section.

(b) *Use of social security numbers* - Nothing in this section shall be construed as prohibiting the higher education policy commission, state institutions of higher education, state board of education, county boards of education or the public or private schools from using a student's social security number for internal record keeping purposes or studies.

(c) *Social security number or alternative required for enrollment or attendance in public school.*

(1) Effective on the first day of July, two thousand three, the appropriate county board shall request the parent, guardian, or other responsible person to furnish the social security number of each child who is currently enrolled in a public school under the jurisdiction of the county board.

(2) Prior to admitting a child to a public school in this state, the appropriate county board shall request the parent, guardian, or other responsible person to furnish the social security number for each child who is to be enrolled after the first day of July, two thousand, three.

(3) The county board shall inform the parent, guardian or other responsible person that, if he or she declines to provide a social security number for a child who is currently enrolled or for a child to be enrolled, the county board shall assign to the child a nine-digit number as designated by the state board.

(4) For any student who is attending a public school and for whom a social security number has not been provided, the county board shall make a request annually to the parent, guardian, or other responsible person to furnish the social security number.

House Bill #4022

Effective Date: Passed March 9, 2002; in effect ninety days from passage.

Signed by Governor: April 3, 2002.

Code Reference: Amend §18-2-35 and Amend §18A-2- adding 6a.

Title: Establishing student learning ability program and providing release time for certain service personnel.

Major Provisions:

- S** Establishing a more formal method to fund programs that strengthen student learning ability.
- S** Released time shall be provided for any service person while serving as a member of the Legislature.

ENROLLED
H. B. 4022

(By Delegates Mezzatesta and Williams)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-five; and to amend article two, chapter eighteen-a of said code by adding thereto a new section, designated section six-a, all relating to establishing a more formal method to fund programs that strengthen student learning ability; requiring the state board to establish a process with certain elements and promulgate a rule to implement section; and providing released time for certain service personnel.

Be it enacted by the Legislature of West Virginia:

That article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty-five; and that article two, chapter eighteen-a of said code be amended by adding thereto a new section, designated section six-a, to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-35. Programs to strengthen student learning ability.

(a) The Legislature finds that schools that have implemented programs to strengthen student learning ability are reporting statistically significant improvement in the statewide test scores in reading, language and math of students referred to the programs. Therefore, it is the intent of the Legislature through this section to establish a more formal method to fund programs that strengthen student learning ability.

(b) The state board shall establish a program for strengthening student learning ability that includes the following:

(1) A procedure for schools to apply for funds to implement programs to strengthen student learning ability in accordance with the provisions of this section;

(2) Specific factors for determining the need for each school applying for funds in accordance with subsection (e) of this section;

(3) A method for judging applications for funds on a competitive basis; and

(4) A determination of the maximum percentage of total funds appropriated for the purposes of this section which may be distributed for use in grades six through twelve so that the priority for program implementation is at the prekindergarten and elementary levels.

(c) Except as provided in subsection (d) of this section, a school is not eligible to receive an award of funds appropriated for the purposes of this section unless the proposed program includes the following:

(1) Assessment of the cognitive abilities of students;

(2) Physical screening that identifies barriers to a student's ability to learn;

(3) Development of a student-specific program to improve student learning ability based on the results of the assessment and physical screening;

(4) Administration of learning development exercises that strengthen the ability of

students to learn; and

(5) An evaluation of the program's impact, including factors such as student test scores and other measures of student performance, the program's impact on special education referrals, program cost and other information considered important for judging the value of the program.

(d) A school is eligible to receive an award of funds appropriated for the purposes of this section for the implementation of an early childhood system to strengthen student learning abilities that includes cognitive/perceptual exercises for all children which are clearly based on the same intellectual premise, and are intended to address for all students the same developmental needs, as the more individual specific remedies required for programs under subsection (c) of this section. The programs shall include a method for evaluating program impact using appropriate measures of early childhood student development and progress.

(e) All the funds appropriated for the purposes of this section shall be distributed to schools based upon need as determined by the state board. In determining need, the state board may consider such things as the assessment test scores of the students, percentage of students who are enrolled in special education programs, dropout rates, attendance rates, the number of at-risk students, monetary and in-kind resources available from other sources that will be committed to the program and any other indicators the state board determines appropriate.

(f) The state board shall promulgate a rule pursuant to article three-b, chapter twenty-nine-a of this code to implement the provisions of this section.

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

§18A-2-6a. Released time for service personnel.

In the assignment of position or duties of a service person under a continuing contract, the board may provide for released time of a service person for any special professional or governmental assignment without jeopardizing the contractual rights of such service or any other rights, privileges or benefits under the provisions of this chapter. Released time shall be provided for any service person 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. For the purposes of this section, service person is the singular of service personnel as defined in section one, article one of this chapter.

House Bill #4054

Effective Date: Passed March 9, 2002; in effect July 1, 2002.

Signed by Governor: April 3, 2002.

Code Reference: Amend §18a-3-3a. New 18a-4-20.

Title: Relating to teacher shortage.

Major Provisions:

- S** Reimbursement of tuition and fees for certain courses completed by teachers toward both certification renewal and additional endorsement in a shortage areas.
- S** Shortage area shall be defined by state board policy.
- S** The department of education may pay the moving expenses for a teacher who meet certain criteria.

**ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4054**

(By Delegates Mezzatesta, Williams and Harrison)

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

AN ACT to amend and reenact section three-a, article three, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article four of said chapter by adding thereto a new section, designated section twenty, all relating generally to reimbursement of teachers' expenses; school personnel; definitions; disbursement of funds and limitations thereof; reimbursement of tuition and fees for certain courses completed by teachers; providing moving expenses for teachers who meet certain criteria; and requiring certain reports to be made by state board and county boards of education.

Be it enacted by the Legislature of West Virginia:

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

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

§18A-3-3a. Payment of tuition, registration and other fees for teachers; maximum payment per teacher.

(a) The West Virginia department of education shall promulgate rules to administer the reimbursement of tuition, registration and other required fees for coursework completed by teachers in accordance with the provisions of this section. The rules shall provide for reimbursement for courses completed toward both certification renewal, and additional endorsement in a shortage area.

(b) As used in this section, the following words and phrases have the meanings ascribed to them.

(1) "Teacher" has the meaning provided in section one, article one, chapter eighteen of this code.

(2) "Shortage area" shall be defined by state board policy to indicate the subject areas for which an insufficient number of teachers are available.

(3) "Certification" and "certificate" mean a valid West Virginia:

(A) Professional teaching, service or administrative certificate, or its equivalent; or

(B) Provisional professional teaching, service or administrative certificate, or its equivalent.

(4) "Requirements for certification renewal" are those requirements of the state department of education as provided in section three of this article.

(5) "Requirements for additional endorsement" are those requirements of the state department of education as provided in section three of this article.

(6) "State institution of higher education" has the meaning provided in section two, article one, chapter eighteen-b of this code.

(c) To the extent of funds appropriated for the purposes specified in this section,

payment shall be made to any teacher who:

(1) Holds either a valid West Virginia:

(A) Certificate; or

(B) First class permit for full-time employment; and

(2) Is seeking:

(A) An additional endorsement in a shortage area, and either resides in the state or is employed regularly for instructional purposes in a public school in the state; or

(B) Certification renewal, and has a continuing contract with a county board.

(d) The payment shall be made as reimbursement for the tuition, registration and other required fees for any course completed at:

(1) Any college or university within the state; or

(2) A college or university outside the state if prior approval is granted by the department.

(e) A course is eligible for reimbursement if it meets the requirements for:

(1) An additional endorsement in a shortage area; or

(2) Certification renewal.

(f) In the fiscal year beginning the first day of July, two thousand two, funds appropriated for the purposes specified in this section shall be disbursed evenly between courses completed toward certification renewal and courses completed toward additional endorsement in a shortage area. Thereafter, funds shall be divided between renewal and endorsement in the same proportion that the number of applications for each was made toward the total number of applications received, except that reimbursement toward either may not exceed seventy-five percent of total funds appropriated.

(g) Payment made for any single fee may not exceed the amount of the highest corresponding fee charged at a state institution of higher education.

(h) Reimbursement for courses completed toward certification renewal is limited to fifteen semester hours of courses for any teacher.

(i) The West Virginia department of education shall seek funding from sources other than general revenue appropriation, including, but not limited to, workforce investment funds.

(j) No provision of this section may be construed to require any appropriation or any specific amount of appropriation for the purposes specified in this section, or to require the department to expend funds for those purposes from any other amounts appropriated for expenditure by the department.

ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

§18A-4-20. Moving expenses allowed for teachers laid off in counties due to lack of need.

(a) From funds appropriated, the department of education may pay the moving expenses for a teacher who meets the following criteria:

(1) The teacher's position was eliminated as part of a reduction in force by a West Virginia county school board;

(2) The teacher has secured employment for a West Virginia county school board in another county;

(3) The teacher has moved his or her residence to the West Virginia county in which he or she has gained employment or to an adjacent county in West Virginia;

(4) The teacher is to be employed in a county where shortages exist either in numbers of teachers or in subject matter areas as determined by the state board; and

(5) As a result of the new employment, it would be impractical for the teacher to

maintain his or her previous residence.

(b) The reimbursement shall be for actual expenses and shall not exceed two thousand five hundred dollars, subject to the availability of funds.

(c) Each county board of education shall send the state board by the first day of May, annually, a report that includes:

(1) The available teacher positions in the county;

(2) Any shortages in subject matter areas in the county; and

(3) The name of all teachers reduced in force: *Provided*, That the teacher has permitted the county board to submit his or her name.

(d) The state board shall compile a report including all information submitted to the state board based on the reports provided in subsection (c) of this section. The state board shall send this report to each county board of education. Additionally, the state board shall send a letter to all teachers reduced in force. This letter shall identify all teacher positions available in West Virginia and identify those counties where shortages exist either in numbers of teachers or in subject matter areas.

(e) The state board shall promulgate a rule pursuant to the provisions of article three-b, chapter twenty-nine-a of this code that implements the provisions of this section. The rule shall include, but is not limited to:

(1) Standards sufficient to define and measure the criteria set forth in subsection (a) of this section; and

(2) A procedure for allocating the funds if the funds appropriated are insufficient.

(f) Nothing in this section shall require any level of appropriation by the Legislature.

(g) The state board shall report to the Legislature by the first day of January of each year on the number of teachers being reimbursed.

(h) This section shall expire on the first day of July, two thousand five, unless continued by the Legislature.

House Bill #4095

Effective Date: Passed March 6, 2002; in effect ninety days from passage.

Signed by Governor: March 17, 2002.

Code Reference: Amend and reenact §18-5a-6.

Title: Relating to school curriculum team.

Major Provisions:

- S** A school curriculum team established at an elementary school or a combination elementary and middle school, when the counselor is not assigned to the school on at least a one-half basis.

- S** The curriculum team may meet on days when the counselor is not at the school and the principal shall consult with the counselor on the issues relevant to the meeting agenda.

ENROLLED

H. B. 4095

(By Delegates Shaver, Beach, Williams,
Harrison, Perry, Varner and Mezzatesta)

[Passed March 6, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section six, article five-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the meetings of certain school curriculum teams when the counselor is not assigned to the school on at least a one-half time basis.

Be it enacted by the Legislature of West Virginia:

That section six, article five-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A-6. Establishment of school curriculum teams.

There shall be established at each school in the state a school curriculum team composed of the school principal, the counselor designated to serve that school and no fewer than three teachers representative of the grades taught at the school and chosen by the faculty senate: *Provided*, That for a school curriculum team established at an elementary school or a combination elementary and middle school, when the counselor is not assigned to the school on at least a one-half time basis, the curriculum team may meet on days when the counselor is not at the school and the principal shall consult with the counselor on the issues relevant to the meeting agenda.

The school curriculum team shall establish the programs and methods for implementing a curriculum based on state-approved instructional goals and objectives based on the needs of the individual school with a focus on reading, composition, mathematics, science and technology. The curriculum thus established shall be submitted to the county board for approval or for return to the school for reconsideration.

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

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

House Bill #4149

Effective Date: Passed March 8, 2002; in effect from passage.

Signed by Governor: April 3, 2002.

Code Reference: Amend §18-5-13a.

Title: Public hearings on school consolidation and closure.

Major Provisions:

- S** Relating to school consolidation and closure; written statement of reasons; public hearings; and requiring promulgation of rules by the state board.

ENROLLED
COMMITTEE SUBSTITUTE
for
H. B. 4149

(By Delegates Pino, Perry and C. White)
[Passed March 8, 2002; in effect from passage.]

AN ACT to amend and reenact section thirteen-a, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to school consolidation and closure; written statement of reasons; public hearings; and requiring promulgation of rules.

Be it enacted by the Legislature of West Virginia:

That section thirteen-a, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-13a. School closing or consolidation.

(a) In addition to the provisions of section thirteen of this article, prior to any final decision of a county board on any proposal to close or consolidate any school, except in cases in which a construction bond issue was passed by the voters and which bond issue included the schools to be closed or consolidated, the county board shall:

(1) Prepare and reduce to writing its reasons and supporting data regarding the school closing or consolidation. The written reasons shall:

(A) Be available for public inspection in the office of the county school superintendent during the thirty days preceding the date of the public hearing required by this section;

(B) Be delivered in duplicate to the:

(i) Principal of a school which is proposed to be closed or consolidated, and of any school which will receive the students who are relocated as a result of the closure or consolidation; and

(ii) The chair, if any, of the local school improvement council representing a school which is proposed to be closed or consolidated, and any school which will receive the students who are relocated as a result of the closure or consolidation; and

(C) Comply with the rule promulgated pursuant to subsection (b) of this section;

(2) Provide notice for a public hearing. The notice shall be advertised through a Class III legal advertisement, pursuant to the provisions of article three, chapter fifty-nine of this code for the three weeks prior to the date of the hearing. The notice shall contain the time and place of the hearing and the proposed action of the county board. Additionally, the notice shall contain the statement that the hearing location is subject to change if at the time the meeting is called to order, it is determined that the meeting location is of insufficient size. A copy of the notice shall be posted at any school which is proposed to be closed or consolidated, and at any school which will receive the students who are relocated as a result of the closure or consolidation, in conspicuous working places for all professional and service personnel to observe. The notice shall be posted at least thirty days prior to the date of the hearing;

(3) Conduct a public hearing which meets the following criteria:

(A) At least a quorum of the county board members and the county superintendent from the county wherein an affected school is located shall attend and be present at the public hearing;

(B) Members of the public may be present, submit statements and testimony, and question county school officials at the public hearing;

(C) A separate hearing shall be held for each school closed or consolidated;

(D) More than one hearing may be held during any one day;

(E) The hearing shall be held in a facility of sufficient size to accommodate all those who desire to attend;

(F) If, at the time the hearing is called to order, it is determined by the board that insufficient space is available to accommodate all those who desire to attend, the hearing shall be recessed and moved to a new location of sufficient size to accommodate all those who desire to attend. If the meeting location is changed due to insufficient capacity, the county board shall cause the new meeting location to be posted at the original meeting location; and

(G) The hearing is subject to the requirements set forth in the rule promulgated in accordance with subsection (c) of this section; and

(4) Receive findings and recommendations from any local school improvement council representing an affected school relating to the proposed closure or consolidation prior to or at the public hearing.

(b) The state board shall promulgate a rule, in accordance with the provisions of article three-b, chapter twenty-nine-a, detailing the type of supporting data a county board shall include as part of its written statement of reason required by this section for school closing or consolidation. The rule shall require at least the following data:

(1) The transportation time of the affected students; and

(2) Any data required by the state board to amend a county's comprehensive educational facilities plan.

(c) The state board shall promulgate a rule, in accordance with the provisions of article three-b, chapter twenty-nine-a of this code, that establishes the procedure to be followed by county boards when conducting a public hearing on the issues of school consolidation and closing.

(1) The rule shall provide standards for at least the following:

(A) The appropriate forum and venue for public hearings to be held;

(B) A process for affording interested parties the opportunity for their perspectives to be expressed;

(C) Establishing, where necessary, reasonable restrictions on the amount of time allowed each individual desiring to speak so that all parties wishing to speak at the hearing are given an equal amount of time; and

(D) Scheduling and organizing public hearings when more than one school within a county is proposed for consolidation or closure.

(2) It is the purpose of this subsection to provide for uniformity among the counties in the procedures followed when scheduling, organizing and conducting public hearings on the issues of school consolidation and closure, two thousand two.

(d) The state board shall promulgate the rules required by this section by the first day of June.

(e) Any document prepared, notice given, hearing conducted or action taken prior to the effective date of the amendments made to this section during the two thousand two

regular session of the Legislature, is considered sufficient if the county board complied with the terms of this section effective at the time and the county board violates no other provision of law which would invalidate the document, notice, hearing or actions.

House Bill #4362

Effective Date: Passed March 8, 2002; in effect July 1, 2002.

Signed by Governor: March 17, 2002.

Code Reference: Amend and reenact §18b-1a-5. Amend 18B-2A adding Section 5.

Title: Expanding the powers and duties of the higher education policy commission.

Major Provisions:

- S** Each governing board shall establish and implement a policy through which college students obtain credit toward graduation for service performed in the public schools as tutors, student advisors, and mentors to instill in public school students the benefits of post-secondary education attainment.

**ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4362**

(By Delegates Mezzatesta and Williams)
[Passed March 8, 2002; in effect July 1, 2002.]

AN ACT to amend and reenact section five, article one-a, chapter eighteen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend article two-a of said chapter by adding thereto a new section, designated section five, all relating to higher education; research challenge grants; grants to support research centers, economic projects and work force investment projects; coursework; and credit for certain public service.

Be it enacted by the Legislature of West Virginia:

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

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 1A. COMPACT WITH HIGHER EDUCATION FOR THE FUTURE OF WEST VIRGINIA.

§18B-1A-5. Financing; institutional operating budgets, additional funding.

(a) *Budget request and appropriations.* -- The commission has the responsibility to develop a budget for the state system of higher education and submit a budget request to the governor before the first day of September, beginning in two thousand, and for each fiscal year thereafter. The budget request specifically shall include the amount of the institutional operating budgets, as defined in section two, article one of this chapter, required for all state institutions of higher education. The budget appropriation for the state system of higher education under this chapter and other provisions of the law shall consist of separate control accounts or institutional control accounts, or some combination of such accounts, for appropriation of institutional operating budgets and other funds. The commission is responsible for allocating state appropriations to supplement institutional operating budgets in accordance with this section. In addition to the institutional operating budget and incentive funding, however, the commission also is responsible for allocating funds that are appropriated to it for other purposes: *Provided, That*, in order to determine institutional allocations, it is the responsibility of the institutions and their respective institutional boards of governors or advisors, as appropriate, to provide to the commission documentation on institutional progress toward mission enhancement, preliminary peer comparison calculations, performance of increased productivity and academic quality and measurable attainment in fulfilling state priorities as set forth in this article. The documentation shall be provided to the commission no later than the first day of October each year for commission review and verification.

(b) *Legislative funding priorities.* --

(1) The Legislature recognizes the current resource allocation model has not moved all state institutions equitably towards comparable peer funding levels. This formula has left West Virginia institutions at a competitive disadvantage to their national peers.

(2) The Legislature acknowledges that the resource allocation model used to comply with Senate Bill 547, passed during the legislative session of one thousand nine hundred ninety-five, alleviated some of the disparity that exists among state institutions' operating budgets, but left significant differences between the institutions and their national peers.

(3) The Legislature recognizes that a system of independently-accredited community and technical colleges is essential to the economic vitality of the state.

(4) The Legislature places great importance on achieving the priority goals outlined in the public policy agenda and believes the state institutions of higher education should play a vital role in facilitating the attainment of these goals.

(5) The Legislature also believes it is imperative that the state make progress on narrowing the peer inequity while balancing the need for sustaining the quality of our institutions.

(6) It is the charge of the commission to allocate all funds appropriated in excess of the fiscal year two thousand one general revenue appropriations in alignment with the legislative funding priorities listed below. The commission shall consider the priorities and assign a percentage of the total appropriation of new funds to each priority.

(A) *Peer equity.* -- Funds appropriated for this purpose increase the level of the institutional operating budget for state institutions of higher education comparable to their peer institutions. The allocation shall provide, subject to the availability of funds and legislative appropriations, for a systematic adjustment of the institutional operating budgets to move all institutions' funding in the direction of levels comparable with their peers. Institutional allocations shall be calculated as follows:

(i) A calculation shall be made of the deficiency in per student funding of each institution in comparison with the mean per student funding of the peer institutions as defined by the commission pursuant to section three of this article;

(ii) For all institutions that are deficient in comparison with peer institutions, the amounts of the deficiencies shall be totaled;

(iii) A ratio of the amount of the deficiency for an institution divided by the total amounts of deficiency for all West Virginia institutions shall be established for each institution; and

(iv) The allocation to each institution shall be calculated by multiplying the ratio by the total amount of money in the account.

(B) *Independently accredited community and technical colleges development.* -- Funds appropriated for this purpose will ensure a smooth transition, where required, from "component" community and technical colleges to independently accredited community and technical colleges as defined in section two, article one of this chapter. Appropriations for this purpose are only to be allocated to those institutions having approved compacts with the commission that expressly include the transition of their component community colleges to independently accredited status and have demonstrated measurable progress towards this goal. By the first day of July, two thousand seven, or when all required community and technical colleges are independently accredited, whichever first occurs, funds for this purpose shall be allocated to the incentives for institutional contributions to state priorities: *Provided*, That if the commission determines that payments from the account to the institutions should continue beyond the first day of July, two thousand seven, it shall request an extension from the Legislature;

(C) *Research challenge.* -- Funds appropriated for this purpose shall assist public colleges and universities in West Virginia to compete on a national and international basis

by providing incentives to increase their capacity to compete successfully for research funding. The Legislature intends for institutions to collaborate in the development and execution of research projects to the extent practicable and to target research to the needs of the state as established in the public policy agenda and linked to the future competitiveness of this state.

(i) The commission shall develop criteria for awarding grants to institutions under this account, which may include, but are not limited to, the following:

(I) Grants to be used to match externally funded, peer-reviewed research;

(II) Grants to be used to match funds for strategic institutional investments in faculty and other resources to increase research capacity;

(III) Grants to support funding for new research centers and projects that will foster economic development and work force investment within the state. These grants shall be limited to seven years and each research center or project funded shall receive a decreasing award each year and shall be required to be supported solely by external funding within seven years;

(ii) The commission may establish an advisory council consisting of nationally prominent researchers and scientists, including representatives from outside the state, to assist in developing the criteria for awarding grants under this account.

(iii) For the purposes of making the distributions from this account, the commission shall establish the definition for research, research funds and any other terms as may be necessary to implement this subdivision; and

(D) *Incentives for institutional contributions to state priorities.* -- Funds appropriated for this purpose provide incentives to institutions which demonstrate success toward advancing the goals of the public policy agenda as set forth in section one-a, article one of this chapter and to provide incentives for mission enhancement as set forth in section two of this article.

(E) *Sustained quality support.* -- The commission shall provide additional operating funds to institutions with approved compacts. The commission shall allocate these funds on an equal percentage basis to all institutions: *Provided*, That the commission may delay distribution of these funds to any institution which does not demonstrate measurable progress towards the goals provided in its compact with the commission.

(c) *Allocations to institutional operating budgets.* -- For the purposes of this subsection, the commission shall establish by rule pursuant to subsection (f), section two of this article the method for measuring the progress of each institution towards meeting the benchmarks of its institutional compact.

(d) *Allocation of appropriations to the institutions.* -- Appropriations in this section shall be allocated to the state institutions of higher education in the following manner:

(1) For the fiscal year two thousand two, appropriations above the fiscal year two thousand two institutional operating budget shall be allocated only to institutions with approved compacts, pursuant to this article;

(2) For the fiscal year two thousand three, and each fiscal year thereafter, appropriations from the funds shall be allocated only to institutions with approved compacts, pursuant to section two of this article and which also have achieved their annual benchmarks for accomplishing the goals of their compacts, as approved by the commission: *Provided*, That if an institution has not achieved all of its annual benchmarks, the commission may distribute a portion of the funds to the institution based on its progress as the commission determines appropriate: *Provided, however*, That the commission shall establish by rule pursuant to subsection (f), section two, of this article

the method for measuring the progress of each institution toward meeting the benchmarks of its institutional compact;

(e) Nothing in this section shall be construed in a manner that limits the appropriation or collection of fees necessary to effectuate the operation and purpose of the commission.

ARTICLE 2A. INSTITUTIONAL BOARDS OF GOVERNORS.

§18B-2A-5. Public school service program.

Each governing board shall establish and implement a policy through which college students obtain credit toward graduation for service performed in the public schools as tutors, student advisors, and mentors to instill in public school students the benefits of postsecondary education attainment.

House Bill #4428

Effective Date: Passed March 7, 2002; in effect July 1, 2002.

Signed by Governor: March 17, 2002.

Code Reference: Amend and reenact §18-5-16.

Title: Relating to net enrollment when pupil transfers are not officially agreed to by respective counties.

Major Provisions:

- S Where counties cannot agree the state board shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to enter into an agreement to transfer or accept the transfer of the student.
- S The process shall designate the state superintendent to hear the appeal.
- S The state superintendent shall consider such factors as the following:
 - Travel time for the students,
 - Impact on levies and bonds,
 - Other financial impact on the county of students; and
 - Such other factors as the state superintendent may determine.
- If the state superintendent discovers that the education and welfare of students in the transferring county could be enhanced, the state superintendent may direct that students may be permitted to attend a school in another county.
- If multiple appeals are received from the same geographical areas of a county, the state superintendent may impose on the receiving county restrictions including, but not limited to, requiring the receiving county to accept all students in that geographical areas of the sending county who wish to transfer to the receiving county.

ENROLLED
H. B. 4428

(By Delegates Williams, Hubbard, Paxton, Romine,
Perry, Dempsey and Morgan)

[Passed March 7, 2002; in effect July 1, 2002.]

AN ACT to amend and reenact section sixteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to county school districts and student attendance; student transfers; legislative findings; appeals process; counting students for purposes of determining net enrollment; and fees for transfer.

Be it enacted by the Legislature of West Virginia:

That section sixteen, article five, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

§18-5-16. Student transfers; legislative findings; appeals; calculating net enrollment; fees for transfer.

(a) *County districts and school attendance* -- The county board may divide the county into such districts as are necessary to determine the schools the students of its county shall attend. Upon the written request of any parent or guardian, or person legally responsible for any student, or for reasons affecting the best interests of the schools, the superintendent may transfer students from one school to another within the county. Any aggrieved person may appeal the decision of the county superintendent to the county board, and the decision of the county board shall be final.

(b) *Transfers between counties; legislative findings* --

(1) Transfers of students from one county to another may be made by the county board of the county in which the student desiring to be transferred resides. The transfer shall be subject to the approval of both the board of the county in which the student resides and the board to which the student wishes to be transferred.

(2) *Legislative findings* -- Over the past several years, counties have been forced to close a number of schools because of declining student enrollment. School officials predict that an additional eighteen percent loss in enrollment may occur between two thousand two and two thousand twelve. This continued decrease in the number of students enrolled in the public schools of the state may result in more instances of consolidation which will increase the problem of long bus rides for students if they remain in a school in their county of residence.

Therefore the Legislature makes the following findings:

(A) County lines may impede the effective and efficient delivery of education services;

(B) Students often must endure long bus rides to a school within their county of residence when a school in an adjacent county is a fraction of the distance away;

(C) The wishes of parents or guardians to have their children transferred to a county other than their county of residence should be considered by the county boards; and

(D) Where counties can not agree, it is necessary to establish a process to determine when transfers are appropriate.

(3) The state board shall establish a process whereby a parent or guardian of a student may appeal the refusal of a county board to enter into an agreement to transfer or accept the transfer of the student.

(A) The process shall designate the state superintendent to hear the appeal. In determining whether to overturn a decision of a county board, the state superintendent shall consider such factors as the following:

- (i) Travel time for the student;
- (ii) Impact on levies or bonds;
- (iii) Other financial impact on the county of residence; and
- (iv) Such other factors as the state superintendent may determine.

(B) If, during the appeal process, the state superintendent discovers that the education and the welfare of students in the transferring county could be enhanced, the state superintendent may direct that students may be permitted to attend a school in another county.

(C) If multiple appeals are received from the same geographical area of a county, the state superintendent may impose on the receiving county restrictions including, but not limited to, requiring the receiving county to accept all students in that geographical area of the sending county who wish to transfer to the receiving county.

(D) If a student is transferred on either a full-time or a part-time basis without the agreement of both boards by official action as reflected in the minutes of their respective meetings and if the student's parent or guardian fails to appeal or loses the appeal under the process established in subdivision (3) of this subsection, the student shall be counted only in the net enrollment of the county in which the student resides.

(4) If, after two county boards have agreed to a transfer arrangement for a student, that student chooses to return to a school in his or her county of residence after the second month of any school year, the following shall apply:

(A) The county of residence may issue an invoice to the county from which the student transferred for the amount, determined on a pro rata basis, that the county of residence otherwise would have received under the state basic foundation program established in article nine-a of this chapter; and

(B) The county from which the student transferred shall reimburse the county of residence for the amount of the invoice.

(c) *Transfers between high schools* -- In any county where a high school is maintained, but topography, impassable roads, long bus rides or other conditions prevent the practicable transportation of any students to such high school, the board may transfer them to a high school in an adjoining county. In any such case, the county boards may enter into an agreement providing for the payment of the cost of transportation, if any, of the students.

(d) *Transfers between states* -- Transfer of students from this state to another state shall be upon such terms as shall be mutually agreed upon by the board of the transferring county and the authorities of the school to which the transfer is made.

(e) No parent, guardian or person acting as parent or guardian shall be required to pay for the transfer of a student or for the tuition of the student after the transfer when such transfer is carried out under the terms of this section.

House Bill #4484

Effective Date: Passed March 8, 2002; in effect from passage.

Signed by Governor: March 21, 2002.

Code Reference: Amend and reenact §18-7a-26.

Title: Relating to the teachers retirement system.

Major Provision:

- S** Providing for the right of members to name a new joint annuitant upon the death of a spouse who is a joint annuitant.

**ENROLLED
H. B. 4484**

(By Delegate Campbell)

[Passed March 8, 2002; in effect from passage.]

AN ACT to amend and reenact section twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the teachers retirement system; and providing for the right of members to name a new joint annuitant upon the death of a spouse who is a joint annuitant.

Be it enacted by the Legislature of West Virginia:

That section twenty-six, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-26. Computation of annuities.

Annuitants whose annuities were approved by the retirement board effective before the first day of July, one thousand nine hundred eighty, shall be paid the annuities which were approved by the retirement board.

Annuities approved by the board effective after the thirtieth day of June, one thousand nine hundred eighty, shall be computed as provided herein.

Upon establishment of eligibility for a retirement allowance, a member shall be granted an annuity which shall be the sum of the following:

(a) Two percent of the member's average salary multiplied by his or her total service credit as a teacher. In this paragraph "average salary" shall mean the average of the highest annual salaries received by the member during any five years contained within his or her last fifteen years of total service credit: *Provided*, That the highest annual salary used in this calculation for certain members employed by the West Virginia higher education policy commission under its control shall be four thousand eight hundred dollars, as provided by section fourteen-a of this article and chapter;

(b) The actuarial equivalent of the voluntary deposits of the member in his or her individual account up to the time of his or her retirement, with regular interest.

The disability annuities of all teachers retired for disability shall be based upon a disability table prepared by a competent actuary approved by the retirement board.

Upon the death of an annuitant who qualified for an annuity as the surviving spouse of an active member or because of permanent disability, the estate of the deceased or beneficiary designated for such purpose, shall be paid the difference, if any, between the member's contributions with regular interest thereon, and the sum of the annuity payments. Upon the death of a spouse, a retirant may elect an annuity option approved by the retirement board in an amount adjusted on a fair basis to be of equal actuarial value as the annuity prospectively in effect relative to the surviving member at the time the new option is elected.

All annuities shall be paid in twelve monthly payments. In computing the monthly payments, fractions of a cent shall be deemed a cent. The monthly payments shall cease with the payment for the month within which the beneficiary dies, and shall begin with the

payment for the month succeeding the month within which the annuitant became eligible under this article for the annuity granted; in no case, however, shall an annuitant receive more than four monthly payments which are retroactive after the board receives his or her application for annuity. Beginning with the first day of July, one thousand nine hundred ninety-four, the monthly payments shall be made on the twenty-fifth day of each month, except the month of December, when the payment shall be made on the eighteenth day of December. If the date of payment falls on a holiday, Saturday or Sunday, then the payment shall be made on the preceding workday.

In case the retirement board receives data affecting the approved annuity of a retired teacher, the annuity shall be changed in accordance with the data, the change being effective with the payment for the month within which the board received the new data.

Any person who has attained the age of sixty-five and who has served at least twenty-five years as a teacher prior to the first day of July, one thousand nine hundred forty-one, shall be eligible for prior service credit and for prior service pensions as prescribed in this section.

House Bill #4507

Effective Date: Passed March 8, 2002; in effect ninety days from passage.

Signed by Governor: March 17, 2002.

Code Reference: Amend and reenact §30-21-3.

Title: Authorizing permits for school psychologists.

Major Provision:

- S** Enabling school psychologists to practice school psychology within the scope of their employment with a permit issued by the Department of Education.

**ENROLLED
H. B. 4507**

(By Delegates Paxton, Poling, Dempsey, Romine,
Swartzmiller, Susman and Louisos)

[Passed March 8, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article twenty-one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to enabling school psychologists to practice school psychology within the scope of their employment with a permit issued by the Department of Education.

Be it enacted by the Legislature of West Virginia:

That section three, article twenty-one, chapter thirty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 21. PSYCHOLOGISTS; SCHOOL PSYCHOLOGISTS.

§30-21-3. License required; firms, associations and corporations engaging in the practice of psychology.

(a) No person shall engage in, offer to engage in, or hold himself or herself out to the public as being engaged in, the practice of psychology in this state, nor shall any person use in connection with any trade, business, profession or occupation, except in those instances specifically excluded from the definition of the practice of psychology by subparagraphs (1), (2), (3), (4) and (6), subdivision (e), section two of this article, the word "psychologist," "psychology," "psychological" or any other title, word or abbreviation which induces or tends to induce the belief that such person is qualified to engage or is engaged in the practice of psychology, unless and until he or she shall first obtain a license or temporary permit to engage in the practice of psychology in accordance with the provisions of this article, which license or temporary permit remains unexpired, unsuspended and unrevoked: *Provided*, That such license or temporary permit shall not be required for an individual who is the holder of a school psychology certificate or permit issued by the West Virginia department of education and who is engaged in the practice of school psychology solely within the scope of employment as a school board employee: *Provided, however*, That no such license or temporary permit shall be required for a psychologist who is not a resident of this state, who is the holder of a license or certificate to engage in the practice of psychology issued by a state with licensing or certification requirements determined by the board to be at least as great as those provided in this article, who has no regular place of practice in this state and who engages in the practice of psychology in this state for a period of not more than ten days in any calendar year.

(b) No firm, association or corporation shall, except through a licensee or licensees, render any service or engage in any activity which if rendered or engaged in by any individual would constitute the practice of psychology.

House Bill #4534

Effective Date: Passed March 9, 2002; in effect from passage.

Signed by Governor: April 2, 2002.

Code Reference: New §18c-8 - 1, 2, 3.

Title: Financial Aid Coordinating Council.

Major Provisions:

- S** The Financial Aid Coordinating Council is established for the purpose of examining and recommending strategies for maximizing coordination among the various sources of student financial aid.

- S** The council is responsible for examining financial aid issue including:
 - An informational and marketing plan that delivers to middle school through high school an awareness of financial aid resources.
 - An articulation plan between secondary and post-secondary education regarding delivery and availability of student financial aid, including dual credit course offerings for secondary students free of charge.
 - A strategy for implementing a system of student identification numbers that is both compatible and uniform to be used by public schools and public institutions of higher education.

- The council is composed of seventeen members including:
 - State Superintendent, or designee.
 - Assistant State Superintendent for Technical and Adult Education Services, or designee.

ENROLLED
H. B. 4534

(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]

[Passed March 9, 2002; in effect from passage.]

AN ACT to amend chapter eighteen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article eight, relating to higher education; student financial aid; creating the West Virginia financial aid coordinating council; membership; responsibility; meetings; recommendations; reports; and termination of council.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen-c of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article eight, to read as follows:

ARTICLE 8. WEST VIRGINIA FINANCIAL AID COORDINATING COUNCIL.

§18C-8-1. West Virginia financial aid coordinating council.

(a) The West Virginia financial aid coordinating council is hereby created. The council is established for the purpose of examining and recommending strategies for maximizing coordination among the various sources of student financial aid.

(b) The council is responsible for examining financial aid issues which include at least the following:

(1) A manner for administering and maintaining the most efficient, simplified and coordinated application process. This includes implementing the optimum use of technology in the application process.

The council shall explore the feasibility of developing a single form for completing the application process;

(2) A strategy for ensuring that a reasonable balance of need-based, merit-based and self-help financial assistance is available to West Virginia students;

(3) An integrated and well coordinated system for making financial aid awards on a timely basis;

(4) A comprehensive informational and marketing plan that delivers to middle school through high school students and the public an awareness of the various financial aid resources;

(5) An articulation plan between secondary and postsecondary education regarding delivery and availability of student financial aid, including dual credit course offerings for secondary students free of charge;

(6) A strategy for working with and informing high school guidance counselors in implementing effective strategies for assisting students in completing the financial aid application process; and

(7) A strategy for implementing a system of student identification numbers that is both compatible and uniform to be used by public schools and public institutions of higher

education.

(c) The council shall take actions including, but not limited to, the following:

(1) Make recommendations with respect to coordinating the application for and disbursement of funds from all sources of a student's financial aid package, and for maximizing the level of funding derived from federal sources;

(2) Identify and examine all sources of student financial aid, and recommend the most effective manner for coordinating all financial aid resources. The sources include, but are not limited to the following:

(A) PROMISE scholarship program;

(B) Higher education grant program;

(C) Higher education adult part-time student grant program;

(D) Prepaid tuition trust and savings programs;

(E) Underwood-Smith teacher scholarship program;

(F) Health sciences scholarship program;

(G) West Virginia engineering, science and technology scholarship program;

(H) Federal PELL grant program;

(I) Federal student loans;

(J) Work/study programs;

(K) Tuition waivers; and

(L) Privately funded scholarships;

(3) In consultation with the higher education policy commission, recommend funding levels for each state grant and scholarship program;

(4) Utilize the resources of national or regional education organizations such as, but not limited to, the southern regional education board, education commission of the states and national association of student financial aid administrators; and

(5) Meet at any time that the council determines appropriate.

§18C-8-2. Council membership; council chair; compensation of members; establishing quorum.

(a) The council is composed of seventeen members as follows:

(1) Chancellor for higher education, or designee;

(2) State superintendent of schools, or designee;

(3) Secretary of education and the arts, or designee;

(4) State treasurer, or designee;

(5) Vice chancellor for administration for the higher education policy commission;

(6) Director for student and educational services for the higher education policy commission;

(7) Assistant state superintendent for technical and adult education services, or designee;

(8) Executive director of the PROMISE scholarship program;

(9) Director of American education services-West Virginia;

(10) Representative of proprietary institutions selected by the West Virginia association of independent colleges and schools;

(11) Representative of independent institutions selected by the West Virginia independent colleges and universities, inc.;

(12) President of the West Virginia association of student financial aid

administrators;

(13) President of the West Virginia counselors association, or designee;

(14) Two representatives of state institutions of higher education appointed by the policy commission, one of whom represents community and technical college education; and

(15) Two members appointed by the governor who are knowledgeable about and representative of the interests of student financial aid applicants.

(b) The secretary of education and the arts or his or her designee is chair of the council.

(c) Members serve without compensation, but are reimbursed for expenses, including travel expenses, actually incurred by the member in the official conduct of business at the same rate as is paid to state employees. Any members employed by a government agency shall be reimbursed by his or her employer; all other members shall be reimbursed by the office of the secretary of education and the arts. A majority of council members constitutes a quorum for the transaction of business.

§18C-8-3. Reports; termination of council.

(a) The council shall make a preliminary report of its recommendations on or before the first day of December, two thousand two. If the council is able to finish its work and make a final report on this date, it shall cease to exist on the first day of April, two thousand three. If the council finds that it can not complete its work on or before the first day of December, two thousand two, the council may vote to continue its work and issue a final report on the first day of December, two thousand three, in which case, the council shall cease to exist on the first day of April, two thousand four.

(b) The council shall provide copies of its reports to the Governor; President of the Senate; Speaker of the House of Delegates; chairs of the Senate and House finance committees; legislative oversight commission on education accountability; higher education policy commission; and state board of education.

House Bill #4579

Effective Date: Passed March 9, 2002; in effect ninety days from passage.

Signed by Governor: April 2, 2002.

Code Reference: Amend §18-7A-13a.

Title: Relating to teachers' retirement.

Major Provision:

- S** Retired public school teacher may be employed as a higher education teacher without loss of benefits.

**ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4579**

(By Delegates Campbell, J. Smith, Keener, Hubbard and Browning)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section thirteen-a, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to clarifying that a retired public school teacher may be employed as a higher education teacher without loss of benefits.

Be it enacted by the Legislature of West Virginia:

That section thirteen-a, article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-13a. Resumption of service by retired teachers.

For the purpose of this section, reemployment of a former or retired teacher as a teacher shall in no way impair such teacher's eligibility for a prior service pension, or any other benefit provided by this article.

Retired teachers, who qualified for an annuity because of age or service, may not receive prior service allowance from the retirement board when employed as a teacher and when regularly employed by the state of West Virginia. The payment of such allowance shall be discontinued on the first day of the month within which such employment begins, and shall be resumed on the first day of the month succeeding the month within which such employment ceases. The annuity paid any such teacher on first retirement resulting from the teachers' accumulation fund and the employers' accumulation fund shall continue throughout the governmental service and thereafter according to the option selected by the teacher upon first retirement.

Retired teachers, who qualified for an annuity because of disability, shall receive no further retirement payments, if the retirement board finds that the disability of the teacher no longer exists; payment shall be discontinued on the first day of the month within which such finding is made. If such retired teacher returns to service as a teacher, he shall contribute to the teachers' accumulation fund as a member of the system. His prior service eligibility, if any, shall not be impaired because of his disability retirement. His accumulated contributions and interest which were transferred to the benefit fund upon his retirement shall be returned to his individual account in the teachers' accumulation fund, minus retirement payments received which were not supported by such contributions and interest. Upon subsequent retirement, he shall receive credit for all of his contributory experience, anything to the contrary in this article notwithstanding.

Notwithstanding any provision of this code to the contrary, a person who retires under the system provided by this article may subsequently become employed on either a full time, part time basis or contract basis by any institution of higher education without

any loss of retirement annuity or retirement benefits if the person's retirement commences between the effective date of the enactment of this section in two thousand two and the thirty-first day of December, two thousand two: *Provided*, That such person shall not be eligible to participate in any other state retirement system provided by this code.

The retirement board is herewith authorized to require of the retired teachers and their employers such reports as it deems necessary to effectuate the provisions of this section.

Senate Bill #4

Effective Date: Passed March 9, 2002; in effect ninety days from passage.

Signed by Governor: April 2, 2002.

Code Reference: Amend and reenact section one, §18a-1-1; §18a-5-1a; §61-7-2.

Title: Defining alternative education and dangerous student.

Major Provisions:

- S** Expanding defined terms to include definitions for:
- alternative education and dangerous student,
 - sale of narcotics and possession of deadly weapons and controlled substances on educational facility premises, vehicles and at school sponsored functions,
 - assault and battery committed by pupil.
- Suspension and expulsion and procedure for hearing.
- Allowing county boards to determine whether a student is a dangerous student.
- Allowing county boards to refuse to provide alternative education to dangerous students who have been expelled.
- Establishing guidelines for permitting a reduction in mandatory twelve-month suspension.
- Removing provisions applying to students with disabilities and maintaining that application to students with disabilities must be consistent with federal law.
- Expanding and redefining deadly weapon (“knife” with a blade of three and one-half inches or less in length; explosive, biological and radiological materials) and the phrase applies to schools.

ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 4

(SENATORS JACKSON, MINEAR, REDD, HUNTER, MCKENZIE, EDGELL, BOLEY, BOWMAN,
PLYMALE, UNGER, SNYDER, KESSLER, MINARD, OLIVERIO AND CALDWELL, *original sponsors*)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section one, article one, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section one-a, article five of said chapter; and to amend and reenact section two, article seven, chapter sixty-one of said code, all relating to education; defining terms; expanding defined terms to include definitions for alternative education and dangerous student; sale of narcotics and possession of deadly weapons and controlled substances on educational facility premises, vehicles and at school-sponsored functions; assault and battery committed by pupil; suspension and expulsion, and exceptions; hearing; notice and procedure of hearing; notification by regular mail; postponement of hearing; allowing county boards to determine whether a student is a dangerous student; allowing county boards to refuse to provide alternative education to dangerous students who have been expelled; reexamination of dangerous student status; reporting requirements; authority to request subpoena in certain circumstances; establishing guidelines for permitting a reduction in mandatory twelve-month suspension; removing provisions applying to students with disabilities and maintaining that application to students with disabilities must be consistent with federal law; and expanding and redefining deadly weapon as the phrase applies to schools.

Be it enacted by the Legislature of West Virginia:

That section one, article one, chapter eighteen-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section one-a, article five of said chapter be amended and reenacted; and that section two, article seven, chapter sixty-one of said code be amended and reenacted, all to read as follows:

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 1. GENERAL PROVISIONS.

§18A-1-1. Definitions.

The definitions contained in section one, article one, chapter eighteen of this code apply to this chapter. In addition, the following words used in this chapter and in any proceedings pursuant thereto shall, unless the context clearly indicates a different meaning, be construed as follows:

(a) "School personnel" means all personnel employed by a county board of education whether employed on a regular full-time basis, an hourly basis or otherwise. School

personnel shall be comprised of two categories: Professional personnel and service personnel.

(b) "Professional personnel" means persons who meet the certification and/or licensing requirements of the state and includes the professional educator and other professional employees.

(c) "Professional educator" is synonymous with and has the same meaning as

"teacher" as defined in section one, article one, chapter eighteen of this code. Professional educators shall be classified as:

(1) "*Classroom teacher*". -- The professional educator who has direct instructional or counseling relationship with pupils, spending the majority of his or her time in this capacity.

(2) "*Principal*". -- The professional educator who, as agent of the board, has responsibility for the supervision, management and control of a school or schools within the guidelines established by said board. The major area of such responsibility shall be the general supervision of all the schools and all school activities involving pupils, teachers and other school personnel.

(3) "*Supervisor*". -- The professional educator who, whether by this or other appropriate title, is responsible for working primarily in the field with professional and other personnel in instructional and other school improvement.

(4) "*Central office administrator*". -- The superintendent, associate superintendent, assistant superintendent and other professional educators, whether by these or other appropriate titles, who are charged with the administering and supervising of the whole or some assigned part of the total program of the countywide school system.

(d) "Other professional employee" means that person from another profession who is properly licensed and is employed to serve the public schools and includes a registered professional nurse, licensed by the West Virginia board of examiners for registered professional nurses and employed by a county board of education, who has completed either a two-year (sixty-four semester hours) or a three-year (ninety-six semester hours) nursing program.

(e) "Service personnel" means those who serve the school or schools as a whole, in a nonprofessional capacity, including such areas as secretarial, custodial, maintenance, transportation, school lunch and as aides.

(f) "Principals academy" or "academy" means the academy created pursuant to section two-b, article three-a of this chapter.

(g) "Center for professional development" means the center created pursuant to section one, article three-a of this chapter.

(h) "Job-sharing arrangement" means a formal, written agreement voluntarily entered into by a county board with two or more of its professional employees who wish to divide between them the duties and responsibilities of one authorized full-time position.

(i) "Prospective employable professional personnel" means certified professional educators who:

(1) Have been recruited on a reserve list of a county board;

(2) Have been recruited at a job fair or as a result of contact made at a job fair;

(3) Have not obtained regular employee status through the job posting process provided for in section seven-a, article four of this chapter; and

(4) Have obtained a baccalaureate degree from an accredited institution of higher education within the past year.

(j) "Dangerous student" means a pupil who is substantially likely to cause serious bodily injury to himself, herself or another individual within that pupil's educational environment, which may include any alternative education environment, as evidenced by a pattern or series of violent behavior exhibited by the pupil, and documented in writing by the school, with the documentation provided to the student and parent or guardian at the time of any offense.

(k) "Alternative education" means an authorized departure from the regular school program designed to provide educational and social development for students whose disruptive behavior places them at risk of not succeeding in the traditional school structures and in adult life without positive interventions.

ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.

§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(a) A principal shall suspend a pupil from school or from transportation to or from the school on any school bus if the pupil, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Violated the provisions of subsection (b), section fifteen, article two, chapter sixty-one of this code; (ii) violated the provisions of subsection (b), section eleven-a, article seven of said chapter; or (iii) sold a narcotic drug, as defined in section one hundred one, article one, chapter sixty-a of this code, on the premises of an educational facility, at a school-sponsored function or on a school bus. If a student has been suspended pursuant to this subsection, the principal shall, within twenty-four hours, request that the county superintendent recommend to the county board that the student be expelled. Upon such a request by a principal, the county superintendent shall recommend to the county board that the student be expelled. Upon such recommendation, the county board shall conduct a hearing in accordance with subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board shall expel the student.

(b) A principal shall suspend a pupil from school, or from transportation to or from the school on any school bus, if the pupil, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Committed an act or engaged in conduct that would constitute a felony under the laws of this state if committed by an adult; or (ii) unlawfully possessed on the premises of an educational facility or at a school-sponsored function a controlled substance governed by the uniform controlled substances act as described in chapter sixty-a of this code. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged

violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(c) A principal may suspend a pupil from school, or transportation to or from the school on any school bus, if the pupil, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section: (i) Threatened to injure, or in any manner injured, a pupil, teacher, administrator or other school personnel; (ii) willfully disobeyed a teacher; (iii) possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function; (iv) used profane language directed at a school employee or pupil; (v) intentionally defaced any school property; (vi) participated in any physical altercation with another person while under the authority of school personnel; or (vii) habitually violated school rules or policies. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(d) The actions of any pupil which may be grounds for his or her suspension or expulsion under the provisions of this section shall be reported immediately to the principal of the school in which the pupil is enrolled. If the principal determines that the alleged actions of the pupil would be grounds for suspension, he or she shall conduct an informal hearing for the pupil immediately after the alleged actions have occurred. The hearing shall be held before the pupil is suspended unless the principal believes that the continued presence of the pupil in the school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil shall be suspended immediately and a hearing held as soon as practicable after the suspension.

The pupil and his or her parent(s), guardian(s) or custodian(s), as the case may be, shall be given telephonic notice, if possible, of this informal hearing, which notice shall briefly state the grounds for suspension.

At the commencement of the informal hearing, the principal shall inquire of the pupil as to whether he or she admits or denies the charges. If the pupil does not admit the charges, he or she shall be given an explanation of the evidence possessed by the principal and an opportunity to present his or her version of the occurrence. At the conclusion of the hearing or upon the failure of the noticed student to appear, the principal may suspend the pupil for a maximum of ten school days, including the time prior to the hearing, if any, for which the pupil has been excluded from school.

The principal shall report any suspension the same day it has been decided upon, in writing, to the parent(s), guardian(s) or custodian(s) of the pupil by regular United States mail. The suspension also shall be reported to the county superintendent and to the faculty senate of the school at the next meeting after the suspension.

(e) Prior to a hearing before the county board, the county board shall cause a written notice which states the charges and the recommended disposition to be served upon the pupil and his or her parent(s), guardian(s) or custodian(s), as the case may be. The notice shall state clearly whether the board will attempt at hearing to establish the student as a dangerous student, as defined by section one, article one of this chapter. The notice also

shall include any evidence upon which the board will rely in asserting its claim that the student is a dangerous student. The notice shall set forth a date and time at which the hearing shall be held, which date shall be within the ten-day period of suspension imposed by the principal.

(f) The county board shall hold the scheduled hearing to determine if the pupil should be reinstated or should or, under the provisions of this section, must be expelled from school. If the county board determines that the student should or must be expelled from school, it may also determine whether the student is a dangerous student pursuant to subsection (g) of this section. At this, or any hearing before a county board conducted pursuant to this section, the pupil may be represented by counsel, may call his or her own witnesses to verify his or her version of the incident and may confront and cross-examine witnesses supporting the charge against him or her. Such a hearing shall be recorded by mechanical means unless recorded by a certified court reporter. Any such hearing may be postponed for good cause shown by the pupil but he or she shall remain under suspension until after the hearing. The state board may adopt other supplementary rules of procedure to be followed in these hearings. At the conclusion of the hearing the county board shall either: (1) Order the pupil reinstated immediately or at the end of his or her initial suspension; (2) suspend the pupil for a further designated number of days; or (3) expel the pupil from the public schools of the county.

(g) A county board that did not intend prior to a hearing to assert a dangerous student claim, that did not notify the student prior to the hearing that such a determination would be considered and that determines through the course of the hearing that the student may be a dangerous student shall schedule a second hearing within ten days to decide the issue. The hearing may be postponed for good cause shown by the pupil, but he or she remains under suspension until after the hearing.

A county board that expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. However, after a hearing conducted pursuant to this section for determining whether a student is a dangerous student, when the student is found to be a dangerous student, is expelled and is denied alternative education, a hearing shall be conducted within three months after the refusal by the board to provide alternative education to reexamine whether or not the student remains a dangerous student and whether the student shall be provided alternative education. Thereafter, a hearing for the purpose of reexamining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three months for so long as the student remains a dangerous student and is denied alternative education. During the initial hearing, or in any subsequent hearing, the board may consider the history of the pupil's conduct as well as any improvements made subsequent to the expulsion. If it is determined during any of the hearings that the student is no longer a dangerous student or should be provided alternative education, the student shall be provided alternative education during the remainder of the expulsion period.

(h) The superintendent may apply to a circuit judge or magistrate for authority to subpoena witnesses and documents, upon his or her own initiative, in a proceeding related to a recommended student expulsion or dangerous student determination, before a county board conducted pursuant to the provisions of this section. Upon the written request of any other party, the superintendent shall apply to a circuit judge or magistrate for the authority to

subpoena witnesses, documents or both on behalf of the other party in a proceeding related to a recommended student expulsion or dangerous student determination before a county board. If the authority to subpoena is granted, the superintendent shall subpoena the witnesses, documents or both requested by the other party. Furthermore, if the authority to subpoena is granted, it shall be exercised in accordance with the provisions of section one, article five, chapter twenty-nine-a of this code.

Any hearing conducted pursuant to this subsection may be postponed: (1) For good cause shown by the pupil; (2) when proceedings to compel a subpoenaed witness to appear must be instituted; or (3) when a delay in service of a subpoena hinders either party's ability to provide sufficient notice to appear to a witness. A pupil remains under suspension until after the hearing in any case where a postponement occurs.

The county boards are directed to report the number of pupils determined to be dangerous students to the state board of education. The state board will compile the county boards' statistics and shall report its findings to the legislative oversight commission on educational accountability.

(i) Pupils may be expelled pursuant to the provisions of this section for a period not to exceed one school year, except that if a pupil is determined to have violated the provisions of subsection (a) of this section the pupil shall be expelled for a period of not less than twelve consecutive months: *Provided*, That the county superintendent may lessen the mandatory period of twelve consecutive months for the expulsion of the pupil if the circumstances of the pupil's case demonstrably warrant. Upon the reduction of the period of expulsion, the county superintendent shall prepare a written statement setting forth the circumstances of the pupil's case which warrant the reduction of the period of expulsion. The county superintendent shall submit the statement to the county board, the principal, the faculty senate and the local school improvement council for the school from which the pupil was expelled. The county superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory twelve-month expulsion:

- (1) The extent of the pupil's malicious intent;
- (2) The outcome of the pupil's misconduct;
- (3) The pupil's past behavior history; and
- (4) The likelihood of the pupil's repeated misconduct.

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

(k) For purposes of this section, nothing herein may be construed to be in conflict with the federal provisions of the Individuals with Disabilities Education Act of 1990 (PL 101-476).

(l) If a pupil transfers to another school in West Virginia, the principal of the school from which the pupil transfers shall provide a written record of any disciplinary action taken against the pupil to the principal of the school to which the pupil transfers.

(m) Principals may exercise any other authority and perform any other duties to discipline pupils consistent with state and federal law, including policies of the state board of education.

CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

ARTICLE 7. DANGEROUS WEAPONS.

§61-7-2. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Blackjack" means a short bludgeon consisting, at the striking end, of an encased piece of lead or some other heavy substance and, at the handle end, a strap or springy shaft which increases the force of impact when a person or object is struck. The term "blackjack" shall include, but not be limited to, a billy, billy club, sand club, sandbag or slapjack.

(2) "Gravity knife" means any knife that has a blade released from the handle by the force of gravity or the application of centrifugal force and when so released is locked in place by means of a button, spring, lever or other locking or catching device.

(3) "Knife" means an instrument, intended to be used or readily adaptable to be used as a weapon, consisting of a sharp-edged or sharp-pointed blade, usually made of steel, attached to a handle which is capable of inflicting cutting, stabbing or tearing wounds. The term "knife" shall include, but not be limited to, any dagger, dirk, poniard or stiletto, with a blade over three and one-half inches in length, any switchblade knife or gravity knife and any other instrument capable of inflicting cutting, stabbing or tearing wounds. A pocket knife with a blade three and one-half inches or less in length, a hunting or fishing knife carried for hunting, fishing, sports or other recreational uses, or a knife designed for use as a tool or household implement shall not be included within the term "knife" as defined herein unless such knife is knowingly used or intended to be used to produce serious bodily injury or death.

(4) "Switchblade knife" means any knife having a spring-operated blade which opens automatically upon pressure being applied to a button, catch or other releasing device in its handle.

(5) "Nunchuka" means a flailing instrument consisting of two or more rigid parts, connected by a chain, cable, rope or other nonrigid, flexible or springy material, constructed in such a manner as to allow the rigid parts to swing freely so that one rigid part may be used as a handle and the other rigid part may be used as the striking end.

(6) "Metallic or false knuckles" means a set of finger rings attached to a transverse piece to be worn over the front of the hand for use as a weapon and constructed in such a manner that, when striking another person with the fist or closed hand, considerable physical damage may be inflicted upon the person struck. The terms "metallic or false knuckles" shall include any such instrument without reference to the metal or other substance or substances from which the metallic or false knuckles are made.

(7) "Pistol" means a short firearm having a chamber which is integral with the barrel, designed to be aimed and fired by the use of a single hand.

(8) "Revolver" means a short firearm having a cylinder of several chambers that are brought successively into line with the barrel to be discharged, designed to be aimed and fired by the use of a single hand.

(9) "Deadly weapon" means an instrument which is designed to be used to produce serious bodily injury or death or is readily adaptable to such use. The term "deadly weapon" shall include, but not be limited to, the instruments defined in subdivisions (1) through (8), inclusive, of this section or other deadly weapons of like kind or character which may be easily concealed on or about the person. For the purposes of section one-a, article five, chapter eighteen-a of this code and section eleven-a, article seven of this chapter, in addition to the definition of "knife" set forth in subdivision (3) of this section, the term "deadly weapon" also includes any instrument included within the definition of "knife" with a blade of three and one-half inches or less in length. Additionally, for the purposes of section one-a, article five, chapter eighteen-a of this code and section eleven-a, article seven of this chapter, the term

“deadly weapon” includes explosive, chemical, biological and radiological materials. Notwithstanding any other provision of this section, the term “deadly weapon” does not include any item or material owned by the school or county board, intended for curricular use, and used by the student at the time of the alleged offense solely for curricular purposes.

(10) "Concealed" means hidden from ordinary observation so as to prevent disclosure or recognition. A deadly weapon is concealed when it is carried on or about the person in such a manner that another person in the ordinary course of events would not be placed on notice that the deadly weapon was being carried.

(11) "Firearm" means any weapon which will expel a projectile by action of an explosion.

(12) "Controlled substance" has the same meaning as is ascribed to that term in subsection (d), section one hundred one, article one, chapter sixty-a of this code.

(13) "Drug" has the same meaning as is ascribed to that term in subsection (l), section one hundred one, article one, chapter sixty-a of this code.

Senate Bill #32

Effective Date: Passed March 9, 2002; in effect ninety days from passage.

Signed by Governor: March 28, 2002.

Code Reference: Amend and reenact §18-9e-3.

Title: Relating to air quality in schools.

Major Provisions:

- S** Requiring the school building authority to promulgate rules to establish a process for independent testing, adjusting and balancing heating, ventilation and air conditioning systems.

- S** Requiring training for the maintenance and operation of the heating, ventilation and air conditioning systems.

- S** Requiring report of completed training and plan for continued education; and requiring report of certain indoor air quality problems.

ENROLLED
FOR
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 32

(SENATORS HUNTER, ROWE, REDD, BURNETTE AND CALDWELL, *original sponsors*)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article nine-e, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to air quality in schools; requiring the school building authority to promulgate rules to establish a process for independent testing, adjusting and balancing heating, ventilation and air conditioning systems; requiring training for the maintenance and operation of the heating, ventilation and air conditioning systems; requiring report of completed training and plan for continued education; and requiring report of certain indoor air quality problems.

Be it enacted by the Legislature of West Virginia:

That section three, article nine-e, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 9E. AIR QUALITY IN NEW SCHOOLS ACT.

§18-9E-3. Air quality in new schools.

(a) In an effort to create well-ventilated school environments and notwithstanding any other provision of this code to the contrary, any new school building designed and constructed in the state by a county board, regardless of the funding source, shall be designed and constructed in compliance with the current standards of the American society of heating, refrigerating and air conditioning engineers handbook (ASHRAE), the national fire protection association code (NFPA) and the code of the building officials and code administrators (BOCA).

(b) Upon notice from the school building authority that a new public school building is occupied, the division of health shall perform radon testing in the school within the first year after occupancy and at least every five years thereafter. The county board shall provide any reasonable assistance to the division of health that is necessary to perform the radon testing. The radon testing shall include all major student-occupied areas at or below grade level. If it is determined that radon is present in amounts greater than the amount determined to be acceptable by the rules promulgated by the school building authority, pursuant to subsection (d) of this section, any industry accepted mitigation technique shall be used to reduce the radon level to the level or below the level determined acceptable by the school building authority.

(c) If the school building authority determines that it is feasible to test for radon prior to the construction of a school building, the school building authority may cause preconstruction site testing for radon to be performed.

(d) The school building authority shall promulgate rules pursuant to article three-a,

chapter twenty-nine-a of this code to ensure that any new school building designed after the effective date of this article is designed and constructed in accordance with the current ASHRAE, NFPA and BOCA standards. The school building authority shall promulgate rules, pursuant to article three-a, chapter twenty-nine-a of this code, that establish standards for safe levels of radon for public school buildings. The rules shall include the requirement that county boards submit all new school designs to the school building authority for review and approval for compliance with current education standards and design efficiencies prior to preparation of final bid documents.

(e) On or before the first day of July, two thousand two, the school building authority shall promulgate rules to establish a process for independent testing, adjusting and balancing (TAB) heating, ventilation and air conditioning (HVAC) systems in new school buildings or renovated schools when the HVAC system has been replaced prior to occupancy. The process shall be consistent with current ASHRAE standards and shall include, but not be limited to, the following:

(1) Requiring HVAC designers to be professional engineers registered in this state in the specific discipline associated with the system being designed;

(2) Requiring a process to ensure that the HVAC system has been installed in the prescribed manner and will operate within the performance guidelines as designed;

(3) Requiring participation of the design engineer who designed the system to verify the intent of the design;

(4) Requiring the TAB agent to be qualified to perform the desired services and perform testing and balancing procedures, or qualified to perform other school building authority-approved certification according to the procedures contained in the associated air balance council (AABC) national standards, the national environmental balancing bureau (NEBB) procedural standards and the environment engineering consultants (EEC) standards for testing, adjusting and balancing of environmental systems;

(5) Requiring that the independent TAB agent directly represent the building owner and is under contract with the building owner and paid from project funds;

(6) Requiring that sufficient documentation is provided to the owner to facilitate control and maintenance of the systems in accordance with the manufacturer's requirements;

(7) Requiring that sufficient training is provided by the equipment manufacturer or an agent of the manufacturer to those persons who will operate and maintain the systems prior to occupation of the facility, including at least one full day follow-up training between six and eight months after the facility has been occupied; and

(8) Requiring certification upon successful completion of the TAB process by the independent TAB agent.

(f) To ensure proper maintenance and operation of new and replacement HVAC equipment, the department of education, using existing staff, shall provide county maintenance personnel additional training on the equipment and its controls at the site of the installation. The training shall occur within one year after student occupation of any new school facility or at any existing school facility where the HVAC system has been replaced or generally rehabilitated. Additionally, the department of education's facility staff shall provide on-site training to the county maintenance staff on the county's HVAC equipment at any facility that has been determined to have problematic indoor air quality

as identified through the complaint procedure set forth in state board policy 6202.

(g) Upon completion of the required training, the department of education's facility staff shall provide the county board a report summarizing the training that was completed and a plan for continuing education of the county's HVAC staff. If sufficient staff is not available to the county to perform maintenance on HVAC systems, the department of education's staff shall assist the county in the development of an immediate and long range maintenance plan to ensure that HVAC systems are maintained and operated according to the manufacturer's recommendations.

(h) Beginning the first day of July, two thousand two, and every three months thereafter, the department of education shall forward to the school building authority copies of any complaints received by the department of education of indoor air quality problems which require system repair or replacement and are identified through the complaint procedure established in state board policy 6202.

(i) The state board shall promulgate rules, pursuant to article three-b, chapter twenty-nine-a of this code, in consultation with the division of health, that authorize the use of any appropriate floor covering in public school buildings, based on user needs and performance specifications.

Senate Bill #177

Effective Date: Passed January 29, 2002; in effect ninety days from passage.

Signed by Governor: February 8, 2002.

Code Reference: Amend article two, §18-2; adding Section 35.

Title: Providing procedure for implementing school dress code.

Major Provisions:

- S** The state board shall promulgate rules in accordance with article three-b, chapter twenty-nine-a of this code that allow a county board to implement a dress code requiring students to wear a school uniform.

- S** The uniforms may be required by the county board for either a school district, or for any certain school within the district.

ENROLLED
Senate Bill No. 177

(BY SENATORS BAILEY, OLIVERIO, EDGELL, ANDERSON,
KESSLER, CALDWELL AND BURNETTE)

[Passed January 29, 2002; in effect ninety days from passage.]

AN ACT to amend article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-five, relating to providing a procedure for implementing a school dress code requiring student uniforms in public schools.

Be it enacted by the Legislature of West Virginia:

That article two, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty-five, to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-35. Dress codes requiring school uniforms for students.

(a) The Legislature hereby finds that the clothing and footwear worn by students in public schools often preoccupy and distract students from their major purpose for being in school, which is obtaining an education. The Legislature finds that in schools that have adopted a dress code requiring students to wear school uniforms, disparities in student socioeconomic levels are less obvious and disruptive incidents are less likely to occur.

(b) The state board shall promulgate rules in accordance with article three-b, chapter twenty-nine-a of this code that allow a county board to implement a dress code requiring students to wear a school uniform. The uniforms may be required by the county board for either a school district, or for any certain school within the district. The rules shall provide at least the following:

(1) The county board may create an advisory committee comprised of parents, school employees and students for the purpose of considering whether the board should adopt a dress code requiring school uniforms for students in the district;

(2) The county board may create an advisory committee comprised of parents, school employees and students for the purpose of considering whether the board should adopt a dress code requiring school uniforms for students in any certain school within the district;

(3) If the advisory committee recommends to the board that a dress code requiring school uniforms for students be adopted either for the district or for any certain school within the district, the advisory committee also shall make recommendations on alternative methods of paying for the school uniforms; and

(4) If the advisory committee recommends to the board that a dress code requiring school uniforms for students be adopted either for the district or for any certain school within the district and if the advisory committee reports its recommendations on

alternative methods of paying for the school uniforms to the board, the board may adopt a dress code requiring school uniforms for students.

(c) Nothing in this section requires a county board to adopt a dress code requiring school uniforms for students.

(d) Nothing in this section requires any level of funding by the Legislature, boards of education or any other agency of government.

Senate Bill #423

Effective Date: Passed March 9, 2002; in effect ninety days from passage.

Signed by Governor: March 17, 2002.

Code Reference: Amend and reenact §18-7a; adding Section 38.

Title: Relating to retired substitute teachers.

Major Provision:

- S** For the purpose of receiving retirement benefits, that only the actual number of hours worked by a retirant who is substitute teaching are counted when determining the number of days worked.

ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 423

(SENATORS HUNTER, OLIVERIO, EDGELL, CALDWELL, ROWE AND REDD, *original sponsors*)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-eight, relating to providing, for the purpose of receiving retirement benefits, that only the actual number of hours worked by a retirant who is substitute teaching are counted when determining the number of days worked.

Be it enacted by the Legislature of West Virginia:

That article seven-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section thirty-eight, to read as follows:

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-38. Calculating days worked for retirants engaged in substitute teaching.

(a) The Legislature finds that:

(1) The consolidated public retirement board has determined that retired substitute teachers should not perform substitute teaching without limit;

(2) The consolidated public retirement board has established, by rule, a maximum number of days in which a retired teacher may accept employment prior to having his or her retirement benefit reduced; and

(3) There have been inconsistencies in the manner in which county boards calculate the maximum number of days established by rule.

(b) For the purpose of calculating whether a retired substitute teacher has exceeded the maximum number of days in which a substitute teacher may accept employment without incurring a reduction in his or her retirement benefit, the number of days worked shall be determined by:

(1) Totaling the number of hours worked; and

(2) Dividing by the standard number of hours that a full-time teacher works per day.

Senate Bill #438

Effective Date: Passed March 9 2002; in effect ninety days from passage.

Signed by Governor: April 3, 2002.

Code Reference: Amend §17b by adding Article 2A.

Title: Selective service registration requirement.

Major Provisions:

- S** It is the intent of the Legislature to notify state residents of their responsibility to register with the selective service and to provide them the opportunity to register concurrent with applying for a driver's license or identification card.

- S** The division of Motor Vehicles shall provide a mechanism on each application for the issuance, renewal or duplicate of an instruction permit, a driver's license, a professional driver's license, a commercial driver's license or an identification card by which those persons required to register in compliance with the requirements of the "Military Selective Service Act."

ENROLLED
Senate Bill No. 438
(BY SENATORS WOOTON, BAILEY AND HUNTER)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-a, relating to requiring division of motor vehicles to provide a mechanism on certain applications to allow persons to indicate their preference to register with selective service system; and specifying the effect of signing the application under certain circumstances.

Be it enacted by the Legislature of West Virginia:

That chapter seventeen-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article two-a, to read as follows:

ARTICLE 2A. REQUIREMENT OF COMPLIANCE WITH SELECTIVE SERVICE REGISTRATION.

§17B-2A-1. Legislative intent.

It is the intent of the Legislature in enacting this article to protect state residents from the penalties associated with failing to register with the United States selective service system and to help ensure that any future draft is fair and equitable to all potential draftees.

The Legislature finds and declares that the penalties associated with noncompliance are severe, including, but not limited to, a felony conviction and forfeiture of the ability to seek state employment from certain state agencies and departments. In addition, failure to register may permanently preclude the violator from acquiring many federal benefits, such as federal employment, including employment with the United States postal service, federal and state student financial assistance, participation in federally funded job training programs and eligibility for United States citizenship for immigrants seeking citizenship.

Therefore, in recognition of the severe consequences of noncompliance and the importance of helping ensure that any future draft is fair and equitable, it is the intent of the Legislature to notify state residents of their responsibility to register with selective service and to provide them the opportunity to register concurrent with applying for a driver's license or identification card.

§17B-2A-2. Compliance with registration requirements of military selective service act.

The division of motor vehicles shall provide a mechanism on each application for the issuance, renewal or duplicate of an instruction permit, a driver's license, a professional driver's license, a commercial driver's license or an identification card by which those persons required to register in compliance with the requirements of section three of the "Military Selective Service Act", 50 U.S.C. App. 451, *et seq.*, may indicate their preference to allow the division to forward required information to the selective service system. If the applicant so indicates, his signature on the application may serve as his consent to registration with the selective service system, if he is not already registered.

Senate Bill #563

Effective Date: Passed March 9, 2002; in effect ninety days from passage.

Signed by Governor: March 17, 2002.

Code Reference: Amend and reenact §18-6-3.

Title: Safety program for motorcyclists.

Major Provision:

- S** Requiring driver education courses to provide a motorcycle awareness component.

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 563
(SENATORS REDD AND MITCHELL, *original sponsors*)

[Passed March 9, 2002; in effect ninety days from passage.]

AN ACT to amend and reenact section three, article six, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to requiring driver education courses to provide a motorcycle awareness component.

Be it enacted by the Legislature of West Virginia:

That section three, article six, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 6. DRIVER EDUCATION.

§18-6-3. State board to establish minimum course standards; students with mental or physical defects; minimum standards specified.

(a) The state board of education shall establish minimum standards for all driver education courses offered and made available to persons within the state, regardless of whether the courses are offered by public, private, parochial, denominational or commercial schools, but no person shall be permitted to enroll in any driver education course who has a known mental or physical defect that would prevent the person from qualifying for an operator's license, unless the mental or physical defect is controlled or corrected so the person could so qualify.

(b) The minimum standards shall provide at least that:

(1) All driver education courses offered within the state are taught by instructors certified by the state board as qualified for these purposes; and

(2) Each person enrolled in a driver education course shall receive practice driving and observation in a dual control automobile and instruction in at least the following:

(A) Basic and advanced driving techniques, including techniques for handling emergencies;

(B) Traffic regulations and laws of the road as provided in chapter seventeen-c of this code and other applicable state and local laws and ordinances;

(C) Critical mechanical parts of vehicles requiring preventive maintenance for safety;

(D) The vehicle, highway and community features that aid the driver in avoiding crashes; protect him or her and his or her passengers in crashes; and maximize the salvage of the injured;

(E) Signs, signals, highway markings and highway design features which require understanding for safe operation of motor vehicles;

(F) Differences in characteristics of urban and rural driving, including safe use of modern expressways;

(G) Pedestrian safety; and

(H) Motorcycle safety awareness in a program which shall include, but not be limited to, ensuring that the driver has knowledge and awareness of motorcycles sharing the roads of this state for the safety of motorcyclists.

(c) In addition, in driver education courses, participating students shall be encouraged to acquire first aid skills.

Senate Bill #727

Effective Date: Passed March 6, 2002; in effect ninety days from passage.

Signed by Governor: March 18, 2002.

Code Reference: Amend §16-5k adding Section 6.

Title: Creating birth-to-three fund within state treasury.

Major Provision:

- S** Created in the state treasury a fund to be known as the “West Virginia Birth-to-Three Fund” that shall be an interest-bearing account established and maintained to pay costs, fees and expenses incurred, or to be incurred, for early intervention services for children who are developmentally delayed.

ENROLLED
Senate Bill No. 727

(BY SENATORS CRAIGO, JACKSON, CHAFIN, PREZIOSO, LOVE, HELMICK, BOWMAN, ANDERSON,
EDGELL, UNGER, BOLEY, MINEAR AND SPROUSE)

[Passed March 6, 2002; in effect ninety days from passage.]

AN ACT to amend article five-k, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section six, relating to creating a fund within the state treasury to be known as the "West Virginia Birth-to-Three Fund".

Be it enacted by the Legislature of West Virginia:

That article five-k, chapter sixteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section designated section six, to read as follows:

ARTICLE 5K. EARLY INTERVENTION SERVICES FOR CHILDREN WITH DEVELOPMENTAL DELAYS.

§16-5K-6. West Virginia Birth-to-Three Fund.

(a) There is hereby created in the state treasury a fund to be known as the "West Virginia Birth-to-Three Fund" that shall be an interest-bearing account established and maintained to pay costs, fees and expenses incurred, or to be incurred, for early intervention services for children who are developmentally delayed.

(b) Funds deposited into this account shall be derived from the following sources:

(1) Any appropriations by the Legislature;

(2) Fund transfers from any fund of the divisions of the department of health and human resources that, in whole or in part, supports early intervention services;

(3) All public funds transferred by any public agency as permitted by applicable law;

(4) Any private funds contributed, donated or bequeathed by corporations, individuals or other entities; and

(5) All interest or return on investments accruing to the fund.

(c) Moneys deposited in this fund shall be used exclusively to provide early intervention services to accomplish the purposes of this article. Expenditures of monies deposited in this fund are to be made in accordance with appropriation by the Legislature and in accordance with article three, chapter twelve of this code and upon the fulfillment of the provisions of article two, chapter five-a of this code: *Provided*, That for the fiscal year ending the thirtieth day of June, two thousand three, expenditures are authorized from deposits rather than pursuant to appropriation by the Legislature.

(d) Any balance remaining in this fund at the end of any state fiscal year shall not revert to the state treasury but shall remain in this fund and shall be used only in a manner consistent with this article.

House Bill #4319

Effective Date: Passed March 6, 2002; in effect July 1, 2002.

Signed by Governor: March 17, 2002.

Code Reference: Amends and reenact; §18-2-5a; §18-2-23a; §18-2-26; §18,2E-5, §8-2E-9; §8-2I-1; §8-2I-3; §8-2I-4; §8-5-18b; §8A-2-12; §8A-3-1; §8A-3-2c; §8A-3A-1; §8A-3A-2; §8A-3A-2b; §9A-3B-9. Adding: §18-2-5e, §8-3E-5c, §8-20-1d.

Title: Establishing a process for improving education.

Major Provisions:

RESAs

- S** The two responsibilities identified by the legislature as most important for RESAs to provide are:
- Providing technical assistance to low performing schools and school systems,
 - Providing high quality, targeted staff development designed to enhance the performance and progress of schools.
- S** The state board shall reexamine the powers and duties of the agencies in light of the changes in state level education policy that have occurred and shall establish RESAs by rule.
- S** The rule shall contain all information necessary for the effective administration and operations of the agencies. The rule shall be promulgated before November 1, 2002. The rule shall include, but is not limited to, the following procedures:
- Providing for a uniform governance structure.
 - Selection by the state board of an executive director.
 - Development of a job description and qualifications for the executive director.
 - Provisions for the agencies to employ other staff, as necessary, with the approval of the state board and upon the recommendations of the executive director.
 - Appointment by the county board of a regional council in each agency.
 - Establishing statewide standards by the state board for service delivery by the agencies.
 - Establishing procedures for developing and adopting an annual basic operating budget for each agency.
- S** A county board member may not be employed by a RESA.

S The executive director of each agency shall attend at least one meeting of the member county boards each year.

Professional Development

S The state board annually shall establish goals for professional staff development in the public schools and submit on or before January 15, of each year.

S The Center for Professional Development shall design a proposed professional staff development plan to achieve the goals of the state board and shall submit for approval.

S The state board shall review the proposed plan and return it to the CPD noting whether the proposed plan is approved or is not approved, in whole or in part.

S If not approved, the state board shall note its objections and may suggest improvements or specific modifications, additions, or deletions, to more fully address the goals.

S The CPD shall revise the plan to satisfy the objections of the state board.

S The West Virginia Professional Staff Development Advisory Council is established and is composed of the chairpersons of the eight regional staff development councils and the eight RESA staff development coordinators; also the Secretary of Education and the Arts, the chancellor of the Higher Education Policy Commission, the executive director of the CPD, and the presidents of the state's two largest teachers' unions.

S The council is to advise and assist the SBE in developing and amending goals for professional staff development based upon needs identified by the public schools.

S The council is also to provide local input on proposed goals and the professional staff development plan to be implemented by the CPD.

S CPD Board

- Secretary of education and arts (co-chair),
- State superintendent of schools (co-chair),
- Three members of the state board,
- Three experienced educators appointed by the governor,
- One representative of public higher education,
- One school or county administration appointed by the governor.

– CPD shall cooperate with the institutions of higher education to provide courses that satisfy additional endorsement requirements in an area of certification.

- The state board may certify certain professional development courses to meet criteria required by the state board.

High Quality Education Programs

- The intent of the legislature in enacting this section is to establish a process through which the legislature, the governor and the state board can work in the spirit of cooperation and collaboration intended in the process for improving education to consult and examine, when necessary, the performance and progress of students.
- The Process for Improving Education Council, composed of members of LOCEA, the governor (who will chair) and the chancellor of the Higher Education Policy Commission is established.
- The SBE is required to notify the council whenever the SBE proposes to amend its rules relating to high quality education and efficiency standards, indicators of efficiency, assessment and accountability.
- The council may participate as observers in any on-site school or school system review.
- Requires OEPA to give school systems five days notice before conducting an on-site review and requires an exit conference with a school's principal and superintendent after such is conducted.
- OEPA may receive assistance from individuals having expert knowledge and experience in the area or areas to be reviewed; such individuals are to be designated by the SBE from the SDE's staff or from Regional Education Services Agencies (RESAs), the Center for Professional Development (CPD) or the Principals Academy.
- OEPA is prohibited from duplicating work conducted by various state agencies.
- An on-site review report must be given the SBE within 30 days after the review is completed; the same report is to be given the respective county superintendent and principal with 45 days on-site review completion.
- High quality standards now include a school or school system's progress.
- The SBE may remove a principal if a school's impairment is not corrected within one year of its identification.
- The State Superintendent of Schools is given authority to replace administrators and principals in low performing schools and to transfer them

into alternative professional positions within the county.

- The state board may intervene with a previously intervened school system within five years of previous intervention exit.

Other Provisions

Virtual School

- The West Virginia virtual school's approved virtual and distance learning courses are exempt from mandatory use of primary source instructional materials listed on the state multiple list.

School Counselors

- The state board may adopt rules that define the role of the school counselor based on the "National Standard for School Counseling Programs".

State Model for IEP

- The state board shall adopt a basic model for IEPs to be used by all special education teachers throughout the public school of the state when preparing IEPs for students with exceptional needs.

Professional Personnel Evaluation Process

- School personnel with five or more years of experience, who have not received an unsatisfactory rating, evaluations shall be conducted no more than once every three years.
- Effective July 1, 2003 all professional personnel, as appropriate, shall demonstrate competency, in the knowledge and implementation of the technology standards adopted by the state board.
- Lesson plans may not be used as a substitute for observations by an administrator.
- A classroom teacher may not be required to include in his or her lesson plan any of the following:
 - Teach and reteach strategies;
 - Write to learn activities;
 - Cultural diversity;
 - Color coding; or
 - Any similar items which are not required to serve as a guide to the teacher or substitute for daily instruction.
- Classroom teachers may not be required to keep records or logs of routine

contracts with parents or guardians.

Higher Education and development and use of assessments

- Selected representatives of public higher education shall assist the state board in assuring that assessment instruments provide meaningful data to be used by higher education.

**REDLINED
ENROLLED
H. B. 4319**

(By Fahey, Morgan, Perry, Shelton, Paxton, Harrison and Canterbury)

[Passed March 6, 2002; in effect July 1, 2002.]

AN ACT to amend and reenact sections five-a, twenty-three-a and twenty-six, article two, chapter eighteen 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 five-e; to amend and reenact sections five and nine, article two-e of said chapter; to further amend said article by adding thereto a new section, designated section five-c; to amend and reenact sections one, three and four, article two-i of said chapter; to amend and reenact section eighteen-b, article five of said chapter; to amend article twenty of said chapter by adding thereto a new section, designated section one-d; to amend and reenact section twelve, article two, chapter eighteen-a of said code; to amend and reenact sections one and two-c, article three of said chapter; to amend and reenact sections one, two and two-b, article three-a of said chapter; and to amend and reenact section nine, article three-b, chapter twenty-nine-a of said code all relating to education generally; the process for improving education; filing copies of proposed state board of education rules with the legislative oversight commission on education accountability; higher education participation in development of public education assessments; requiring public institutions of higher education to include plans for using data in compacts after a certain date; specifying possible uses of data; improving the quality, coordination and efficiency of professional staff development in the public schools; changing the process, parties and time frame for state board establishment of professional staff development goals and master plan for professional staff development; establishing first priority for goals; adding state institutions of higher education to list of agencies to receive master plan for professional staff development; providing for periodic amendments to plan; establishing legislative intent for regional educational service agencies; definition; refocusing agencies' programs and services using performance based accountability model; setting forth legislative purpose in establishing agencies; establishing priorities for agencies' programs and services; requiring state board to promulgate rules by a certain date for effective administration and operation of agencies; prohibiting delegation of state board's constitutional authority for the general supervision of schools to the agencies; providing for discretion in certain programs; providing for selection of staff; prohibiting certain personnel changes before certain date; providing for appointment of regional councils; requiring state board to establish statewide standards for service delivery by agencies; providing for amendments to standards; providing for establishment of procedures for financial operation of agencies; requiring state board to establish by rule procedures for agencies to acquire and hold real property; providing for establishment of agency service areas and requiring each county to be a member of the agency in its geographical area; removing authority for agency board to implement regional programs and services

by a majority vote of its board of directors; clarifying submission of agency reports and evaluations; prohibiting a member of a county board from being an employee of an agency; requiring agency executive director to attend annually at least one meeting of each member county board within the service area; making certain findings with respect to process for improving education; adding progress to the criteria for school accreditation and school system approval; delineating authority and responsibility of state board and Legislature in process for improving education; further specifying intent; requiring state board to promulgate rules specifying that unified school improvement plans are to contain other required plans to extent permitted by law; eliminating certain performance standards and clarifying or strengthening others; strengthening purposes of system; providing for additional state and regional agencies to be used for early detection and intervention in low performing schools; requiring process for accrediting schools and school systems to focus on measurable criteria related to student performance and progress; specifying recommendations to be made to process for improving education council; expanding purposes of office of education performance audits; requiring development of reporting formats for certain information, specifying their use and providing penalty for intentional or grossly negligent reporting of false information; establishing relationship of audit with other required reviews and inspections and prohibiting duplication and more stringent compliance measures; providing for five school-day notice of on site review; authorizing unannounced on-site reviews under certain circumstances; authorizing on-site reviews of limited scope; providing for state board designation of certain expert persons to participate in on-site audits, lead teams and complete reports; revising process for appointment of team to assist person or persons designated by state board to participate in on-site review; requiring office of education performance audits to reimburse substitute expense; providing for exit conferences for on-site reviews; specifying time limit for submitting reports of on site reviews; requiring copies of on-site reports to be provided to process for improving education council; providing for schools and school systems to remain on full accreditation or approval for certain period if certain conditions are met; including process for improving education council as an appropriate body for receipt of certain reports on capacity building; including principals academy as potential staff development provider to build capacity; authorizing state board to make determinations on continuing school monitor and to intervene in operation of school or school system at any time under certain limited circumstances; specifying certain types of intervention; specifying process for replacing a school principal; limiting actions of county board that would further impair a low performing school; authorizing state board to appoint a monitor for a school after the state board intervention period has been completed; authorizing state board to delegate certain powers and duties to state superintendent; adding an additional condition when state board intervention in operation of school system is authorized; establishing process for improving education council; providing for membership, reimbursement of expenses, and powers of council; designating governor to convene meetings and serve as council chair; requiring state board to notify council members of proposed changes to certain state board rules; providing for certain members of council to request governor to call meetings; requiring state board or its designees to meet and consult with council; authorizing council members and staff to participate as observers in on-site reviews of schools or school systems; exempting approved

virtual and distance learning courses of West Virginia virtual school from mandatory use of primary source instructional materials listed on state multiple list subject to certain requirements; making West Virginia professional staff development advisory council an advisory council to the state board; reducing the number of members on the council; revising purpose and functions; providing that members may be reimbursed for expenses by the state board; providing for a council chair; authorizing state board to promulgate a rule adopting the national standards for school counseling programs; requiring county boards to provide training to implement the rule to the extent funding is available; requiring state board to adopt basic model for individualized education programs for exceptional students not to exceed federal laws, policies, rules and regulations; providing that professional educators may not be required to prepare and/or implement an individualized education program which exceeds requirements of federal and state laws, policies, rules or regulations; allowing less frequent evaluations for certain professional personnel; providing that classroom teachers may request more frequent evaluations; providing that evaluations serve as basis to improve personnel performance; requiring that personnel demonstrate competence on state board adopted technology standards and providing for an improvement plan for those who can not demonstrate such competence; directing that lesson plans may not be used as a substitute for observations in the performance evaluation process nor for the performance audit documentation; directing that lesson plans may not be required to include certain nonessential items; directing that classroom teachers may not be required to keep records of routine contacts with parents or guardians; replacing outdated references to the college and university system boards and adding chancellor of higher education policy commission; requiring training and professional development through the principals academy to be specifically designed for the principals required to attend; establishing priority order for principals to attend the academy; requiring that training be completed within twelve months, except in the cases of principals whose schools are seriously impaired; requiring center for professional development to provide for all principals to attend the academy at least once every six years subject to available funding; requiring that members of the principals standards advisory council be selected by their relevant constituency organizations; reconstituting the membership on a certain date; requiring the center for professional development to reimburse the expenses of persons attending the academy; removing authorization to pay a stipend to persons who attend the academy outside of their employment term; prohibiting requiring persons to complete training and professional development through the academy at certain times; requiring the center for professional development to use alternative methods of scheduling and instructional delivery to minimize time principals are away from school duties; expanding general mission of center for professional development to include assistance and support to regional and local education agencies in identifying and providing programs to meet local needs; establishing term limit for certain board members; requiring educators serving on center for professional development board be experienced educators with recognized knowledge, ability and performance in teaching or management; requiring that one of the three citizen members on the board be a representative of public higher education; providing for co-chairs of the center for professional development; making the executive director of center for professional development

a will and pleasure employee of center for professional development board; directing executive director to chair the principals standards advisory council; requiring professional development project to cooperate and coordinate with the institutions of higher education to provide programs to aid teachers in meeting the requirements for additional endorsements; providing for the state board to certify certain professional staff development courses provided by center for professional development to meet the requirements if no agreement with higher education is reached; removing authorization for summer institutes in the principals academy and listing priorities for principal training; clarifying procedures for state board to file rules with legislative oversight commission on education accountability; and authorizing legislative oversight commission on education accountability to make recommendations to the state board and the Legislature regarding rules.

Be it enacted by the Legislature of West Virginia:

That sections five-a, twenty-three-a, and twenty-six, article two, chapter eighteen 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 five-e; that sections five and nine, article two-e of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section five-c; that sections one, three, and four, article two-i of said chapter be amended and reenacted; that section eighteen-b, article five of said chapter be amended and reenacted; that article twenty of said chapter be further amended by adding thereto a new section, designated section one-d; that section twelve, article two, chapter eighteen-a of said code be amended and reenacted; that sections one and two-c, article three of said chapter be amended and reenacted; that sections one, two and two-b, article three-a of said chapter be amended and reenacted; and that section nine, article three-b, chapter twenty-nine-a of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5a. Board rules to be filed with Legislature.

The state board of education shall file ~~a copy~~ twenty copies of any rule that it proposes to promulgate, adopt, amend or repeal under the authority of the constitution or of this code with the legislative oversight commission on education accountability pursuant to article three-b, chapter twenty-nine-a of this code. "Rule," as used herein, means a regulation, standard, statement of policy, or interpretation of general application and future effect.

§18-2-5e. Higher education participation in development and use of public education assessments.

(a) It is the duty of the state board to consult with the duly selected representatives of public higher education appointed pursuant to subsection (b) of this section and to make full use of their expertise when developing assessment instruments to be administered in the public schools. Among other things, the higher education representatives shall assist the state board in assuring that assessment instruments provide meaningful data to be used by higher education pursuant to subsection (c) of this section.

(b) The chancellor of the higher education policy commission shall appoint appropriate representatives from the system of public higher education to participate in the development of any assessment instruments required by rules of the state board to be administered in grades nine through twelve of the public schools of this state. It is the

responsibility of these higher education representatives to assist the state board in developing assessments that test the knowledge and skills needed for success in postsecondary education.

(c) Not later than the school year beginning in two thousand five, the higher education policy commission shall require that each institution's compact, as set forth in section two, article one-b, chapter eighteen-b of this code, includes provisions for incorporating the data generated by public education assessments into their decision making processes. The use of the data may include, but is not limited to, consideration as a factor in admission to postsecondary education, college placement, or determinations of necessity for remedial course work.

§18-2-23a. Annual professional staff development goals established by state board; coordination of professional development programs; program development, approval and evaluation.

(a) *Legislative intent* -- The intent of this section is to provide for the coordination of professional development programs by the state board and to promote high quality instructional delivery and management practices for a thorough and efficient system of schools.

(b) *Goals* -- The state board annually shall establish goals for professional staff development in the public schools of the state. As a first priority, the state board shall require adequate and appropriate professional staff development to ensure high quality teaching that will enable students to achieve the content standards established for the required curriculum in the public schools.

The state board shall submit the goals to the state department of education, the center for professional development, the regional educational service agencies, ~~the state college and university systems~~ higher education policy commission and the legislative oversight commission on education accountability on or before the ~~first day of October fifteenth day of January,~~ each year.

The goals shall include measures by which the effectiveness of the professional staff development programs will be evaluated. The professional staff development goals may include separate goals for teachers, principals, paraprofessional service personnel and classroom aides and others in the public schools.

In establishing the goals, the state board shall review reports that may indicate a need for professional staff development. ~~At a minimum in establishing the goals for professional development, the state board shall consider the report of the staff development advisory council set forth in section four, article two-i, chapter eighteen of this code; including, but not limited to, the report of the center for professional development created in article three-a, chapter eighteen-a of this code,~~ student test scores on the statewide student assessment program, the measures of student and school performance for accreditation purposes, school and school district report cards, and its plans for the use of funds in the strategic staff development fund pursuant to section thirty-two, article two, chapter eighteen of this code.

~~(b) (c) The center for professional development and the regional educational service agencies shall each design a proposed professional staff development program plan to achieve the goals of the state board which are within their purview pursuant to provisions set forth in this code and rules of the state board: *Provided*, That the state board may establish as a goal for the center for professional development, the delivery of a localized professional development program to address school, county or regional problems. The center for professional development and the regional educational service agencies shall~~

~~each submit their respective proposed plans to the state board on or before the fifteenth day of November, and shall submit the proposed plan to the state board for approval as soon as possible following receipt of the state board goals each year.~~

~~The proposed plans plan shall include a plan strategy for evaluating the effectiveness of the professional staff development programs delivered through the program under the plan and a cost estimate. A copy of each proposed plan shall also be submitted by the respective agencies to the legislative oversight commission on education accountability. The state board shall review the proposed plans plan and shall return the proposed plans it to the respective agencies on or before the first day of January, each year, center for professional development noting whether the proposed plan is approved or is not approved, in whole or in part. If a proposed plan is not approved in whole, the state board shall note its objections to the proposed plan or to the parts of the proposed plan not approved and may suggest improvements or specific modifications, additions or deletions to more fully address more fully the goals or eliminate duplication. An agency whose If the proposed plan is not wholly approved, the center for professional development shall revise the plan to satisfy the objections of the state board or state the reasons why revisions cannot be made to satisfy any or all of the objections and resubmit the proposal to the state board as soon as possible. State board approval of the professional development plans of the center for professional development and the regional educational service agencies is required prior to implementation of the plans professional staff development plan.~~

~~(c) (d) The state board shall submit a proposed master plan for professional development to the legislative oversight commission on education accountability on the first day of February, each year. The state board approval of the proposed professional staff development plan shall establish a master plan for professional staff development which shall be submitted by the state board to the affected agencies and to the legislative oversight commission on education accountability. The proposed master plan shall include the state board approved plans for professional staff development by the state department of education, the center for professional development, the state institutions of higher education and the regional educational service agencies to meet the professional staff development goals of the state board. The proposed master plan also shall include a plan for evaluating the effectiveness of the professional staff development delivered through the programs and a cost estimate. a description of any proposals pending approval of the state board and any reasons why a goal or goals of the state board will not be met.~~

~~(d) An approved master plan for professional development shall be established by the state board not later than the fifteenth day of March, each year. The approved master plan shall include the state board approved professional development plans of the state department of education, the center for professional development and the regional educational service agencies. The approved master plan shall serve as a guide for the delivery of coordinated professional staff development programs by the state department of education, the center for professional development, the state institutions of higher education and the regional educational service agencies beginning on the first day of June in the year in which the master plan was approved through the thirtieth day of May in the following year: Provided, That nothing in this section shall prohibit changes in the master plan, subject to state board approval, to address staff development needs identified after the master plan was approved.~~

§18-2-26. Establishment of multicounty regional educational service agencies;

purpose; authority of state board; governance; annual performance standards.

~~(a) In order to consolidate and administer more effectively existing educational programs and services so individual districts will have more discretionary moneys for educational improvement and in order to equalize and extend educational opportunities, the state board of education shall establish multicounty regional educational service agencies for the purpose of providing high quality, cost effective educational programs and services to the county school system, and shall make such rules as may be necessary for the effective administration and operation of the agencies.~~ Legislative intent -- The intent of the Legislature in providing for establishment of regional education service agencies, hereinafter referred to in this section as agency or agencies, is to provide for high quality, cost effective education programs and services to students, schools and school systems.

Since the first enactment of this section in one thousand nine hundred seventy-two, the focus of public education has shifted from a reliance on input models to determine if education programs and services are providing to students a thorough and efficient education to a performance based accountability model which relies on the following:

(1) Development and implementation of standards which set forth the things that students should know and be able to do as the result of a thorough and efficient education including measurable criteria to evaluate student performance and progress;

(2) Development and implementation of assessments to measure student performance and progress toward meeting the standards;

(3) Development and implementation of a system for holding schools and school systems accountable for student performance and progress toward obtaining a high quality education which is delivered in an efficient manner; and

(4) Development and implementation of a method for building the capacity and improving the efficiency of schools and school systems to improve student performance and progress.

(b) Purpose -- In establishing the agencies the Legislature envisions certain areas of service in which the agencies can best assist the state board in implementing the standards based accountability model pursuant to subsection (a) of this section and, thereby, in providing high quality education programs. These areas of service include the following:

(1) Providing technical assistance to low performing schools and school systems;

(2) Providing high quality, targeted staff development designed to enhance the performance and progress of students in state public education;

(3) Facilitating coordination and cooperation among the county boards within their respective regions in such areas as cooperative purchasing; sharing of specialized personnel, communications and technology; curriculum development; and operation of specialized programs for exceptional children;

(4) Installing, maintaining and/or repairing education related technology equipment and software with special attention to the state level basic skills and SUCCESS programs;

(5) Receiving and administering grants under the provisions of federal and/or state law; and

(6) Developing and/or implementing any other programs or services as directed by law or by the state board.

(c) State board rule -- The state board shall reexamine the powers and duties of the agencies in light of the changes in state level education policy that have occurred and shall establish multi-county regional educational service agencies by rule, promulgated in accordance with the provisions of article three-b, chapter twenty-nine-a of this code.

The rule shall contain all information necessary for the effective administration and operation of the agencies. In developing the rule, the state board may not delegate its constitutional authority for the general supervision of schools to the agencies, however, it may allow the agencies greater latitude in the development and implementation of programs in the service areas outlined in subsection (b) of this section with the exceptions of providing technical assistance to low performing schools and school systems and providing high quality, targeted staff development designed to enhance the performance and progress of students in state public education. These two areas constitute the most important responsibilities for the agencies.

The rule establishing the agencies shall be promulgated before the first day of November, two thousand two, and shall be consistent with the provisions of this section. It shall include, but is not limited to, the following procedures:

(1) Providing for a uniform governance structure for the agencies containing at least these elements:

(A) Selection by the state board of an executive director who shall be responsible for the administration of his or her respective agency. The rule shall provide for the state board to consult with the appropriate regional council during the selection process;

(B) Development of a job description and qualifications for the position of executive director, together with procedures for informing the public of position openings and for taking and evaluating applications for these positions;

(C) Provisions for the agencies to employ other staff, as necessary, with the approval of the state board and upon the recommendation of the executive director: *Provided*, That prior to the first day of July, two thousand three, no person who is an employee of an agency on the effective date of this section may be terminated or have his or her salary and benefit levels reduced as the sole result of the changes made to this section or by state board rule;

(D) Appointment by the county boards of a regional council in each agency area consisting of representatives of county boards and county superintendents from within that area for the purpose of advising and assisting the executive director in carrying out his or her duties. The state board may provide for membership on the regional council for representatives from other agencies and institutions who have interest or expertise in the development or implementation of regional education programs; and

(E) Selection by the state superintendent of a representative from the state department of education to serve on each regional council. These representatives shall meet with their respective regional councils at least quarterly;

(2) Establishing statewide standards by the state board for service delivery by the agencies. These standards may be revised annually and shall include, but are not limited to, programs and services to fulfill the purposes set forth in subsection (b) of this section;

(3) Establishing procedures for developing and adopting an annual basic operating budget for each agency and for other budgeting and accounting procedures as the state board may require;

(4) Establishing procedures to clarifying that agencies may acquire and hold real property;

(5) Dividing the state into appropriate, contiguous geographical areas and designating an agency to serve each area. The rule shall provide that each of the state's counties is contained within a single service area and that all counties located within the boundaries of each agency, as determined by the state board, shall be members of that agency; and

(6) Such other standards or procedures as the state board finds necessary or convenient.

(d) Regional services -- In furtherance of ~~these~~ the purposes provided for in this section, the state board of directors of each regional educational service agency and the regional council of each agency shall continually explore possibilities for the delivery of services on a regional basis which will facilitate equality in the education offerings among counties in its service area, permit the delivery of high quality ~~educational~~ education programs at a lower per student cost, strengthen the cost effectiveness of education funding resources, reduce administrative and/or operational costs, including the consolidation of administrative, coordinating and other county level functions into region level functions, and promote the efficient administration and operation of the public school systems generally.

Technical, operational, programmatic or professional services are among the types of services appropriate for delivery on a regional basis.

~~(d)~~ (e) Virtual education -- The state board, in conjunction with the various ~~regional educational service~~ agencies, shall develop an effective model for the regional delivery of instruction in subjects where there exists low student enrollment or a shortage of certified teachers or where the delivery method substantially improves the quality of an instructional program. The model shall incorporate an interactive electronic classroom approach to instruction. To the extent funds are appropriated or otherwise available, county boards or regional educational service agencies may adopt and utilize the model for the delivery of the instruction.

~~(e)~~ (f) Computer information system -- Each county board of education shall use the uniform integrated regional computer information system recommended by the state board ~~of education~~ for data collection and reporting to the state department of education. County boards of education shall bear the cost of and fully participate in the implementation of the system by using one of the following methods:

(1) Acquiring necessary, compatible equipment to participate in the regional computer information system; or

(2) Following receipt of a waiver from the state superintendent, operating a comparable management information system at a lower cost which provides at least all uniform integrated regional computer information system software modules and allows on-line, interactive access for schools and the county board ~~of education~~ office onto the statewide communications network. All data formats shall be the same as for the uniform integrated regional information system and will reside at the regional computer.

Any county granted a waiver shall receive periodic notification of any incompatibility or deficiency in its system. No county shall expand any system either through the purchase of additional software or hardware that does not advance the goals and implementation of the uniform integrated regional computer information system as recommended by the state board.

~~(f)~~ (g) Reports and evaluations -- Each ~~regional educational service~~ agency shall submit to the state superintendent on such date and in such form as specified in the rules adopted by the state board a report and evaluation of the technical assistance and other services provided and utilized by the schools within each respective region and their effectiveness. ~~Furthermore, each~~ Additionally, any school shall may submit an evaluation of the services provided by the ~~regional educational service~~ agency to the state superintendent at any time. ~~which~~ This report shall include an evaluation of the regional educational service agency program, suggestions ~~as to how to~~ on methods to improve

utilization and ~~the individual school's plan as to~~ suggestions on the development of new programs and the enhancement of existing programs. ~~The report reports and evaluations is due by the first day of January of each year submitted pursuant to this subsection shall be submitted to the state board and shall be made available upon request to the state board of education;~~ the standing committees on education of the West Virginia Senate and House of Delegates and to the secretary of education and the arts.

~~(g)~~ (h) *Funding sources* -- An ~~regional board~~ agency may receive and disburse funds from the state and federal governments, from member counties, or from gifts and grants.

~~(h)~~ (i) *Employee expenses* -- Notwithstanding any other provision of this code to the contrary, employees of ~~regional educational service~~ agencies shall be reimbursed for travel, meals and lodging at the same rate as state employees under the travel management office of the department of administration.

A county board member may not be an employee of an agency.

~~(i)~~ (j) *Meetings and compensation* --

(1) ~~Regional educational service~~ Agencies shall hold at least one half of their regular meetings during hours other than those of a regular school day. ~~The executive director of each agency shall attend at least one meeting of each of the member county boards of education each year to explain the agency's services, garner suggestions for program improvement and provide any other information as may be requested by the county board.~~

(2) Notwithstanding any other provision of this code to the contrary, county board members serving on regional councils may receive compensation at a rate not to exceed one hundred dollars per meeting attended, not to exceed fifteen meetings per year. County board members serving on regional councils may be reimbursed for travel at the same rate as state employees under the rules of the travel management office of the department of administration.

~~(j)~~ (k) *Computer installation, maintenance and repair* -- ~~Regional educational service~~ Agencies shall serve as the lead agency for computer installation, maintenance and repair for the basic skills and SUCCESS computer ~~program programs~~. Each ~~Regional educational service~~ agency shall submit a quarterly status report on turn around time for computer installation, maintenance and repair to the state superintendent of schools who shall then submit a report to the legislative oversight commission on education accountability. The status report for turn around time for computer installation, maintenance and repair shall be based on the following suggested time schedules:

Network File Servers.....forty-eight hours
Local Area Networks.....forty-eight hours
West Virginia Education
Information System.....twenty-four hours
Computer Workstations.....three to five days
Printers.....three to five days
Other Peripherals.....three to five days

~~Regional educational service~~ Agencies also shall also submit an audit report to the legislative oversight commission on education accountability each year.

~~(j)~~ (l) *Professional development* -- Pursuant to the processes and provisions of section twenty-three-a, article two, chapter eighteen of this code, each ~~regional educational service~~ agency shall provide coordinated professional development programs within its region to meet the professional development goals established by the state

board.

~~(f) Notwithstanding any other provision of this code to the contrary, county board members serving on regional educational service agency boards may receive compensation at a rate not to exceed one hundred dollars per meeting attended, not to exceed fifteen meetings per year. County board members serving on regional educational service agencies boards may be reimbursed for travel at the same rate as state employees under the rules of the travel management office of the department of administration.~~

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-5. Process for improving education; education standards and accountability measures; office of education performance audits; school accreditation and school system approval; intervention to correct impairments.

(a) Legislative findings, purpose and intent.

~~(1) The purpose of this section is to establish a~~ The Legislature finds that the process for improving education that includes four primary elements, these being:

(A) Standards which set forth the things that students should know and be able to do as the result of a thorough and efficient education including measurable criteria to evaluate student performance and progress;

(B) Assessments of student performance and progress toward meeting the standards; accountability

(C) A system for holding schools and school systems accountable for student performance and progress toward obtaining a high quality education which is delivered in an efficient manner; and capacity building

(D) A method for building the capacity and improving the efficiency of schools and school systems to improve student performance and progress.

(2) The Legislature further finds that as the constitutional body charged with the general supervision of schools as provided by general law, the state board has the authority and the responsibility to establish the standards, assess the performance and progress of students against the standards, hold schools and school systems accountable, and assist schools and school systems to build capacity and improve efficiency so that the standards are met, including, when necessary, seeking additional resources in consultation with the Legislature and the governor.

(3) The Legislature also finds that as the constitutional body charged with providing for a thorough and efficient system of schools, the Legislature has the authority and the responsibility to establish and be engaged constructively in the determination of the things that students should know and be able to do as the result of a thorough and efficient education. This determination is made by using the process for improving education to determine when school improvement is needed, by evaluating the results and the efficiency of the system of schools, by ensuring accountability, and by providing for the necessary capacity and its efficient use.

(4) Therefore, the purpose of this section is to establish a process for improving education that includes the four primary elements as set forth in subdivision one of this subsection to provide assurances that a thorough and efficient system of schools is being provided for all West Virginia public school students on an equal education opportunity basis and that the high quality standards are, at a minimum, being met.

(5) The intent of the Legislature in enacting this section is to establish a process through which the Legislature, the governor and the state board can work in the spirit of cooperation and collaboration intended in the process for improving education to consult

and examine, when necessary, the performance and progress of students, schools and school systems and consider alternative measures to ensure that all students continue to receive the thorough and efficient education to which they are entitled. However, nothing in this section requires any specific level of funding by the Legislature.

~~(b) State board rules: Unified county and school improvement plans.~~ -- The state board shall promulgate rules in accordance with article three-b, chapter twenty-nine-a of this code establishing a unified county improvement plan for each county board and a unified school improvement plan for each public school in this state. ~~The state board is not required to promulgate new rules if legislative rules meeting the requirements of article three-b, chapter twenty-nine-a of this code have been filed with the office of the secretary of state before the effective date of this section.~~ The rules shall specify that the unified school improvement plan shall include all appropriate plans required by law including, but not limited to the following:

(1) The report required to be delivered to the county-wide council on productive and safe schools pursuant to subsection (f), section two, article five-a of this chapter;

(2) Plans or applications required in the area of technology pursuant to 20 U.S.C. 6845, section seven, article two-e of this chapter, state board policy or rule or any other county, state or federal law;

(3) The strategic plan to manage the integration of special needs students as required by section five, article five-a, of this chapter; and

(4) the school based improvement plan set forth in the Elementary and Secondary Education Act pursuant to 29 U.S.C. §6301 et seq.

The plans are required to be included only to the extent permitted by state and federal law.

~~(c) High quality education standards and efficiency standards.~~ -- In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall ~~in accordance with the provisions of article three-b, chapter twenty-nine-a of this code,~~ adopt and periodically review and update high quality education standards for student, school and school system performance and processes in the following areas:

(1) Curriculum;

(2) Workplace readiness skills;

(3) Finance;

(4) Transportation;

(5) Special education;

(6) Facilities;

(7) Administrative practices;

(8) Training of county board members and administrators;

(9) Personnel qualifications;

(10) Professional development and evaluation;

(11) ~~Student and school~~ performance and progress;

(12) School and school system performance and progress;

~~(12)~~ (13) A code of conduct for students and employees;

~~(13)~~ (14) Indicators of efficiency; and

~~(14)~~ (15) Any other areas determined by the state board.

(d) *Performance measures.* -- The standards shall assure that all graduates are prepared for gainful employment or for continuing postsecondary education and training and that schools and school ~~districts~~ systems are making progress in achieving the education goals of the state.

The standards shall include measures of student performance and progress to indicate when a thorough and efficient system of schools is being provided and measures of school and school system performance, and progress and processes that enable student performance. The measures of student performance and progress and school and school system performance, and progress and processes shall include, but are not limited to, the following:

(1) The acquisition of student proficiencies as indicated by student performance and progress by grade level measured, where possible, by a uniform statewide assessment program;

(2) School attendance rates;

(3) The student dropout rate;

(4) Percent of students promoted to the next grade;

(5) ~~(4)~~ The high school graduation rate;

(6) ~~Average class size;~~

(7) ~~Pupil-teacher ratio and number of exceptions to ratio requested by county boards and the number granted;~~

(8) ~~Number of split-grade classrooms;~~

(9) ~~(5)~~ The percentage of graduates who enrolled in college and the percentage of graduates who enrolled in other post-secondary education and the percentage of graduates who become fully employed within one year of following high school graduation; all as reported by the graduates on the assessment form attached to their individualized student transition plan, pursuant to section eight of this article and the percentage of graduates reporting;

(10) ~~Pupil-administrator ratio;~~

(11) ~~parent involvement;~~

(12) ~~Parent, teacher and student satisfaction;~~

(13) ~~Operating expenditures per pupil;~~

(14) ~~Percentage of graduates who attain the minimum level of performance in the basic skills recognized by the state board as laying the foundation for further learning and skill development for success in college, other postsecondary education and gainful employment and the grade level distribution in which the minimum level of performance was met;~~

(15) ~~(6)~~ The percentage of graduates who received additional certification of their skills, competence and readiness for college, other post-secondary education or employment above the minimum foundation level of basic skills level required for graduation; and

(16) ~~(7)~~ The percentage of students in secondary and middle schools who enrolled in and the percentage of students who successfully completed advanced placement, or dual credit and honors classes, respectively, by grade level.

(e) *Indicators of efficiency.* -- In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall ~~in accordance with the provisions of article three-b, chapter twenty-nine-a of this code,~~ adopt and periodically review and update indicators of efficiency for student and school system performance and processes in the following areas:

(A) ~~(1)~~ (1) Curriculum delivery including, but not limited to, the use of distance learning;

(B) ~~(2)~~ (2) Transportation;

(C) ~~(3)~~ (3) Facilities;

(D) ~~(4)~~ (4) Administrative practices;

~~(E)~~ (5) Personnel;

~~(F)~~ (6) Utilization of regional educational service agency programs and services, including programs and services that may be established by their assigned regional educational service agency, or other regional services that may be initiated between and among participating county boards; and

~~(G)~~ (7) Any other indicators as determined by the state board.

(f) Assessment and accountability of school and school system performance and processes. -- In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state board shall establish by rule ~~in accordance with the provisions of article three-b, chapter twenty-nine-a of this code~~, a system of education performance audits which measures the quality of education and the preparation of students based on the standards and measures of student, school and school system performance, ~~and progress and processes~~, including, but not limited to, the standards and measures set forth in subsections (c) and (d) of this section. The system of education performance audits shall assist the state board, the Legislature and the governor in ensuring that the standards and measures established pursuant to this section are, at a minimum, being met and that a thorough and efficient system of schools is being provided. The system of education performance audits shall include: (1) The assessment of student ~~school and school system performance and progress~~, school and school system performance and progress, and the processes in place in schools and school systems which enable student performance and progress; (2) the review of school and school system unified improvement plans; and (3) the periodic ~~random unannounced~~ on-site review of school and school system performance and progress and compliance with the standards.

(g) Uses of school and school system assessment information. -- The state board ~~and the process for improving education council established pursuant to section five-c of this article~~ shall use information from the system of education performance audits to assist ~~it them~~ in ensuring that a thorough and efficient system of schools is being provided and to improve student, school and school system performance and progress. Information from the system of education performance audits further shall be used by the state board for these purposes, including, but not limited to, the following: (1) Determining school accreditation and school system approval status; (2) holding schools and school systems accountable for the efficient use of existing resources to meet or exceed the standards; and (3) targeting additional resources when necessary to improve performance and progress. Primary emphasis in determining school accreditation and school system approval status ~~shall be~~ is based on student performance and progress, school and school system performance ~~on and progress and such other~~ measures as selected by the state board. The state board shall make accreditation information available to the Legislature, the governor, ~~and to~~ the general public and to any individuals who request the information, subject to the provisions of any act or rule restricting the release of information.

Based on the assessment of student, school and school system performance and progress, the state board shall establish early detection and intervention programs using the available resources of the department of education, the regional educational service agencies, the center for professional development and the principals academy, as appropriate, to assist underachieving schools and school systems ~~in improving to improve~~ performance before conditions become so grave as to warrant more substantive state intervention. ~~including, but not limited to, making~~ Assistance shall include, but is not limited to, providing additional technical assistance and programmatic, professional staff

development, providing monetary, and staffing and other resources available where appropriate, and, if necessary, making appropriate recommendations to the process for improving education council.

(h) *Office of education performance audits.*

(1) To assist the state board and the process for improving education council and in the operation of the a system of education performance audits that will enable them to evaluate whether a thorough and efficient education is being provided, and to assist the state board in making determinations regarding the accreditation status of schools and the approval status of school systems, the state board shall establish an office of education performance audits which shall be operated under the direction of the state board independently of the functions and supervision of the state department of education and state superintendent. The office of education performance audits shall report directly to and be responsible to the state board in carrying out its duties under the provisions of this section.

(2) The office shall be headed by a director who shall be appointed by the state board and who shall serve at the will and pleasure of the state board. The salary of the director shall not exceed the salary of the state superintendent of schools.

(3) The state board shall organize and sufficiently staff the office to fulfill the duties assigned to it by ~~this section~~ law and by the state board. Employees of the state department of education who are transferred to the office of education performance audits shall retain their benefit and seniority status with the department of education.

(4) Under the direction of the state board, the office of education performance audits shall receive from the West Virginia education information system staff research and analysis data on the performance and progress of students, schools and school systems, and shall receive assistance, as determined by the state board, from staff at the state department of education, the regional education service agencies, the center for professional development, the principals academy and the state school building authority to carry out the duties assigned to the office.

(5) In addition to other duties which may be assigned to it by the state board or by statute, the office of education performance audits also shall:

(1) (A) Assure that all statewide assessments of student performance are secure as required in section one-a of this article;

(2) (B) Administer all accountability measures as assigned by the state board, including, but not limited to, the following:

(i) Processes for the accreditation of schools and the approval of school systems. These processes shall focus on those measurable criteria related to student performance and progress and to the delivery of instruction which will enable student performance and progress; and

(ii) ~~Recommend~~ Recommendations to the state board on appropriate action, including, but not limited to, accreditation and approval action;

(3) (C) Determine, in conjunction with the assessment and accountability processes, what capacity may be needed by schools and school systems to meet the standards established by the Legislature and the state board, and recommend to the school, the school system, and the state board and the process for improving education council, plans to establish those needed capacities;

(4) (D) Determine, in conjunction with the assessment and accountability processes, whether statewide system deficiencies exist in the capacity to establish and maintain a thorough and efficient system of schools, including the identification of trends and the need

for continuing improvements in education, and report those deficiencies and trends to the state board and the process for improving education council;

(5) (E) Determine, in conjunction with the assessment and accountability processes, staff development needs of schools and school systems to meet the standards established by the Legislature and the state board, and make recommendations to the state board, the process for improving education council, the center for professional development, the regional educational service agencies, ~~higher education governing boards~~ the higher education policy commission, and the county boards; ~~and~~

(6) (F) Identify, in conjunction with the assessment and accountability processes, exemplary schools and school systems and best practices that improve student, school and school system performance, and make recommendations to the state board and the process for improving education council for recognizing and rewarding exemplary schools and school systems and promoting the use of best practices. The state board shall provide information on best practices to county school systems and shall use information identified through the assessment and accountability processes to select schools of excellence; ~~and~~

(G) Develop reporting formats, such as check lists, which shall be used by the appropriate administrative personnel in schools and school systems to document compliance with various of the applicable laws, policies and process standards as considered appropriate and approved by the state board, including, but not limited to, compliance with limitations on the number of pupils per teacher in a classroom and the number of split grade classrooms. Information contained in the reporting formats shall be examined during an on-site review to determine compliance with laws, policies and standards. Intentional and grossly negligent reporting of false information is grounds for dismissal.

(i) *On-site reviews.*

(1) At the direction of the state board or by weighted ~~random~~ selection by the office of education performance audits, an ~~unannounced~~ on-site review shall be conducted by the office of education performance audits of any school or school system for purposes, including, but not limited to, the following:

(1) (A) Verifying data reported by the school or county board;

(2) (B) Documenting compliance with policies and laws;

(3) (C) Evaluating the effectiveness and implementation status of school and school system unified improvement plans;

(4) (D) Investigating official complaints submitted to the state board that allege serious impairments in the quality of education in schools or school systems;

(5) (E) Investigating official complaints submitted to the state board that allege that a school or county board is in violation of policies or laws under which schools and county boards operate; ~~and~~

(F) Determining and reporting whether required reviews and inspections have been conducted by the appropriate agencies, including, but not limited to, the state fire marshal, the health department, the school building authority and the responsible divisions within the department of education, and whether noted deficiencies have been or are in the process of being corrected. The office of education performance audits may not conduct a duplicate review or inspection nor mandate more stringent compliance measures.

(2) The ~~random~~ selection of schools and school systems for an on-site review shall use a weighted ~~random~~ sample so that those with lower performance and progress indicators and those that have not had a recent on-site review have a greater likelihood

of being selected. The director of the office of education performance audits shall notify the county superintendent of schools five school days prior to commencing an on-site review of the county school system and shall notify both the county superintendent and the principal five school days prior to commencing an on-site review of an individual school: Provided, That the state board may direct the office of education performance audits to conduct an unannounced on-site review of a school or school system if the state board believes circumstances warrant an unannounced on-site review.

(3) The office of education performance audits may conduct on-site reviews which are limited in scope to specific areas in addition to full reviews which cover all areas. Under the direction of the state board, the office of education performance audits shall appoint an education standards compliance review team to assist it in conducting on-site reviews. The teams shall be composed of an adequate number of persons who possess the necessary knowledge, skills and experience to make an accurate assessment of education programs and who are drawn from a trained cadre established by the office of education performance audits. The state board shall have discretion in determining the number of persons to serve on a standards compliance review team based on the size of the school or school system as applicable. the teams shall be led by a member of the office of education performance audits.

(4) An on-site review of a school or school system shall include a person or persons who has expert knowledge and experience in the area or areas to be reviewed and who is designated by the state board from the department of education and the agencies responsible for assisting the office. If the size of the school or school system being reviewed necessitates the use of an on-site review team or teams, the person or persons designated by the state board shall advise and assist the director to appoint the team or teams. The person or persons designated by the state board shall be the team leaders.

The persons designated by the state board shall be responsible for completing the report on the findings and recommendations of the on-site review in their area of expertise. It is the intent of the Legislature that the persons designated by the state board participate in all on-site reviews that involve their area of expertise to the extent practicable so that the on-site review process will evaluate compliance with the standards in a uniform, consistent and expert manner.

(5) The state board office of education performance audits shall reimburse a county board for the costs of substitutes required to replace county board employees while they are serving on an education standards compliance a review team.

(6) At the conclusion of an on-site review of a school system, the director and team leaders shall hold an exit conference with the superintendent and shall provide an opportunity for principals to be present for at least the portion of the conference pertaining to their respective schools. In the case of an on-site review of a school, the exit conference shall be held with the principal and the superintendent shall be provided the opportunity to be present.

(7) The office of education performance audits shall report the findings of the on-site reviews to the state board for inclusion in the evaluation and determination of a school's or county board's accreditation or approval status as applicable. The report on the findings of an on-site review shall be submitted to the state board within thirty days following the conclusion of the on-site review and to the county superintendent and principals of schools within the reviewed school system within forty-five days following the conclusion of the on-site review. A copy of the report shall be provided to the process for improving education council.

(j) *School accreditation.* -- The state board annually shall review the information from the system of education performance audits submitted for each school and shall issue to every school one of the following approval levels: Exemplary accreditation status, full accreditation status, temporary accreditation status, conditional accreditation status, or ~~shall declare the education programs at the school to be seriously impaired status~~.

(1) Full accreditation status shall be given to a school when the school's performance and progress on the standards adopted by the state board pursuant to subsections (c) and (d) of this section ~~is~~ are at a level which would be expected when all of the high quality education standards are being met. A school which meets or exceeds the measures of student performance and progress set forth in subsection (d) of this section, and which does not have any deficiencies which would endanger student health or safety or other extraordinary circumstances as defined by the state board, shall remain on full accreditation status for six months following an on-site review in which other deficiencies are noted. The school shall have an opportunity to correct those deficiencies, notwithstanding other provisions of this subsection.

(2) Temporary accreditation status shall be given to a school when the measure of the school's performance and progress is below the level required for full accreditation status. Whenever a school is given temporary accreditation status, the county board shall ensure that the school's unified improvement plan is revised to increase the performance and progress of the school to a full accreditation status level. The revised unified school improvement plan shall include objectives, a time line, a plan for evaluation of the success of the improvements, cost estimates, and a date certain for achieving full accreditation. The revised plan shall be submitted to the state board for approval.

(3) Conditional accreditation status shall be given to a school when the school's performance and progress on the standards adopted by the state board ~~is~~ are below the level required for full accreditation, but the school's unified improvement plan has been revised to achieve full accreditation status by a date certain, the plan has been approved by the state board and the school is meeting the objectives and time line specified in the revised plan.

(4) Exemplary accreditation status shall be given to a school when the school's performance and progress on the standards adopted by the state board pursuant to subsections (c) and (d) of this section substantially ~~exceeds~~ exceed the minimal level which would be expected when all of the high quality education standards are being met. The state board shall ~~propose~~ promulgate legislative rules in accordance with the provisions of article three-b, chapter twenty-nine-a, designated to establish standards of performance and progress to identify exemplary schools.

(5) The state board shall establish and adopt standards of performance and progress to identify seriously impaired schools and the state board may declare a school seriously impaired whenever extraordinary circumstances exist as defined by the state board.

(A) These circumstances shall include, but are not limited to, the following:

(i) The failure of a school on temporary accreditation status to obtain approval of its revised unified school improvement plan within a reasonable time period as defined by the state board;

(ii) The failure of a school on conditional accreditation status to meet the objectives and time line of its revised unified school improvement plan; or

(iii) The failure of a school to achieve full accreditation by the date specified in the revised plan.

(B) Whenever the state board determines that the quality of education in a school is seriously impaired, the state board shall appoint a team of improvement consultants to make recommendations within sixty days of appointment for correction of the impairment. ~~Upon approval of the recommendations by the state board, the recommendations~~ When the state board approves the recommendations, they shall be made communicated to the county board. If progress in correcting the impairment as determined by the state board is not made within six months from the time the county board receives the recommendations, the state board shall place the county board on temporary approval status and provide consultation and assistance to the county board to assist it in the following areas:

(i) ~~improve~~ Improving personnel management;

(ii) ~~establish~~ Establishing more efficient financial management practices;

(iii) ~~improve~~ Improving instructional programs and rules; or

(iv) ~~make~~ Making any other improvements that are necessary to correct the impairment.

(C) If the impairment is not corrected by a date certain as set by the state board:

(i) The state board shall appoint a monitor who shall be paid at county expense to cause improvements to be made at the school to bring it to full accreditation status within a reasonable time period as determined by the state board. The monitor's work location shall be at the school and the monitor shall work collaboratively with the principal. The monitor shall, at a minimum, report monthly to the state board on the measures being taken to improve the school's performance and the progress being made. The reports may include requests for additional assistance and recommendations required in the judgment of the monitor to improve the school's performance, including, but not limited to, the need for targeting resources strategically to eliminate deficiencies;

(ii) If The state board ~~determines~~ may make a determination, in its sole judgment, that the improvements necessary to provide a thorough and efficient education to the students at the school cannot be made without additional targeted resources, in which case, it shall establish a plan in consultation with the county board that includes targeted resources from sources under the control of the state board and the county board to accomplish the needed improvements. Nothing in this ~~section~~ subsection shall be construed to allow a change in personnel at the school to improve school performance and progress, except as provided by law;

(iii) If the impairment is not corrected within one year after the appointment of a monitor, the state board may make a determination, in its sole judgment, that continuing a monitor arrangement is not sufficient to correct the impairment and may intervene in the operation of the school to cause improvements to be made that will provide assurances that a thorough and efficient system of schools will be provided. This intervention may include, but is not limited to, establishing instructional programs, taking such direct action as may be necessary to correct the impairments, declaring the position of principal is vacant and assigning a principal for the school who shall serve at the will and pleasure of and, under the sole supervision of, the state board: *Provided*, That prior to declaring that the position of the principal is vacant, the state board must make a determination that all other resources needed to correct the impairment are present at the school. If the principal who was removed elects not to remain an employee of the county board, then the principal assigned by the state board shall be paid by the county board. If the principal who was removed elects to remain an employee of the county board, then the following procedure applies:

(I) The principal assigned by the state board shall be paid by the state board until the next school term, at which time the principal assigned by the state board shall be paid by the county board;

(II) The principal who was removed shall be placed on the preferred recall list for all positions in the county for which the principal is certified, as defined in section seven, article four of this chapter; and

(III) The principal who was removed shall be paid by the county board and may be assigned to administrative duties, without the county board being required to post that position until the end of the school term;

(6) The county board shall take no action nor refuse any action if the effect would be to impair further the school in which the state board has intervened.

(7) The state board may appoint a monitor pursuant to the provisions of this subsection to assist the school principal after intervention in the operation of a school is completed.

(k) *Transfers from seriously impaired schools.* -- Whenever a school is determined to be seriously impaired and fails to improve its status within one year, any student attending the school may transfer once to the nearest fully accredited school, subject to approval of the fully accredited school and at the expense of the school from which the student transferred.

(l) *School system approval.* -- The state board annually shall review the information submitted for each school system from the system of education performance audits and issue one of the following approval levels to each county board: Full approval, temporary approval, conditional approval, or nonapproval.

(1) Full approval shall be given to a county board whose education system meets or exceeds all of the high quality standards for student, school and school system performance, ~~and~~ progress and processes adopted by the state board and whose schools have all been given full, temporary or conditional accreditation status. A school system which meets or exceeds the measures of student performance and progress set forth in subsection (d) of this section, and which does not have any deficiencies which would endanger student health or safety or other extraordinary circumstances as defined by the state board, shall remain on full accreditation status for six months following an on-site review in which other deficiencies are noted. The school shall have an opportunity to correct those deficiencies, notwithstanding other provisions of this subsection.

(2) Temporary approval shall be given to a county board whose education system is below the level required for full approval. Whenever a county board is given temporary approval status, the county board shall revise its unified county improvement plan to increase the performance and progress of the school system to a full approval status level. The revised plan shall include objectives, a time line, a plan for evaluation of the success of the improvements, a cost estimate, and a date certain for achieving full approval. The revised plan shall be submitted to the state board for approval.

(3) Conditional approval shall be given to a county board whose education system is below the level required for full approval, but whose unified county improvement plan meets the following criteria:

(i) The plan has been revised to achieve full approval status by a date certain;
(ii) The plan has been approved by the state board; and (iii) The county board is meeting the objectives and time line specified in the revised plan.

(4) Nonapproval status shall be given to a county board which fails to submit and gain approval for its unified county improvement plan or revised unified county

improvement plan within a reasonable time period as defined by the state board or which fails to meet the objectives and time line of its revised unified county improvement plan or fails to achieve full approval by the date specified in the revised plan.

(A) The state board shall establish and adopt additional standards to identify school systems in which the program may be nonapproved and the state board may issue nonapproval status whenever extraordinary circumstances exist as defined by the state board.

(B) ~~Furthermore,~~ Whenever a county board has more than a casual deficit, as defined in section one, article one of this chapter, the county board shall submit a plan to the state board specifying the county board's strategy for eliminating the casual deficit. The state board either shall approve or reject the plan. If the plan is rejected, the state board shall communicate to the county board the reason or reasons for the rejection of the plan. The county board may resubmit the plan any number of times. However, any county board that fails to submit a plan and gain approval for the plan from the state board before the end of the fiscal year after a deficit greater than a casual deficit occurred or any county board which, in the opinion of the state board, fails to comply with an approved plan may be designated as having nonapproval status.

(C) Whenever nonapproval status is given to a school system, the state board shall declare a state of emergency in the school system and shall appoint a team of improvement consultants to make recommendations within sixty days of appointment for correcting the emergency. ~~Upon approval of the recommendations by~~ When the state board approves the recommendations, the recommendations they shall be made communicated to the county board. If progress in correcting the emergency, as determined by the state board, is not made within six months from the time the county board receives the recommendations, the state board shall intervene in the operation of the school system to cause improvements to be made that will provide assurances that a thorough and efficient system of schools will be provided. This intervention may include, but is not limited to, the following:

(i) Limiting the authority of the county superintendent and county board as to the expenditure of funds, the employment and dismissal of personnel, the establishment and operation of the school calendar, the establishment of instructional programs and rules and any other areas designated by the state board by rule, which may include delegating decision-making authority regarding these matters to the state superintendent;

~~(ii) Taking any direct action necessary to correct the emergency; and~~

~~(iii) (ii) Declaring that the office of the county superintendent is vacant;~~

(iii) Delegating to the state superintendent both the authority to conduct hearings on personnel matters and school closure or consolidation matters and, subsequently, to render the resulting decisions, and the authority to appoint a designee for the limited purpose of conducting hearings while reserving to the state superintendent the authority to render the resulting decisions; and

~~(ii) (iv) Taking any direct action necessary to correct the emergency including, but not limited to, the following:~~

(I) Delegating to the state superintendent the authority to replace administrators and principals in low performing schools and to transfer them into alternate professional positions within the county at his or her discretion; and

(II) Delegating to the state superintendent the authority to fill positions of administrators and principals with individuals determined by the state superintendent to be the most qualified for the positions. Any authority related to intervention in the

operation of a county board granted under this paragraph is not subject to the provisions of article four, chapter eighteen-a of this code;

(m) Notwithstanding any other provision of this section, the state board may intervene immediately in the operation of the county school system with all the powers, duties and responsibilities contained in subsection (l) of this section, if the state board finds the following:

(1) That the conditions precedent to intervention exist as provided in this section; and ~~(2)~~ that delaying intervention for any period of time would not be in the best interests of the students of the county school system or

(2) That the conditions precedent to intervention exist as provided in this section and that the state board had previously intervened in the operation of the same school system and had concluded that intervention within the preceding five years.

(n) *Capacity.* -- The process for improving education includes a process for targeting resources strategically to improve the teaching and learning process. Development of unified school and school system improvement plans, pursuant to subsection (b) of this section, is intended, in part, to provide mechanisms to target resources strategically to the teaching and learning process to improve student, school and school system performance. When deficiencies are detected through the assessment and accountability processes, the revision and approval of school and school system unified improvement plans shall ensure that schools and school systems are efficiently using existing resources to correct the deficiencies. When the state board determines that schools and school systems do not have the capacity to correct deficiencies, the state board shall work with the county board to develop or secure the resources necessary to increase the capacity of schools and school systems to meet the standards and, when necessary, seek additional resources in consultation with the Legislature and the governor.

The state board shall recommend to the appropriate body including, but not limited to, the process for improving education council, the Legislature, county boards, schools and communities methods for targeting resources strategically to eliminate deficiencies identified in the assessment and accountability processes ~~by~~. When making determinations on recommendations, the state board shall include, but is not limited to, the following methods:

(1) Examining reports and unified improvement plans regarding the performance and progress of students, schools and school systems relative to the standards and identifying the areas in which improvement is needed;

(2) Determining the areas of weakness and of ineffectiveness that appear to have contributed to the substandard performance and progress of students or the deficiencies of the school or school system;

(3) Determining the areas of strength that appear to have contributed to exceptional student, school and school system performance and progress and promoting their emulation throughout the system;

(4) Requesting technical assistance from the school building authority in assessing or designing comprehensive educational facilities plans;

(5) Recommending priority funding from the school building authority based on identified needs;

(6) Requesting special staff development programs from the center for professional development, the principals academy, higher education, regional educational service agencies and county boards based on identified needs;

(7) Submitting requests to the Legislature for appropriations to meet the identified

needs for improving education;

(8) Directing county boards to target their funds strategically toward alleviating deficiencies;

(9) Ensuring that the need for facilities in counties with increased enrollment are appropriately reflected and recommended for funding;

(10) Ensuring that the appropriate person or entity is held accountable for eliminating deficiencies; and

(11) Ensuring that the needed capacity is available from the state and local level to assist the school or school system in achieving the standards and alleviating the deficiencies.

§18-2E-5c. Process for improving education council established; membership; expenses; meetings; powers.

(a) Process for improving education council -- There is hereby established the process for improving education council for the purpose of providing opportunities for consultation among state policy leaders on the process for improving education, including, but not limited to, determination of the things that students should know and be able to do as the result of a thorough and efficient education, the performance and progress of students toward meeting the high quality standards established by the state board, and any further improvements necessary to increase the capacity of schools and school systems to deliver a thorough and efficient education.

(b) Council membership -- The legislative oversight commission on education accountability, together with the governor, ex officio, or the governor's designee, and the chancellor of the higher education policy commission, ex officio, or the chancellor's designee, comprise the process for improving education council. Ex officio members are entitled to vote. The governor or the governor's designee shall convene the council, as appropriate, and shall serve as chair. The council may meet at any time at the call of the governor or the governor's designee.

(c) Compensation -- Members of the council shall serve without compensation, but shall be reimbursed as provided by law by their respective agencies for all reasonable and necessary expenses actually incurred in the performance of their official duties under this section upon presentation of an itemized sworn statement of their expenses.

(d) Powers of the council.

The council has the following powers:

(1) To meet and consult with the state board, or their designees, and make recommendations on issues related to student, school and school system performance. The following steps are part of the consultation process:

(A) The state board shall notify each member of the council whenever the state board proposes to amend its rules on any of the following issues:

(i) High quality education standards and efficiency standards established pursuant to section five of this article;

(ii) Indicators of efficiency established pursuant to section five of this article; and

(iii) Assessment and accountability of school and school system performance and processes established pursuant to section five of this article.

(B) If the governor, or the governor's designee, believes it is necessary for the council to meet and consult with the state board, or its designees, on changes proposed to any of the issues outlined in subdivision one of this subsection, he or she may convene a meeting of the council.

(C) If both the president of the Senate and the speaker of the House of Delegates

believe it is necessary for the council to meet and consult with the state board, or its designees, they shall notify the governor who shall convene a meeting of the council.

(D) If the chancellor, or the chancellor's designee, believes that it is necessary for the council to meet and consult with the state board, or its designees, he or she may request the governor to convene a meeting of the council.

(2) To require the state board, or its designees, to meet with the council to consult on issues that lie within the scope of the council's jurisdiction;

(3) To participate as observers in any on-site review of a school or school system conducted by the office of education performance audits; and

(4) To authorize any employee of the agencies represented by council members to participate as observers in any on-site review of a school or school system conducted by the office of education performance audits.

§18-2E-9. West Virginia virtual school.

(a) Findings: -- The Legislature finds that:

(1) West Virginia schools have improved and expanded internet access which enables schools to offer courses through the internet and other new and developing technologies;

(2) Current technology is available to provide students with more resources for learning and new and developing technologies offer even more promise for expanded learning opportunities;

(3) A number of states and other jurisdictions have developed internet-based instruction which is available currently and which is being used by schools in this state;

(4) To educate better the students of West Virginia, more course and class offerings can be made available through technology, especially to students who are geographically disadvantaged;

(5) Virtual learning enables students to learn from remote sites, learn at times other than the normal school day and learn at a different pace and gives students access to courses that would not be available in their area;

(6) There is a need to assure that internet-based courses and courses offered through new and developing technologies are of high quality; and

(7) The state and county school systems can benefit from the purchasing power the state can offer.

(b) The Legislature hereby creates the West Virginia virtual school. The West Virginia virtual school shall be located within the office of technology and information systems within the West Virginia department of education.

(c) The state superintendent of schools shall appoint the director of the West Virginia virtual school with the approval of the state board.

(d) The director of the West Virginia virtual school has the following powers and duties:

(1) To contract with providers for courses and other services;

(2) To review courses and courseware and make determinations and recommendations relative to the cost and quality of the courses and the alignment with the instructional goals and objectives of the state board;

(3) To develop policy recommendations for consideration by the state board, which may include, but not be limited to, the following:

(A) Hardware and software considerations for the offering of courses on the internet or other developing technologies;

(B) Standards of teachers and other school employees who are engaged in the

activities surrounding the offering of courses on the internet or other developing technologies;

(C) Sharing of resources with other agencies of government, both within and outside West Virginia, to facilitate the offering of courses on the internet or other developing technologies;

(D) Methods for including courses offered on the internet or through other developing technologies in alternative education programs;

(E) Methods for making courses offered on the internet or through other developing technologies available for students receiving home instruction;

(F) Methods for brokering the courses offered on the internet or through other developing technologies;

(G) Methods for applying for grants;

(H) Methods for employing persons who are the most familiar with the instructional goals and objectives to develop the courses to be offered on the internet and through other developing technologies; and

(I) Proper funding models that address all areas of funding including, but not limited to, which county, if any, may include a student receiving courses on the internet or through other developing technologies in enrollment and who, if anyone, is required to pay for the courses offered on the internet or through other developing technologies; and

(4) Any other powers and duties necessary to address the findings of the Legislature in subsection (a) of this section.

(e) Subject to the process outlined in this section, the West Virginia virtual school's approved virtual and distance learning courses are exempt from the mandatory use of primary source instructional materials listed on the state multiple list. ~~(e)~~ (f) The West Virginia department of education shall report the progress of the West Virginia virtual school to the legislative oversight commission on education accountability on or before the first day of September, two thousand.

ARTICLE 2I. STAFF DEVELOPMENT COUNCILS.

§18-2I-1. Legislative purpose.

The purpose of this article is to create the West Virginia professional staff development advisory council and eight regional professional staff development councils to coordinate the delivery of staff development programs for professional education in West Virginia advise and assist the state board with ensuring the coordination and quality of professional staff development programs that address locally identified needs for professional staff development and meet the goals for professional staff development established by the state board.

§18-2I-3. Creation of West Virginia professional staff development advisory council; members; and functions.

(a) There shall be a West Virginia professional staff development advisory council which shall consist of the following members:

(1) The chairpersons of each of the eight regional staff development councils established in section five of this article;

(2) The coordinators of each of the eight regional educational service agency staff development councils;

~~(3) The associate superintendent for the division of research, technology and professional services of the state department of education;~~

~~(4)~~ (3) The assistant superintendent for the division of instructional and student services of the state department of education;

~~(5) The assistant superintendent for the division of technical and adult education services of the state department of education;~~

~~(6) The assistant superintendent for the division of administrative services of the state department of education;~~

~~(7) (4) The secretary of education and the arts or his or her designee, who shall chair the council;~~

~~(8) (5) The chancellor of the university system of West Virginia higher education policy commission or his or her designee;~~

~~(9) The chancellor of the state college system of West Virginia or his or her designee;~~

~~(10) The executive director of the west Virginia education fund or his or her designee;~~

~~(11) (6) The executive director of the West Virginia center for professional development;~~

~~(12) The president of the West Virginia education association or his or her designee;~~

~~(13) The president of the West Virginia professional educators or his or her designee;~~

~~(14) The president of the West Virginia professional educators or his or her designee;~~

~~(15) The president of the West Virginia association of school administrators or his or designee;~~

~~(16) The president of the West Virginia association of elementary and middle school principals or his or her designee; and~~

~~(17) The president of the West Virginia association of secondary school principals or his or her designee.~~

(7) The presidents, or their designees, of each of the two professional organizations or associations representing teachers in the state with the greatest number of teacher members.

(b) Any member of the advisory council may be reimbursed by ~~his or her employing agency~~ the state board for the cost of reasonable and necessary expenses actually incurred in the performance of their duties under this article ~~as determined by the employing agency.~~

§18-2I-4. Functions of the West Virginia professional staff development advisory council.

The council shall advise and assist the state board in all phases of developing or amending the goals for professional staff development required by subsection (b) of this section. Advice and assistance shall include, but is not limited to the following:

~~(a) Identify and prioritize statewide staff development needs;~~ Reporting to the state board on the professional staff development needs identified by the public schools within the respective regions;

~~(b) Identify~~ Recommending effective professional staff development programs to meet identified needs;

~~(c)~~ Providing local input on the proposed goals and on the professional staff development plan proposed by the center for professional development pursuant to subsection (c) of this section;

~~(e) (d) Communicate~~ Communicating professional staff development information and findings to the regional and county staff development councils; ~~the state board and the~~

~~legislative oversight commission on education accountability by the first day of September of each year; and~~

~~(d) (e) Convene regular meetings on a semiannual basis to effectuate the requirements in subsections (a), (b) and (c) of this section; and Advancing the coordination and quality of professional staff development programs in the public schools of West Virginia.~~

~~(e) Elect a chairman who shall serve two years~~

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-18b. School counselors in public schools.

(a) A school counselor means a professional educator who holds a valid school counselor's certificate in accordance with article three, of this chapter.

~~(b) Each county board of education, by the school year one thousand nine hundred eighty-seven--eighty-eight, shall provide counseling services for each pupil enrolled in the public schools of the county.~~

(c) The school counselor shall work with individual pupils and groups of pupils in providing developmental, preventive and remedial guidance and counseling programs to meet academic, social, emotional and physical needs; including programs to identify and address the problem of potential school dropouts. The school counselor also may ~~also~~ provide consultant services for parents, teachers and administrators and may use outside referral services, when appropriate, if no additional cost is incurred by the county board.

~~(d) The state board may adopt rules and regulations regarding the activities of the school counselor, and the consistent with the provisions of this section that define the role of a school counselor based on the "National Standards for School Counseling Programs" of the American school counselor association. A school counselor is authorized to perform such **services as are not inconsistent therewith with the provisions of the rule as adopted by the state board.** To the extent that any funds are made available for this purpose, county boards shall provide training for counselors and administrators to implement the rule as adopted by the state board.~~

~~(e) Each county board of education shall develop a comprehensive drop-out prevention program utilizing the expertise of school counselors and any other appropriate resources available.~~

~~(f) School counselors shall be full-time professional personnel, shall spend at least seventy-five percent of work time in a direct counseling relationship with pupils, and shall devote no more than one fourth of the work day to administrative activities: *Provided*, That such activities are counselor related.~~

~~(g) Nothing herein shall prohibit in this section prohibits a county board from exceeding the provisions of this section, or requires any specific level of funding by the Legislature.~~

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-1d. Adoption of a state model for individualized education program.

The state board shall adopt a basic model for individualized education programs to be used by all special education teachers throughout the public schools of the state when preparing individualized education programs for students with exceptional needs.

The model shall comply with, but may not exceed, all state laws and federal laws, policies, rules, and regulations relating to providing education services to students with exceptional needs and shall include instructions for adapting the model to specific exceptionalities.

No professional educator may be required to prepare or implement an individualized

education program which exceeds the requirements of federal and state laws, policies, rules or regulations.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

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

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

(b) The system adopted by the state board of education for evaluating the employment performance of professional personnel shall be in accordance with the provisions of this section. (c) For purposes of this section, "professional personnel" "professional" or "professionals", means professional personnel as defined in section one, article one of this chapter.

(d) In developing the professional personnel performance evaluation system, and amendments thereto, the state board shall consult with the professional development project of the center for professional development created in section three, article three-a of this chapter. The center shall ~~actively~~ participate actively with the state board in developing written standards for evaluation which clearly specify satisfactory performance and the criteria to be used to determine whether the performance of each professional meets such standards.

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

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

(2) The frequency and duration of the evaluations, which shall be on a regular basis and of such frequency and duration as to insure the collection of a sufficient amount of data from which reliable conclusions and findings may be drawn: Provided, That for school personnel with five or more years of experience, who have not received an unsatisfactory rating, evaluations shall be conducted no more than once every three years unless the principal determines an evaluation for a particular school employee is needed more frequently; Provided, however, That a classroom teacher may exercise the option of being evaluated at more frequent intervals.

(3) ~~The purposes of the evaluation, which~~ The evaluation shall serve the following purposes:

(A) Serve as a basis for the improvement of the performance of the personnel in their assigned duties;

(B) ~~serve as~~ Provide an indicator of satisfactory performance for individual ~~professional personnel~~ professionals;

(C) Serve as documentation for a dismissal on the grounds of unsatisfactory performance; and

(D) Serve as a basis for programs to increase the professional growth and development of professional personnel;

(4) The standards for satisfactory performance for professional personnel and the criteria to be used to determine whether the performance of each professional meets such standards and other criteria for evaluation for each professional position evaluated. Effective the first day of July two thousand three and thereafter, professional personnel,

as appropriate, shall demonstrate competency in the knowledge and implementation of the technology standards adopted by the state board. If a professional fails to demonstrate competency, in the knowledge and implementation of these standards, he or she will be subject to an improvement plan to correct the deficiencies; and

(5) Provisions for a written improvement plan, which shall be specific as to what improvements, if any, are needed in the performance of the professional and shall clearly set forth recommendations for improvements, including recommendations for additional education and training during the professional's recertification process.

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

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

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

(i) Lesson plans are intended to serve as a daily guide for teachers and substitutes for the orderly presentation of the curriculum. Lesson plans may not be used as a substitute for observations by an administrator in the performance evaluation process. A classroom teacher, as defined in section one, article one of this chapter, may not be required to include in his or her lesson plans any of the following:

(1) Teach and reteach strategies;

(2) Write to learn activities;

(3) Cultural diversity;

(4) Color coding; or

(5) Any other similar items which are not required to serve as a guide to the teacher or substitute for daily instruction; and

(j) The Legislature finds that classroom teachers must be free of unnecessary paper work so that they can focus their time on instruction. Therefore, classroom teachers may not be required to keep records or logs of routine contacts with parents or guardians.

ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL

DEVELOPMENT.

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

(a) The education of professional educators in the state shall be under the general direction and control of the state board of education after consultation with the secretary of education and the arts and the chancellor of the higher education policy commission, who shall represent the board of directors of the state college system and the board of trustees of the university of West Virginia system interests of teacher preparation programs within the institutions of higher education in this state as those institutions are defined in section two, article one, chapter eighteen-b of this code.

The education of professional educators in the state includes all programs leading to certification to teach or serve in the public schools including: (1) Those programs in all institutions of higher education, including student teaching in the public schools; (2) beginning teacher internship programs; (3) the granting of West Virginia certification to persons who received their preparation to teach outside the boundaries of this state; (4) any alternative preparation programs in this state leading to certification, including programs established pursuant to the provisions of section one-a of this article and programs which are in effect on the effective date of this section; and (5) any continuing professional education, professional development and in-service training programs for professional educators employed in the public schools in the state.

(b) The state board of education, after consultation with the secretary of education and the arts and the chancellor of the higher education policy commission, who shall represent the board of directors of the state college system and the board of trustees of the university of West Virginia system interests of teacher preparation programs within the institutions of higher education in this state as those institutions are defined in section two, article one, chapter eighteen-b of this code, shall adopt standards for the education of professional educators in the state and for the awarding of certificates valid in the public schools of this state subject to the following conditions:

(1) The standards approved by the board for teacher preparation shall include a provision for the study of multicultural education. As used in this section, multicultural education means the study of the pluralistic nature of American society including its values, institutions, organizations, groups, status positions and social roles.

(2) Effective the first day of January, one thousand nine hundred ninety-three, the standards approved by the board shall also include a provision for the study of classroom management techniques and shall include methods of effective management of disruptive behavior which shall include societal factors and their impact on student behavior.

(b) (c) To give prospective teachers the teaching experience needed to demonstrate competence as a prerequisite to certification, the state board of education may enter into an agreement with county boards ~~of education~~ for the use of the public schools. Such agreement shall recognize student teaching as a joint responsibility of the teacher preparation institution and the cooperating public schools and shall include: (1) The minimum qualifications for the employment of public school teachers selected as supervising teachers; (2) the remuneration to be paid public school teachers by the state board, in addition to their contractual salaries, for supervising student teachers; and (3) minimum standards to guarantee the adequacy of the facilities and program of the public school selected for student teaching. The student teacher, under the direction and supervision of the supervising teacher, shall exercise the authority of a substitute teacher.

(e) (d) The state superintendent of schools may issue certificates to graduates of

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

~~(d)~~ (e) In consultation with the secretary of education and the arts, ~~who shall represent the board of directors of the state college system and the board of trustees of the university of West Virginia system,~~ and the chancellor of the higher education policy commission institutions of higher education approved for teacher preparation may cooperate with each other, with the center for professional development and with one or more county boards of education in the organization and operation of centers to provide selected phases of the teacher preparation program such as student teaching, beginning teacher internship programs, instruction in methodology and seminar programs for college students, teachers with provisional certification, professional support team members and supervising teachers.

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

(f) The provisions of this section shall not be construed to require the discontinuation of an existing student teacher training center or school which meets the standards of the state board of education.

(g) All institutions of higher education approved for teacher preparation in the school year of one thousand nine hundred sixty-two--sixty-three shall continue to hold that distinction so long as they meet the minimum standards for teacher preparation. Nothing contained herein shall infringe upon the rights granted to any institution by charter given according to law previous to the adoption of this code.

§18A-3-2c. Training through the principals academy.

(a) Principal training and professional development required. -- After the first day of January, ~~one thousand nine hundred ninety-seven,~~ effective date of this section and subject to the provisions of subsection (c) of this section, every principal shall complete a training program and professional development through the principals academy ~~at least once every four years~~ as provided in subsection (b) of this section.

(b) Admission to academy Principal training and professional development through the academy. -- The academy and the persons ~~attending such~~ required to complete training and professional development through the academy shall adhere to the following guidelines ~~for admission to the academy:~~

(1) All persons assigned as a principal for the first time in a West Virginia school after the first day of ~~March, one thousand nine hundred ninety-six,~~ July, two thousand two, shall complete specialized training and professional development for newly appointed principals through the academy ~~Provided, That if training through the academy is~~

~~scheduled to begin within ninety days from the date of assignment, such person may complete the next scheduled training through the academy within the first twelve months following assignment;~~

~~(2) All principals of schools which have received from the state board temporary or conditional accreditation status or whose schools have been designated as seriously impaired, in accordance with section five, article two-e, chapter eighteen of this code, shall complete the next regularly specialized training and professional development through the academy following the date of such designation: *Provided*, That if training through the academy is scheduled to begin within thirty days from the date of such designation, such principal may complete the next scheduled training through the academy specifically designed to assist the principal to improve school performance commencing as soon as practicable following receipt of the designation. *Provided*, however, That principals whose schools have received conditional accreditation status, whose plan for correcting the deficiency which resulted in conditional accreditation status exceeds one year and whose schools are meeting the requirements of the plan, shall not be required to attend the academy in each successive year.~~

~~(3) All principals who are subject to an improvement plan, in accordance with section twelve, article two of this chapter, shall complete the next regularly scheduled specialized training and professional development through the academy *Provided*, That if training through the academy is scheduled to begin within thirty days from the date the principal is first subject to the improvement plan, then such principal may complete the next scheduled training through the academy specifically designed for principals subject to an improvement plan. The specialized training and professional development shall be completed within twelve months from the date that the principal is first subject to the improvement plan;~~

~~(4) All principals who transfer to a school with a significantly different grade configuration shall complete specialized training and professional development for principals in schools with the grade configuration to which they transferred through the academy *Provided*, That if training through the academy is scheduled to begin within ninety days from the date such principal is transferred, then such principal may complete the next scheduled training through the academy within the first twelve months following transfer; and~~

~~(5) All persons serving as school principals ~~who are not described in subdivisions (1) through (4) of this subsection~~ shall complete training and professional development through the academy at least once every four years from and after the first day of January, one thousand nine hundred ninety-seven designed to build the qualities, proficiencies and skills required of all principals as determined by the state board.~~

~~(c) *Academy and attendance requirements to complete training and professional development subject to funding.* -- The requirement that principals attend complete training and professional development through the academy shall be subject to the availability of funds for the principals academy from legislative appropriation and from other sources. If such these funds are insufficient to provide for the total cost of admission to the academy for those required to complete training, the training and professional development required by subsection (b) of this section, then the academy shall admit provide training and professional development for the persons described in subdivisions (1) through (5), of subsection (b) according to the priority in which the subdivisions appear in said that subsection. If such funds are insufficient to provide for the admission training and professional development of all the persons described in one or more of subdivisions (1)~~

through (5), subsection (b) of this section, the academy is authorized to determine which persons described within the subdivision or subdivisions shall be admitted and which shall not be admitted: *Provided*, That the principals academy shall make every effort to ensure that all principals attend receive training and professional development through the academy at least once every four six years from and after the first day of January, one thousand nine hundred ninety-seven effective the first day of July, two thousand two and thereafter: *Provided, however*, That nothing in this section shall be construed to require any specific level of funding by the Legislature.

(d) *Principals standards advisory council.* -- To assist the state board in the performance of the duties described in subsection (e) of this section, there is hereby created a "Principals Standards Advisory Council," which shall consist of nine persons, as follows: The executive director ~~or designee~~ of the center for professional development, who shall serve as the ex officio chair; three principals, one from an elementary school and one from a middle school or a junior high school selected by the West Virginia association of elementary and middle school principals, and one from a high school selected by the West Virginia association of secondary school principals; one county school superintendent ~~nominated by the state board and appointed by the governor~~ selected by the West Virginia association of school administrators; and two representatives from higher education who teach in principal preparation programs ~~nominated by the chancellor of the state university system and appointed by the governor~~ selected by the teacher education advisory council; and two citizen representatives who are knowledgeable on issues addressed in this section, appointed by the governor. ~~Of the initial appointments, three of the members appointed shall serve for a term of three years, three members shall serve for a term of two years, and two members shall serve for a term of one year. All successive appointments shall be for a term of three years.~~ Members of the principals standards advisory council who are public employees shall be granted release time from their employment for attending meetings of the council. Members may be reimbursed for reasonable and necessary expenses actually incurred in the performance of their official duties by the center for professional development. The terms of all members appointed to the principals standards advisory council under the prior enactment of this section shall terminate on the thirty-first day of August, two thousand two. The principals standards advisory council as amended on the effective date of this section shall become effective on the first day of September, two thousand two.

(e) *Establishment of standards.* -- On or before the first day of October, one thousand nine hundred ninety-six, the state board shall approve and promulgate rules regarding the minimum qualities, proficiencies and skills that will be required of principals after the first day of January, one thousand nine hundred ninety-seven. The state board shall promulgate and may from time to time amend such rules after consultation with the principals standards advisory council created in subsection (d) of this section. The rules promulgated by the state board shall address at least the following:

(1) Staff relations, including, but not limited to, the development and use of skills necessary to make a positive use of faculty senates, ~~to~~ manage faculty and staff with courtesy and mutual respect, coach and motivate employees, and build consensus as a means of management;

(2) School community leadership qualities, including, but not limited to, the ability to organize and leverage community initiative, communicate effectively, work effectively with local school improvement councils, manage change, resolve conflict and reflect the highest personal values;

(3) Educational proficiencies, including, but not limited to, knowledge of curriculum, instructional techniques, student learning styles, student assessment criteria, school personnel performance, evaluation skills and family issues; and

(4) Administrative skills, including, but not limited to, organizational, fiscal, public policy and total quality management skills and techniques.

(f) *Waivers.* -- Any person desiring to be relieved of the requirements of all or any part of this section may apply in writing to the state board for a waiver. Upon a showing of reasonable cause why relief should be granted, the state board may grant a waiver, upon such terms and conditions as the state board shall determine proper, as to all or any part of this section.

(g) *Failure to comply.* -- Any person who fails or refuses to complete training and professional development through the academy, as required by the provisions of this section, and who fails to obtain a waiver, as described in subsection (f) of this section, shall be ineligible to be employed as, or serve in the capacity of, a principal.

(h) *Tracking of requirement.* -- On or before the first day of January, one thousand nine hundred ninety-seven, the state board shall establish a system to track the progress of each person required to complete training through the academy and shall regularly advise such persons of their progress.

(i) *Payment of reasonable and necessary expenses and stipends.* -- The center for professional development ~~may~~ shall reimburse persons attending the academy for reasonable and necessary expenses. ~~Additionally, any person whose attendance occurs outside his or her employment term, as defined in section fifteen, article five, chapter eighteen of this code, may be entitled to a stipend to be determined by and paid by the center for professional development: Provided, That~~ A person may not be required to complete training and professional development through the principals academy before the fifteenth day of September and after the first day of June of the school year. The center for professional development shall utilize alternative methods of instructional delivery and scheduling, including electronic delivery, as considered appropriate to minimize the amount of time principals completing training and professional development through the academy are required to be away from their school duties. Nothing in this section shall be construed to require any specific level of funding by the Legislature.

ARTICLE 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.

§18A-3A-1. Center for professional development established; intent and mission; principals academy curriculum and expenses; authorization to charge fees.

(a) Teaching is a profession that directly correlates to the social and economic well-being of a society and its citizens. Superior teaching is essential to a well educated and productive populace. Strong academic leadership provided by principals and administrators skilled in modern management principles is also essential. The intent of this article is to recognize the value of professional involvement by experienced educators, principals and administrators in building and maintaining a superior force of professional educators and to establish avenues for applying such involvement.

(b) ~~The general mission of the center is to study matters relating to~~ advance the quality of teaching and management in the schools of West Virginia and to promote through (1) the implementation primarily of statewide training, professional staff development and technical assistance programs and practices as recommended by the state board to assure the highest quality in of teaching and management; and (2) the provision of technical and other assistance and support to regional and local education

agencies in identifying and providing high quality professional staff development and training programs and implementing best practices to meet their locally identified needs. The center also may implement local programs if the state board, in its ~~agenda set~~ master plan for professional staff development established pursuant to section twenty-three-a, article two, chapter eighteen of this code, determines that there is a specific local need for the programs. Additionally, the center shall perform such duties as are assigned to it by law.

Nothing in this article shall be construed to require any specific level of funding by the Legislature.

~~(b)~~ (c) The center board shall consist of eleven persons as follows: The secretary of education and the arts, ex officio, and the state superintendent of schools, ex officio, both of whom shall be entitled to vote; three members of the state board, elected by the state board; three experienced educators, of whom two shall be working classroom teachers, and one of whom shall be a school or county administrator appointed by the governor by and with the advice and consent of the Senate, all of whom shall be experienced educators who have achieved recognition for their superior knowledge, ability and performance in teaching or management, as applicable; and three citizens of the state, one of whom shall be a representative of public higher education, and all of who are shall be knowledgeable in matters relevant to the issues addressed by the center, including, but not limited to, professional development and management principles, appointed by the governor by and with the advice and consent of the Senate. Not more than two appointees shall be residents within the same congressional district. The center board shall elect a board chair be cochaired by the secretary of education and the arts and the state superintendent.

~~Of the initial members from the state board, one shall be elected for a term of one year and two shall be elected for terms of two years.~~ All successive elections shall be for two-year terms. Members elected from the state board may serve no more than two consecutive two-year terms. The state board shall elect another member to fill the unexpired term of any person so elected who subsequently vacates state board membership. Of the initial appointed members, three shall be appointed for one-year terms and three shall be appointed for two-year terms. All successive appointments shall be for two-year terms. An experienced educator may serve no more than two consecutive two-year terms. The governor shall appoint a new member to fill the unexpired term of any vacancy in the appointed membership.

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

~~(e)~~ The board chair, with the advice of the center board, from appropriations to the center for professional development, may From appropriations to the center for professional development, the center board shall employ and fix the compensation of an executive director with knowledge and experience in professional development and management principles and such other persons staff as may be necessary to carry out the mission and duties of the center. The executive director shall serve at the will and pleasure of the center board. The executive director of the center also shall serve as the chair of the principals standards advisory council created in section two-c, article three of this chapter, and shall convene regular meetings of this council to effectuate the purposes

of this council.

When ~~practical~~ practicable, personnel employed by state higher education agencies and state, regional and county public education agencies shall be made available to the center to assist in the operation of projects of limited duration.

(f) The center shall assist in the delivery of programs and activities pursuant to this article to meet statewide, and if needed as determined by the goals ~~set~~ and master plan for professional staff development established by the state board pursuant to section twenty-three-a, article two, chapter eighteen of this code, the local professional development needs of teachers, principals and administrators and may contract with existing agencies or agencies created after the effective date of this section or others to provide training programs in the most efficient manner. Existing programs currently based in agencies of the state shall be continued in the agency of their origin unless the center establishes a compelling need to transfer or cancel the existing program. The center shall recommend to the governor the transfer of funds to the providing agency, if needed, to provide programs approved by the center.

~~Pursuant to the provisions of article ten, chapter four of this code, the center for professional development board shall continue to exist until the first day of July, two thousand one.~~

~~(e) (g) On or before the first day of January, one thousand nine hundred ninety-eight, The center for professional development shall develop and communicate to the state board a curriculum implement training and professional development programs for the principals academy. The curriculum shall be based upon the minimum qualities, proficiencies and skills necessary for principals and recommended in accordance with the standards established by the state board pursuant to the terms of section two-c, article three of this chapter.~~

~~(d) (h) In accordance with section two-c, article three of this chapter, the center shall be responsible for paying reasonable and necessary expenses for persons attending the principals academy: *Provided*, That nothing in this section shall be construed to require any specific level of funding by the Legislature.~~

~~(e) (i) Persons attending the professional development offerings of the center and such other courses and services as shall be offered by the center for professional development, except the principals academy, shall be assessed fees which shall be less than the full cost of attendance. There is hereby created in the state treasury a special revenue account known as the "center for professional development fund". All moneys collected by the center shall be deposited in the fund for expenditure by the center board for the purposes specified in this section. Moneys remaining in the fund at the end of the fiscal year are subject to reappropriation by the Legislature.~~

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

Subject to the provisions of section twenty-three-a, article two, chapter eighteen of this code, through this project the center shall:

(1) Identify, coordinate, arrange and otherwise assist in the delivery of professional development programs and activities that help professional educators acquire the knowledge, skills, attitudes, practices and other such pertinent complements deemed essential for an individual to demonstrate appropriate performance as a professional personnel in the public schools of West Virginia. The basis for such performance shall be the laws, policies and regulations adopted for the public schools of West Virginia, and amendments thereto. The center also may permit and encourage school personnel such as classroom aides, higher education teacher education faculty and higher education

faculty in programs such as articulated tech prep associate degree and other programs to participate in appropriate professional development programs and activities with public school professional educators;

(2) Identify, coordinate, arrange and otherwise assist in the delivery of professional development programs and activities that help principals and administrators acquire knowledge, skills, attitudes and practices in academic leadership and management principles for principals and administrators and such other pertinent complements deemed essential for principals and administrators to demonstrate appropriate performance in the public schools of West Virginia. The basis for such performance shall be the laws, policies and regulations adopted for the public schools of West Virginia, and amendments thereto;

(3) Serve in a coordinating capacity to assure that the knowledge, skills, attitude and other pertinent complements of appropriate professional performance which evolve over time in the public school environment are appropriately reflected in the programs approved for the education of professional personnel, including, but not limited to, advising the teacher education programs of major statutory and policy changes in the public schools which affect the job performance requirements of professional educators, including principals and administrators;

(4) Provide for the routine updating of professional skills of professional educators, including principals and administrators, through in-service and other programs. Such routine updating may be provided by the center through statewide or regional institutes which may require a registration fee; and

(5) Provide consultation and assistance to county staff development councils established under the provisions of section eight, article three of this chapter in planning, designing, coordinating, arranging for and delivering professional development programs to meet the needs of the professional educators of their district. From legislative appropriations to the center for professional development, exclusive of such amounts required for the expenses of the principals academy, the center shall, unless otherwise directed by the Legislature, provide assistance in the delivery of programs and activities to meet the expressed needs of the school districts for professional development to help teachers, principals and administrators demonstrate appropriate performance based on the laws, policies and regulations adopted for the public schools of West Virginia; and

(6) Cooperate and coordinate with the institutions of higher education to provide professional staff development programs that satisfy some or all of the criteria necessary for currently certified professional educators to meet the requirements for an additional endorsement in an area of certification and for certification to teach in the middle school grades.

If the center is not able to reach agreement with the representatives of the institutions providing teacher education programs on which courses will be approved for credit toward additional endorsements, the state board may certify certain professional staff development courses to meet criteria required by the state board. This certification shall be done on a course by course basis.

§18A-3A-2b. The principals academy.

There is hereby established within the center for professional development the "Principals Academy". Training through the principals academy shall include at least the following:

(a) Training designed to build within principals the minimum qualities, proficiencies and skills that will be required of all principals pursuant to the rules of the state board;

~~(b) Intensive summer training institutes; and~~

~~(e) (b)~~ Specialized training and professional development programs for all principals, ~~with special programs for the following principals; and~~

(c) Specialized training and professional development programs for the following principals:

(1) Newly appointed principals;

(2) Principals of schools which have received from the state board temporary or conditional accreditation status or whose schools have been designated as seriously impaired, which programs shall commence as soon as practicable following the designation;

(3) Principals subject to improvement plans; and

(4) Principals of schools with significantly different grade level configurations.

CHAPTER 29A. STATE ADMINISTRATIVE PROCEDURES ACT.

ARTICLE 3B. STATE BOARD OF EDUCATION RULE MAKING.

§29A-3B-9. Submission of legislative rules to the legislative oversight commission on education accountability.

(a) When the board proposes a legislative rule, the board shall submit to the legislative oversight commission on education accountability at its offices or at a regular meeting of the commission ~~ten~~ twenty copies of (1) the full text of the legislative rule as ~~finally approved~~ proposed by the board and filed with the office of the secretary of state, with new language underlined and with language to be deleted from any existing rule stricken through but clearly legible; (2) a brief summary of the content of the legislative rule and a description and a copy of any existing rule which the agency proposes to amend or repeal; (3) a statement of the circumstances which require the rule; (4) a fiscal note containing all information included in a fiscal note for either house of the Legislature and a statement of the economic impact of the rule on the state or its residents; and (5) any other information which the commission may request or which may be required by law.

(b) The commission shall review each proposed legislative rule and, in its discretion, may hold public hearings thereon. Such review shall include, but not be limited to, a determination of:

(1) Whether the board has exceeded the scope of its statutory authority in approving the proposed legislative rule;

(2) Whether the proposed legislative rule is in conformity with the legislative intent of the statute which the rule is intended to implement, extend, apply, interpret or make specific;

(3) Whether the proposed legislative rule conflicts with any other provision of this code or with any other rule adopted by the same or a different agency;

(4) Whether the proposed legislative rule is necessary to fully accomplish the objectives of the statute under which the proposed rule was promulgated;

(5) Whether the proposed legislative rule is reasonable, especially as it affects the convenience of the general public or of persons particularly affected by it;

(6) Whether the proposed legislative rule could be made less complex or more readily understandable by the general public; and

(7) Whether the proposed legislative rule was promulgated in compliance with the requirements of this article and with any requirements imposed by any other provision of this code.

(c) After reviewing the legislative rule, the commission ~~shall~~ may recommend to the Legislature board any statutory changes needed to ~~clarify~~ comply with the legislative intent of the statute upon which the rule is based or ~~to~~ otherwise to modify the activity subject to

the rule, or may make any other recommendations to the ~~Legislature or the board or both~~ as it ~~deems~~ considers appropriate.

(d) When the board finally adopts a legislative rule, the board shall submit to the legislative oversight commission on education accountability at its offices or at a regular meeting of the commission six copies of the rule as adopted by the board. After reviewing the legislative rule, the commission may recommend to the Legislature any statutory changes needed to clarify the legislative intent of the statute upon which the rule is based or may make any other recommendations to the Legislature as it considers appropriate.

Senate Bill #247

Effective Date: Passed March 9, 2002; in effect July 1, 2002.

Signed by Governor: April 3, 2002.

Code Reference: Amends §26-5 adding Section 9; §18-2e adding 3e; §18-5,-13,18, 22 adding Sections 18e, 44, 45; §18-5a-5, §18-9a - 5 adding Section 5.b, amending 9d adding Section 19; §18-28 adding Section 7; §18a-2-2; §18a-3-2, 3, 7-a, 8, 8-a, 8-b, 16 and article 4, adding Section 14a.

Title: Increasing salaries for teachers and service personnel.

Major Provisions:

Governor's Cabinet on Children and Families

- S Eliminates the Governor's Cabinet on Children and Families authority to transfer funds among, between and within departments.
- S Prohibits the Governor's Cabinet on Children and Families from providing services other than coordinating services provided by other entities.

Science Education

- S Creates the WV Science Education Enhancement Initiative program. This is a competitive grant program intended to provide science programs for students in grades 4-8 who are not performing at grade level. Either county boards or community collaboratives that include the county board as a partner are eligible to apply for the grants.

Student Transfers

- S Requires that an agreement between county boards to transfer a student or students across county lines be reflected in the board's minutes.

Comprehensive High School

- S Requires funding for comprehensive high schools including funding for comprehensive vocational facilities and an auxiliary gymnasium. Comprehensive high schools also may include facilities for community and technical college education.

Assessment Waiver

- S Authorizes the state superintendent to waive the assessment requirement for students attending parochial school when the superintendent has determined that a court of law has held that the assessment requirement would violate a provision of the state or federal constitution.

Release Time

- S Requires that any professional educator serving in the Legislature be granted release time.

Service Personnel Staff Development Council

- S Provides that the service personnel staff development council chairperson is elected by council members. Additionally, it requires certain service personnel staff development council related reports to be submitted by county board to the chair of the council and to the state superintendent.

Service Personnel

- S Allows secretaries who are trained and monitored or supervised by the school nurse to dispense medications.
- S Defines a West Virginia Education Information System clerk.
- S Gives service personnel a \$71/month increase in basic salaries, a \$1/month increase in the experience increment and additional dollars for education attainment level.
- S Includes mechanics, mechanic assistants and chief mechanics within the same classification category.
- S Allows a service person employed in an extra-curricular assignment one year to retain the extracurricular assignment the next year if the assignment continues to exist.
- S Provides that the service personnel staff development council chairperson is elected by council members. Additionally, it requires certain service personnel staff development council related reports to be submitted by county board to the chair of the council and to the state superintendent.

Professional Personnel

- S Gives teachers a \$804 increase in basic salaries, a \$36 increase in the experience increment and added experience increments for 29 and 30 years of services.
- S Increases the principal's index by 1%.

Personnel Laws

- S Requires a county board to rescind a transfer if the reason for a reduction in force no longer exists.

Establish Early Childhood Education Program

- S Requires each county board to establish an early childhood education program prior to the school year 2012-2013 for four year olds. Some of the provisions in this section include:
 - The program is required to be voluntary except that upon enrollment the mandatory school attendance laws apply;
 - The program can be fewer than five days per week and less than a full day;
 - Prior to the school year beginning 2003, each county is required to develop a plan for implementing the program;
 - The county board is required to submit its plan to both the Secretary of the Department of Health and Human Resources and the State Board of Education. One of the conditions for approval by the Secretary is that the county provide for maximum implementation of head start programs;
 - The state board may grant a waiver from the requirement to establish the programs under certain circumstances;
 - Both the Secretary of the Department of Health and Human Resources and the state superintendent are required to submit reports to LOCEA and the Joint Committee on Government and Finance which address certain issues.

Calendar

- S Sets forth new school calendar provisions. Some of the new school calendar provisions include:
 - The opening date of August 26th and the closing date of June 8th are the same as required under current law;
 - The 20 non-instructional days specified are the same as required under current law;
 - Three of the non-instructional days are required to be scheduled prior to August 26th for the purposes of preparing for

- the opening of school and staff development;
 - At least one of the days is required to be scheduled after June 8 for the purpose of preparing for the closing of school;
 - At least four of the days are required to be scheduled after March 1 so that those days can be used to make up any cancelled instructional days;
 - At least two non-instructional days are required to be scheduled for professional development;
 - The state board is prohibited from scheduling the primary statewide assessment program before May 15 unless the state board determines that the nature of the test mandates an earlier testing date;
 - Bank time may not be used to avoid 180 days of instruction;
 - Bank time may not be used to lengthen the time for faculty senates; and
 - The use of bank time for extra-curricular activities is required to be limited.
- Allows faculty senate meetings to be held on either an instructional or a non-instructional day. Meetings held on instructional days are limited to two hours. Meetings held on non-instructional days are not limited.
 - Strikes out calendar provisions made obsolete by the new §18-5-45.

Net Enrollment

- Adds county and multi-county vocational-technical centers to this section relating to the waiver of the 34 service personnel/1000 students in adjusted enrollment cap.
- Beginning in 2005, this section adds \$2.5 million per year for the purpose of increasing net enrollment ratios.

Studies

- Requires that LOCEA conduct a study and issue a report on applying the pupil teacher ratio to elementary and middle schools.
- Requires LOCEA to conduct study on daily planning periods.

REDLINED
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 interagency funding, joint funding pools, interagency reimbursement, and funding by the families serviced based on ability to pay.

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

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

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

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.

(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.

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 students 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 program as set forth in this section to provide science programs 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 improvement 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 responsibility, 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 expertise 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 department 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.

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

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

(1) (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;

(2) (b) To establish schools, from preschool through high school, inclusive of vocational schools; and to establish schools and programs, or both, for post high school instruction, subject to approval of the state board of education;

(3) (c) To close any school which is unnecessary and to assign the pupils of the school to other schools: *Provided*, That the closing shall be officially acted upon and teachers and service personnel involved notified on or before the first Monday in April, in the same manner as provided in section four of this article, except in an emergency, subject to the approval of the state superintendent, or under subdivision (5) (e) of this section;

(4) (d) To consolidate schools;

(5) (e) To close any elementary school whose average daily attendance falls

below twenty pupils for two months in succession and send the pupils to other schools in the district or to schools in adjoining districts. If the teachers in the closed school are not transferred or reassigned to other schools, they shall receive one month's salary;

~~(6)~~ ~~(f)~~ ~~(a)~~ ~~(1)~~ To provide at public expense adequate means of transportation, including transportation across county lines for students whose transfer from one district to another is agreed to by both boards as reflected in the minutes of their respective meetings, for all children of school age who live more than two miles distance from school by the nearest available road; to provide at public expense and according to such rules as the board may establish, adequate means of transportation for school children participating in board-approved curricular and extracurricular activities; and to provide in addition thereto at public expense, by rules and within the available revenues, transportation for those within two miles distance; to provide in addition thereto, at no cost to the board and according to rules established by the board, transportation for participants in projects operated, financed, sponsored or approved by the commission on 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 certification 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;

~~(b)~~ ~~(2)~~ To enter into agreements with one another as reflected in the minutes of their respective meetings to provide, on a cooperative basis, adequate means of transportation across county lines for children of school age subject to the conditions and restrictions of subdivisions (6) and (8) of this section;

~~(7)~~ ~~(g)~~ ~~(a)~~ ~~(1)~~ To lease school buses operated only by drivers regularly employed by the board to public and private nonprofit organizations or private corporations to transport 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;

~~(b)~~ ~~(2)~~ To contract with any college or university or officially recognized campus organizations to provide transportation 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;

~~(8)~~ ~~(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 transportation 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;

~~(9)~~ ~~(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 provided or available under the West Virginia public employees insurance act;

~~(10)~~ (j) To employ teacher aides, to provide in-service training for teacher aides, the training to be in accordance with rules of the state board and, in the case of service personnel 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 accordance with rules of the state board, consist of training in areas specifically related to the education of exceptional children;

~~(11)~~ (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;

~~(12)~~ (l) To employ legal counsel;

~~(13)~~ (m) To provide appropriate uniforms for school service personnel;

~~(14)~~ (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;

~~(15)~~ (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;

~~(16)~~ (p) To provide, at public expense, adequate public liability insurance, including professional liability insurance for board employees;

~~(17)~~ (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;

~~(18)~~ (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;

~~(19)~~ (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

~~(20)~~ (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.

[Some deleted language was moved from this section to §18-5-45.]

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

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

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

~~The criterion referenced test mandated in section two, article two-e of this chapter shall not be required to be given during school year one thousand nine hundred ninety-three--ninety-four.~~

~~Noninstructional days in the employment term may be used for making up canceled instructional days, curriculum development, preparation for opening and closing of the instructional term, in-service and professional training of teachers, teacher-pupil-parent conferences, professional meetings and other related activities. In addition, each board shall designate and schedule for teachers and service personnel six days to be used by the employee outside the school environment. However, no more than eight noninstructional days, except holidays, may be scheduled~~

prior to the first day of January in a school term.

~~Notwithstanding any other provisions of the law to the contrary, if the board has canceled instructional days equal to the difference between the total instructional days scheduled and one hundred seventy-eight, each succeeding instructional day canceled shall be rescheduled, utilizing only the remaining noninstructional days, except holidays, following such cancellation, which are available prior to the second day before the end of the employment term established by such county board.~~

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

~~The board may extend the instructional term beyond one hundred eighty-five instructional days provided the employment term is extended an equal number of days. If the state revenues and regular levies, as provided by law, are insufficient to enable the board of education to provide for the school term, the board may at any general or special election, if petitioned by at least five percent of the qualified voters in the district, submit the question of additional levies to the voters. If at the election a majority of the qualified voters cast their ballots in favor of the additional levy, the board shall fix the term and lay a levy necessary to pay the cost of the additional term. The additional levy fixed by the election shall not continue longer than five years without submission to the voters. The additional rate shall not exceed by more than one hundred percent the maximum school rate prescribed by article eight, chapter eleven of the code, as amended.~~

~~(b) (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 ~~by the school year one thousand nine hundred eighty-three--eighty-four, and continue thereafter,~~ 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 ~~such~~ 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: ~~*Provided*, That~~

~~beginning with the school year one thousand nine hundred ninety-six--ninety-seven, such programs shall be full day everyday *Provided, however,* That nothing contained herein shall prevent the state superintendent from granting an extension to those counties currently with building or renovation projects that will provide adequate space or counties having at least two percent net enrollment increase over the previous five years. The county board 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. 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 of free schools 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 ~~also~~ intended to serve for the establishment and operation of nonpublic kindergarten programs and shall be used for the evaluation and approval is made in writing to the state board by proper authorities in control of such programs. The state superintendent, of free schools at intervals not to exceed two annually, years shall publish a list of nonpublic kindergarten programs, including Montessori kindergartens that have been approved in accordance with the provisions of this section. ~~and a list of 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 ~~deemed considered~~ to be approved. to teach in such kindergartens using the Montessori method without additional certification.~~~~

(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.

~~Funds for implementing the kindergarten programs during the fiscal year one~~

~~thousand nine hundred seventy-two, and thereafter, shall be allocated to counties from a special appropriation to the state department from the general revenue fund: *Provided*, That except for expenditures from the general revenue funds for regional kindergarten demonstration centers, in no event shall any state money from the general fund be expended under the provisions of this section unless federal funds are available for the purposes of this section.~~

~~Allocations to counties will be made on the basis of approved kindergarten programs. The state board shall establish criteria and standards necessary to guide counties in developing approvable kindergarten programs and shall determine funding levels of said programs on local operating costs.~~

~~An additional appropriation shall be made to the state department from the general revenue fund to establish and operate during the fiscal year one thousand nine hundred seventy-two, regional kindergarten demonstration centers in educational regions three, four, five, six and seven, and thereafter in regions one through seven. Said funds shall be allocated to said regions for establishing and operating regional demonstration centers in accordance with criteria and standards established by the state board. Said regional centers shall be established to provide exemplary and innovative kindergarten programs, to provide laboratory experiences for preservice and in-service education for professional personnel and staff development programs for training paraprofessional personnel, to establish organizational and administrative machinery designed to promote cooperation between and among all agencies involved in the education and development of young children and to promote cooperation between counties in providing high cost supervisory, developmental, research and evaluative services not currently available to individual counties.~~

§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 ~~shall further~~ 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 shall 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, shall 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 ~~shall be~~ 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 ~~such the~~ the aide has received the training, pursuant to this section, then an employee in the field of special education ~~shall~~ 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 ~~established~~ 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 ~~director of the state division of health~~ commissioner of the bureau for public health who shall consult with the state department of education. The ~~state division of health~~ commissioner then has the authority to promulgate ~~rules~~ 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 ~~state division of health~~ 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 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 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 requirements 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 implementation 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.

(r) 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.

[Some of the language in this section was taken from §18-5-15.] (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 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, noninstructional 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 federal disaster area and where the event causing the declaration is substantially related to a reduction of instructional days.

(u) Where the employment term overlaps a teacher's or service personnel's participation in a summer institute or institution of higher education for the purpose of advancement or professional growth, the teacher or service personnel may substitute, with the approval of the county superintendent, the participation for up to five of the non-instructional days of the employment term.

(v) 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 purpose of implementing the provisions of this section.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

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

(a) There is established at every public school in this state a faculty senate which ~~shall be~~ is comprised of all permanent, full-time professional educators employed at the school who shall all be voting members. Professional educators, as used in this section, means professional educators as defined in chapter eighteen-a of this code. A quorum of more than one half of the voting members of the faculty shall be present at any meeting of the faculty senate at which official business is conducted. Prior to the beginning of the instructional term each year, but within the employment term, the principal shall convene a meeting of the faculty senate to elect a chair, vice chair and secretary and discuss matters relevant to the beginning of the school year. The vice chair shall preside at meetings when the chair is absent. Meetings of the faculty senate shall be held on a regular basis as determined by a schedule approved by the faculty senate and amended ~~from time to time~~ periodically if needed. Emergency meetings may be held at the call of the chair or a majority of the voting members by petition submitted to the chair and vice chair. An agenda of matters to be considered at a scheduled meeting of the faculty senate shall be available to the members at least two employment days prior to the meeting ~~and in the case of~~. 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 ~~shall prohibit such~~ 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 ~~shall be~~ are available for expenditure in the next school year: *Provided, however,* That the amount of county funds budgeted in a fiscal year ~~shall~~ 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 ~~shall~~ 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 ~~shall have~~ 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 ~~shall be~~ is subject to normal auditing procedures.

(11) ~~On or after the first day of January, one thousand nine hundred ninety-two,~~ Any faculty senate may review the evaluation procedure as conducted in their school to ascertain whether ~~such~~ 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 ~~shall create~~ creates any new right of access to or review of any individual's evaluations.

(12) ~~Each faculty senate shall be provided by its local board of education at least a two-hour per month block of noninstructional time within the school day~~ 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 ~~shall include~~ includes, but ~~is not be~~ 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 ~~said the~~ strategic plan to the superintendent of the county board of education ~~by the thirtieth day of June, one thousand nine hundred ninety-five, and periodically thereafter~~ 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 ~~the development of~~ 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 the placement of~~ 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 population density and miles of bus route driven or the transportation 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 implementing 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 enrollment, 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.

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.

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

(a) The Legislature finds the following:

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

(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;

(3) The new consolidated school buildings now being built across the state provide an opportunity for communities 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 a court of law has held that the assessment requirement would violate a provision of the state or federal constitution.

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.

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

(b) A teacher's contract, under this section, shall be for a term of not less than

one nor more than three years, one of which shall be for completion of a beginning teacher internship pursuant to the provisions of section two-b, article three of this chapter, if applicable; and if, after three years of such employment, the teacher who holds a professional certificate, based on at least a bachelor's degree, has met the qualifications for the same and the board of education enter into a new contract of employment, it shall be a continuing contract: *Provided*, That any teacher holding a valid certificate with less than a bachelor's degree who is employed in a county beyond the said three-year probationary period shall upon qualifying for said professional certificate based upon a bachelor's degree, if reemployed, be granted continuing contract status: *Provided, however*, That a teacher holding continuing contract status with one county shall be granted continuing contract status with any other county upon 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 ~~shall have authority to~~ 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.

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 objectives. The local board has the final approval of all proposed 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 chairperson 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 the second quarter of the teacher's employment term in the school year two thousand one-two thousand two, 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.

	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Years	4th	3rd	2nd	A.B.	M.A.	M.A.	M.A.	Doctorate		
Exp.	Class	Class	Class	A.B.	+15	M.A.	+15	+30	+45	
0	20,084	20,721	20,976	22,186	22,921	24,629	25,364	26,099	26,834	27,834
1	20,365	21,002	21,257	22,651	23,386	25,094	25,829	26,564	27,299	28,299
2	20,646	21,284	21,539	23,116	23,851	25,559	26,294	27,029	27,764	28,764
3	20,928	21,565	21,820	23,581	24,316	26,024	26,759	27,494	28,229	29,229
4	21,445	22,082	22,338	24,282	25,017	26,725	27,460	28,195	28,930	29,930
5	21,726	22,364	22,619	24,747	25,482	27,190	27,925	28,660	29,395	30,395
6	22,008	22,645	22,900	25,212	25,947	27,655	28,390	29,125	29,860	30,860
7		22,926	23,182	25,677	26,412	28,120	28,855	29,590	30,325	31,325
8		23,208	23,463	26,142	26,877	28,585	29,320	30,055	30,790	31,790
9			23,744	26,607	27,342	29,050	29,785	30,520	31,255	32,255
10			24,025	27,073	27,808	29,516	30,251	30,986	31,721	32,721
11				27,538	28,273	29,981	30,716	31,451	32,186	33,186
12				28,003	28,738	30,446	31,181	31,916	32,651	33,651
13				28,468	29,203	30,911	31,646	32,381	33,116	34,116
14						31,376	32,111	32,846	33,581	34,581
15						31,841	32,576	33,311	34,046	35,046
16						32,306	33,041	33,776	34,511	35,511
17								34,241	34,976	35,976
18								34,706	35,441	36,441
19								35,171	35,906	36,906

	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Years	4th	3rd	2nd	A.B.	M.A.	M.A.	M.A.	Doctorate		
Exp.	Class	Class	Class	A.B.	+15	M.A.	+15	+30	+45	
0	21,084	21,721	21,976	23,186	23,921	25,629	26,364	27,099	27,834	28,834
1	21,365	22,002	22,257	23,651	24,386	26,094	26,829	27,564	28,299	29,299
2	21,646	22,284	22,539	24,116	24,851	26,559	27,294	28,029	28,764	29,764
3	21,928	22,565	22,820	24,581	25,316	27,024	27,759	28,494	29,229	30,229
4	22,445	23,082	23,338	25,282	26,017	27,725	28,460	29,195	29,930	30,930
5	22,726	23,364	23,619	25,747	26,482	28,190	28,925	29,660	30,395	31,395
6	23,008	23,645	23,900	26,212	26,947	28,655	29,390	30,125	30,860	31,860
7		23,926	24,182	26,677	27,412	29,120	29,855	30,590	31,325	32,325
8		24,208	24,463	27,142	27,877	29,585	30,320	31,055	31,790	32,790
9			24,744	27,607	28,342	30,050	30,785	31,520	32,255	33,255

10			25,025	28,073	28,808	30,516	31,251	31,986	32,721	33,721
11				28,538	29,273	30,981	31,716	32,451	33,186	34,186
12				29,003	29,738	31,446	32,181	32,916	33,651	34,651
13				29,468	30,203	31,911	32,646	33,381	34,116	35,116
14						32,376	33,111	33,846	34,581	35,581
15						32,841	33,576	34,311	35,046	36,046
16						33,306	34,041	34,776	35,511	36,511
17								35,241	35,976	36,976
18								35,706	36,441	37,441
19								36,171	36,906	37,906

STATE MINIMUM SALARY SCHEDULE I

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

STATE MINIMUM SALARY SCHEDULE II

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
Years	4th	3rd	2nd	A.B.	A.B.	M.A.	M.A.	M.A.	M.A.	Doctorate
Exp.	Class	Class	Class	+15	+15	+30	+45			
0	21,888	22,525	22,780	23,990	24,725	26,433	27,168	27,903	28,638	29,638
1	22,205	22,842	23,097	24,491	25,226	26,934	27,669	28,404	29,139	30,139

<u>2</u>	<u>22,522</u>	<u>23,160</u>	<u>23,415</u>	<u>24,992</u>	<u>25,727</u>	<u>27,435</u>	<u>28,170</u>	<u>28,905</u>	<u>29,640</u>	<u>30,640</u>
<u>3</u>	<u>22,840</u>	<u>23,477</u>	<u>23,732</u>	<u>25,493</u>	<u>26,228</u>	<u>27,936</u>	<u>28,671</u>	<u>29,406</u>	<u>30,141</u>	<u>31,141</u>
<u>4</u>	<u>23,393</u>	<u>24,030</u>	<u>24,286</u>	<u>26,230</u>	<u>26,965</u>	<u>28,673</u>	<u>29,408</u>	<u>30,143</u>	<u>30,878</u>	<u>31,878</u>
<u>5</u>	<u>23,710</u>	<u>24,348</u>	<u>24,603</u>	<u>26,731</u>	<u>27,466</u>	<u>29,174</u>	<u>29,909</u>	<u>30,644</u>	<u>31,379</u>	<u>32,379</u>
<u>6</u>	<u>24,028</u>	<u>24,665</u>	<u>24,920</u>	<u>27,232</u>	<u>27,967</u>	<u>29,675</u>	<u>30,410</u>	<u>31,145</u>	<u>31,880</u>	<u>32,880</u>
<u>7</u>		<u>24,982</u>	<u>25,238</u>	<u>27,733</u>	<u>28,468</u>	<u>30,176</u>	<u>30,911</u>	<u>31,646</u>	<u>32,381</u>	<u>33,381</u>
<u>8</u>		<u>25,300</u>	<u>25,555</u>	<u>28,234</u>	<u>28,969</u>	<u>30,677</u>	<u>31,412</u>	<u>32,147</u>	<u>32,882</u>	<u>33,882</u>
<u>9</u>			<u>25,872</u>	<u>28,735</u>	<u>29,470</u>	<u>31,178</u>	<u>31,913</u>	<u>32,648</u>	<u>33,383</u>	<u>34,383</u>
<u>10</u>			<u>26,189</u>	<u>29,237</u>	<u>29,972</u>	<u>31,680</u>	<u>32,415</u>	<u>33,150</u>	<u>33,885</u>	<u>34,885</u>
<u>11</u>				<u>29,738</u>	<u>30,473</u>	<u>32,181</u>	<u>32,916</u>	<u>33,651</u>	<u>34,386</u>	<u>35,386</u>
<u>12</u>				<u>30,239</u>	<u>30,974</u>	<u>32,682</u>	<u>33,417</u>	<u>34,152</u>	<u>34,887</u>	<u>35,887</u>
<u>13</u>				<u>30,740</u>	<u>31,475</u>	<u>33,183</u>	<u>33,918</u>	<u>34,653</u>	<u>35,388</u>	<u>36,388</u>
<u>14</u>						<u>33,684</u>	<u>34,419</u>	<u>35,154</u>	<u>35,889</u>	<u>36,889</u>
<u>15</u>						<u>34,185</u>	<u>34,920</u>	<u>35,655</u>	<u>36,390</u>	<u>37,390</u>
<u>16</u>						<u>34,686</u>	<u>35,421</u>	<u>36,156</u>	<u>36,891</u>	<u>37,891</u>
<u>17</u>								<u>36,657</u>	<u>37,392</u>	<u>38,392</u>
<u>18</u>								<u>37,158</u>	<u>37,893</u>	<u>38,893</u>
<u>19</u>								<u>37,659</u>	<u>38,394</u>	<u>39,394</u>

(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 ~~one~~ 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.

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

(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.

Years of Experience	Increment
<u>29</u>	<u>570</u>
<u>30</u>	<u>570</u>
<u>31</u>	<u>570</u>
<u>32</u>	<u>570</u>
<u>33</u>	<u>570</u>

§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, ~~one thousand nine hundred ninety-six~~ 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 ~~commencing on the first day of July, one thousand nine hundred ninety-six~~, 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~~

No. of Teachers	
Supervised	Rates
1-7	6.0%
8-14	6.5%
15-24	7.0%
25-38	7.5%
39-57	8.0%
58 and up	8.5%

~~Effective the first day of July, two thousand one, in addition to any salary increments for principals and assistant principals, in effect on the first day of January, two thousand one, and paid from local funds, the following schedule shall be used for calculating the salary increment for principals and assistant principals:~~

~~STATE MINIMUM SALARY INCREMENT
RATES FOR PRINCIPALS~~

~~EFFECTIVE UNTIL JULY 1, 2002~~

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

~~STATE MINIMUM SALARY INCREMENT
RATES FOR PRINCIPALS~~

~~EFFECTIVE ON AND AFTER JULY 1, 2002~~

No. of Teachers	
Supervised	Rates
1-7	10.0%

<u>8-14</u>	<u>10.5%</u>
<u>15-24</u>	<u>11.0%</u>
<u>25-38</u>	<u>11.5%</u>
<u>39-57</u>	<u>12.0%</u>
<u>58 and up</u>	<u>12.5%</u>

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 employment 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, ~~one thousand nine hundred ninety-six~~ 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 reduction.

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 supplement.

(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 ~~zero through twenty~~ 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 zero through thirty; 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 statewide 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 hundred eighty-four, except as permitted by sections five-a and five-b of this article.

§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 ~~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 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.

(l) 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 experience 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 employed 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 student transportation or other board-owned vehicles are properly and safely maintained;

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

(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; ~~and~~

(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 a school principal to assist the school counselor or counselors in the performance of administrative duties, to perform data entry tasks on the West Virginia education information system, and to perform other administrative duties assigned by the principal.

(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) ~~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: ~~Provided, That beginning the first day of the second quarter of the employment term in the school year two thousand one two thousand two.~~ 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

Years of Employment	Pay Grade							
	A	B	C	D	E	F	G	H
0	1,220	1,240	1,280	1,330	1,380	1,440	1,470	1,540
1	1,249	1,269	1,309	1,359	1,409	1,469	1,499	1,569
2	1,278	1,298	1,338	1,388	1,438	1,498	1,528	1,598
3	1,307	1,327	1,367	1,417	1,467	1,527	1,557	1,627
4	1,336	1,356	1,396	1,446	1,496	1,556	1,586	1,656

5	1,365	1,385	1,425	1,475	1,525	1,585	1,615	1,685
6	1,394	1,414	1,454	1,504	1,554	1,614	1,644	1,714
7	1,423	1,443	1,483	1,533	1,583	1,643	1,673	1,743
8	1,452	1,472	1,512	1,562	1,612	1,672	1,702	1,772
9	1,481	1,501	1,541	1,591	1,641	1,701	1,731	1,801
10	1,510	1,530	1,570	1,620	1,670	1,730	1,760	1,830
11	1,539	1,559	1,599	1,649	1,699	1,759	1,789	1,859
12	1,568	1,588	1,628	1,678	1,728	1,788	1,818	1,888
13	1,597	1,617	1,657	1,707	1,757	1,817	1,847	1,917
14	1,626	1,646	1,686	1,736	1,786	1,846	1,876	1,946
15	1,655	1,675	1,715	1,765	1,815	1,875	1,905	1,975
16	1,684	1,704	1,744	1,794	1,844	1,904	1,934	2,004
17	1,713	1,733	1,773	1,823	1,873	1,933	1,963	2,033
18	1,742	1,762	1,802	1,852	1,902	1,962	1,992	2,062
19	1,771	1,791	1,831	1,881	1,931	1,991	2,021	2,091
20	1,800	1,820	1,860	1,910	1,960	2,020	2,050	2,120
21	1,829	1,849	1,889	1,939	1,989	2,049	2,079	2,149
22	1,858	1,878	1,918	1,968	2,018	2,078	2,108	2,178
23	1,887	1,907	1,947	1,997	2,047	2,107	2,137	2,207
24	1,916	1,936	1,976	2,026	2,076	2,136	2,166	2,236
25	1,945	1,965	2,005	2,055	2,105	2,165	2,195	2,265
26	1,974	1,994	2,034	2,084	2,134	2,194	2,224	2,294
27	2,003	2,023	2,063	2,113	2,163	2,223	2,253	2,323
28	2,032	2,052	2,092	2,142	2,192	2,252	2,282	2,352
29	2,061	2,081	2,121	2,171	2,221	2,281	2,311	2,381
30	2,090	2,110	2,150	2,200	2,250	2,310	2,340	2,410
31	2,119	2,139	2,179	2,229	2,279	2,339	2,369	2,439
32	2,148	2,168	2,208	2,258	2,308	2,368	2,398	2,468
33	2,177	2,197	2,237	2,287	2,337	2,397	2,427	2,497
34	2,206	2,226	2,266	2,316	2,366	2,426	2,456	2,526
35	2,235	2,255	2,295	2,345	2,395	2,455	2,485	2,555
36	2,264	2,284	2,324	2,374	2,424	2,484	2,514	2,584
37	2,293	2,313	2,353	2,403	2,453	2,513	2,543	2,613
38	2,322	2,342	2,382	2,432	2,482	2,542	2,572	2,642
39	2,351	2,371	2,411	2,461	2,511	2,571	2,601	2,671
40	2,380	2,400	2,440	2,490	2,540	2,600	2,630	2,700

STATE MINIMUM PAY SCALE PAY GRADE H I

Years of Employment	Pay Grade							
	A	B	C	D	E	F	G	H
0	1,295	1,315	1,355	1,405	1,455	1,515	1,545	1,615
1	1,325	1,345	1,385	1,435	1,485	1,545	1,575	1,645
2	1,355	1,375	1,415	1,465	1,515	1,575	1,605	1,675
3	1,385	1,405	1,445	1,495	1,545	1,605	1,635	1,705

4	1,415	1,435	1,475	1,525	1,575	1,635	1,665	1,735
5	1,445	1,465	1,505	1,555	1,605	1,665	1,695	1,765
6	1,475	1,495	1,535	1,585	1,635	1,695	1,725	1,795
7	1,505	1,525	1,565	1,615	1,665	1,725	1,755	1,825
8	1,535	1,555	1,595	1,645	1,695	1,755	1,785	1,855
9	1,565	1,585	1,625	1,675	1,725	1,785	1,815	1,885
10	1,595	1,615	1,655	1,705	1,755	1,815	1,845	1,915
11	1,625	1,645	1,685	1,735	1,785	1,845	1,875	1,945
12	1,655	1,675	1,715	1,765	1,815	1,875	1,905	1,975
13	1,685	1,705	1,745	1,795	1,845	1,905	1,935	2,005
14	1,715	1,735	1,775	1,825	1,875	1,935	1,965	2,035
15	1,745	1,765	1,805	1,855	1,905	1,965	1,995	2,065
16	1,775	1,795	1,835	1,885	1,935	1,995	2,025	2,095
17	1,805	1,825	1,865	1,915	1,965	2,025	2,055	2,125
18	1,835	1,855	1,895	1,945	1,995	2,055	2,085	2,155
19	1,865	1,885	1,925	1,975	2,025	2,085	2,115	2,185
20	1,895	1,915	1,955	2,005	2,055	2,115	2,145	2,215
21	1,925	1,945	1,985	2,035	2,085	2,145	2,175	2,245
22	1,955	1,975	2,015	2,065	2,115	2,175	2,205	2,275
23	1,985	2,005	2,045	2,095	2,145	2,205	2,235	2,305
24	2,015	2,035	2,075	2,125	2,175	2,235	2,265	2,335
25	2,045	2,065	2,105	2,155	2,205	2,265	2,295	2,365
26	2,075	2,095	2,135	2,185	2,235	2,295	2,325	2,395
27	2,105	2,125	2,165	2,215	2,265	2,325	2,355	2,425
28	2,135	2,155	2,195	2,245	2,295	2,355	2,385	2,455
29	2,165	2,185	2,225	2,275	2,325	2,385	2,415	2,485
30	2,195	2,215	2,255	2,305	2,355	2,415	2,445	2,515
31	2,225	2,245	2,285	2,335	2,385	2,445	2,475	2,545
32	2,255	2,275	2,315	2,365	2,415	2,475	2,505	2,575
33	2,285	2,305	2,345	2,395	2,445	2,505	2,535	2,605
34	2,315	2,335	2,375	2,425	2,475	2,535	2,565	2,635

35	2,345	2,365	2,405	2,455	2,505	2,565	2,595	2,665
36	2,375	2,395	2,435	2,485	2,535	2,595	2,625	2,695
37	2,405	2,425	2,465	2,515	2,565	2,625	2,655	2,725
38	2,435	2,455	2,495	2,545	2,595	2,655	2,685	2,755
39	2,465	2,485	2,525	2,575	2,625	2,685	2,715	2,785
40	2,495	2,515	2,555	2,605	2,655	2,715	2,745	2,815

STATE MINIMUM PAY SCALE PAY GRADE II

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

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

CLASS TITLE	PAY GRADE
Accountant I	D
Accountant II	E
Accountant III	F
Accounts Payable Supervisor	G
Aide I	A
Aide II	B
Aide III	C
Aide IV	D
Audiovisual Technician	C
Auditor	G
Autism Mentor	E
Braille or Sign Language Specialist	E
Bus Operator	D
Buyer	F
Cabinetmaker	G
Cafeteria Manager	D
Carpenter I	E
Carpenter II	F

Chief Mechanic	G
Clerk I	B
Clerk II	C
Computer Operator	E
Cook I	A
Cook II	B
Cook III	C
Crew Leader	F
Custodian I	A
Custodian II	B
Custodian III	C
Custodian IV	D
Director or Coordinator of Services	H
Draftsman	D
Electrician I	F
Electrician II	G
Electronic Technician I	F
Electronic Technician II	G
Executive Secretary	G
Food Services Supervisor	G
Foreman	G
General Maintenance	C
Glazier	D
Graphic Artist	D
Groundsman	B
Handyman	B
Heating and Air Conditioning Mechanic I	E
Heating and Air Conditioning Mechanic II	G
Heavy Equipment Operator	E
Inventory Supervisor	D
Key Punch Operator	B
Locksmith	G
Lubrication Man	C
Machinist	F
Mail Clerk	D
Maintenance Clerk	C
Mason	G
Mechanic	F
Mechanic Assistant	E
Office Equipment Repairman I	F
Office Equipment Repairman II	G
Painter	E
Paraprofessional	F
Payroll Supervisor	G
Plumber I	E
Plumber II	G
Printing Operator	B
Printing Supervisor	D

Programmer	H
Roofing/Sheet Metal Mechanic	F
Sanitation Plant Operator	F
School Bus Supervisor	E
Secretary I	D
Secretary II	E
Secretary III	F
Supervisor of Maintenance	H
Supervisor of Transportation	H
Switchboard Operator-Receptionist	D
Truck Driver	D
Warehouse Clerk	C
Watchman	B
Welder	F
<u>WVEIS Data Entry and Administrative Clerk</u>	<u>B</u>

(2) An additional ~~ten~~ 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: ~~Provided, That effective the first day of July, two thousand one, 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) ~~Effective the first day of July, two thousand one,~~ 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) ~~Effective the first day of July, two thousand one,~~ 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) ~~Effective the first day of July, two thousand one,~~ 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) Effective the first day of July, two thousand one,~~ 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) Effective the first day of July, two thousand one,~~ A service employee who holds an associate's degree;

~~(L) Effective the first day of July, two thousand one,~~ 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.

~~(4) (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.

~~(5) (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.

~~(6) (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.

~~(7) (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.

~~(8) (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.

~~(9) (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 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.

~~(10)~~ (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, gymnasium, school building, school grounds or wherever supervision 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 positions 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 opportunity for promotion and filling vacancies. Other employees then must be considered and shall qualify by meeting the definition of the job title as defined in section eight 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 within that classification category of employment. Each class title listed in section eight of this article shall be considered a separate classification category of employment for service personnel, except for those class titles having Roman numeral designations, which shall be considered a single classification of employment. The cafeteria manager class title shall be included in the same classification category as cooks. The executive secretary class title shall be included in the same classification category as secretaries. 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 classification category of employment. For the purpose of this section, "extra-duty assignments" are defined as irregular jobs that occur periodically or occasionally such as, but not limited to, field trips, athletic events, proms, banquets and band festival trips.

(g) Boards shall ~~be required to~~ post and date notices of all job vacancies of established existing or newly created positions in conspicuous ~~working~~ places for all school service employees to observe for at least five working days. The notice of 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, providing 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) 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) 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) The terms and conditions of the agreement between the employee and the board shall be in writing and signed by both parties.

(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.

HOUSE CONCURRENT RESOLUTION NO. 53

(By Delegates Williams, Louisos, Poling, Fahey, Carmichael, Mathews, Beach, Overington, Stemple, Susman, Fox, Fragale, Canterbury, Paxton, Swartzmiller, L. Smith, Dempsey, Romine, Harrison, Hubbard, Shelton, Morgan, Perry, Shaver and Mezzatesta)

(Originating in the Committee on Education)
[February 22, 2002]

Directing the joint committee on government and finance to make a study on technical and adult education services.

Whereas, the fastest growing segments of the workforce are in those occupations that require high level technical skills; and

Whereas, technical and adult education is critical to providing both youth and adults with the skills needed to compete for jobs that pay well and are in demand in the economy of today; and

Whereas, technical and adult education is often thought to compete with the academic, scheduling, funding and post-secondary financial aid needs of professional pathway students; therefore, be it

Resolved by the Legislature of West Virginia:

That the joint committee on government and finance is hereby directed to make a study on technical and adult education services; and be it

Further Resolved, That the study should include, but is not limited to, consideration of the following issues:

- (1) The impact of State Board policies such as graduation requirements and the 8100 minute credit requirements on student participation in secondary career and technical courses;
- (2) The extent of integration of academic and technical education;
- (3) The effectiveness of counseling on student participation in career and technical courses;
- (4) The benefits of student participation in technical and adult education, including the appropriateness and relevancy of the curriculum, and the benefits of student credentialing;
- (5) The most effective and efficient delivery structures for technical and adult education, including, but not limited to, county centers, comprehensive high schools and multi-county centers and through the use of technology;
- (6) The adequacy of technical and adult facilities and equipment and the impact of program modernization funds;
- (7) Technical and adult education teacher preparation and supply, including their professional development needs;
- (8) The relationships and level of joint programming of technical and adult education and community and technical colleges, and the affect on resource maximization; and
- (9) The availability of financial assistance and aid for technical and adult students to continue their post-secondary education and training outside of formal college courses; and be it

Further Resolved, That the joint committee on government and finance shall conduct the study and prepare a report of its findings, conclusions and recommendations

together with drafts of any legislation necessary to effectuate its recommendations; and be it

Further Resolved, That the joint committee on government and finance report to the regular session of the Legislature, 2002, on its findings, conclusions and recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and draft necessary legislation be paid from legislative appropriations to the joint committee on government and finance.

SENATE CONCURRENT RESOLUTION NO. 18

(By Senators Jackson, Plymale, Boley, Bowman, Caldwell, Edgell, Helmick, Hunter, Minear, Mitchell, Oliverio and Unger)

[Originating in the Committee on Education; reported February 13, 2002.]

Requesting the Joint Committee on Government and Finance make a study of requiring, as a condition of admittance, that every child entering elementary school receive a comprehensive vision examination from a licensed optometrist or ophthalmologist; make a study of requiring that any impairments or problems found be corrected or handled appropriately; and make a study of methods for children of families of limited means to receive the examination and to correct or handle appropriately impairments or problems found.

Whereas, An undetected and uncorrected vision impairment is a serious threat to the educational success of a child; and

Whereas, The educational failure of every child has a profound impact on the economic well-being of our state and its people; and

Whereas, Many families cannot afford to pay for their child's comprehensive vision examination; and

Whereas, There exist a number of programs which may be available to assist eligible families in securing initial vision examinations or in correcting vision impairment; and

Whereas, The eligibility requirements for providing assistance to needy families is undetermined; and

Whereas, The cost of securing the initial vision examinations as well as correcting the impairment or handling a vision-related problem is undetermined; therefore, be it

Resolved by the Legislature of West Virginia:

That the Joint Committee on Government and Finance is hereby requested to make a study of requiring, as a condition of admittance, that every child entering elementary school receive a comprehensive vision examination from a licensed optometrist or ophthalmologist; make a study of requiring that any impairments or problems found be corrected or handled appropriately; and make a study of methods for children of families of limited means to receive the examination and to correct or handle appropriately impairments or problems found; and, be it

Further Resolved, That, if the study determines that a program is advisable, the study also shall recommend what the elements of the program should be, including, but not limited to:

- (1) The appropriate charge to allow optometrists or ophthalmologists to charge patients receiving an examination for the purpose of meeting the requirement;
- (2) Eligibility requirements for obtaining assistance in getting the examination as well as any treatment, if necessary; and
- (3) The extent to which vision correction or treatment should be provided; and, be it

Further Resolved, That the Joint Committee on Government and Finance report to the regular session of the Legislature, 2003, on its findings, conclusions and

recommendations, together with drafts of any legislation necessary to effectuate its recommendations; and, be it

Further Resolved, That the expenses necessary to conduct this study, to prepare a report and to draft necessary legislation be paid from legislative appropriations to the Joint Committee on Government and Finance.

Dr. David Stewart
State Superintendent of Schools
West Virginia Department of Education