

**Senate Bill No. 586**

(By Senator Hall)

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[Introduced February 21, 2011; referred to the Committee on  
Education; and then to the Committee on Finance.]

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10 A BILL to amend and reenact §18A-2-2 of the Code of West Virginia,  
11 1931, as amended; to amend and reenact §18A-3-1, §18A-3-2 and  
12 §18A-3-2a of said code; to amend said code by adding thereto  
13 a new section, designated §18A-3A-6a; and to amend and reenact  
14 §18A-4-7a of said code, all relating to school personnel;  
15 employment of teachers; changing reference to "classroom  
16 teacher" to "professional personnel"; training; certification;  
17 licensing; professional development; teacher preparation  
18 programs; teacher certification; authority of state  
19 superintendent to issue certificates; Center for Professional  
20 Development; establishing a National Board Certification  
21 Candidacy Cohort Program; salaries, wages and other benefits;  
22 and standards relating to employment, promotion and transfer  
23 of professional personnel and seniority.

24 *Be it enacted by the Legislature of West Virginia:*

1 That §18A-2-2 of the Code of West Virginia, 1931, as amended,  
2 be amended and reenacted; that §18A-3-1, §18A-3-2 and §18A-3-2a of  
3 said code be amended and reenacted; that §18A-4-7a of said code be  
4 amended and reenacted; and that said code be amended by adding  
5 thereto a new section, designated §18A-3A-6a, all to read as  
6 follows:

7 **ARTICLE 2. SCHOOL PERSONNEL.**

8 **§18A-2-2. Employment of teachers; contracts; continuing contract**  
9 **status; how terminated; dismissal for lack of need;**  
10 **released time; failure of teacher to perform contract**  
11 **or violation thereof; written notice bonus for**  
12 **teachers and professional personnel.**

13 (a) Before entering upon their duties, all teachers shall  
14 execute a contract with their county boards, which shall state the  
15 salary to be paid and shall be in the form prescribed by the state  
16 superintendent. Each contract shall be signed by the teacher and  
17 by the president and secretary of the county board and shall be  
18 filed, together with the certificate of the teacher, by the  
19 secretary of the office of the county board: *Provided*, That when  
20 necessary to facilitate the employment of employable professional  
21 personnel and prospective and recent graduates of teacher education  
22 programs who have not yet attained certification, the contract may  
23 be signed upon the condition that the certificate is issued to the  
24 employee prior to the beginning of the employment term in which the

1 employee enters upon his or her duties.

2 (b) Each teacher's contract, under this section, shall be  
3 designated as a probationary or continuing contract. A  
4 probationary teacher's contract shall be for a term of not less  
5 than one nor more than three years, one of which shall be for  
6 completion of a beginning teacher internship pursuant to the  
7 provisions of section two-b, article three of this chapter, if  
8 applicable. If, after three years of such employment, the teacher  
9 who holds a professional certificate, based on at least a  
10 bachelor's degree, has met the qualifications for a bachelor's  
11 degree and the county board enters into a new contract of  
12 employment, it shall be a continuing contract, subject to the  
13 following:

14 (1) Any teacher holding a valid certificate with less than a  
15 bachelor's degree who is employed in a county beyond the three-year  
16 probationary period shall upon qualifying for the professional  
17 certificate based upon a bachelor's degree, if reemployed, be  
18 granted continuing contract status; and

19 (2) A teacher holding continuing contract status with one  
20 county shall be granted continuing contract status with any other  
21 county upon completion of one year of acceptable employment if the  
22 employment is during the next succeeding school year or immediately  
23 following an approved leave of absence extending no more than one  
24 year.

1 (c) The continuing contract of any teacher shall remain in  
2 full force and effect except as modified by mutual consent of the  
3 school board and the teacher, unless and until terminated, subject  
4 to the following:

5 (1) A continuing contract may not be terminated except:

6 (A) By a majority vote of the full membership of the county  
7 board on or before February 1 of the then current year, after  
8 written notice, served upon the teacher, return receipt requested,  
9 stating cause or causes and an opportunity to be heard at a meeting  
10 of the board prior to the board's action on the termination issue;  
11 or

12 (B) By written resignation of the teacher on or before  
13 February 1 to initiate termination of a continuing contract;

14 (2) The termination shall take effect at the close of the  
15 school year in which the contract is terminated;

16 (3) The contract may be terminated at any time by mutual  
17 consent of the school board and the teacher;

18 (4) This section does not affect the powers of the school  
19 board to suspend or dismiss a principal or teacher pursuant to  
20 section eight of this article;

21 (5) A continuing contract for any teacher holding a  
22 certificate valid for more than one year and in full force and  
23 effect during the school year 1984-1985 shall remain in full force  
24 and effect;

1           (6) A continuing contract does not operate to prevent a  
2 teacher's dismissal based upon the lack of need for the teacher's  
3 services pursuant to the provisions of law relating to the  
4 allocation to teachers and pupil-teacher ratios. The written  
5 notification of teachers being considered for dismissal for lack of  
6 need shall be limited to only those teachers whose consideration  
7 for dismissal is based upon known or expected circumstances which  
8 will require dismissal for lack of need. An employee who was not  
9 provided notice and an opportunity for a hearing pursuant to this  
10 subsection may not be included on the list. In case of dismissal  
11 for lack of need, a dismissed teacher shall be placed upon a  
12 preferred list in the order of their length of service with that  
13 board. No teacher may be employed by the board until each  
14 qualified teacher upon the preferred list, in order, has been  
15 offered the opportunity for reemployment in a position for which he  
16 or she is qualified, not including a teacher who has accepted a  
17 teaching position elsewhere. The reemployment shall be upon a  
18 teacher's preexisting continuing contract and has the same effect  
19 as though the contract had been suspended during the time the  
20 teacher was not employed.

21           (d) In the assignment of position or duties of a teacher under  
22 a continuing contract, the board may provide for released time of  
23 a teacher for any special professional or governmental assignment  
24 without jeopardizing the contractual rights of the teacher or any

1 other rights, privileges or benefits under the provisions of this  
2 chapter. Released time shall be provided for any professional  
3 educator while serving as a member of the Legislature during any  
4 duly constituted session of that body and its interim and statutory  
5 committees and commissions without jeopardizing his or her  
6 contractual rights or any other rights, privileges, benefits or  
7 accrual of experience for placement on the state minimum salary  
8 schedule in the following school year under the provisions of this  
9 chapter, board policy and law.

10 (e) Any teacher who fails to fulfill his or her contract with  
11 the board, unless prevented from doing so by personal illness or  
12 other just cause or unless released from his or her contract by the  
13 board, or who violates any lawful provision of the contract, is  
14 disqualified to teach in any other public school in the state for  
15 a period of the next ensuing school year and the State Department  
16 of Education or board may hold all papers and credentials of the  
17 teacher on file for a period of one year for the violation:  
18 *Provided*, That marriage of a teacher is not considered a failure to  
19 fulfill, or violation of, the contract.

20 (f) Any classroom teacher, as defined in section one, article  
21 one of this chapter, who desires to resign employment with a county  
22 board or request a leave of absence, the resignation or leave of  
23 absence to become effective on or before July 15 of the same year  
24 and after completion of the employment term, may do so at any time

1 during the school year by written notification of the resignation  
2 or leave of absence and any notification received by a county board  
3 shall automatically extend the teacher's public employee insurance  
4 coverage until August 31 of the same year.

5 (g) (1) A ~~classroom teacher~~ professional personnel who gives  
6 written notice to the county board on or before December 1 of the  
7 school year of his or her retirement from employment with the board  
8 at the conclusion of the school year shall be paid \$500 from the  
9 Early Notification of Retirement line item established for the  
10 department of education for this purpose, subject to appropriation  
11 by the Legislature. If the appropriations to the department of  
12 education for this purpose are insufficient to compensate all  
13 applicable ~~teachers~~ professional personnel, the department of  
14 education shall request a supplemental appropriation in an amount  
15 sufficient to compensate all such ~~teachers~~ professional personnel.  
16 Additionally, if funds are still insufficient to compensate all  
17 applicable ~~teachers~~ professional personnel, the priority of payment  
18 is for ~~teachers~~ professional personnel who give written notice the  
19 earliest. This payment shall not be counted as part of the final  
20 average salary for the purpose of calculating retirement. If a  
21 position is filled by a person at a job fair or as a result of  
22 contact made at a job fair, the position is considered filled and  
23 the early retirement notification is nonrevocable.

24 (2) The position of a classroom teacher providing written

1 notice of retirement pursuant to this subsection may be considered  
2 vacant and the county board may immediately post the position as an  
3 opening to be filled at the conclusion of the school year. If a  
4 teacher has been hired to fill the position of a retiring classroom  
5 teacher prior to the start of the next school year, the retiring  
6 classroom teacher is disqualified from continuing his or her  
7 employment in that position. However, the retiring classroom  
8 teacher may be permitted to continue his or her employment in that  
9 position and forfeit the early retirement notification payment if,  
10 after giving notice of retirement in accordance with this  
11 subsection, he or she becomes subject to a significant unforeseen  
12 financial hardship, including a hardship caused by the death or  
13 illness of an immediate family member or loss of employment of a  
14 spouse. Other significant unforeseen financial hardships shall be  
15 determined by the county superintendent on a case-by-case basis.  
16 This subsection does not prohibit a county school board from  
17 eliminating the position of a retiring classroom teacher.

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

20 **§18A-3-1. Teacher preparation programs; program approval and**  
21 **standards; authority to issue teaching certificates.**

22 (a) The education of professional educators in the state is  
23 under the general direction and control of the state board after  
24 consultation with the Secretary of Education and the Arts and the



1 Chancellor for Higher Education who shall represent the interests  
2 of educator preparation programs within the institutions of higher  
3 education in this state as those institutions are defined in  
4 section two, article one, chapter eighteen-b of this code.

5       The education of professional educators in the state includes  
6 all programs leading to certification to teach or serve in the  
7 public schools including:

8       (1) Those programs in all institutions of higher education,  
9 including student teaching as provided in this section;

10       (2) Beginning teacher internship programs;

11       (3) The granting of West Virginia certification to persons who  
12 received their preparation to teach outside the boundaries of this  
13 state, except as provided in subsection (b) of this section;

14       (4) Any alternative preparation programs in this state leading  
15 to certification, including programs established pursuant to the  
16 provisions of section one-a of this article and programs which are  
17 in effect on the effective date of this section; and

18       (5) Any continuing professional education, professional  
19 development and in-service training programs for professional  
20 educators employed in the public schools in the state.

21       (b) The state board, after consultation with the Secretary of  
22 Education and the Arts and the Chancellor for Higher Education,  
23 shall adopt standards for the education of professional educators  
24 in the state and for awarding certificates valid in the public

1 schools of this state. The standards shall include, but not be  
2 limited to, the following:

3 (1) A provision for the study of multicultural education. As  
4 used in this section, multicultural education means the study of  
5 the pluralistic nature of American society including its values,  
6 institutions, organizations, groups, status positions and social  
7 roles;

8 (2) A provision for the study of classroom management  
9 techniques, including methods of effective management of disruptive  
10 behavior which shall include societal factors and their impact on  
11 student behavior; and

12 (3) Subject to the provisions of section ten of this article,  
13 a teacher from another state shall be awarded a teaching  
14 certificate for a comparable grade level and subject area valid in  
15 the public schools of this state, if he or she:

16 (A) Holds a valid teaching certificate or a certificate of  
17 eligibility issued by another state;

18 (B) Has graduated from an educator preparation program at a  
19 regionally accredited institution of higher education;

20 (C) Possesses the minimum of a bachelor's degree; and

21 (D) Meets all of the requirements of the state for full  
22 certification except employment.

23 (c) To give prospective teachers the teaching experience  
24 needed to demonstrate competence as a prerequisite to certification

1 to teach in the West Virginia public schools, the state board may  
2 enter into an agreement with county boards for the use of the  
3 public schools.

4 (d) An agreement established pursuant to subsection (c) of  
5 this section shall recognize student teaching as a joint  
6 responsibility of the educator preparation institution and the  
7 cooperating public schools and shall include:

8 (1) The minimum qualifications for the employment of public  
9 school teachers selected as supervising teachers, including the  
10 requirement that field-based and clinical experiences be supervised  
11 by a teacher fully certified in the state in which that teacher is  
12 supervising;

13 (2) The remuneration to be paid public school teachers by the  
14 state board, in addition to their contractual salaries, for  
15 supervising student teachers;

16 (3) Minimum standards to guarantee the adequacy of the  
17 facilities and program of the public school selected for student  
18 teaching;

19 (4) That the student teacher, under the direction and  
20 supervision of the supervising teacher, shall exercise the  
21 authority of a substitute teacher; and

22 (5) A provision requiring any higher education institution  
23 with an educator preparation program to document that the student  
24 teacher's field-based and clinical experiences include

1 participation and instruction with multicultural, at-risk and  
2 exceptional children at each programmatic level for which the  
3 student teacher seeks certification.

4 (e) Beginning the fall, 2006 - 2007 academic term, in lieu of  
5 the student teaching experience in a public school setting required  
6 by this section, an institution of higher education may provide an  
7 alternate student teaching experience in a nonpublic school setting  
8 if the institution of higher education:

9 (1) Complies with the provisions of this section;

10 (2) Has a state board approved educator preparation program;  
11 and

12 (3) Enters into an agreement pursuant to subdivisions (f) and  
13 (g) of this section.

14 (f) At the discretion of the higher education institution, an  
15 agreement for an alternate student teaching experience between an  
16 institution of higher education and a nonpublic school shall  
17 require that either:

18 (1) The student teacher complete at least one half of the  
19 clinical experience in a public school; or

20 (2) The educator preparation program include a requirement  
21 that any student performing student teaching in a nonpublic school  
22 complete at least:

23 (A) Two hundred clock hours of field-based training in a  
24 public school; and

1 (B) A course, which is a component of the institution's state  
2 board approved educator preparation program, that provides to  
3 prospective teachers information that is equivalent to the teaching  
4 experience needed to demonstrate competence as a prerequisite to  
5 certification to teach in the public schools in West Virginia. The  
6 course shall include instruction on at least the following  
7 elements:

8 (i) State board policy and provisions of this code governing  
9 public education;

10 (ii) Requirements for federal and state accountability,  
11 including the mandatory reporting of child abuse;

12 (iii) Federal and state mandated curriculum and assessment  
13 requirements, including multicultural education, safe schools and  
14 student code of conduct;

15 (iv) Federal and state regulations for the instruction of  
16 exceptional students as defined by the Individuals with  
17 Disabilities Education Act, 20 U.S.C. §1400 *et seq.*;

18 (v) Varied approaches for effective instruction for students  
19 who are at-risk;

20 (g) In addition to the requirements set forth in subsection  
21 (f) of this section, an agreement for an alternate student teaching  
22 experience between an institution of higher education and a  
23 nonpublic school shall:

24 (1) Require that the higher education institution with an

1 educator preparation program document that the student teacher's  
2 field-based and clinical experiences include participation and  
3 instruction with multicultural, at-risk and exceptional children at  
4 each programmatic level for which the student teacher seeks  
5 certification; and

6 (2) Include the minimum qualifications for the employment of  
7 school teachers selected as supervising teachers, including the  
8 requirement that field-based and clinical experiences be supervised  
9 by a teacher fully certified in the state in which that teacher is  
10 supervising.

11 (h) The state superintendent may issue certificates to  
12 graduates of educator preparation programs and alternative educator  
13 preparation programs approved by the state board. The certificates  
14 are issued in accordance with this section and rules adopted by the  
15 state board after consultation with the Secretary of Education and  
16 the Arts and the Chancellor for Higher Education.

17 (1) A certificate to teach may be granted only to any person  
18 who is:

19 (A) A citizen of the United States, except as provided in  
20 subdivision (2) of this subsection;

21 (B) Is of good moral character;

22 (C) Physically, mentally and emotionally qualified to perform  
23 the duties of a teacher; and

24 (D) At least eighteen years on or before October 1, of the

1 year in which his or her certificate is issued.

2 (2) A permit to teach in the public schools of this state may  
3 be granted to a person who is an exchange teacher from a foreign  
4 country, or an alien person who meets the requirements to teach.

5 (i) In consultation with the Secretary of Education and the  
6 Arts and the Chancellor for Higher Education, institutions of  
7 higher education approved for educator preparation may cooperate  
8 with each other, with the center for professional development and  
9 with one or more county boards to organize and operate centers to  
10 provide selected phases of the educator preparation program. The  
11 phases include, but are not limited to:

12 (1) Student teaching;

13 (2) Beginning teacher internship programs;

14 (3) Instruction in methodology; and

15 (4) Seminar programs for college students, teachers with  
16 provisional certification, professional support team members and  
17 supervising teachers.

18 The institutions of higher education, the center for  
19 professional development and county boards may by mutual agreement  
20 budget and expend funds to operate the centers through payments to  
21 the appropriate fiscal office of the participating institutions,  
22 the center for professional development and the county boards.

23 (j) The provisions of this section do not require  
24 discontinuation of an existing student teacher training center or

1 school which meets the standards of the state board.

2 (k) All institutions of higher education approved for educator  
3 preparation in the 1962-1963 school year shall continue to hold  
4 that distinction so long as they meet the minimum standards for  
5 educator preparation. Nothing in this section infringes upon the  
6 rights granted to any institution by charter given according to law  
7 previous to the adoption of this code.

8 ~~(l) Notwithstanding any other provision of this section, nor~~  
9 ~~any other provision of rule, law or this code to the contrary, an~~  
10 ~~institution of higher education may enter into an agreement with a~~  
11 ~~nonpublic school:~~

12 ~~(1) For the purposes of this section regarding student~~  
13 ~~teaching;~~

14 ~~(2) For the spring, two thousand six academic term only;~~

15 ~~(3) If the institution is approved for educator preparation by~~  
16 ~~the state board; and~~

17 ~~(4) If the institution had entered into the agreement for that~~  
18 ~~academic term prior to the effective date of this section.~~

19 ~~(m)~~ (l) As used in this section:

20 (1) "Nonpublic school" means a private school, parochial  
21 school, church school, school operated by a religious order or  
22 other nonpublic school that elects to:

23 (A) Comply with the provisions of article twenty-eight,  
24 chapter eighteen of this code;



1 (B) Participate on a voluntary basis in a state operated or  
2 state sponsored program provided to such schools pursuant to this  
3 section; and

4 (C) Comply with the provisions of this section;

5 (2) "At-risk" means having the potential for academic failure,  
6 including, but not limited to, the risk of dropping out of school,  
7 involvement in delinquent activity or poverty as indicated by free  
8 or reduced lunch status; and

9 (3) "Exceptional children" has the meaning ascribed pursuant  
10 to section one, article twenty, chapter eighteen of this code, but  
11 does not include gifted students.

12 **§18A-3-2. Teacher certification; required; expiration;**  
13 **qualifications; certification of aliens.**

14 Any professional educator, as defined in article one of this  
15 chapter, who is employed within the public school system of the  
16 state shall hold a valid teaching certificate licensing him or her  
17 to teach in the specializations and grade levels as shown on the  
18 certificate for the period of his or her employment. If a teacher  
19 is employed in good faith on the anticipation that he or she is  
20 eligible for a certificate and it is later determined that the  
21 teacher was not eligible, the State Superintendent of Schools may  
22 authorize payment by the county board of education to the teacher  
23 for a time not exceeding three school months or the date of  
24 notification of his or her ineligibility, whichever shall occur

1 first. All certificates shall expire on June 30 of the last year  
 2 of their validity irrespective of the date of issuance.

3 **§18A-3-2a. Authority of state superintendent to issue**  
 4 **certificates; kinds of certificates.**

5 In accordance with State Board of Education rules for the  
 6 education of professional educators adopted after consultation with  
 7 the Secretary of Education and the Arts, the State Superintendent  
 8 of Schools may issue certificates valid in the public schools of  
 9 the state; ~~Provided, That~~ a (1) A certificate ~~shall~~ may not be  
 10 issued to any person who is not a citizen of the United States, is  
 11 not of good moral character and is not physically, mentally and  
 12 emotionally qualified to perform the duties for which the  
 13 certification ~~would be~~ is granted and who has not attained the age  
 14 of eighteen years on or before October 1, of the year in which the  
 15 certificate is issued; ~~Provided, however,~~ and (2) that an exchange  
 16 teacher from a foreign country or an alien person who meets the  
 17 requirements to teach may be granted a permit to teach within the  
 18 public schools of the state.

19 (b) Certificates authorized to be issued: ~~include:~~

20 (1) Professional teaching certificates. -- A professional  
 21 teaching certificate for teaching in the public schools may be  
 22 issued to a person ~~who~~ under the following conditions:

23 (A) Regular professional preparation. --

24 ~~(A)~~ (i) Has The applicant holds at least a bachelor's degree

1 from an accredited institution of higher education in this state;

2       (ii) has completed a program for the education of teachers  
3 which meets the requirements approved by the State Board of  
4 Education or has met equivalent standards at institutions in other  
5 states; and

6       (iii) has passed appropriate state board approved basic skills  
7 and subject matter tests or has completed three years of successful  
8 experience within the last seven years in the area for which  
9 licensure is being sought; or

10       (B) Alternative professional preparation. --

11       ~~(B)~~ (i) The applicant holds at least a bachelor's degree in a  
12 discipline taught in the public schools from an accredited  
13 institution of higher education;

14       (ii) Has passed appropriate state board approved basic skills  
15 and subject matter tests or has completed three years of successful  
16 experience within the last seven years in the area for which  
17 licensure is being sought; and

18       (iii) has completed an alternative program for teacher  
19 education approved by the state board and is recommended for a  
20 certificate by the chairperson of the professional support team of  
21 the person's alternative program or the state superintendent based  
22 on documentation submitted.

23       (C) The certificate shall be endorsed to indicate the grade  
24 level or levels or areas of specialization in which the person is

1 certified to teach or to serve in the public schools.

2       (D) The initial professional certificate ~~shall be~~ is issued  
3 provisionally for a period of three years from the date of issuance  
4 and may be converted to a professional certificate valid for five  
5 years subject to successful completion of a beginning teacher  
6 internship, if applicable, or renewed subject to rules adopted by  
7 the state board.

8       (2) *Professional administrative certificate.* -- A professional  
9 administrative certificate, endorsed for serving in the public  
10 schools, with specific endorsement as a principal, vocational  
11 administrator, supervisor of instructions or superintendent, may be  
12 issued to a person who has completed the following requirements all  
13 to be approved by the state board: ~~as follows:~~

14       (A) ~~For a~~ A master's degree from an institution of higher  
15 education accredited to offer a master's degree,

16       (B) ~~has successfully completed~~ Successful completion of an  
17 approved program for administrative certification, developed by the  
18 State Board of Education in cooperation with the ~~governing boards~~  
19 ~~of the university of West Virginia system and the state college~~  
20 ~~system~~ Higher Education Policy Commission,

21       (C) ~~has successfully completed~~ Successful completion of  
22 education and training in evaluation skills through the center for  
23 professional development, or equivalent education and training in  
24 evaluation skills, and

1        (D) Three years of management level experience: ~~Provided,~~  
2 ~~That anyone having received a certificate during the period from~~  
3 ~~August 30, 1990, until the effective date of this bill without~~  
4 ~~having met the above requirements shall complete those requirements~~  
5 ~~within five years after the effective date of this bill: Provided,~~  
6 ~~however, That any~~

7        (E) A person serving in the position of dean of students on  
8 ~~the effective date of this section shall June 4, 1992, is not~~  
9 required to hold a professional administrative certificate.  
10 ~~Beginning September 1, 1992,~~ The initial professional  
11 administrative certificate shall be issued provisionally for a  
12 period of five years. This certificate may be converted to a  
13 professional administrative certificate valid for five years or  
14 renewed, subject to the regulations of the state board.

15        (3) *Paraprofessional certificate.* -- A paraprofessional  
16 certificate may be issued to a person who meets the following  
17 conditions:

18        (A) Has completed thirty-six semester hours of post-secondary  
19 education or its equivalent in subjects directly related to  
20 performance of the job, all approved by the state board, and

21        (B) can Is able to demonstrate the proficiencies to perform  
22 duties as required of a paraprofessional as defined in section  
23 eight, article four of this chapter.

24        (4) *Other certificates; permits.* -- Subject to the approval of

1 the state board, other certificates and permits may be issued,  
 2 subject to the approval of the state board, to persons who do not  
 3 qualify for the professional or paraprofessional certificate.

4 ~~(A) Such~~ These certificates or permits ~~shall~~ may not be given  
 5 permanent status and persons holding ~~such~~ them shall meet renewal  
 6 requirements provided by law and by regulation, unless the state  
 7 board declares certain of these certificates to be the equivalent  
 8 of the professional certificate.

9 Within the category of other certificates and permits, the  
 10 state superintendent may issue certificates for persons to serve in  
 11 the public schools as athletic coaches or coaches for other  
 12 extracurricular activities ~~coaches whose duties may include the~~  
 13 ~~supervision of students~~, subject to the following limitations:

14 ~~(A) Such~~ (I) The person ~~shall~~ is employed under a contract  
 15 ~~with the county board of education~~ which specifies the following:  
 16 ~~duties to be performed, which specifies~~

17 (II) A rate of pay equivalent to the rate of pay for  
 18 professional educators in the district who accept similar duties as  
 19 extra duty assignments; ~~and which provides~~

20 (III) Provisions for liability insurance associated with the  
 21 activity: ~~Provided, That such persons~~

22 (IV) A person who holds a certificate or permit as provided  
 23 in this subdivision ~~shall~~ may not be considered ~~employees~~ an  
 24 employee of the county board for salary and benefit purposes ~~other~~

1 ~~than except as specified in the contract; (B) a currently employed~~  
2 ~~certified professional educator has not applied for the position;~~  
3 ~~and (C) such~~

4 (V) The person completes an orientation program designed and  
5 approved in accordance with state board rules; which shall be  
6 adopted no later than January 1, 1991.

7 (VI) A currently employed certified professional educator has  
8 not applied for the position. This preference does not apply if  
9 the position is filled currently by a person who meets the  
10 following requirements:

11 (I) Has been issued a certificate or permit in compliance with  
12 this subdivision;

13 (II) Has been employed in the same position for at least five  
14 years; and

15 (III) Has received satisfactory evaluations for each of the  
16 last five years.

17 When the conditions of this section are met, the county board  
18 is not required to post the coaching position annually.

19 **ARTICLE 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.**

20 **§18A-3A-6a. National Board Certification Candidacy Cohort Program.**

21 (a) There is established a National Board Certification  
22 Candidacy Cohort Program to provide preparation and training for  
23 candidates for National Board Certification.

24 (b) The state board shall develop a program to provide support

1 and guidance to candidates as they prepare for the certification  
2 process, including the portfolio submission and review. Such  
3 support shall include:

4 (1) A system of regular meetings with cohort members.

5 (2) The assignment of mentors who have received National Board  
6 Certification to those candidates in the program

7 (3) Other such strategies designed to ensure greater success  
8 in National Board Certification rates among profession personnel.

9 (c) The state board shall limit number of candidates admitted  
10 into the cohort to an amount that can reasonably be provided  
11 support through the program.

12 (d) Mentors, as outlined in subsection (b) of this article,  
13 shall be entitled to a stipend at an amount to be set by the state  
14 board.

15 (e) The state board shall propose rules for legislative  
16 approval in accordance with the provisions of article three,  
17 chapter twenty-nine of this code to effect the purposes of this  
18 section.

19 **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

20 **§18A-4-7a. Employment, promotion and transfer of professional**  
21 **personnel; seniority.**

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



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

4 (c) In judging qualifications for hiring employees pursuant to  
5 subsections (a) and (b) of this section, ~~consideration shall be~~  
6 ~~given to each of the following:~~ the county board shall consider the  
7 criteria listed in this subsection. The board shall consider the  
8 following criteria:

9 ~~(1) Appropriate certification, licensure or both;~~

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

13 ~~(3) The amount of course work, degree level or both in the~~  
14 ~~relevant field and degree level generally;~~

15 ~~(4) Academic achievement;~~

16 ~~(5) Relevant specialized training;~~

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

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

21 ~~(d) If one or more permanently employed instructional~~  
22 ~~personnel apply for a classroom teaching position and meet the~~  
23 ~~standards set forth in the job posting, the county board of~~  
24 ~~education shall make a decision affecting the filling of the~~

1 ~~position on the basis of the following criteria:~~

2 ~~(1) Appropriate certification, licensure or both;~~

3 ~~(2) Total amount of teaching experience;~~

4 ~~(3) The existence of teaching experience in the required~~  
5 ~~certification area;~~

6 ~~(4) Degree level in the required certification area;~~

7 ~~(5) Specialized training directly related to the performance~~  
8 ~~of the job as stated in the job description;~~

9 ~~(6) Receiving an overall rating of satisfactory in the~~  
10 ~~previous two evaluations conducted pursuant to section twelve,~~  
11 ~~article two of this chapter; and~~

12 ~~(7) Seniority.~~

13 (1) Interview performance. -- Applicants shall participate in  
14 an oral interview that demonstrates effective communication skills,  
15 professionalism and any criteria listed in this subsection;

16

17 (2) Certification and/or licensure, including any National  
18 Board Certifications possessed by the applicant;

19 (3) Experience relevant to the position;

20 (4) Course work and/or degree relevant to the position;

21 (5) Past performance evaluations;

22 (6) Academic achievement;

23 (7) Training relevant to the position; and

24 (8) Seniority.

1        (d) If no applicant for a professional personnel position  
2 meets the standards set forth in the job posting, the county board  
3 may select the successful applicant based upon its evaluation of  
4 the criteria set forth in subsection (c) of this section.

5        (e) If the superintendent determines that none of the  
6 applicants for a professional personnel position are satisfactory,  
7 the position shall be reposted.

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

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

22        ~~(g)~~ (h) Upon completion of one hundred thirty-three days of  
23 employment in any one school year, substitute teachers, except  
24 retired teachers and other retired professional educators employed

1 as substitutes, shall accrue seniority exclusively for the purpose  
2 of applying for employment as a permanent, full-time professional  
3 employee. One hundred thirty-three days or more of said employment  
4 shall be prorated and shall vest as a fraction of the school year  
5 worked by the permanent, full-time teacher.

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

18 ~~(i)~~ (j) Employment for a full employment term shall equal one  
19 year of seniority, but no employee may accrue more than one year of  
20 seniority during any given fiscal year. Employment for less than  
21 the full employment term shall be prorated. A random selection  
22 system established by the employees and approved by the board shall  
23 be used to determine the priority if two or more employees  
24 accumulate identical seniority: *Provided*, That when two or more

1 principals have accumulated identical seniority, decisions on  
2 reductions in force shall be based on qualifications.

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

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

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

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

1 in any of those areas of certification, licensure or both; and  
2 (4) If, prior to August 1, of the year a reduction in force is  
3 approved, the reason for any particular reduction in force no  
4 longer exists as determined by the county board in its sole and  
5 exclusive judgment, the board shall rescind the reduction in force  
6 or transfer and shall notify the released employee in writing of  
7 his or her right to be restored to his or her position of  
8 employment. Within five days of being so notified, the released  
9 employee shall notify the board, in writing, of his or her intent  
10 to resume his or her position of employment or the right to be  
11 restored shall terminate. Notwithstanding any other provision of  
12 this subdivision, if there is another employee on the preferred  
13 recall list with proper certification and higher seniority, that  
14 person shall be placed in the position restored as a result of the  
15 reduction in force being rescinded.

16 ~~(k)~~ (l) For the purpose of this article, all positions which  
17 meet the definition of classroom teacher as defined in section one,  
18 article one of this chapter shall be lateral positions. For all  
19 other professional positions, the county board of education shall  
20 adopt a policy by October 31, 1993, and may modify the policy  
21 thereafter as necessary, which defines which positions shall be  
22 lateral positions. The board shall submit a copy of its policy to  
23 the state board within thirty days of adoption or any modification,  
24 and the state board shall compile a report and submit the report to

1 the Legislative Oversight Commission on Education accountability by  
2 December 31, 1993, and by that date in any succeeding year in which  
3 any county board submits a modification of its policy relating to  
4 lateral positions. In adopting the policy, the board shall give  
5 consideration to the rank of each position in terms of title;  
6 nature of responsibilities; salary level; certification, licensure  
7 or both; and days in the period of employment.

8 ~~(1) (m) After the fifth day prior to the beginning of the~~  
9 ~~instructional term, July 15,~~ no person employed and assigned to a  
10 professional position may transfer to another professional position  
11 in the county during ~~that~~ the next instructional term unless the  
12 person holding that position does not have valid certification.  
13 The provisions of this subsection are subject to the following:

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

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

20 (3) The county board, upon recommendation of the  
21 superintendent may fill a position before the next instructional  
22 term when it is determined to be in the best interest of the  
23 students: *Provided*, That the county superintendent shall notify  
24 the state board of each transfer of a person employed in a

1 professional position to another professional position after ~~the~~  
2 ~~fifth day prior to the beginning of the instructional term~~ July 15.

3 The Legislature finds that it is not in the best interest of the  
4 students particularly in the elementary grades to have multiple  
5 teachers for any one grade level or course during the instructional  
6 term. It is the intent of the Legislature that the filling of  
7 positions through transfers of personnel from one professional  
8 position to another after ~~the fifth day prior to the beginning of~~  
9 ~~the instructional term~~ July 15 should be kept to a minimum.

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

20 ~~(n)~~ (o) Before position openings that are known or expected to  
21 extend for twenty consecutive employment days or longer for  
22 professional personnel may be filled by the board, the board shall  
23 be required to notify all qualified professional personnel on the  
24 preferred list and give them an opportunity to apply, but failure



1 to apply shall not cause the employee to forfeit any right to  
2 recall. The notice shall be sent by certified mail to the last  
3 known address of the employee, and it shall be the duty of each  
4 professional personnel to notify the board of continued  
5 availability annually, of any change in address or of any change in  
6 certification, licensure or both.

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

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

11 (A) The notices shall be posted in conspicuous working places  
12 for all professional personnel to observe for at least five working  
13 days;

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

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

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

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

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

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

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

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

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

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

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

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

12 (q) In order to facilitate compliance with job posting  
13 requirements:

14 (1) The state superintendent shall establish best practices  
15 for job postings and communicate these to the county boards and  
16 county superintendents; and

17 (2) The office of education performance audits shall review  
18 job postings whenever conducting an on-site review pursuant to  
19 section five, article two-e, chapter eighteen of this code.

20 (r) Notwithstanding any other provision of this code to the  
21 contrary, a teacher at an elementary school may be reassigned to a  
22 grade level for which he or she is certified whether or not a  
23 vacancy exists: *Provided*, That the employee and the county board  
24 of education mutually agree to the reassignment. A vacancy that

1 occurs as a result of a realignment or reassignment shall be  
2 posted.

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

13       ~~(s)~~ (t) The county board shall compile, update annually on  
14 July 1, and make available by electronic or other means to all  
15 employees a list of all professional personnel employed by the  
16 county, their areas of certification and their seniority.

NOTE: The purpose of this bill is to amend procedures relating to school personnel and employment of teachers. It changes reference to "classroom teacher" to "professional personnel". It makes changes in training, certification, licensing, professional development and teacher preparation programs, teacher certification and the authority of the state superintendent to

issue certificates. The bill establishes a National Board Certification Candidacy Cohort Program. The bill also makes changes relating to salaries, wages and other benefits; and standards relating to employment, promotion and transfer of professional personnel and seniority. Finally, the bill makes substantial stylistic changes in dealing with these subjects.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

§18A-3A-6a is new; therefore, strike-throughs and underscoring have been omitted.