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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

FIRST EXTRAORDINARY SESSION, 1993



# ENROLLED

Com. Sub. for  
HOUSE BILL No. 104.....

(By Delegate Mr. Speaker, Mr. Chambers, & Del. Burke)  
[By Request of the Executive]



Passed ..... May 26, ..... 1993

In Effect ..... From ..... Passage

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR

**H. B. 104**

(By MR. SPEAKER, MR. CHAMBERS, AND DELEGATE BURK)  
[By Request of the Executive]

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[Passed May 26, 1993; in effect from passage.]

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

section, designated section three-b; to amend and reenact section seventeen, article four, chapter eighteen-a of said code; and to further amend article four of said chapter by adding thereto a new section, designated section seven-b, all relating to public education and the financing thereof; increasing the maximum amount of employer premiums that county boards are required to pay for covered employees; requiring the tax commissioner to conduct an audit of county boards in certain instances; specifying penalty for false swearing in an examination by chief tax inspector; requiring that property valuations be furnished to state board by March third; providing that county board regular levy rate calculated for fiscal year one thousand nine hundred ninety-three be the levy rate for fiscal year one thousand nine hundred ninety-four; authorizing reduction of special levy rates under certain circumstances until first day of July, one thousand nine hundred ninety-five; for this year only minimizing or eliminating procedure required in event revenues exceed stated amount; extending time for boards of education to enter their levies for this year only; validating delays and actions taken prior to the effective date of this section in setting levy rates; stating numerically amount of special levy which may be imposed; allowing exemptions or reimbursements of the gasoline and special fuel excise tax by county boards of education; authorizing a RESA feasibility study to be commissioned by LOCEA; extending the deadline for county boards to participate in the computer information system, prohibiting expansion of noncompatible computer systems, and authorizing the state superintendent to grant additional time extensions in certain instances; setting reimbursement for travel, meals and lodging of RESA employees at level under Travel Management Office; requiring RESA boards to hold one half of regular meetings outside school day; changing textbook adoption cycle from six to eight years with exceptions; restricting textbook adoptions for next school year; providing for additional items to be published in the school report cards; providing for alternate certification for county board superintendents; requiring county boards to

conduct a funding and program study; allowing full-day on alternating days or full-day everyday kindergarten programs beginning with the 1994-1995 school year and requiring full-time programs beginning with the 1996-1997 school year; phasing-out the class size waivers for grades one, two and three; allowing an incremental increase in employer contributions for retirement; redefining 'levies for general current expense' to accommodate changes in school board levy rate and deleting obsolete provisions; defining total state basic foundation program; defining 'permanent substitute' and requiring that they be counted as professional educators but not as instructional personnel for purposes of basic state aid; relocating certain report card provisions; decreasing the base used for calculating RESA funding; reallocating certain step seven funds, providing a gain/loss limit and authorizing additional utilizations of these funds; delaying certain application dates relating to step seven; providing for an increase in appropriations for SBA debt service in certain instances; redefining method of computing local share; providing certain adjustments in basic foundation program; adding to or clarifying provisions regarding accrual and calculation of seniority for professional personnel; extending to and prorating seniority for part-time professional personnel; and providing minimum salary rate equivalents and requirements for those teachers providing services to residents of certain state facilities including the state division of vocational rehabilitation services.

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

That section eighteen, article sixteen, chapter five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section seven, article nine, chapter six of said code be amended and reenacted; that section six, article three, chapter eleven of said code be amended and reenacted; that sections six-f, six-g, twelve-a and sixteen, article eight of said chapter be amended and reenacted; that sections five and eleven-a, article fourteen of said chapter be amended and reenacted; that section twenty-six, article two, chapter eighteen of said code be amended and

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

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

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

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

1 All employers operating from state general revenue or  
2 special revenue funds or federal funds or any combina-  
3 tion thereof shall budget the cost of insurance coverage  
4 provided by the public employees insurance agency to  
5 current and retired employees of the employer as a  
6 separate line item, titled "PEI", in its respective annual  
7 budget and are responsible for the transfer of funds to  
8 the director for the cost of insurance for employees  
9 covered by the plan. Each spending unit shall pay to the  
10 director its proportionate share from each source of  
11 funds. Any agency wishing to charge general revenue  
12 funds for insurance benefits for retirees under section  
13 thirteen of this article must provide documentation to

14 the director that the benefits cannot be paid for by any  
15 special revenue account or that the retiring employee  
16 has been paid solely with general revenue funds for  
17 twelve months prior to retirement.

18 If the general revenue appropriation for any em-  
19 ployer, including a county board of education, is  
20 insufficient to cover the cost of insurance coverage for  
21 the employer's participating employees, retired em-  
22 ployees and surviving dependents, the employer shall  
23 pay the remainder of the cost from its "personal  
24 services" or "unclassified" line items or, in the case of  
25 a county board of education, from other funds: *Provided*,  
26 That local excess levy funds shall be used only for the  
27 purposes for which they were raised: *Provided, however*,  
28 That after approval of its annual financial plan but in  
29 no event later than the thirty-first day of December of  
30 each year, the finance board shall notify the Legislature  
31 and county boards of education of the maximum amount  
32 of employer premiums that the county boards of  
33 education will be required to pay for covered employees  
34 during the following fiscal year: *Provided further*, That  
35 the amount shall not exceed five million, five hundred  
36 thousand dollars during fiscal year one thousand nine  
37 hundred ninety-four: *And provided further*, That the  
38 finance board and department of education shall  
39 determine the extent to which state school aid appropri-  
40 ations are being used by the county school boards to pay  
41 employer premiums for employees whose positions are  
42 not funded by state revenues and shall develop and  
43 implement a plan to minimize the expenditures.

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

50 The contribution of the other employers (namely: A  
51 county, city or town in the state; any separate corpora-  
52 tion or instrumentality established by one or more  
53 counties, cities or towns, as permitted by law; any  
54 corporation or instrumentality supported in most part

55 by counties, cities or towns; any public corporation  
56 charged by law with the performance of a governmental  
57 function and whose jurisdiction is coextensive with one  
58 or more counties, cities or towns; any comprehensive  
59 community mental health center or comprehensive  
60 mental retardation facility established, operated or  
61 licensed by the secretary of health and human resources  
62 pursuant to section one, article two-a, chapter twenty-  
63 seven of this code, and which is supported in part by  
64 state, county or municipal funds; and a combined city-  
65 county health department created pursuant to article  
66 two, chapter sixteen of this code) for their employees'  
67 insurance package as the employers deem reasonable  
68 and proper under their own particular circumstances.  
69

70 The employee's proportionate share of the premium or  
71 cost shall be withheld or deducted by the employer from  
72 the employee's salary or wages as and when paid and  
73 the sums shall be forwarded to the director with such  
74 supporting data as the director may require.

75 All moneys received by the public employees insu-  
76 rance agency shall be deposited in a special fund or  
77 funds as are necessary in the state treasury and the  
78 treasurer of the state shall be custodian of the fund or  
79 funds and shall administer the fund or funds in  
80 accordance with the provisions of this article or as the  
81 director may from time to time direct. The treasurer  
82 shall pay all warrants issued by the state auditor against  
83 the fund or funds as the director may direct in  
84 accordance with the provisions of this article.

## CHAPTER 6. GENERAL PROVISIONS RESPECTING OFFICERS.

### ARTICLE 9. SUPERVISION OF PUBLIC OFFICES.

#### §6-9-7. Examinations into affairs of local public officers.

1 (a) The chief inspector shall have power by himself or  
2 herself, or by any person appointed by him or her to  
3 perform the service, to examine into all financial affairs  
4 of every local governmental office or political subdivi-  
5 sion and all boards, commissions, authorities, agencies

6 or other offices created under authority thereof and  
7 shall make an examination at least once a year, if  
8 practicable: *Provided*, That when required for com-  
9 pliance with regulations for federal funds received by  
10 county boards of education, the chief inspector shall  
11 conduct the audits of all county boards of education  
12 within twelve months after the end of the fiscal year and  
13 issue the reports within thirty days after completion of  
14 the audit work or assign the work to a certified public  
15 accountant in a timely manner so that the work is  
16 completed within the specified time limits. On every  
17 examination, inquiry shall be made as to the financial  
18 conditions and resources of the agency having jurisdic-  
19 tion over the appropriations and levies disbursed by the  
20 office and whether the requirements of the constitution  
21 and statutory laws of the state and the ordinances and  
22 orders of the agency have been properly complied with  
23 and also inquire into the methods and accuracy of the  
24 accounts and such other matters of audit and accounting  
25 as the chief inspector may prescribe. He or she or any  
26 authorized assistant may issue subpoenas and compul-  
27 sory process, direct the service thereof by any sheriff,  
28 compel the attendance of witnesses and the production  
29 of books and papers at any designated time and place,  
30 selected in their respective county, and administer  
31 oaths. If any person refuses to appear before the chief  
32 inspector or his or her authorized assistant when  
33 required to do so, refuses to testify on any matter or  
34 refuses to produce any books or papers in his or her  
35 possession or under his or her control, he or she is guilty  
36 of a misdemeanor, and, upon conviction thereof, shall be  
37 fined not more than one hundred dollars and imprisoned  
38 in the county jail not more than six months. A person  
39 convicted of willful false swearing in an examination is  
40 guilty of a misdemeanor, and, upon conviction thereof,  
41 shall be fined not more than one hundred dollars and  
42 imprisoned in the county jail not more than six months.  
43 A report of each examination shall be made in duplicate,  
44 one copy to be filed in the office of the state tax  
45 commissioner and one in the auditing department of the  
46 agency. If any examination discloses misfeasance,  
47 malfeasance or nonfeasance in office on the part of any



48 public officer or employee, a certified copy of the report  
49 shall be filed with the proper legal authority of the  
50 agency, the prosecuting attorney of the county wherein  
51 the agency is located and with the attorney general for  
52 such legal action as is proper. At the time of the filing  
53 of such certified audit, the chief inspector shall notify  
54 the proper legal authority, the prosecuting attorney and  
55 the attorney general in writing of his or her recommen-  
56 dation as to the legal action that the chief inspector  
57 considers proper, whether criminal prosecution or civil  
58 action to effect restitution, or both. If the proper legal  
59 authority or prosecuting attorney, within nine months of  
60 the receipt of the certified audit and recommendations,  
61 refuses, neglects or fails to take efficient legal action by  
62 a civil suit to effect restitution or by prosecuting  
63 criminal proceedings to a final conclusion, in accordance  
64 with the recommendations, the chief inspector may  
65 institute the necessary proceedings or participate  
66 therein and prosecute the proceedings in any court of  
67 the state to a final conclusion.

68 (b) When requested by the governing body of a  
69 municipality, the chief inspector shall take bids on the  
70 audit of that municipality, and, if he or she finds that  
71 a reputable certified public accountant or registered  
72 public accountant outside the state tax department can  
73 conduct the audit at a cost lower than if the department  
74 did it, and if the accountant meets all criteria set forth  
75 by the chief inspector, he or she shall contract with the  
76 accountant for the audit: *Provided*, That the chief  
77 inspector may elect to conduct the audit of a municipal-  
78 ity with one or more members of his or her audit staff  
79 where, in the opinion of the chief inspector, a special or  
80 unusual situation exists.

## CHAPTER 11. TAXATION.

### ARTICLE 3. ASSESSMENTS GENERALLY.

#### §11-3-6. Statements of assessed valuations for municipal- ities and boards of education; extension of levies.

1 The assessor shall annually, not later than the third  
2 day of March, furnish to the recorder or clerk of the city

3 or town council of every incorporated city and town in  
4 the county and also to the secretary of the board of  
5 education of the county and to the state board of  
6 education, a certified statement, showing in separate  
7 amounts the aggregate value of all property, real and  
8 personal, and of all property within each class as  
9 provided in section five, article eight of this chapter, and  
10 the clerk of the county commission shall, in like fashion,  
11 certify the aggregate value of all property assessed by  
12 the board of public works, or other board in lieu thereof,  
13 in such city or district, as ascertained from the land and  
14 personal property books and from the statement  
15 furnished by the auditor to the county clerk of the value  
16 of property assessed in such county by the board for the  
17 current year.

18 The statement so furnished shall be taken, by the  
19 council of such city or town, as the proper valuation of  
20 all property situated therein and liable for taxation for  
21 municipal purposes notwithstanding any provisions  
22 which may be contained in the charter of any city or  
23 town. Upon receiving such statement, the recorder or  
24 clerk of the council, shall present the same to the council  
25 at a meeting to be held for the purpose of making the  
26 estimate and laying the levy as hereinafter required;  
27 and, as soon as the rate shall have been determined  
28 upon, the recorder, or secretary of the council, shall  
29 furnish the officer whose duty it is to make out the land  
30 and personal property books a certified copy of the order  
31 of such city or town council fixing the rate of tax, and  
32 such officer shall thereupon extend the tax against the  
33 property situated in such city or town, in the land books  
34 and the personal property book of the county, in  
35 separate columns in such books, which columns shall be  
36 headed with the words: "Town, or city, tax for the town,  
37 or city, of \_\_\_\_\_."

#### ARTICLE 8. LEVIES.

##### §11-8-6f. Effect on regular school board levy rate when appraisal results in tax increase.

- 1 (a) Notwithstanding any other provision of law, where
- 2 any annual appraisal, triennial appraisal or general

3 valuation of property would produce a statewide  
4 aggregate assessment that would cause an increase of  
5 one percent or more in the total property tax revenues  
6 that would be realized were the then current regular  
7 levy rates of the county boards of education to be  
8 imposed, the rate of levy for county boards of education  
9 shall be reduced uniformly statewide and proportion-  
10 ately for all classes of property for the forthcoming tax  
11 year so as to cause such rate of levy to produce no more  
12 than one hundred one percent of the previous year's  
13 projected statewide aggregate property tax revenues  
14 from extending the county board of education levy rate,  
15 unless subsection (b) of this section is complied with. The  
16 reduced rates of levy shall be calculated in the following  
17 manner: (1) The total assessed value of each class of  
18 property as it is defined by section five, article eight of  
19 this chapter for the assessment period just concluded  
20 shall be reduced by deducting the total assessed value  
21 of newly created properties not assessed in the previous  
22 year's tax book for each class of property; (2) the  
23 resulting net assessed value of Class I property shall be  
24 multiplied by .01; the value of Class II by .02; and the  
25 values of Class III and IV, each by .04; (3) total the  
26 current year's property tax revenue resulting from  
27 regular levies for the boards of education throughout  
28 this state and multiply the resulting sum by one  
29 hundred one percent: *Provided*, That the one hundred  
30 one percent figure shall be increased by the amount the  
31 boards of educations' increased levy provided for in  
32 subsection (b), section eight, article one-c of this chapter;  
33 (4) divide the total regular levy tax revenues, thus  
34 increased in subdivision (3), above, by the total weighted  
35 net assessed value as calculated in paragraph two of this  
36 subsection and multiply the resulting product by one  
37 hundred; the resulting number is the Class I regular  
38 levy rate, stated as cents-per-one hundred dollars of  
39 assessed value; and (5) the Class II rate is two times the  
40 Class I rate; Classes III and IV, four times the Class I  
41 rate as calculated in the preceding subdivision: *Pro-*  
42 *vided, however*, That the rate of levy for county boards  
43 of education for the fiscal year beginning on the first  
44 day of July, one thousand nine hundred ninety-three

45 shall be equal to the rate of levy calculated for the fiscal  
46 year beginning on the first day of July, one thousand  
47 nine hundred ninety-two, pursuant to the provisions of  
48 this subsection.

49 An additional appraisal or valuation due to new  
50 construction or improvements, including beginning  
51 recovery of natural resources, to existing real property  
52 or newly acquired personal property shall not be an  
53 annual appraisal or general valuation within the  
54 meaning of this section, nor shall the assessed value of  
55 such improvements be included in calculating the new  
56 tax levy for purposes of this section. Special levies shall  
57 not be included in any calculations under this section.

58 (b) After conducting a public hearing, the Legislature  
59 may, by act, increase the rate above the reduced rate  
60 required in subsection (a) of this section if any such  
61 increase is deemed to be necessary.

62 (c) This section shall be effective as to any regular levy  
63 rate imposed for the county boards of education for  
64 taxes due and payable on or after the first day of July,  
65 one thousand nine hundred ninety-one. If any provision  
66 of this section is held invalid, such invalidity shall not  
67 affect other provisions or applications of this section  
68 which can be given effect without the invalid provision  
69 or its application and to this end the provisions of this  
70 section are declared to be severable.

**§11-8-6g. Effect on special levy rates when appraisal  
results in tax revenue increase; public  
hearings.**

1 (a) Until the first day of July, one thousand nine  
2 hundred ninety-five, as to any special levy in effect prior  
3 to that date, and notwithstanding any other provision of  
4 law to the contrary, where any annual appraisal,  
5 triennial appraisal or general valuation of property  
6 would produce an assessment that would cause an  
7 increase of four percent or more in the total projected  
8 property tax revenues that would be realized were the  
9 special levy rates then in effect by the county commis-  
10 sion, the municipalities or the county board of education  
11 to be imposed, the local levying body shall comply with

12 subsection (b) of this section and may reduce the rate  
13 of special levy in accordance with the provisions of  
14 subsection (d) of this section until the first day of July,  
15 one thousand nine hundred ninety-five. After the first  
16 day of July, one thousand nine hundred ninety-five, each  
17 levying body shall adopt only the levy rate which is  
18 specified and approved in the levy ballot: *Provided*, That  
19 if the special levy ballot provision authorizes the levying  
20 body to reduce the rate of special levy, such rate may  
21 be reduced in accordance with the special levy ballot  
22 provision.

23 An additional appraisal or valuation due to new  
24 construction or improvements to existing real property,  
25 including beginning recovery of natural resources, and  
26 newly acquired personal property shall not be an annual  
27 appraisal or general valuation within the meaning of  
28 this section, nor shall the assessed value of such  
29 improvements be included in calculating the new tax  
30 levy for purposes of this section.

31 (b) Any local levying body projected to realize such  
32 increase greater than four percent shall conduct a  
33 public hearing no later than the twentieth day of March  
34 in the years one thousand nine hundred ninety-four and  
35 one thousand nine hundred ninety-five, which hearing  
36 may be held at the same time and place as the annual  
37 budget hearing. Notice of the public hearing and the  
38 meeting in which the levy rate shall be on the agenda  
39 shall be given at least seven days before the date for  
40 each public hearing by the publication of a notice in at  
41 least one newspaper of general circulation in such  
42 county or municipality: *Provided*, That a Class IV town  
43 or village as defined in section two, article one, chapter  
44 eight of this code, in lieu of the publication notice  
45 required by this subsection, may post no less than four  
46 notices of each public hearing, which posted notices  
47 shall contain the information required by the publica-  
48 tion notice and which shall be in available, visible  
49 locations including the town hall. The notice shall be at  
50 least the size of one-eighth page of a standard size  
51 newspaper or one-fourth page of a tabloid size news-  
52 paper, and the headline in the advertisement shall be

53 in a type no smaller than twenty-four point. The  
54 publication notice shall be placed outside that portion,  
55 if any, of the newspaper reserved for legal notices and  
56 classified advertisements and shall also be published as  
57 a Class II-O legal advertisement in accordance with the  
58 provisions of article three, chapter fifty-nine of this code.  
59 The publication area is the county. The notice shall be  
60 in the following form and contain the following infor-  
61 mation, in addition to such other information as the local  
62 governing body may elect to include:

63 HEARING REGARDING SPECIAL LEVY RATES

64 The (name of the local levying body) hereby gives  
65 notice that the special levy rate imposed by the (local  
66 levying body) causes an increase in property tax  
67 revenues due to increased valuations.

68 1. Appraisal/Assessment Increase: Total assessed  
69 value of property, excluding additional assessments due  
70 to new or improved property, exceeds last year's total  
71 assessed value of property by \_\_\_\_\_ percent.

72 2. Current Year's Revenue Produced Under Special  
73 Levy:

74 3. Projected Revenue Under Special Levy for Next  
75 Tax Year:

76 4. Revenue Projected from New Property or Improve-  
77 ments: \$\_\_\_\_\_.

78 5. General areas in which new revenue is to be  
79 allocated:

80 A public hearing on the issue of special levy rates will  
81 be held on (date and time) at (meeting place). A decision  
82 regarding the special levy rate will be made on (date  
83 and time) at (meeting place).

84 Notwithstanding any other provision of this subsection  
85 to the contrary, for the year one thousand nine hundred  
86 ninety-three only, any local levying body required to  
87 conduct a public hearing due to a four-percent increase  
88 as set forth in this subsection projected for the next  
89 fiscal year shall hold the public hearing prior to the  
90 sixth day of May, shall only be required to publish a

91 Class I legal advertisement in accordance with the  
92 provisions of article three, chapter fifty-nine of this code,  
93 and need not provide such notice at least seven days  
94 before the date of the hearing as required in this  
95 subsection: *Provided*, That a Class IV town or village  
96 may provide notice as otherwise set forth in this  
97 subsection: *Provided, however*, That any public hearings  
98 held pursuant to the provisions of this section in the year  
99 one thousand nine hundred ninety-three prior to the  
100 effective date of this section are hereby ratified and  
101 confirmed as having full force and effect: *Provided*  
102 *further*, That no county commission or municipality shall  
103 be required to hold a public hearing as required by this  
104 section during the year one thousand nine hundred  
105 ninety-three for the fiscal year one thousand nine  
106 hundred ninety-four.

107 (c) All hearings are open to the public, and the local  
108 levying body shall permit persons desiring to be heard  
109 an opportunity to present oral testimony within such  
110 reasonable time limits as are determined by the  
111 governing body. A decision regarding the special levy  
112 rate shall be made within ten days of the hearing.

113 (d) For the fiscal years beginning on the first day of  
114 July, one thousand nine hundred ninety-three, ninety-  
115 four and ninety-five, as to any special levy in effect prior  
116 to the first day of July, one thousand nine hundred  
117 ninety-five, a local levying body may reduce the rate of  
118 the special levy for all classes of property for the  
119 forthcoming tax year so as to cause such rate of special  
120 levy to produce no more than one hundred four percent  
121 of the previous year's projected property tax revenues  
122 from extending such special levy rates or such lesser  
123 reduction the local levying body considers adequate:  
124 *Provided*, That no levying body shall reduce any special  
125 levy if such levy rate has been covenanted or otherwise  
126 dedicated and is necessary to the payment of bonds or  
127 other obligations existing as of the effective date of this  
128 section: *Provided, however*, That nothing contained in  
129 this subsection shall be construed to limit the reduction  
130 of the levy rate when the terms of the special levy  
131 permit a lower reduction: *Provided further*, That this

132 provision shall not restrict the ability of a local levying  
133 body to enact excess levies as authorized under existing  
134 statutory or constitutional provisions.

135 (e) If any provision of this section is held invalid, such  
136 invalidity shall not affect other provisions or applica-  
137 tions of this section which can be given effect without  
138 the invalid provision or its application and to this end  
139 the provisions of this section are declared to be  
140 severable.

**§11-8-12a. Adjourned session of board of education to  
hear objections to proposed levies; approval  
of estimate and levy by tax commissioner;  
first levy for bonded and other indebted-  
ness and indebtedness not bonded, second  
for permanent improvement fund, then for  
current expenses.**

1 Each board of education when it reconvenes on the  
2 third Tuesday in April shall proceed in a manner  
3 similar in all respects to that provided for in section ten-  
4 a of this article. The board shall not finally enter any  
5 levy until it has been approved in writing by the tax  
6 commissioner. After receiving the approval, the board  
7 shall enter the statement as approved in its record of  
8 proceedings, together with the written approval:  
9 *Provided*, That for the fiscal year one thousand nine  
10 hundred ninety-three only, each board of education may  
11 delay its final entry of the levy until no later than the  
12 first Thursday in May, by which time each board shall  
13 have entered the statement as approved in its record of  
14 proceedings, together with the written approval:  
15 *Provided, however*, That any delay by a county board of  
16 education in the entry of its final levy pursuant to the  
17 provisions of this section in the fiscal year one thousand  
18 nine hundred ninety-three and any action taken prior to  
19 the effective date of this section that is not inconsistent  
20 with the provisions of this section or other applicable  
21 levy rate sections of this code are hereby ratified and  
22 confirmed as having full force and effect.

23 The board shall levy as many cents per hundred  
24 dollars' assessed valuation on each class of property in



25 the county or in the area of a pre-existing school district,  
26 as the case may be, as will produce the amounts,  
27 according to the last assessment, shown to be necessary  
28 by the statement in the following order:

29 First, for the bonded debt and for the contractual debt  
30 not bonded, if any, of any school district of the county  
31 existing prior to twenty-second day of May, one thou-  
32 sand nine hundred thirty-three, and incurred prior to  
33 the adoption of the Tax Limitation Amendment;

34 Second, for the permanent improvement fund;

35 Third, for general current expenses.

36 The rates of levy for each purpose shall not exceed the  
37 amounts fixed by section six-c unless another rate is  
38 authorized by the tax commissioner or set by the  
39 Legislature in accordance with this article. When less  
40 than the maximum levies are imposed, the levies on each  
41 class of property shall be in the same proportions as the  
42 maximums authorized.

**§11-8-16. What order for election to increase levies to  
show; vote required; amount and continua-  
tion of additional levy; issuance of bonds.**

1 A local levying body may provide for an election to  
2 increase the levies, by entering on its record of proceed-  
3 ings an order setting forth:

4 (1) The purpose for which additional funds are needed;

5 (2) The amount for each purpose;

6 (3) The total amount needed;

7 (4) The separate and aggregate assessed valuation of  
8 each class of taxable property within its jurisdiction;

9 (5) The proposed additional rate of levy in cents on  
10 each class of property;

11 (6) The proposed number of years, not to exceed three,  
12 to which the additional levy applies, except that in the  
13 case of county boards of education the proposed number  
14 of years shall not exceed five;

15 (7) The fact that the local levying body will or will not

16 issue bonds, as provided by this section, upon approval  
17 of the proposed increased levy.

18 The local levying body shall submit to the voters  
19 within their political subdivision, the question of the  
20 additional levy at either a general or special election. If  
21 at least sixty percent of the voters cast their ballots in  
22 favor of the additional levy, the county commission or  
23 municipality may impose the additional levy. If at least  
24 a majority of voters cast their ballot in favor of the  
25 additional levy, the county board of education may  
26 impose the additional levy: *Provided*, That any addi-  
27 tional levy adopted by the voters, including any  
28 additional levy adopted prior to the effective date of this  
29 section, shall be the actual number of cents per each one  
30 hundred dollars of value set forth in the ballot provision,  
31 which number shall not exceed the maximum amounts  
32 prescribed in this section, regardless of the rate of  
33 regular levy then or currently in effect, unless such rate  
34 of additional special levy is reduced in accordance with  
35 the provisions of section six-g of this article or otherwise  
36 changed in accordance with the applicable ballot  
37 provisions. For county commissions, this levy shall not  
38 exceed a rate greater than seven and fifteen hundredths  
39 cents for each one hundred dollars of value for Class I  
40 properties, and for Class II properties a rate greater  
41 than twice the rate for Class I properties, and for Class  
42 III and IV properties a rate greater than twice the rate  
43 for Class II properties. For municipalities, this levy  
44 shall not exceed a rate greater than six and twenty-five  
45 hundredths cents for each one hundred dollars of value  
46 for Class I properties, and for Class II properties a rate  
47 greater than twice the rate for Class I properties, and  
48 for Class III and IV properties a rate greater than twice  
49 the rate for Class II properties. For county boards of  
50 education, this levy shall not exceed a rate greater than  
51 twenty-two and ninety-five hundredths cents for each  
52 one hundred dollars of value for Class I properties, and  
53 for Class II properties a rate greater than twice the rate  
54 for Class I properties, and for Class III and IV  
55 properties a rate greater than twice the rate for Class  
56 II properties.

57 Levies authorized by this section shall not continue for  
58 more than three years in the case of county commissions  
59 and municipalities and five years in the case of county  
60 boards of education without resubmission to the voters.

61 Upon approval of an increased levy as provided by  
62 this section, a local levying body may immediately issue  
63 bonds in an amount not exceeding the amount of the  
64 increased levy plus the total interest thereon, but the  
65 term of the bonds shall not extend beyond the period of  
66 the increased levy.

67 Insofar as they might concern the issuance of bonds  
68 as provided for in this section, the provisions of sections  
69 three and four, article one, chapter thirteen of this code  
70 shall not apply: *Provided*, That nothing contained in this  
71 section shall conflict with the provisions of article X,  
72 section 8 of the constitution of West Virginia.

#### ARTICLE 14. GASOLINE AND SPECIAL FUEL EXCISE TAX.

##### §11-14-5. Exemptions from tax.

1 There shall be exempted from the excise tax on  
2 gasoline or special fuel imposed by this article the  
3 following:

4 (1) All gallons of gasoline or special fuel exported  
5 from this state to any other state or nation.

6 (2) All gallons of gasoline or special fuel sold to and  
7 purchased by the United States or any agency thereof  
8 when delivered in bulk quantities of five hundred  
9 gallons or more.

10 (3) All gallons of gasoline or special fuel sold to and  
11 purchased by a county board of education when deli-  
12 vered in bulk quantities of five hundred gallons or more.

13 (4) All gallons of gasoline or special fuel sold pursuant  
14 to a government contract, in bulk quantities of five  
15 hundred gallons or more, for use in conjunction with any  
16 municipal, county, state or federal civil defense or  
17 emergency service program, or to any person on whom  
18 is imposed a requirement to maintain an inventory of  
19 gasoline or special fuel for the purpose of any such  
20 program: *Provided*, That fueling facilities used for these

21 purposes are not capable of fueling motor vehicles and  
22 the person in charge of the program has in his or her  
23 possession a letter of authority from the tax commis-  
24 sioner certifying his or her right to such the exemption.

25 (5) All gallons of gasoline or special fuel imported into  
26 this state in the fuel supply tank or tanks of a motor  
27 vehicle, other than in the fuel supply tank of a vehicle  
28 being hauled. This exemption does not relieve a person  
29 owning or operating as a motor carrier of any taxes  
30 imposed by article fourteen-a of this chapter.

31 (6) All gallons of gasoline and special fuel used and  
32 consumed in stationary off-highway turbine engines.

33 (7) All gallons of special fuel for heating any public  
34 or private dwelling, building or other premises.

35 (8) All gallons of special fuel for boilers.

36 (9) All gallons of gasoline or special fuel used as a dry  
37 cleaning solvent or commercial or industrial solvent.

38 (10) All gallons of gasoline or special fuel used as  
39 lubricants, ingredients or components of any manufac-  
40 tured product or compound.

41 (11) All gallons of gasoline or special fuel sold to any  
42 municipality or agency thereof for use in vehicles or  
43 equipment owned and operated by such municipality or  
44 agency thereof and when purchased for delivery in bulk  
45 quantities of five hundred gallons or more.

46 (12) All gallons of gasoline or special fuel sold to any  
47 urban mass transportation authority, created pursuant  
48 to the provisions of article twenty-seven, chapter eight  
49 of this code, for use in an urban mass transportation  
50 system.

51 (13) All gallons of gasoline or special fuel sold for use  
52 as aircraft fuel.

53 (14) All gallons of gasoline or special fuel sold for use  
54 or used as a fuel for commercial watercraft.

55 (15) All gallons of special fuel sold for use or consumed  
56 in railroad diesel locomotives.

**§11-14-11a. Refund of tax on gasoline or special fuel paid by any county board of education, volunteer fire department, nonprofit ambulance service and emergency rescue service.**

1 The tax imposed by this article and paid by county  
2 boards of education shall be refunded to the county  
3 board of education.

4 Upon certification by the county commission to the  
5 state tax commissioner that an organization in the  
6 county is a bona fide volunteer fire department,  
7 nonprofit ambulance service or emergency rescue  
8 service, the tax imposed by this article and paid by the  
9 organization shall be refunded.

10 The tax shall be refunded upon presentation to the  
11 commissioner of an affidavit accompanied by the  
12 original or top copy sales slips or invoices, or certified  
13 copies thereof, from the distributor or producer or retail  
14 dealer, showing the purchases, together with evidence  
15 of payment thereof, which affidavit shall set forth the  
16 total amount of the gasoline or special fuel purchased  
17 and consumed by the user, and the commissioner upon  
18 the receipt of the affidavit and the paid sales slips or  
19 invoices shall cause to be refunded the tax paid on  
20 gasoline or special fuel purchased and consumed as  
21 provided in this section.

22 The right to receive any refund under the provisions  
23 of this section is not assignable and any assignment  
24 thereof is void and of no effect, nor shall any payment  
25 be made to any person other than the original person  
26 entitled thereto using gasoline or special fuel as set forth  
27 in this section. The commissioner shall cause a refund  
28 to be made under the authority of this section only when  
29 the application for the refund is filed with the commis-  
30 sioner, upon forms prescribed by the commissioner, no  
31 later than the thirty-first day of August for purchases  
32 of fuel made during the preceding fiscal year ending the  
33 thirtieth day of June. Any claim for a refund not timely  
34 filed shall not be construed to be or constitute a moral  
35 obligation of the state of West Virginia for payment. The  
36 claim for refund is also subject to the provisions of

37 section fourteen, article ten of this chapter.

**CHAPTER 18. EDUCATION.**

**ARTICLE 2. STATE BOARD OF EDUCATION.**

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

1 (a) In order to consolidate and administer more  
2 effectively existing educational programs and services  
3 so individual districts will have more discretionary  
4 moneys for educational improvement and in order to  
5 equalize and extend educational opportunities, the state  
6 board of education shall establish multicounty regional  
7 educational service agencies for the purpose of provid-  
8 ing high quality, cost effective educational programs  
9 and services to the county school systems, and shall  
10 make such rules as may be necessary for the effective  
11 administration and operation of such agencies: *Provided,*  
12 That the Legislative Oversight Commission on Educa-  
13 tion Accountability shall commission a comprehensive  
14 feasibility study of the regional educational service  
15 agencies which shall be completed and reported to the  
16 Legislative Oversight Commission on Education Ac-  
17 countability no later than the 10th day of January, one  
18 thousand nine hundred ninety-four.

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

33 Technical, operational, programmatic or professional

34 services would be among the types of services appropriate for delivery on a regional basis.

36 (c) In addition to performing the services and functions required by the provisions of this or any other section of this code, a regional educational service agency may implement regional programs and services by a majority vote of its board of directors. When said vote is not unanimous, the board of directors shall file a plan for the service or program delivery with the state board describing the program or service, the manner of delivery and the projected savings and/or the improved quality of the program or service. The state board shall promulgate rules requiring a county board that declines to participate in such programs or services to show just cause for not participating and the estimated savings accruing to the county therefrom. If a county board fails to show that savings will accrue to the county or that the quality of the program will be significantly and positively affected as a result of its decision not to participate, the state board shall withhold from the county's foundation allowance for administrative cost the lesser of the amount of the estimated savings or the allocation for the county's foundation allowance for administrative cost.

58 (d) 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 such delivery method substantially improves the quality of an instructional program. Such 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 such instruction.

70 (e) Each regional educational service agency shall conduct a study setting forth how the following services and functions may be performed by the agency for public schools and school districts within the region without terminating the employment of personnel

75 employed by school districts prior to the effective date  
76 of this subsection: Accounting, purchasing, food service,  
77 transportation, delivery of high cost services to low  
78 incidence student populations, audiovisual material  
79 distribution, facilities planning, federal program  
80 coordination, personnel recruiting and an integrated  
81 regional computer information system. On or before the  
82 tenth day of January, one thousand nine hundred ninety,  
83 each regional educational service agency shall submit  
84 the study to the state board, to the standing committees  
85 on education and finance of the West Virginia senate  
86 and house of delegates, and to the secretary of education  
87 and the arts: *Provided*, That in the event such study is  
88 implemented those individuals employed prior to the  
89 effective date thereof shall not have their employment  
90 terminated as a result of the study.

91 (f) Each regional educational service agency shall  
92 commence implementation of a uniform integrated  
93 regional computer information system as recommended  
94 by the state board of education on or before the first day  
95 of January, one thousand nine hundred ninety-one. Each  
96 county board of education shall use the computer  
97 information system for data collection and reporting to  
98 the state department of education beginning no later  
99 than the first day of July, one thousand nine hundred  
100 ninety-four. County boards of education shall bear the  
101 cost of and fully participate in the implementation of the  
102 system: *Provided*, That no county shall expand any  
103 system either through the purchase of additional  
104 software or hardware that does not advance the goals  
105 and implementation of the uniform integrated regional  
106 computer information as recommended by the state  
107 board: *Provided, however*, That nothing contained herein  
108 shall prevent the state superintendent from granting an  
109 extension to those counties projected to have budget  
110 deficits for the school year beginning on the first day  
111 of July, one thousand nine hundred ninety-four.

112 (g) Each regional educational service agency shall  
113 submit a report and evaluation of the services provided  
114 and utilized by the schools within each respective  
115 region. Furthermore, each school shall submit an



116 evaluation of the services provided by the regional  
117 educational service agency, which shall include an  
118 evaluation of the regional educational service agency  
119 program, suggestions as to how to improve utilization  
120 and the individual school's plan as to development of  
121 new programs and enhancement of existing programs.  
122 The reports shall be due by the first day of January of  
123 each year commencing with the year one thousand nine  
124 hundred ninety-one and shall be made available to the  
125 state board of education, standing committees on  
126 education of the West Virginia senate and house of  
127 delegates and to the secretary of education and the arts.

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

131 (i) Notwithstanding any other provision of the code to  
132 the contrary, employees of regional educational service  
133 agencies shall be reimbursed for travel, meals and  
134 lodging at the same rate as state employees under the  
135 travel management office of the department of  
136 administration.

137 (j) Regional educational service agencies shall hold at  
138 least one-half of their regular meetings during hours  
139 other than those of a regular school day.

**ARTICLE 2A. ADOPTION OF TEXTBOOKS, INSTRUCTIONAL  
MATERIALS AND LEARNING TECHNOLOGIES.**

**§18-2A-1. Definition; adoption groups; adoption schedule.**

1 "Textbooks" includes books, instructional materials  
2 and learning technologies. "Instructional materials"  
3 means and includes systems of instructional materials,  
4 or combinations of books and supplementary materials  
5 which convey information to the pupil. "Learning  
6 technologies" include, but are not limited to, applica-  
7 tions using computer software, computer assisted  
8 instruction, interactive videodisc; other computer  
9 courseware and magnetic media.

10 Textbooks adopted on the state multiple list must  
11 substantially cover the required content and skills for

12 the subject as approved by the state board of education.  
 13 Adopted materials must be current and information  
 14 presented accurately.

15 On or before the first day of July, one thousand nine  
 16 hundred ninety-two, the state board of education shall  
 17 classify the elementary and secondary school subjects  
 18 required to be taught in the schools of our state into  
 19 adoption groups by related subject fields as nearly as  
 20 possible. A schedule for the periods of adoption shall be  
 21 determined by the state board of education: *Provided*,  
 22 That magazines, newspapers and other periodicals may  
 23 be purchased by a county board of education for  
 24 classroom use to supplement those items adopted on the  
 25 state multiple list without having to comply with the  
 26 adoption procedures provided in this article: *Provided*,  
 27 *however*, That magazines, newspapers and periodicals  
 28 are considered to be textbooks for purposes of special  
 29 excess levies subject to the provisions of section sixteen,  
 30 article eight, chapter eleven of this code when the  
 31 described purpose under that section is for textbooks.  
 32 The state adoption cycle as to science and health  
 33 textbooks shall not exceed six years and the adoption  
 34 cycle as to all other textbooks shall not exceed eight  
 35 years: *Provided further*, That the county textbook  
 36 adoption committees may request a waiver of the  
 37 maximum adoption cycles from the state board of  
 38 education: *And provided further*, That during the school  
 39 year beginning on the first day of July, one thousand  
 40 nine hundred ninety-three, the state board of education  
 41 shall make additional adoptions only in the subject of  
 42 science, and if the county boards of education make  
 43 additional adoptions and purchases, then those county  
 44 boards may make purchases only in the subjects of  
 45 science and health.

**ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

**§18-2E-4. Better schools accountability; school, school district and statewide school report cards.**

1 (a) For the purpose of providing information to the  
 2 parents of public school children and the general public  
 3 on the quality of education in the public schools which

4 is uniform and comparable between schools within and  
5 among the various school districts, the state board shall  
6 prepare forms for school, school district and statewide  
7 school report cards and shall promulgate rules concern-  
8 ing the collection and reporting of data and the  
9 preparation, printing and distribution of report cards  
10 under this section. The forms shall provide for brief,  
11 concise reporting in nontechnical language of required  
12 information. Any technical or explanatory material a  
13 county board wishes to include shall be contained in a  
14 separate appendix available to the general public upon  
15 request.

16 (b) The school report cards shall include:

17 (1) The following indicators of student performance at  
18 the school in comparison with the county, state, regional  
19 and national student performance, as applicable:  
20 student performance by grade level in the various  
21 subjects tested under the statewide testing of educa-  
22 tional progress program; school attendance rates; the  
23 percent of students not promoted to next grade; the  
24 graduation rate; and student mobility (turnover shown  
25 as a percent of transfers out and a percent of transfers  
26 in); and

27 (2) The following indicators of school performance in  
28 comparison with the aggregate of all other schools in the  
29 county and the state, as applicable: average class size;  
30 percent of enrollments in courses in high school  
31 mathematics, science, English and social science;  
32 amount of time per day devoted to mathematics, science,  
33 English and social science at middle, junior high and  
34 high school grade levels; percent of enrollments in  
35 college preparatory, general education and vocational  
36 education programs; pupil-teacher ratio; number of  
37 exceptions to pupil-teacher ratio requested by the county  
38 board and the number of exceptions granted; the  
39 number of split-grade classrooms; pupil-administrator  
40 ratio; operating expenditure per pupil; county expendi-  
41 ture by fund in graphic display; and the average degree  
42 classification and years of experience of the administra-  
43 tors and teachers at the school.

44 (3) Every county board of education shall annually  
45 determine the number of administrators, classroom  
46 teachers and service personnel employed that exceeds  
47 the number allowed by the public school support plan  
48 and determine the amount of salary supplements that  
49 would be available per state authorized employee if all  
50 expenditures for the excess employees were converted to  
51 annual salaries for state authorized administrators,  
52 classroom teachers and service personnel within their  
53 county. The information shall be published annually in  
54 each school report card of each such county.

55 (c) The school district report card shall include the  
56 data for each school for each separately listed applicable  
57 indicator and the aggregate of the data for all schools,  
58 as applicable, in the county for each indicator. The  
59 statewide school report card shall include the data for  
60 each county for each separately listed indicator and the  
61 aggregate for all counties for each indicator.

62 (d) The report cards shall be prepared using actual  
63 local school, county, state, regional and national data  
64 indicating the present performance of the school and  
65 shall also include the state norms and the upcoming  
66 year's targets for the school and the county board.

67 The state board shall provide technical assistance to  
68 each county board in preparing the school and school  
69 district report cards.

70 Each school district board shall prepare report cards  
71 in accordance with the guidelines set forth in this  
72 section. The school district report cards shall be  
73 presented at a regular school board meeting subject to  
74 applicable notice requirements and shall be made  
75 available to a newspaper of general circulation serving  
76 the district. The school report cards shall be mailed  
77 directly to the parent or parents of any child enrolled  
78 in that school. In addition, each county board shall  
79 submit the completed report cards to the state board  
80 which shall make copies available to any person  
81 requesting them.

82 The report cards shall be completed and disseminated  
83 prior to the first day of January, one thousand nine

84 hundred eighty-nine, and in each year thereafter, and  
85 shall be based upon information for the current school  
86 year, or for the most recent school year for which the  
87 information is available, in which case the year shall be  
88 clearly footnoted.

89 (e) In addition to the requirements of subsection (c) of  
90 this section, the school district report card shall list (1)  
91 the names of the members of the district school board,  
92 the dates upon which their terms expire and whether  
93 they have attended an orientation program for new  
94 members approved by the state board and conducted by  
95 the West Virginia school board association or other  
96 approved organizations, and other school board member  
97 training programs, and (2) the names of the district  
98 school superintendent and every assistant and associate  
99 superintendent and any training programs related to  
100 their area of school administration which they have  
101 attended. The information shall also be reported by  
102 district in the statewide school report card.

103 (f) The state board shall develop and implement a  
104 separate report card for nontraditional public schools  
105 pursuant to the appropriate provisions of this section to  
106 the extent practicable.

#### ARTICLE 4. COUNTY SUPERINTENDENT OF SCHOOLS.

##### §18-4-2. Qualifications; health certificate; disability; acting superintendent.

1 Superintendents employed prior to the twenty-eighth  
2 day of June, one thousand nine hundred eighty-eight  
3 shall hold a certificate valid in West Virginia and an  
4 approved master's degree including at least twelve  
5 semester hours in school administration and supervision,  
6 and at least five years experience in public school  
7 teaching and/or supervision.

8 Any superintendent appointed as superintendent after  
9 the twenty-seventh day of June, one thousand nine  
10 hundred eighty-eight, shall meet requirements for the  
11 professional administrative certificate endorsed for  
12 superintendent by the first day of July, one thousand  
13 nine hundred ninety-three. Any new superintendent

14 appointed as of the thirtieth day of August, one thousand  
15 nine hundred ninety, shall hold a professional adminis-  
16 trative certificate endorsed for superintendent: *Pro-*  
17 *vided*, That any candidate for superintendent who  
18 possesses an earned doctorate from an accredited  
19 institution of higher education, has completed three  
20 successful years of teaching in public education and has  
21 the equivalent of three years of experience in manage-  
22 ment or supervision, upon employment by the county  
23 board of education shall be granted a permanent  
24 administrative certificate and shall be a licensed county  
25 superintendent. Any person employed as assistant  
26 superintendent or educational administrator prior to the  
27 twenty-seventh day of June, one thousand nine hundred  
28 eighty-eight, and who was previously employed as  
29 superintendent shall not be required to hold the  
30 professional administrative certificate endorsed for  
31 superintendent.

32 Before entering upon the discharge of his or her duties  
33 the superintendent shall file with the president of the  
34 board a health certificate from a reputable physician,  
35 on a form prescribed by the state department of schools,  
36 certifying that he or she is physically fit for the duties  
37 of his or her office and that he or she has no infectious  
38 or contagious disease; and if the superintendent, due to  
39 accident or illness, should become incapacitated to an  
40 extent that could lead to a prolonged absence, the board,  
41 upon unanimous vote, has the authority to enter an order  
42 declaring the incapacity and it shall appoint an acting  
43 superintendent until such time as a majority of the  
44 members of the board determine that the incapacity no  
45 longer exists. However, an acting superintendent shall  
46 not serve as such for more than one year, or later than  
47 the expiration date of the superintendent's term,  
48 whichever is less, without being reappointed by the  
49 board of education.

#### ARTICLE 5. COUNTY BOARD OF EDUCATION.

##### §18-5-15e. Study on school equity.

1 County boards shall conduct a comprehensive study to  
2 determine equality of funding and programs among the

3 various schools within each county. Such study shall  
4 consider issues including, but not limited to, cost per  
5 pupil and availability of curriculum and programs.  
6 County boards shall submit a report to the legislative  
7 oversight commission on education accountability by the  
8 first day of October, one thousand nine hundred ninety-  
9 three.

**§18-5-18. Kindergarten programs.**

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

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

31 The state board of education with the advice of the  
32 state superintendent of free schools shall establish and

33 prescribe guidelines and criteria relating to the estab-  
34 lishment, operation and successful completion of kinder-  
35 garten programs in accordance with the other provi-  
36 sions of this section. Guidelines and criteria so estab-  
37 lished and prescribed are also intended to serve for the  
38 establishment and operation of nonpublic kindergarten  
39 programs and shall be used for the evaluation and  
40 approval of such programs, provided application for  
41 such evaluation and approval is made in writing to the  
42 state board by proper authorities in control of such  
43 programs. The state superintendent of free schools at  
44 intervals not to exceed two years shall publish a list of  
45 nonpublic kindergarten programs that have been  
46 approved in accordance with the provisions of this  
47 section and a list of Montessori kindergartens estab-  
48 lished and operated in accordance with usual and  
49 customary practices for the use of the Montessori  
50 method. Teachers who have training or experience in  
51 the use of the Montessori method of instruction for  
52 kindergartens shall be deemed to be approved to teach  
53 in such kindergartens using the Montessori method  
54 without additional certification.

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



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

86 Allocations to counties will be made on the basis of  
87 approved kindergarten programs. The West Virginia  
88 board of education shall establish criteria and standards  
89 necessary to guide counties in developing approvable  
90 kindergarten programs and shall determine funding  
91 levels of said programs on local operating costs.

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

**§18-5-18a. Maximum teacher-pupil ratio.**

1 County boards of education shall provide, by the  
2 school year one thousand nine hundred eighty-three—  
3 eighty-four, and thereafter, sufficient personnel, equip-  
4 ment and facilities as will ensure that each first and  
5 second grade classroom, or classrooms having two or  
6 more grades that include either the first or second  
7 grades shall not have more than twenty-five pupils for  
8 each teacher of the grade or grades and shall not have  
9 more than twenty pupils for each kindergarten teacher  
10 per session, unless the state superintendent has excepted  
11 a specific classroom upon application therefor by a  
12 county board.

13 County boards shall provide by the school year one  
14 thousand nine hundred eighty-four—eighty-five, and  
15 continue thereafter, sufficient personnel, equipment and  
16 facilities as will ensure that each third, fourth, fifth and  
17 sixth grade classroom, or classrooms having two or more  
18 grades that include one or more of the third, fourth, fifth  
19 and sixth grades, shall not have more than twenty-five  
20 pupils for each teacher of the grade or grades.

21 Beginning with the school year one thousand nine  
22 hundred eighty-six—eighty-seven, and thereafter, no  
23 county shall maintain a greater number of classrooms  
24 having two or more grades that include one or more of  
25 the grade levels referred to in this section than were in  
26 existence in said county as of the first day of January,  
27 one thousand nine hundred eighty-three: *Provided*, That  
28 for the prior school years, and only if there is insuffi-  
29 cient classroom space available in the school or county,  
30 a county may maintain one hundred ten percent of such  
31 number of classrooms.

32 During the school year one thousand nine hundred  
33 eighty-four—eighty-five, and thereafter, the state  
34 superintendent is authorized, consistent with sound  
35 educational policy, (a) to permit on a statewide basis, in  
36 grades four through six, more than twenty-five pupils  
37 per teacher in a classroom for the purposes of instruc-  
38 tion in physical education, and (b) to permit more than  
39 twenty pupils per teacher in a specific kindergarten  
40 classroom and twenty-five pupils per teacher in a  
41 specific classroom in grades one through six during a

42 school year in the event of extraordinary circumstances  
43 as determined by the state superintendent after appli-  
44 cation by a county board of education.

45 The state board shall establish guidelines for the  
46 exceptions authorized in this section, but in no event  
47 shall the superintendent except classrooms having more  
48 than three pupils above the pupil-teacher ratio as set  
49 forth in this section.

50 The requirement for approval of an exception to  
51 exceed the twenty pupils per kindergarten teacher per  
52 session limit or the twenty-five pupils per teacher limit  
53 in grades one through six is waived in schools where the  
54 schoolwide pupil-teacher ratio is twenty-five or less in  
55 grades one through six: *Provided*, That a teacher shall  
56 not have more than three pupils above the teacher/pupil  
57 ratio as set forth in this section. Any kindergarten  
58 teacher who has more than twenty pupils per session  
59 and any classroom teacher of grades one through six  
60 who has more than twenty-five pupils shall be paid  
61 additional compensation based on the affected classroom  
62 teacher's average daily salary divided by twenty for  
63 kindergarten teachers or twenty-five for teachers of  
64 grades one through six for every day times the number  
65 of additional pupils enrolled up to the maximum pupils  
66 permitted in the teacher's classroom. All such additional  
67 compensation shall be paid from county funds  
68 exclusively.

69 Notwithstanding any other provisions of this section  
70 to the contrary, commencing with the school year  
71 beginning on the first day of July, one thousand nine  
72 hundred ninety-four, a teacher in grades one, two or  
73 three or classrooms having two or more such grade  
74 levels, shall not have more than two pupils above the  
75 teacher/pupil ratio as set forth in this section: *Provided*,  
76 *further*, That commencing with the school year begin-  
77 ning on the first day of July, one thousand nine hundred  
78 ninety-five, such teacher shall not have more than one  
79 pupil above the teacher/pupil ratio as set forth in this  
80 section: *And provided further*, That commencing with  
81 the school year beginning on the first day of July, one  
82 thousand nine hundred ninety-six, such teacher shall not

83 have any pupils above the teacher/pupil ratio as set  
84 forth in this section.

85 No provision of this section is intended to limit the  
86 number of pupils per teacher in a classroom for the  
87 purpose of instruction in choral, band or orchestra  
88 music.

89 Each school principal shall assign students equitably  
90 among the classroom teachers, taking into consideration  
91 reasonable differences due to subject areas and/or grade  
92 levels.

93 The state board shall collect from each county board  
94 of education information on class size and the number  
95 of pupils per teacher for all classes in grades seven  
96 through twelve. The state board shall report such  
97 information to the legislative oversight commission on  
98 education accountability before the first day of January  
99 of each year.

#### ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

##### §18-7A-14. Contributions by members.

1 At the end of each month every member of the  
2 retirement system shall contribute six percent of that  
3 member's monthly earnable compensation to the retire-  
4 ment board: *Provided*, That any member employed by  
5 the West Virginia board of directors of the state college  
6 system or the board of trustees of the university system  
7 at an institution of higher education under its control  
8 shall contribute on the member's full earnable compen-  
9 sation, unless otherwise provided in section fourteen-a of  
10 this article.

11 Annually, the contributions of each member shall be  
12 credited to the member's account in the teachers  
13 accumulation fund. The contributions shall be deducted  
14 from the salaries of the members as herein prescribed,  
15 and every member shall be deemed to have given  
16 consent to such deductions. No deductions, however,  
17 shall be made from the earnable compensation of any  
18 member who retired because of age or service, and then  
19 resumed service unless as provided in section thirteen-  
20 a of this article.

21 The aggregate of employer contributions, due and  
22 payable under this article, shall equal annually the total  
23 deductions from the earnable compensation of members  
24 required by this section. Beginning the first day of July,  
25 one thousand nine hundred ninety-four, the rate shall be  
26 seven and one half percent; beginning on the first day  
27 of July, one thousand nine hundred ninety-five, the rate  
28 shall be nine percent; beginning on the first day of July,  
29 one thousand nine hundred ninety-six, the rate shall be  
30 ten and one half percent; beginning on the first day of  
31 July, one thousand nine hundred ninety-seven, the rate  
32 shall be twelve percent; beginning on the first day of  
33 July, one thousand nine hundred ninety-eight, the rate  
34 shall be thirteen and one half percent; and beginning on  
35 the first day of July, one thousand nine hundred ninety-  
36 nine and thereafter, the rate shall be fifteen percent.

37 Payment by an employer to a member of the sum  
38 specified in the employment contract minus the amount  
39 of the employee's deductions shall be deemed to be a full  
40 discharge of the employer's contractual obligation as to  
41 earnable compensation.

42 Each contributor shall file with the retirement board  
43 or with the employer to be forwarded to the retirement  
44 board an enrollment form showing the contributor's  
45 date of birth and other data needed by the retirement  
46 board.

**§18-7A-18. Funds created; fund transfers.**

1 The funds created are the teachers accumulation fund,  
2 the employers accumulation fund, the benefit fund, the  
3 reserve fund and the expense fund. Each fund shall  
4 constitute a separate trust.

5 (a) The teachers accumulation fund shall be the fund  
6 in which the contributions of members shall be accum-  
7 ulated. The accumulated contributions of a member  
8 returned to the member upon that member's withdra-  
9 wal, or paid to that member's estate or designated  
10 beneficiary in the event of death, shall be paid from the  
11 teachers accumulation fund. Any accumulated contribu-  
12 tions forfeited by failure to claim such contributions  
13 shall be transferred from the teachers accumulation

14 fund to the reserve fund.

15 (b) Beginning on the first day of July, one thousand  
16 nine hundred eighty-four, contributions of employers,  
17 shall be deposited in the employers accumulation fund  
18 through state appropriations, and such amounts shall be  
19 included in the budget bill submitted annually by the  
20 governor.

21 Beginning on the first day of July, one thousand nine  
22 hundred ninety-two and ninety-three, each county shall  
23 deposit in the employers accumulation fund an amount  
24 equal to six percent of all salary paid in excess of that  
25 authorized for minimum salaries in sections two and  
26 eight-a, article four, chapter eighteen-a of this code and  
27 any salary equity authorized in section five of said  
28 article or any county supplement equal to the amount  
29 distributed for salary equity among the counties;  
30 beginning on the first day of July, one thousand nine  
31 hundred ninety-four, the rate shall be seven and one half  
32 percent; beginning on the first day of July, one thousand  
33 nine hundred ninety-five, the rate shall be nine percent;  
34 beginning on the first day of July, one thousand nine  
35 hundred ninety-six, the rate shall be ten and one half  
36 percent; beginning on the first day of July, one thousand  
37 nine hundred ninety-seven, the rate shall be twelve  
38 percent; beginning on the first day of July, one thousand  
39 nine hundred ninety-eight, the rate shall be thirteen and  
40 one half percent; and beginning on the first day of July,  
41 one thousand nine hundred ninety-nine and thereafter,  
42 the rate shall be fifteen percent.

43 (c) The benefit fund shall be the fund from which  
44 annuities shall be paid. Upon the retirement of a  
45 member, that member's accumulated contributions shall  
46 be transferred from the teachers accumulation fund to  
47 the benefit fund; the accumulated employers' contribu-  
48 tion shall be transferred from the employers accumula-  
49 tion fund to the benefit fund; and annually a sum for  
50 prior service pension and disability credits, if needed,  
51 shall be transferred from the reserve fund to the benefit  
52 fund. Any deficit occurring in the benefit fund which  
53 is not automatically met by payments to that fund, as  
54 provided for by this article, shall be met by additional

55 transfers from the employers accumulation fund and, if  
56 necessary, by transfers from the teachers accumulation  
57 fund.

58 (d) The retirement board is hereby authorized to  
59 accept gifts and bequests. All gifts, bequests and  
60 interest earnings from investments received by the  
61 board shall be deposited in the reserve fund. Any funds  
62 that may come into possession of the retirement system  
63 in this manner or which may be transferred from the  
64 teachers accumulation fund by reason of the lack of a  
65 claimant or because of a surplus in any of the funds, or  
66 any other moneys the disposition of which is not  
67 otherwise provided for, shall be credited to the reserve  
68 fund. The retirement board shall allow interest on the  
69 contributions in the teachers accumulation fund. Such  
70 interest shall be paid from the reserve fund and credited  
71 to the teachers accumulation fund. Any deficit occurring  
72 in any fund which would not be automatically covered  
73 by the payments to that fund as otherwise provided by  
74 this article shall be met by transfers from the reserve  
75 fund to such fund. In the reserve fund shall be accum-  
76 ulated moneys from retirement board appropriations to  
77 pay the accrued liabilities of the system, caused by the  
78 granting of prior service, ad hoc increases granted prior  
79 to the first day of July, one thousand nine hundred  
80 eighty, and disability pensions. Costs associated with  
81 board investments, such as premiums, accrued interest  
82 and commissions, shall be paid from the reserve fund.

83 (e) The expense fund shall be the fund from which  
84 shall be paid the expense incurred in the administration  
85 of the retirement system. The retirement board is  
86 herewith authorized to pay, from the expense fund,  
87 membership fees in such voluntary organizations as the  
88 national council on teacher retirement, anything in this  
89 code to the contrary notwithstanding. Interest on loans  
90 to members shall be deposited in the expense fund.

91 The retirement board is herewith given sole authority  
92 to direct and approve the making of any and all fund  
93 transfers as provided herein, anything in this code to the  
94 contrary notwithstanding.

**ARTICLE 7B. TEACHERS' DEFINED CONTRIBUTION RETIREMENT SYSTEM.****§18-7B-10. Employer contributions.**

1 Each participating employer shall annually make a  
2 contribution equal to seven and one-half percent of each  
3 members gross compensation whose employment com-  
4 menced on or after the first day of July, one thousand  
5 nine hundred ninety-one: *Provided*, That beginning on  
6 the first day of July, one thousand nine hundred ninety-  
7 five, the rate shall be nine percent; beginning on the  
8 first day of July, one thousand nine hundred ninety-six,  
9 the rate shall be ten and one half percent; beginning on  
10 the first day of July, one thousand nine hundred ninety-  
11 seven, the rate shall be twelve percent; beginning on the  
12 first day of July, one thousand nine hundred ninety-  
13 eight, the rate shall be thirteen and one half percent;  
14 and beginning on the first day of July, one thousand nine  
15 hundred ninety-nine and thereafter, the rate shall be  
16 fifteen percent. The pro rata share of this amount shall  
17 be paid upon each date that a member contribution is  
18 made and shall be remitted as provided for in section  
19 nine of this article for credit to the member's annuity  
20 account. Each participating employer has a fiduciary  
21 duty to its employees to ensure that the employer  
22 contributions are timely made. In the case of an officer  
23 or employee of the state, any unpaid contribution shall  
24 be a state debt, contracted as a result of a casual deficit  
25 in state revenues, to be accorded preferred status over  
26 other expenditures.

27 In the event that any payment is not timely made, the  
28 participating employer shall immediately give to the  
29 employee and the state auditor notice in writing of the  
30 nonpayment, in such form and accompanied by such  
31 documentation as may be required by the auditor.  
32 Notice to the auditor shall operate in the manner of a  
33 requisition, and the auditor shall transmit a warrant to  
34 the treasurer. At such time as funds are available in the  
35 appropriate account, the treasurer shall pay the  
36 employer contribution, together with appropriate daily  
37 interest.

**ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**



§18-9A-2. Definitions.

1 For the purpose of this article:

2 "State board" means the West Virginia board of  
3 education.

4 "County board" or "board" means a county board of  
5 education.

6 "Professional salaries" means the state legally man-  
7 dated salaries of the professional educators as provided  
8 in article four, chapter eighteen-a of this code.

9 "Professional educator" shall be synonymous with and  
10 shall have the same meaning as "teacher" as defined in  
11 section one, article one, chapter eighteen of this code.

12 "Professional instructional personnel" means a profes-  
13 sional educator whose regular duty is as that of a  
14 classroom teacher, librarian, counselor, attendance  
15 director, school psychologist or school nurse with a  
16 bachelors degree and who is licensed by the West  
17 Virginia board of examiners for registered professional  
18 nurses. A professional educator having both instruc-  
19 tional and administrative or other duties shall be  
20 included as professional instructional personnel for that  
21 ratio of the school day for which he is assigned and  
22 serves on a regular full-time basis in appropriate  
23 instruction, library, counseling, attendance, psychologist  
24 or nursing duties.

25 "Service personnel salaries" shall mean the state  
26 legally mandated salaries for service personnel as  
27 provided in section eight-a, article four, chapter  
28 eighteen-a of this code.

29 "Service personnel" shall mean all personnel as  
30 provided for in section eight, article four, chapter  
31 eighteen-a of this code. For the purpose of computations  
32 under this article of ratios of service personnel to  
33 adjusted enrollment, a service employee shall be counted  
34 as that number found by dividing his number of  
35 employment days in a fiscal year by two hundred:  
36 *Provided*, That the computation for any such person  
37 employed for three and one-half hours or less per day

38 as provided in section eight-a, article four, chapter  
39 eighteen-a of this code shall be calculated as one half an  
40 employment day.

41 "Net enrollment" means the number of pupils enrolled  
42 in special education programs, kindergarten programs  
43 and grades one to twelve, inclusive, of the public schools  
44 of the county. Commencing with the school year  
45 beginning on the first day of July, one thousand nine  
46 hundred eighty-eight, net enrollment further shall  
47 include adults enrolled in regular secondary vocational  
48 programs existing as of the effective date of this section:  
49 *Provided*, That net enrollment shall include no more  
50 than one thousand such adults counted on the basis of  
51 full-time equivalency and apportioned annually to each  
52 county in proportion to the adults participating in  
53 regular secondary vocational programs in the prior year  
54 counted on the basis of full-time equivalency: *Provided*,  
55 *however*, That no tuition or special fees beyond that  
56 required of the regular secondary vocational student is  
57 charged for such adult students.

58 "Adjusted enrollment" means the net enrollment plus  
59 twice the number of pupils enrolled for special educa-  
60 tion. Commencing with the school year beginning on the  
61 first day of July, one thousand nine hundred ninety,  
62 adjusted enrollment means the net enrollment plus  
63 twice the number of pupils enrolled for special educa-  
64 tion, including exceptional gifted, plus the number of  
65 pupils in grades nine through twelve enrolled for honors  
66 and advanced placement programs, plus the number of  
67 pupils enrolled on the first day of July, one thousand  
68 nine hundred eighty-nine, in the gifted program in  
69 grades nine through twelve: *Provided*, That commencing  
70 with the school year beginning on the first day of  
71 July, one thousand nine hundred ninety, no more than  
72 four percent of net enrollment of grades one through  
73 eight may be counted as enrolled in gifted education and  
74 no more than six percent of net enrollment of grades  
75 nine through twelve may be counted as enrolled in  
76 gifted education, exceptional gifted education (subject to  
77 the limitation set forth in section one, article twenty of  
78 this chapter) and honors and advanced placement

79 programs for the purpose of determining adjusted  
80 enrollment within a county: *Provided, however,* That  
81 nothing herein shall be construed to limit the number  
82 of students who may actually enroll in gifted, honors or  
83 advanced placement education programs in any county:  
84 *Provided further,* That until the school year beginning  
85 on the first day of July, one thousand nine hundred  
86 ninety-two, the preceding percentage limitations shall  
87 not restrict the adjusted enrollment definition for a  
88 county to the extent that those limitations are exceeded  
89 by students enrolled in gifted education programs on the  
90 first day of July, one thousand nine hundred eighty-nine:  
91 *And provided further,* That no pupil may be counted  
92 more than three times for the purpose of determining  
93 adjusted enrollment. Such enrollment shall be adjusted  
94 to the equivalent of the instructional term and in  
95 accordance with such eligibility requirements and rules  
96 as established by the state board. No pupil shall be  
97 counted more than once by reason of transfer within the  
98 county or from another county within the state, and no  
99 pupil shall be counted who attends school in this state  
100 from another state.

101 “Levies for general current expense purposes” means  
102 ninety-eight percent of the levy rate for county boards  
103 of education calculated or set by the legislature  
104 pursuant to the provisions of section six-f, article eight,  
105 chapter eleven of this code.

106 “Basic resources per pupil” for the state and the  
107 several counties means the total of (a) ninety-five  
108 percent of the property tax revenues computed at the  
109 levy rate for county boards of education calculated or  
110 set by the legislature pursuant to the provisions of  
111 section six-f, article eight, chapter eleven of this code,  
112 but excluding revenues from increased levies as pro-  
113 vided in section ten, article X of the Constitution of West  
114 Virginia, and (b) basic state aid as provided in sections  
115 twelve and thirteen of this article, but excluding the  
116 foundation allowance to improve instructional programs  
117 as provided in section ten of this article, and excluding  
118 any funds appropriated for the purpose of achieving  
119 salary equity among county board employees,

120 this total divided by the number of students in adjusted  
 121 enrollment: *Provided*, That beginning with the school  
 122 year commencing on the first day of July, one thousand  
 123 nine hundred ninety-one, and thereafter, the foundation  
 124 allowance for transportation cost as provided in section  
 125 seven of this article shall also be excluded and the total  
 126 shall be divided by the number of students in net  
 127 enrollment: *Provided, however*, That any year's alloca-  
 128 tions to the counties of the eighty percent portion of the  
 129 foundation allowance to improve instructional pro-  
 130 grams, as provided in section ten of this article, shall  
 131 be determined on the basis of the immediately preceding  
 132 school year's basic resources per pupil.

**§18-9A-3b. Total state basic foundation program and  
 foundation allowance for regional educa-  
 tional service agencies for fiscal year 1993-  
 1994 only.**

1 (a) Notwithstanding any other provisions of this  
 2 article to the contrary, the total basic foundation  
 3 program for the state for the fiscal year one thousand  
 4 nine hundred ninety-three—ninety-four shall be the sum  
 5 of the following, less the county's local share:

6 (1) An allowance for professional educators in an  
 7 amount at least equal to six hundred twenty-three  
 8 million, five hundred fifteen thousand, seventy dollars;

9 (2) An allowance for service personnel in an amount  
 10 at least equal to one hundred ninety million, four  
 11 hundred forty-two thousand, three hundred eighty-two  
 12 dollars;

13 (3) An allowance for fixed charges in an amount  
 14 appropriated by the Legislature;

15 (4) An allowance for transportation cost in an amount  
 16 appropriated by the Legislature;

17 (5) An allowance for administrative cost in an amount  
 18 appropriated by the Legislature;

19 (6) An allowance for other current expense and  
 20 substitute employees in an amount appropriated by the  
 21 Legislature; and

22 (7) An allowance to improve instructional programs in  
23 an amount appropriated by the Legislature.

**§18-9A-4. Foundation allowance for professional educators.**

1 The basic foundation allowance to the county for  
2 professional educators shall be the amount of money  
3 required to pay the state minimum salaries, in accor-  
4 dance with provisions of article four, chapter eighteen-  
5 a of the code, to the personnel employed: *Provided*, That  
6 in making this computation no county shall receive an  
7 allowance for the personnel which number is in excess  
8 of fifty-three and one-half professional educators to each  
9 one thousand students in adjusted enrollment: *Provided*,  
10 *however*, That any county not qualifying under the  
11 provision of section fourteen of this article is eligible for  
12 a growth rate in professional personnel in any one year  
13 not to exceed twenty percent of its total potential  
14 increase under this provision, except that in no case  
15 shall the limit be fewer than five professionals: *Provided*  
16 *further*, That the number of and the allowance for  
17 personnel paid in part by state and county funds shall  
18 be prorated: *And provided further*, That where two or  
19 more counties join together in support of a vocational or  
20 comprehensive high school or any other program or  
21 service, the professional educators for the school or  
22 program may be prorated among the participating  
23 counties on the basis of each one's enrollment therein  
24 and that the personnel shall be considered within the  
25 above-stated limit: *And provided further*, That in the  
26 school year beginning the first day of July, one thousand  
27 nine hundred eighty-eight, and in each school year  
28 thereafter, each county board shall establish and  
29 maintain a minimum ratio of fifty professional instruc-  
30 tional personnel per one thousand students in adjusted  
31 enrollment: *And provided further*, That no permanent  
32 substitute shall be included in the minimum ratio for  
33 professional instructional personnel. Permanent substi-  
34 tutes may be included in the computation for profes-  
35 sional educators. For the purposes of this section,  
36 permanent substitute means a full-time employee who  
37 performs the duties of a day-to-day substitute: *And*

38 *provided further*, That no county shall have less than a  
39 total of five principals and central office administrators.  
40 Any county board which does not establish and maintain  
41 this minimum ratio shall suffer a pro rata reduction in  
42 the allowance for professional educators under this  
43 section: *And provided further*, That no county shall be  
44 penalized if it has increases in enrollment during that  
45 school year: *And provided further*, That any county  
46 board which does not establish and maintain this  
47 minimum ratio shall utilize any and all allocations to it  
48 by provision of section fourteen of this article solely to  
49 employ professional instructional personnel until the  
50 minimum ratio is attained. Every county shall utilize  
51 methods other than reductions in force, such as attrition  
52 and early retirement, before implementing their  
53 reductions in force policy to comply with the limitations  
54 of this section. It is the intent of the Legislature that in  
55 planning reductions in force to comply with reduced  
56 ratios of professional educators to students in adjusted  
57 enrollment, county boards shall consider positions for  
58 elimination in the following order: (1) Central office  
59 administrators, (2) assistant principals, and (3)  
60 principals.

61 No county shall increase the number of administrative  
62 personnel employed as either professional educators or  
63 pay grade "H" service personnel above the number  
64 which were employed, or for which positions were  
65 posted, on the thirtieth day of June, one thousand nine  
66 hundred ninety, and, therefore, county boards shall  
67 whenever possible utilize classroom teachers for curric-  
68 ulum administrative positions through the use of  
69 modified or extended contracts: *Provided*, That the  
70 governor shall submit a recommendation to the Legis-  
71 lature at the beginning of the regular session thereof in  
72 the year one thousand nine hundred ninety-one, which  
73 proposes a method for establishing a responsible level  
74 of administrative support for each county school system  
75 and a pay scale differentiation on a daily rate between  
76 classroom positions and administrative positions when  
77 all other factors are equal.

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

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

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

43 that in no case shall the limit be fewer than two service  
44 personnel until the county attains the maximum ratio  
45 set forth: *Provided, however,* That where two or more  
46 counties join together in support of a vocational or  
47 comprehensive high school or any other program or  
48 service, the service personnel for the school or program  
49 may be prorated among the participating counties on  
50 the basis of each one's enrollment therein and that the  
51 personnel shall be considered within the above-stated  
52 limit.

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

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

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

1 (a) For the school year beginning on the first day of  
2 July, one thousand nine hundred ninety-three only,  
3 thirty-two million, five hundred twenty thousand, nine  
4 hundred ninety-four dollars, unless a greater amount is  
5 appropriated by the Legislature, in addition to funds  
6 which accrue from allocations due to increase in total  
7 local share above that computed for the school year  
8 beginning on the first day of July, one thousand nine



9 hundred ninety-three, from balances in the general  
10 school fund, or from appropriations for such purpose  
11 shall be allocated to increase state support of counties  
12 as follows: *Provided*, That for the school year beginning  
13 on the first day of July, one thousand nine hundred  
14 ninety-three only, no county shall gain more than  
15 seventy-three and sixty-six one-hundredths percent or  
16 lose more than twenty-six and thirty-four one-hun-  
17 dredths percent over the previous year's allocation:  
18 *Provided, however*, That for the school year beginning  
19 on the first day of July, one thousand nine hundred  
20 ninety-four and thereafter, the sum of the allocations  
21 shall be in an amount at least equal to the amount  
22 appropriated by the Legislature, in addition to funds  
23 which accrue from allocations due to increase in total  
24 local share above that computed for the previous school  
25 year, from balances in the general school fund, or from  
26 appropriations for such purposes.

27 (1) One hundred fifty thousand dollars shall be  
28 allocated to each county; and

29 (2) Distribution to the counties of the remainder of  
30 these funds shall be made proportional to the average  
31 of each county's average daily attendance for the  
32 preceding year and the county's second month net  
33 enrollment.

34 Moneys allocated by provision of this section shall be  
35 used to improve instructional programs according to a  
36 plan for instructional improvement which the affected  
37 county board shall file with the state board by the first  
38 day of August of each year, to be approved by the state  
39 board by the first day of September of that year if such  
40 plan substantially complies with standards to be  
41 adopted by the state board: *Provided*, That notwith-  
42 standing any other provision of the code to the contrary,  
43 moneys allocated by provision of this section may also  
44 be used in the implementation and maintenance of the  
45 uniform integrated regional computer information  
46 system.

47 (3) For the school year beginning on the first day of  
48 July, one thousand nine hundred ninety-three, up to

49 twenty-five percent of this allocation may be used to  
50 employ professional educators and/or service personnel  
51 in counties after all applicable provisions of sections four  
52 and five of this article have been fully utilized.

53 Prior to the use of any funds from this section for  
54 personnel costs, the county board must receive author-  
55 ization from the state superintendent of schools. The  
56 state superintendent shall require the district board to  
57 demonstrate: (1) The need for the allocation, (2)  
58 efficiency and fiscal responsibility in staffing, and (3)  
59 sharing of services with adjoining counties and the  
60 regional educational service agency for that county in  
61 the use of the total local district board budget. District  
62 boards shall make application for available funds by the  
63 first day of May: *Provided*, That for the school year  
64 beginning on the first day of July, one thousand nine  
65 hundred ninety-three only, district boards shall make  
66 application for available funds by the fifteenth day of  
67 June, one thousand nine hundred ninety-three. On or  
68 before the first day of June, the state superintendent  
69 shall review all applications and notify applying district  
70 boards of the distribution of the allocation: *Provided*,  
71 That for the school year beginning on the first day of  
72 July, one thousand nine hundred ninety-three only, the  
73 state superintendent shall review all applications and  
74 notify applying district boards of the distribution of the  
75 allocation on or before the first day of July, one thousand  
76 nine hundred ninety-three. Such funds shall be distrib-  
77 uted during the fiscal year as appropriate. The state  
78 superintendent shall require the county board to  
79 demonstrate the need for an allocation for personnel  
80 based upon the county's inability to meet the require-  
81 ments of state law or state board policy: *Provided*, That  
82 the funds available for personnel under this section may  
83 not be used to increase the total number of professional  
84 noninstructional personnel in the central office beyond  
85 four. Such instructional improvement plan shall be  
86 made available for distribution to the public at the office  
87 of each affected county board.

88 (b) Commencing with the school year beginning on the  
89 first day of July, one thousand nine hundred ninety-

90 three, thirty-five million, four hundred forty thousand,  
91 four hundred ninety-three dollars shall be paid into the  
92 school building capital improvements fund created by  
93 section six, article nine-d of this chapter, and shall be  
94 used solely for the purposes of said article nine-d:  
95 *Provided*, That in the event that additional money is  
96 authorized for expenditure for new construction bonds,  
97 then this appropriation shall be increased in an amount  
98 no less than the new debt service. In each fiscal year  
99 thereafter, fifty percent of the funds which accrue due  
100 to an increase in local share above that computed for the  
101 school year beginning on the first day of July, one  
102 thousand nine hundred eighty-seven, shall be paid into  
103 the school building capital improvements fund created  
104 by section six, article nine-d of this chapter, and shall  
105 be used solely for the purposes of said article nine-d:  
106 *Provided, however*, That if funds are available and  
107 appropriated in each such subsequent fiscal year, not  
108 less than seven million seven hundred thousand dollars  
109 shall be added to the amount of the prior year's  
110 appropriation for such fund.

**§18-9A-11. Computation of local share; appraisal and  
assessment of property.**

1 (a) For the fiscal year beginning on the first day of  
2 July, one thousand nine hundred ninety-three, and  
3 thereafter, on the basis of each county's certificates of  
4 valuation as to all classes of property as determined and  
5 published by the assessors pursuant to section six,  
6 article three, chapter eleven of this code for the next  
7 ensuing fiscal year in reliance upon the assessed values  
8 annually developed by each county assessor pursuant to  
9 the provisions of article one-c and article three, chapter  
10 eleven of this code, the state board shall for each county  
11 compute by application of the levies for general current  
12 expense purposes, as defined in section two of this  
13 article, the amount of revenue which such levies would  
14 produce if levied upon one hundred percent of the  
15 assessed value of each of the several classes of property  
16 contained in the report or revised report of such value,  
17 made to it by the tax commissioner as follows:

18 (1) The state board shall first take ninety-five percent

19 of the amount ascertained by applying these rates to the  
20 total assessed public utility valuation in each classifica-  
21 tion of property in the county.

22 (2) The state board shall then apply these rates to the  
23 assessed taxable value of other property in each  
24 classification in the county as determined by the tax  
25 commissioner and shall deduct therefrom five percent  
26 as an allowance for the usual losses in collections due  
27 to discounts, exonerations, delinquencies and the like.  
28 All of the amount so determined shall be added to the  
29 ninety-five percent of public utility taxes computed as  
30 provided above, and this total shall be further reduced  
31 by the amount due each county assessor's office pursuant  
32 to the provisions of section eight, article one-c, chapter  
33 eleven of this code, and this amount shall be the local  
34 share of the particular county.

35 As to any estimations or preliminary computations of  
36 local share that may be required prior to the report to  
37 the legislature by the tax commissioner, the state board  
38 of education shall use the most recent projections or  
39 estimations that may be available from the tax depart-  
40 ment for such purpose.

41 (b) Whenever in any year a county assessor or a county  
42 commission shall fail or refuse to comply with the  
43 provisions of this section in setting the valuations of  
44 property for assessment purposes in any class or classes  
45 of property in the county, the state tax commissioner  
46 shall review the valuations for assessment purposes  
47 made by the county assessor and the county commission  
48 and shall direct the county assessor and the county  
49 commission to make such corrections in the valuations  
50 as may be necessary so that they shall comply with the  
51 requirements of chapter eleven of this code and this  
52 section, and the tax commissioner shall enter the county  
53 and fix the assessments at the required ratios. Refusal  
54 of the assessor or the county commission to make such  
55 corrections shall constitute ground for removal from  
56 office.

**§18-9A-12. County basic foundation; total basic state aid allowance.**

1 (a) The basic foundation program for each county for  
2 the fiscal year shall be the sum of the amounts computed  
3 in accordance with the provisions of sections four, five,  
4 six, seven, eight, nine and ten of this article. On the first  
5 working day of July in each year, the state board shall  
6 determine the basic foundation program for each county  
7 for that fiscal year. Data used in the computations  
8 relating to net and adjusted enrollment, and the number  
9 of professional educators, shall be for the second month  
10 of the prior school term. Transportation expenditures  
11 used in these computations shall be for the most recent  
12 year in which data are available. The allocated state aid  
13 share of the county's basic foundation program shall be  
14 the difference between the cost of its basic foundation  
15 program and the county's local share as determined in  
16 section eleven of this article except as provided in  
17 subsection (b) of this section.

18 (b) The allocated state aid share shall be adjusted in  
19 the following circumstances in the following manner:  
20 *Provided*, That prior to such adjustment, the state tax  
21 commissioner shall provide the state board, by the  
22 fifteenth day of January of each year, a certified listing  
23 of those counties in which such adjustment shall be  
24 made pursuant to this subsection, together with the  
25 amount of revenue which will not be available to each  
26 county board in the ensuing fiscal year as a result of the  
27 circumstance.

28 (1) In those instances where the local share as  
29 computed under section eleven of this article is not  
30 reflective of local funds available because the county is  
31 under a final court order to refund or credit property  
32 taxes paid in prior years, the allocated state aid share  
33 shall be the county's basic foundation program, minus  
34 the local share as computed under section eleven of this  
35 article, plus the amount of property tax the county is  
36 unable to collect or must refund due to the final court  
37 order: *Provided*, That said adjustment shall not be made  
38 or shall only be made proportionately when the Legis-  
39 lature fails to fund or funds only in part the public  
40 school basic foundation support plan state share at a  
41 level sufficient to cover the reduction in state share:

42 *Provided, however,* That nothing herein provided shall  
43 be construed to require or mandate any level of funding  
44 by the Legislature.

45 (2) In those instances where the local share as  
46 computed under section eleven of this article is not  
47 reflective of local funds available because the county is  
48 collecting tax based upon an assessed value which is less  
49 than that determined by the tax commissioner in the  
50 most recent published survey of property valuations in  
51 the state due to an error in the published survey, which  
52 error is certified to by the tax commissioner, the  
53 allocated state aid share shall be the county's basic  
54 foundation program, minus the local share as computed  
55 under section eleven of this article, plus the amount of  
56 property tax the county is unable to collect based on  
57 differences in the assessed valuation between those in  
58 the most recent published survey of valuation and the  
59 corrected assessed value actually levied upon by the  
60 county: *Provided,* That said adjustment shall not be  
61 made or shall only be made proportionately when the  
62 Legislature fails to fund or funds only in part the public  
63 school basic foundation support plan state share at a  
64 level sufficient to cover the reduction in state share:  
65 *Provided, however,* That nothing herein provided shall  
66 be construed to require or mandate any level of funding  
67 by the Legislature.

68 (3) In instances where a county is unable to collect  
69 property taxes from a taxpayer during the pendency of  
70 any court proceedings, the allocated state aid share shall  
71 be the county's basic foundation program minus the  
72 local share as computed under section eleven of this  
73 article, plus the amount the county is unable to collect  
74 as a result of the pending court proceedings as certified  
75 by the tax commissioner: *Provided,* That the county is  
76 required to reimburse the amount of allocated state aid  
77 share attributable to the amount of property tax it later  
78 receives upon completion of court proceedings, which  
79 shall be paid into the general revenue fund of the state:  
80 *Provided, however,* That said adjustment shall not be  
81 made or shall only be made proportionately when the  
82 Legislature fails to fund or funds only in part the public

83 school basic foundation support plan state share at a  
84 level sufficient to cover the reduction in state share:  
85 *Provided further*, That nothing herein provided shall be  
86 construed to require or mandate any level of funding by  
87 the Legislature.

88 (c) The allocated state aid share shall be adjusted in  
89 any county receiving payments or contributions in lieu  
90 of property taxes. In instances where a county receives  
91 payments or contributions in lieu of property taxes, the  
92 allocated state aid share shall be the county's basic  
93 foundation program minus the local share as computed  
94 under section eleven of this article, plus any amounts  
95 added pursuant to subsection (b) of this section minus  
96 the payments or contributions in lieu of property taxes  
97 which are distributed by the sheriff to the county board  
98 of education. In determining the amount of such  
99 contribution or payment in lieu of taxes, each county  
100 commission shall provide to the state tax commissioner,  
101 by the first day of January of each year, the total  
102 amount of such payments or contributions paid to the  
103 county and the proportion of the total amount that has  
104 been or will be distributed to the county board of  
105 education. The state tax commissioner then shall  
106 provide the state board, by the fifteenth day of January  
107 of each year, a certified listing of those counties in which  
108 an adjustment pursuant to this section shall be made,  
109 together with the amount of revenue which will be  
110 available to each county board in the ensuing fiscal year  
111 as a result of contribution or payment in lieu of taxes.

112 (d) Total basic state aid to the county shall be the  
113 computed state share of basic foundation support. After  
114 such computation is completed, the state board shall  
115 immediately certify to each county board the amount of  
116 state aid allocated to the county for that fiscal year,  
117 subject to any qualifying provisions of this article.

## CHAPTER 18A. SCHOOL PERSONNEL.

### ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.

#### §18A-4-7b. Calculation of seniority for professional personnel.

1 Notwithstanding any other provision of this code to  
2 the contrary, seniority for professional personnel as  
3 defined in section one, article one, chapter eighteen-a of  
4 this code shall be calculated pursuant to the provisions  
5 of section seven-a of this article as well as the following:  
6 *Provided*, That any recalculation of seniority of a  
7 professional personnel employee that may be required  
8 in order to remain consistent with the provisions  
9 contained herein shall be calculated retroactively, but  
10 shall not be utilized for the purposes of reversing any  
11 decision that has been made or grievance that has been  
12 filed prior to the effective date of this section:

13 (a) A professional employee shall begin to accrue  
14 seniority upon commencement of the employee's duties.

15 (b) An employee shall receive seniority credit for each  
16 day the employee is professionally employed regardless  
17 of whether the employee receives pay for that day:  
18 *Provided*, That no employee shall receive seniority credit  
19 for any day the employee is suspended without pay  
20 pursuant to section eight, article two of this chapter:  
21 *Provided, however*, That an employee who is on an  
22 approved leave of absence shall accrue seniority during  
23 the period of time that the employee is on the approved  
24 leave of absence.

25 (c) Any professional employee whose employment with  
26 a county board of education is terminated either  
27 voluntarily or through a reduction-in-force shall, upon  
28 reemployment with the same board of education in a  
29 regular full-time position, receive credit for all seniority  
30 previously accumulated with the board of education at  
31 the date the employee's employment was terminated.

32 (d) Any professional employee employed for a full  
33 employment term but in a part-time position shall  
34 receive seniority credit for each day of employment  
35 prorated to the proportion of a full employment day the  
36 employee is required to work: *Provided*, That nothing  
37 herein allows a regular full-time employee to be credited  
38 with less than a full day of seniority credit for each day  
39 the employee is employed by the board: *Provided*,  
40 *however*, That this calculation of seniority for part-time



41 professional personnel is prospective and does not  
42 reduce any seniority credit accumulated by any em-  
43 ployee prior to the effective date of this statute: *Provided*  
44 *further*, That for the purposes of this section a part-time  
45 employee shall be defined as an employee who is  
46 employed less than three and one-half hours per day.

**§18A-4-17. Health and other facility employee salaries.**

1 (a) The minimum salary scale for professional person-  
2 nel and service personnel employed by the state  
3 department of education to provide educational and  
4 support services to residents of state department of  
5 health and human resources facilities, corrections  
6 facilities providing services to juvenile and youthful  
7 offenders, and in the West Virginia schools for the deaf  
8 and the blind or professional personnel employed by the  
9 division of rehabilitation services facilities shall be the  
10 same as set forth in sections two, three and eight-a of  
11 this article. Additionally, such personnel shall receive  
12 the equivalent of salary supplements paid to professional  
13 and service personnel employed by the county board of  
14 education in the county wherein each facility is located,  
15 as set forth in sections five-a and five-b of this article.  
16 Professional personnel and service personnel in these  
17 facilities who earn advanced classification of training  
18 after the effective date of this section shall be paid such  
19 advanced salary from the date such classification of  
20 training is earned: *Provided*, That beginning on the first  
21 day of July, one thousand nine hundred ninety-four,  
22 teachers employed at the state division of rehabilitation  
23 services facilities shall be required to be certified,  
24 licensed, or trained and/or shall meet other eligibility  
25 classifications as may be required by the provisions of  
26 this chapter and by state board regulations for compar-  
27 able instructional personnel who are employed by  
28 county boards of education, and shall be paid at the  
29 equivalent rate of pay of teachers as set forth in section  
30 two of this article, but outside the public support plan,  
31 plus the equivalent of the salary supplement paid to  
32 teachers employed by the county board of education in  
33 the county wherein each facility is located, as set forth  
34 in section five-a of this article.

35 (b) Professional personnel employed by the depart-  
36 ment to provide educational service to residents in state  
37 department of health and human resources facilities,  
38 corrections facilities providing services to juvenile and  
39 youthful offenders, or in the West Virginia schools for  
40 the deaf and the blind, or professional personnel  
41 employed by the division of rehabilitation services  
42 facilities shall be afforded all the rights, privileges and  
43 benefits established for such professional personnel  
44 under this article: *Provided*, That such benefits shall  
45 apply only within the facility at which employed:  
46 *Provided, however*, That benefits shall exclude salaries  
47 unless explicitly provided for under this or other  
48 sections of this article: *Provided further*, That seniority  
49 for such professional personnel shall be determined on  
50 the basis of the length of time that the employee has  
51 been professionally employed at the facility, regardless  
52 of which state agency was the actual employer.

53 (c) Nothing contained in this section shall be construed  
54 to mean that professional personnel and service person-  
55 nel employed by the department of education to provide  
56 educational and support services to residents in state  
57 department of health and human resources facilities,  
58 corrections facilities providing services to juvenile and  
59 youthful offenders and the West Virginia schools for the  
60 deaf and the blind, or professional personnel employed  
61 to provide professional education services in the division  
62 of rehabilitation services facilities are other than state  
63 employees.

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

*[Handwritten Signature]*  
.....  
Chairman Senate Committee

*Ernest C Moore*  
.....  
Chairman House Committee

Originating in the House.

Takes effect from passage.

*Russell Williams*  
.....  
Clerk of the Senate

*Donald Z. Klapp*  
.....  
Clerk of the House of Delegates

*Scott Switzer*  
.....  
President of the Senate

*[Handwritten Signature]*  
.....  
Speaker of the House of Delegates

The within *approved* this the *9<sup>th</sup>*  
day of *June*, 1993.

*Yaston Caperton*  
.....  
And

PRESENTED TO THE

GOVERNOR

Date 6/7/43

Time 3:55 pm

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