

Senate Bill No. 288

(By Senators Cole (Mr. President) and Kessler,

By Request of the Executive)

[Introduced January 23, 2015; referred to the Committee on Education; and then to the

Committee on Finance.]

**FISCAL
NOTE**

10 A BILL to amend and reenact §11-8-6f of the Code of West Virginia, 1931, as amended; and to
11 amend and reenact §18-9A-7, §18-9A-11 and §18-9A-12 of said code, all relating to public
12 school finance; eliminating authority of growth county boards of education to designate
13 regular school board levy revenues due to new construction or improvements to Growth
14 County School Facilities Act Fund; adjusting foundation school program allowance for
15 transportation costs; including propane as an eligible fuel for the ten-percent additional
16 percentage allowance for school bus systems using alternative fuels; changing percent of the
17 replacement value of bus fleets included in calculation of allowance in foundation school
18 program for transportation; and eliminating certain adjustments in basic foundation program.

19 *Be in enacted by the Legislature of West Virginia:*

20 That §11-8-6f of the Code of West Virginia, 1931, as amended, be amended and reenacted;
21 and that §18-9A-7, §18-9A-11 and §18-9A-12 of said code be amended and reenacted, all to read

1 as follows:

2

CHAPTER 11. TAXATION.

3 **ARTICLE 8. LEVIES.**

4 **§11-8-6f. Regular school board levy rate.**

5 (a) Notwithstanding any other provision of law, where any annual appraisal, triennial
6 appraisal or general valuation of property would produce a statewide aggregate assessment that
7 would cause an increase of two percent or more in the total property tax revenues that would be
8 realized were the then current regular levy rates of the county boards of education to be imposed, the
9 rate of levy for county boards of education shall be reduced uniformly statewide and proportionately
10 for all classes of property for the forthcoming tax year so as to cause the rate of levy to produce no
11 more than one hundred two percent of the previous year's projected statewide aggregate property tax
12 revenues from extending the county board of education levy rate, unless subsection (b) of this section
13 is complied with. The reduced rates of levy shall be calculated in the following manner: (1) The
14 total assessed value of each class of property as it is defined by section five of this article for the
15 assessment period just concluded shall be reduced by deducting the total assessed value of newly
16 created properties not assessed in the previous year's tax book for each class of property; (2) the
17 resulting net assessed value of Class I property shall be multiplied by .01; the value of Class II by
18 .02; and the values of Classes III and IV, each by .04; (3) total the current year's property tax revenue
19 resulting from regular levies for the boards of education throughout this state and multiply the
20 resulting sum by one hundred two percent: *Provided*, That the one hundred two percent figure shall
21 be increased by the amount the boards of education's increased levy provided for in subsection (b),

1 section eight, article one-c of this chapter; (4) divide the total regular levy tax revenues, thus
2 increased in subdivision (3) of this subsection, by the total weighted net assessed value as calculated
3 in subdivision (2) of this subsection and multiply the resulting product by one hundred; the resulting
4 number is the Class I regular levy rate, stated as cents-per-\$100 of assessed value; and (5) the Class
5 II rate is two times the Class I rate; Classes III and IV, four times the Class I rate as calculated in the
6 preceding subdivision.

7 An additional appraisal or valuation due to new construction or improvements, including
8 beginning recovery of natural resources, to existing real property or newly acquired personal property
9 shall not be an annual appraisal or general valuation within the meaning of this section, nor shall the
10 assessed value of the improvements be included in calculating the new tax levy for purposes of this
11 section. Special levies shall not be included in any calculations under this section.

12 (b) After conducting a public hearing, the Legislature may, by act, increase the rate above the
13 reduced rate required in subsection (a) of this section if an increase is determined to be necessary.

14 (c) The State Tax Commissioner shall report to the Joint Committee on Government and
15 Finance and the Legislative Oversight Commission on Education Accountability by March 1, of each
16 year on the progress of assessors in each county in assessing properties at the constitutionally
17 required sixty percent of market value and the effects of increasing the limit on the increase in total
18 property tax revenues set forth in this section to two percent.

19 ~~(d) Growth County School Facilities Act. — Legislative findings. —~~

20 ~~The Legislature finds and declares that there has been, overall, a statewide decline in~~
21 ~~enrollment in the public schools of this state, due to this decline, most public schools have ample~~

1 ~~space for students, teachers and administrators; however, some counties of this state have~~
2 ~~experienced significant increases in enrollment due to significant growth in those counties; that those~~
3 ~~counties experiencing significant increases do not have adequate facilities to accommodate students,~~
4 ~~teachers and administrators. Therefore, the Legislature finds that county boards of education in those~~
5 ~~high-growth counties should have the authority to designate revenues generated from the application~~
6 ~~of the regular school board levy due to new construction or improvements placed in a Growth~~
7 ~~County School Facilities Act Fund be used for school facilities in those counties to promote the best~~
8 ~~interests of this state's students.~~

9 ~~(1) For the purposes of this subsection, "growth county" means any county that has~~
10 ~~experienced an increase in second month net enrollment of fifty or more during any three of the last~~
11 ~~five years, as determined by the state Department of Education.~~

12 ~~(2) The provisions of this subsection shall only apply to any growth county, as defined in~~
13 ~~subdivision (1) of this subsection, that, by resolution of its county board of education, chooses to use~~
14 ~~the provisions of this subsection.~~

15 ~~(3) For any growth county, as defined in subdivision (1) of this subsection, that adopts a~~
16 ~~resolution choosing to use the provisions of this subsection, pursuant to subdivision (2) of this~~
17 ~~subsection, assessed values resulting from additional appraisal or valuation due to new construction~~
18 ~~or improvements to existing real property shall be designated as new property values and identified~~
19 ~~by the county assessor. The statewide regular school board levy rate as established by the Legislature~~
20 ~~shall be applied to the assessed value designated as new property values and the resulting property~~
21 ~~tax revenues collected from application of the regular school board levy rate shall be placed in a~~

1 separate account designated as the Growth County School Facilities Act Fund. Revenues deposited
2 in the Growth County School Facilities Act Fund shall be appropriated by the county board of
3 education for construction, maintenance or repair of school facilities. Revenues in the fund may be
4 carried over for an indefinite length of time and may be used as matching funds for the purpose of
5 obtaining funds from the School Building Authority or for the payment of bonded indebtedness
6 incurred for school facilities. For any growth county choosing to use the provisions of this
7 subsection, estimated school board revenues generated from application of the regular school board
8 levy rate to new property values are not to be considered as local funds for purposes of the
9 computation of local share under the provisions of section eleven, article nine-a, chapter eighteen
10 of this code.

11 ~~(e) This section, as amended during the legislative session in the year 2004, shall be effective~~
12 ~~as to any regular levy rate imposed for the county boards of education for taxes due and payable on~~
13 ~~or after July 1, 2004. If any provision of this section is held invalid, the invalidity shall not affect~~
14 ~~other provisions or applications of this section which can be given effect without the invalid~~
15 ~~provision or its application and to this end the provisions of this section are declared to be severable.~~

16 **CHAPTER 18. EDUCATION.**

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

18 **§18-9A-7. Foundation allowance for transportation cost.**

19 (a) The allowance in the foundation school program for each county for transportation shall
20 be the sum of the following computations:

21 (1) A percentage of the transportation costs incurred by the county for maintenance, operation

1 and related costs exclusive of all salaries, including the costs incurred for contracted transportation
2 services and public utility transportation, as follows:

3 (A) For each high-density county, eighty-seven and one-half percent;

4 (B) For each medium-density county, ninety percent;

5 (C) For each low-density county, ninety-two and one-half percent;

6 (D) For each sparse-density county, ninety-five percent;

7 (E) For any county for the transportation cost for maintenance, operation and related costs,
8 exclusive of all salaries, for transporting students to and from classes at a multicounty vocational
9 center, the percentage provided in paragraphs (A) through (D) of this subdivision as applicable for
10 the county plus an additional ten percent; and

11 (F) For any county for that portion of its school bus system that uses as an alternative fuel
12 compressed natural gas or propane, the percentage provided in paragraphs (A) through (D) of this
13 subdivision as applicable for the county plus an additional ten percent: *Provided*, That for any
14 county receiving an additional ten percent for that portion of their bus system using bio-diesel as an
15 alternative fuel during the school year 2012-2013, bio-diesel shall continue to qualify as an
16 alternative fuel under this paragraph to the extent that the additional percentage applicable to that
17 portion of the bus system using bio-diesel shall be decreased by two and one-half percent per year
18 for four consecutive school years beginning in school year 2014-2015: *Provided, however*, That any
19 county using an alternative fuel and qualifying for the additional allowance under this subdivision
20 shall submit a plan regarding the intended future use of alternatively fueled school buses;

21 (2) The total cost, within each county, of insurance premiums on buses, buildings and

1 equipment used in transportation;

2 (3) For the school year beginning July 1, 2015, and thereafter, an amount equal to ~~eight and~~
 3 ~~one-third~~ six and two-thirds percent of the current replacement value of the bus fleet within each
 4 county as determined by the state board. The amount shall only be used for the replacement of
 5 buses. Buses purchased after July 1, ~~1999~~ 2015, that are driven ~~one hundred eighty two hundred~~
 6 forty thousand miles, regardless of year model, will be subject to the replacement value of ~~eight and~~
 7 ~~one-third~~ six and two-thirds percent as determined by the state board. In addition, in any school year
 8 in which its net enrollment increases when compared to the net enrollment the year immediately
 9 preceding, a school district may apply to the state superintendent for funding for an additional bus
 10 or buses. The state superintendent shall make a decision regarding each application based upon an
 11 analysis of the individual school district's net enrollment history and transportation needs: *Provided,*
 12 That the superintendent shall not consider any application which fails to document that the county
 13 has applied for federal funding for additional buses. If the state superintendent finds that a need
 14 exists, a request for funding shall be included in the budget request submitted by the state board for
 15 the upcoming fiscal year; and

16 (4) Aid in lieu of transportation equal to the state average amount per pupil for each pupil
 17 receiving the aid within each county.

18 (b) The total state share for this purpose ~~shall be~~ is the sum of the county shares: *Provided,*
 19 That no county shall receive an allowance which is greater than one-third above the computed state
 20 average allowance per transportation mile multiplied by the total transportation mileage in the county
 21 exclusive of the allowance for the purchase of additional buses.

1 (c) One half of one percent of the transportation allowance distributed to each county shall
2 be for the purpose of trips related to academic classroom curriculum and not related to any
3 extracurricular activity. Any remaining funds credited to a county for the purpose of trips related
4 to academic classroom curriculum during the fiscal year shall be carried over for use in the same
5 manner the next fiscal year and shall be separate and apart from, and in addition to, the appropriation
6 for the next fiscal year. The state board may request a county to document the use of funds for trips
7 related to academic classroom curriculum if the board determines that it is necessary.

8 **§18-9A-11. Computation of local share; appraisal and assessment of property; valuations for**
9 **tax increment financing purposes; public library support.**

10 (a) On the basis of each county's certificates of valuation as to all classes of property as
11 determined and published by the assessors pursuant to section six, article three, chapter eleven of this
12 code for the next ensuing fiscal year in reliance upon the assessed values annually developed by each
13 county assessor pursuant to articles one-c and three of that chapter, the state board shall for each
14 county compute by application of the levies for general current expense purposes, as defined in
15 section two of this article, the amount of revenue which the levies would produce if levied upon one
16 hundred percent of the assessed value of each of the several classes of property contained in the
17 report or revised report of the value made to it by the Tax Commissioner as follows:

18 (1) For each fiscal year beginning before July 1, 2014, the state board shall first take
19 ninety-five percent of the amount ascertained by applying these rates to the total assessed public
20 utility valuation in each classification of property in the county. For each fiscal year beginning after
21 June 30, 2014, the state board shall first take ninety-six percent of the amount ascertained by

1 applying these rates to the total assessed public utility valuation in each classification of property in
2 the county; and

3 (2) For each fiscal year beginning before July 1, 2014, the state board shall then apply these
4 rates to the assessed taxable value of other property in each classification in the county as determined
5 by the Tax Commissioner and shall deduct therefrom five percent as an allowance for the usual
6 losses in collections due to discounts, exonerations, delinquencies and the like. For each fiscal year
7 beginning after June 30, 2014, the state board shall then apply these rates to the assessed taxable
8 value of other property in each classification in the county as determined by the Tax Commissioner
9 and shall deduct therefrom four percent as an allowance for the usual losses in collections due to
10 discounts, exonerations, delinquencies and the like. All of the amount so determined shall be added
11 to the ninety-five or ninety-six percent, as applicable, of public utility taxes computed as provided
12 in subdivision (1) of this subsection and this total shall be further reduced by the amount due each
13 county assessor's office pursuant to section eight, article one-c, chapter eleven of this code and this
14 amount shall be the local share of the particular county.

15 As to any estimations or preliminary computations of local share required prior to the report
16 to the Legislature by the Tax Commissioner, the state shall use the most recent projections or
17 estimations that may be available from the Tax Department for that purpose.

18 (b) It is the intent of the Legislature that the computation of local share for public school
19 support continue to be based upon actual real property values rather than assumed assessed real
20 property values that are based upon an assessment ratio study, and that the annual amount of local
21 share for which a county board of education is responsible continue to be computed without

1 reference to whether the real property assessments in that county were at least fifty-four percent of
2 market value in the prior year as indicated by the assessment ratio study. Accordingly, the effective
3 date of the operation of this section as amended and reenacted during 2014, and the effective date
4 of the operation of the repeal of section two-a of this article and the operation of the repeal of section
5 five-b, article one-c, chapter eleven of this code, all as provided under this enactment, are expressly
6 made retrospective to June 30, 2013.

7 (c) Whenever in any year a county assessor or a county commission fails or refuses to comply
8 with this section in setting the valuations of property for assessment purposes in any class or classes
9 of property in the county, the State Tax Commissioner shall review the valuations for assessment
10 purposes made by the county assessor and the county commission and shall direct the county
11 assessor and the county commission to make corrections in the valuations as necessary so that they
12 comply with the requirements of chapter eleven of this code and this section and the Tax
13 Commissioner may enter the county and fix the assessments at the required ratios. Refusal of the
14 assessor or the county commission to make the corrections constitutes grounds for removal from
15 office.

16 (d) For the purposes of any computation made in accordance with this section, in any taxing
17 unit in which tax increment financing is in effect pursuant to article eleven-b, chapter seven of this
18 code, the assessed value of a related private project shall be the base-assessed value as defined in
19 section two of said article.

20 ~~(e) For purposes of any computation made in accordance with this section, in any county~~
21 ~~where the county board of education has adopted a resolution choosing to use the Growth County~~

1 ~~School Facilities Act set forth in section six-f, article eight, chapter eleven of this code, estimated~~
2 ~~school board revenues generated from application of the regular school board levy rate to new~~
3 ~~property values, as that term is designated in said section, may not be considered local share funds~~
4 ~~and shall be subtracted before the computations in subdivisions (1) and (2), subsection (a) of this~~
5 ~~section are made.~~

6 (f) (e) The Legislature finds that public school systems throughout the state provide support
7 in varying degrees to public libraries through a variety of means including budgeted allocations,
8 excess levy funds and portions of their regular school board levies. A number of public libraries are
9 situated on the campuses of public schools and several are within public school buildings serving
10 both the students and public patrons. To the extent that public schools recognize and choose to avail
11 the resources of public libraries toward developing within their students such legally recognized
12 elements of a thorough and efficient education as literacy, interests in literature, knowledge of
13 government and the world around them and preparation for advanced academic training, work and
14 citizenship, public libraries serve a legitimate school purpose and may do so economically.
15 Therefore, county boards are encouraged to support public libraries within their counties.

16 **§18-9A-12. County basic foundation; total basic state aid allowance.**

17 (a) The basic foundation program for each county for the fiscal year shall be the sum of the
18 amounts computed in accordance with the provisions of sections four, five, six, seven, eight, nine
19 and ten of this article. On the first working day of July, in each year, the state board shall determine
20 the basic foundation program for each county for that fiscal year. Data used in the computations
21 relating to net and adjusted enrollment, and the number of professional educators, shall be for the

1 second month of the prior school term. Transportation expenditures used in these computations shall
2 be for the most recent year in which data are available. The allocated state aid share of the county's
3 basic foundation program shall be the difference between the cost of its basic foundation program
4 and the county's local share as determined in section eleven of this article except as provided in
5 subsection (b) of this section.

6 (b) The allocated state aid share shall be adjusted in the following circumstances in the
7 following manner: *Provided*, That prior to such adjustment, the State Tax Commissioner shall
8 provide the state board, by January 15, of each year, a certified listing of those counties in which
9 such adjustment shall be made pursuant to this subsection, together with the amount of revenue
10 which will not be available to each county board in the ensuing fiscal year as a result of the
11 circumstance:

12 (1) In those instances where the local share as computed under section eleven of this article
13 is not reflective of local funds available because the county is under a final court order, or a final
14 decision of a board of assessment appeals under section twenty-four-b, article three, chapter eleven
15 of this code, to refund or credit property taxes paid in prior years, the allocated state aid share shall
16 be the county's basic foundation program, minus the local share as computed under section eleven
17 of this article, plus the amount of property tax the county is unable to collect or must refund due to
18 the final court order or final decision of a board of assessment appeals. ~~Provided, That said~~
19 ~~adjustment shall not be made or shall only be made proportionately when the Legislature fails to~~
20 ~~fund or funds only in part the public school basic foundation support plan state share at a level~~
21 ~~sufficient to cover the reduction in state share. Provided, however, That nothing herein provided~~

1 ~~shall be construed to require or mandate any level of funding by the Legislature.~~

2 (2) In those instances where the local share as computed under section eleven of this article
3 is not reflective of local funds available because the county is collecting tax based upon an assessed
4 value which is less than that determined by the Tax Commissioner in the most recent published
5 survey of property valuations in the state due to an error in the published survey, which error is
6 certified to by the Tax Commissioner, the allocated state aid share shall be the county's basic
7 foundation program, minus the local share as computed under section eleven of this article, plus the
8 amount of property tax the county is unable to collect based on differences in the assessed valuation
9 between those in the most recent published survey of valuation and the corrected assessed value
10 actually levied upon by the county. ~~Provided, That said adjustment shall not be made or shall only~~
11 ~~be made proportionately when the Legislature fails to fund or funds only in part the public school~~
12 ~~basic foundation support plan state share at a level sufficient to cover the reduction in state share:~~
13 ~~Provided, however, That nothing herein provided shall be construed to require or mandate any level~~
14 ~~of funding by the Legislature.~~

15 (3) In instances where a county is unable to collect property taxes from a taxpayer during the
16 pendency of any court proceeding, the allocated state aid share shall be the county's basic foundation
17 program minus the local share as computed under section eleven of this article, plus the amount the
18 county is unable to collect as a result of the pending court proceedings as certified by the Tax
19 Commissioner: *Provided*, That the county is required to reimburse the amount of allocated state aid
20 share attributable to the amount of property tax it later receives upon completion of court
21 proceedings, which shall be paid into the General Revenue Fund of the state. ~~Provided, however,~~

1 ~~That said adjustment shall not be made or shall only be made proportionately when the Legislature~~
2 ~~fails to fund or funds only in part the public school basic foundation support plan state share at a~~
3 ~~level sufficient to cover the reduction in state share. Provided further, That nothing herein provided~~
4 ~~shall be construed to require or mandate any level of funding by the Legislature.~~

5 (c) The allocated state aid share shall be adjusted in any county receiving payments or
6 contributions in lieu of property taxes. In instances where a county receives payments or
7 contributions in lieu of property taxes, the allocated state aid share shall be the county's basic
8 foundation program minus the local share as computed under section eleven of this article, plus any
9 amounts added pursuant to subsection (b) of this section minus the payments or contributions in lieu
10 of property taxes which are distributed by the sheriff to the county board of education. In
11 determining the amount of such contribution or payment in lieu of taxes, each county commission
12 shall provide to the State Tax Commissioner, by January 1, of each year, the total amount of such
13 payments or contributions paid to the county and the proportion of the total amount that has been or
14 will be distributed to the county board of education. The State Tax Commissioner then shall provide
15 the state board, by January 15, of each year, a certified listing of those counties in which an
16 adjustment pursuant to this section shall be made, together with the amount of revenue which will
17 be available to each county board in the ensuing fiscal year as a result of contribution or payment in
18 lieu of taxes.

19 (d) Total basic state aid to the county shall be the computed state share of basic foundation
20 support. After such computation is completed, the state board shall immediately certify to each
21 county board the amount of state aid allocated to the county for that fiscal year, subject to any

1 qualifying provisions of this article.

NOTE: The purpose of this bill is to revise certain aspects of public school finance and the school aid formula. First, it eliminates the authority of growth county boards of education to designate regular school board levy revenues due to new construction or improvements to a Growth County School Facilities Act Fund. Second, it authorizes propane as an eligible fuel for the ten percent additional percentage allowance for school bus systems using alternative fuels. Third, it extends the bus replacement cycle from twelve to fifteen years. Fourth, it eliminates certain adjustments in the basic foundation program.

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