

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4466

**FISCAL
NOTE**

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[Introduced February 9, 2016; Referred
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7 and §18-9A-10 of the
2 Code of West Virginia, 1931, as amended, all relating to public school support; basing the
3 allowable number of state aid professional educators be on a ratio basis, rather than the
4 number employed subject to a limit; providing a certain salary level be used when the
5 number of professional positions exceed the number employed in a county; basing
6 minimum professional instructional personnel required to be on a ratio basis of funded
7 professional educators; providing for prorating professional instructional personnel among
8 participating counties in a joint school or in joint programs and services; deleting obsolete
9 language and mandated periodic legislative review; basing the allowable number of
10 service personnel be on a ratio basis, rather than number employed subject to a limit;
11 providing a certain salary level be used when the number of service positions exceed the
12 number employed in a county; providing for proration of number and allowance of
13 personnel employed in part by state and county funds; adding professional student
14 support personnel allowance to calculation of teachers retirement fund allowance;
15 updating employer retirement contribution rate percentage used for calculating retirement
16 allowance to reflect both plans; allowing a limited portion of funds for bus purchases to be
17 used for certain facility, equipment and other current expense priorities if requested and
18 approved; reducing percent of growth in local share amount for improving instructional
19 programs; removing authorization for use of instructional improvement funds for
20 implementation and maintenance of regional computer information system; increasing
21 percent of growth in local share amount for improving instructional technology; increasing
22 base dollar amount to be distributed to each county; authorizing the use of instructional
23 technology improvement funds for employment of technology system specialist subject to
24 a limit and authorization by state superintendent; and specifying when certain debt service
25 funds payments are to be made into school building capital improvement fund.

Be it enacted by the Legislature of West Virginia:

1 That §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7 and §18-9A-10 of the Code of West
2 Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

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

1 (a) The basic foundation allowance to the county for professional educators shall be the
2 amount of money required to pay the state minimum salaries, in accordance with provisions of
3 article four, chapter eighteen-a of this code, ~~to the personnel employed,~~ subject to the following:

4 (1) ~~Subject to subdivision (2) of this subsection in,~~ In making this computation ~~ne a~~ a county
5 shall receive an allowance for ~~the personnel which number is in excess of professional educators~~
6 state aid eligible professional educator positions to each one thousand students in net enrollment
7 as follows:

8 (A) For each high-density county, ~~the number of personnel for which a county shall receive~~
9 ~~the allowance shall not exceed~~ seventy-two and ~~one tenth~~ three tenths professional educators
10 per each one thousand students in net enrollment;

11 (B) For each medium-density county, ~~the number of personnel for which a county shall~~
12 ~~receive the allowance shall not exceed~~ seventy-two and ~~twenty-five~~ forty-five one hundredths
13 professional educators per each one thousand students in net enrollment;

14 (C) For each low-density county, ~~the number of personnel for which a county shall receive~~
15 ~~the allowance shall not exceed~~ seventy-two and ~~four~~ six tenths professional educators per each
16 one thousand students in net enrollment; and

17 (D) For each sparse-density county, ~~the number of personnel for which a county shall~~
18 ~~receive the allowance shall not exceed~~ seventy-two and ~~fifty-five~~ seventy-five one hundredths
19 professional educators per each one thousand students in net enrollment;

20 (2) ~~For the ratios applicable to each of the four density categories set forth in subdivision~~
21 ~~(1) of this subsection, the number of professional educators per each one thousand students in~~
22 ~~net enrollment increases by five one hundredths per year for each of fiscal years 2010, 2011,~~

23 ~~2012 and 2013. For each fiscal year thereafter, the ratios remain at the 2013 level.~~

24 (2) When the number of state aid eligible professional educator positions determined for
25 a county pursuant to subdivision (1) of this subsection exceeds the number employed, the
26 average state funded salary of professional educators for the county shall be used to as the salary
27 for these vacant positions;

28 (3) The number of and the allowance for personnel paid in part by state and county funds
29 shall be prorated; and

30 (4) Where two or more counties join together in support of a vocational or comprehensive
31 high school or any other program or service, the professional educators for the school or program
32 may be prorated among the participating counties on the basis of each one's enrollment therein
33 and the personnel shall be considered within the above-stated limit.

34 (b) ~~Subject to subsection (c) of this section each,~~ Each county board shall establish and
35 maintain a minimum ratio of professional instructional personnel per ~~one thousand students in net~~
36 ~~enrollment~~ state aid funded professional educators as follows:

37 (1) For each high-density county, the minimum ~~number~~ ratio of professional instructional
38 personnel per ~~one thousand students in net enrollment is sixty-five and eight tenths~~ state aid
39 funded professional educators, or the number employed, whichever is less, is ninety-one and
40 twenty-nine one hundredths percent;

41 (2) For each medium-density county, the minimum ~~number~~ ratio of professional
42 instructional personnel per ~~one thousand students in net enrollment is sixty-five and nine tenths~~
43 state aid funded professional educators, or the number employed, whichever is less, is ninety-
44 one and twenty-four one hundredths percent;

45 (3) For each low-density county, the minimum ~~number~~ ratio of professional instructional
46 personnel per ~~one thousand students in net enrollment is sixty-six~~ state aid funded professional
47 educators, or the number employed, whichever is less, is ninety-one and eighteen one hundredths
48 percent;

49 (4) For each sparse-density county, the minimum ~~number~~ ratio of professional instructional
50 personnel per ~~one thousand students in net enrollment is sixty-six and five one hundredths~~ state
51 aid funded professional educators, or the number employed, whichever is less, is ninety-one and
52 seven one hundredths percent; and

53 (5) Where two or more counties join together in support of a vocational or comprehensive
54 high school or any other program or service, the professional instructional personnel for the school
55 or program may be prorated among the participating counties on the basis of each one's
56 enrollment therein and the personnel shall be considered within the above-stated limit.

57 ~~(c) For the ratios applicable to each of the four density categories set forth in subsection~~
58 ~~(b) of this subsection, the number of professional instructional personnel per each one thousand~~
59 ~~students in net enrollment increases by five one hundredths per year for each of fiscal years 2010,~~
60 ~~2011, 2012 and 2013. For each fiscal year thereafter, the ratios remain at the 2013 level.~~

61 ~~(d) (c)~~ Any county board which does not establish and maintain the applicable minimum
62 ratio required in subsection (b) of this section shall suffer a pro rata reduction in the allowance for
63 professional educators under this section: *Provided*, That ~~no~~ a county ~~shall~~ may not be penalized
64 if it has increases in enrollment during that school year. *Provided, however*, That ~~for the school~~
65 ~~year 2008-2009, only, no county shall be penalized for not meeting the applicable minimum ratio~~
66 ~~required in subsection (b) of this section.~~

67 ~~(e) No~~ (d) A county ~~shall~~ may not increase the number of administrative personnel
68 employed as either professional educators or pay grade "H" service personnel above the number
69 which were employed, or for which positions were posted, on June 30, 1990, and, therefore,
70 county boards shall whenever possible utilize classroom teachers for curriculum administrative
71 positions through the use of modified or extended contracts.

72 ~~(f) As the number of professional educators per each one thousand students in net~~
73 ~~enrollment increases during fiscal years 2009 through 2013, any additional positions that are~~
74 ~~created as a result of that increase shall be positions that will enhance student achievement and~~

75 ~~are consistent with the needs as identified in each county board's electronic county strategic~~
 76 ~~improvement plan. County boards are encouraged to fill at least some of the additional positions~~
 77 ~~with technology integration specialists.~~

78 ~~(g) During the 2008-2009 interim period, and every three interim periods thereafter, the~~
 79 ~~Legislative Oversight Commission on Education Accountability shall review the four density~~
 80 ~~categories created in section two of this article, the ratios for professional educators established~~
 81 ~~in this section and the ratios for service personnel established in section five of this article.~~

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

1 (a) The basic foundation allowance to the county for service personnel shall be the amount
 2 of money required to pay the annual state minimum salaries in accordance with the provisions of
 3 article four, chapter eighteen-a of this code, ~~to such service personnel employed, subject to in~~
 4 accordance with the following:

5 (1) ~~For the school year beginning on July 1, 2008, and thereafter, no A~~ county shall receive
 6 an allowance for ~~an amount in excess of~~ state aid eligible service personnel positions per one
 7 thousand students in net enrollment, as follows:

8 (A) For each high-density county, ~~the number of personnel for which a county shall receive~~
 9 ~~the allowance shall not exceed~~ forty-three and ninety-seven one hundredths service personnel
 10 per one thousand students in net enrollment;

11 (B) For each medium-density county, ~~the number of personnel for which a county shall~~
 12 ~~receive the allowance shall not exceed~~ forty-four and fifty-three one hundredths service personnel
 13 per one thousand students in net enrollment;

14 (C) For each low-density county, ~~the number of personnel for which a county shall receive~~
 15 ~~the allowance shall not exceed~~ forty-five and one tenth service personnel per one thousand
 16 students in net enrollment; and

17 (D) For each sparse-density county, ~~the number of personnel for which a county shall~~
 18 ~~receive the allowance shall not exceed~~ forty-five and sixty-eight one hundredths service personnel

19 per one thousand students in net enrollment; ~~and~~

20 (2) When the number of state aid eligible service personnel determined for a county
21 pursuant to subdivision (1) of this subsection exceeds the number employed, the average state
22 funded minimum salary of service personnel for the county shall be used to as the salary for these
23 vacant positions;

24 (3) The number of and the allowance for personnel paid in part by state and county funds
25 shall be prorated; and

26 ~~(2)~~ (4) Where two or more counties join together in support of a vocational or
27 comprehensive high school or any other program or service, the service personnel for the school
28 or program may be prorated among the participating counties on the basis of each one's
29 enrollment therein and that the personnel shall be considered within the above-stated limit.

§18-9A-6a. Teachers retirement fund allowance; unfunded liability allowance.

1 (a) The total teachers retirement fund allowance shall be the sum of the basic foundation
2 allowance for professional educators, the basic foundation allowance for professional student
3 support personnel and the basic foundation allowance for service personnel, as provided in
4 sections four, ~~and~~ five and eight of this article; all salary equity appropriations authorized in section
5 five, article four of chapter eighteen-a; and such amounts as are to be paid by the counties
6 pursuant to sections five-a and five-b of said article to the extent such county salary supplements
7 are equal to the amount distributed for salary equity among the counties, multiplied by ~~fifteen~~
8 ~~percent~~ the average retirement contribution rate for each county board. The average contribution
9 rate for each county board shall be based on the required employer contributions for state aide
10 eligible employees participating in the retirement plans pursuant to articles seven-a and seven-b
11 of this chapter.

12 (b) The teachers retirement fund allowance amounts provided for in subsection (a) of this
13 section shall be accumulated in the employers accumulation fund of the state Teachers
14 Retirement System pursuant to section eighteen, article seven-a of this chapter, and shall be in

15 lieu of the contribution required of employers pursuant to subsection (b) of said section as to all
16 personnel included in the allowance for state aid in accordance with sections four, ~~and five~~ and
17 eight of this article.

18 (c) In addition to the teachers retirement fund allowance provided for in subsection (a) of
19 this section, there shall be an allowance for the reduction of any unfunded liability of the teachers
20 retirement fund in accordance with the following provisions of this subsection. On or before
21 December 31, of each year, the actuary or actuarial firm employed in accordance with the
22 provisions of section four, article ten-d, chapter five of this code shall submit a report to the
23 President of the Senate and the Speaker of the House of Delegates which sets forth an actuarial
24 valuation of the teachers retirement fund as of the preceding thirtieth day of June. Each annual
25 report shall recommend the actuary's best estimate, at that time, of the funding necessary to both
26 eliminate the unfunded liability over a forty-year period beginning on July 1, 1994, and to meet
27 the cash flow requirements of the fund in fulfilling its future anticipated obligations to its members.
28 In determining the amount of funding required, the actuary shall take into consideration all funding
29 otherwise available to the fund for that year from any source: *Provided*, That the appropriation
30 and allocation to the teachers' retirement fund made pursuant to the provisions of section six-b of
31 this article shall be included in the determination of the requisite funding amount. In any year in
32 which the actuary determines that the teachers retirement fund is not being funded in such a
33 manner, the allowance made for the unfunded liability for the next fiscal year shall be not less
34 than the amount of the actuary's best estimate of the amount necessary to conform to the funding
35 requirements set forth in this subsection.

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

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

3 (1) A percentage of the transportation costs incurred by the county for maintenance,
4 operation and related costs exclusive of all salaries, including the costs incurred for contracted

5 transportation services and public utility transportation, as follows:

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

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

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

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

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

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

25 (2) The total cost, within each county, of insurance premiums on buses, buildings and
26 equipment used in transportation;

27 (3) An amount equal to eight and one-third percent of the current replacement value of the
28 bus fleet within each county as determined by the state board: *Provided*, That the amount for the
29 school year beginning July 1, 2015, will be \$15,000,000 and the amount for the school year
30 beginning July 1, 2016, will be \$18,000,000. The amount shall only be used for the replacement

31 of buses except as provided in subdivision (4) of this subsection. Buses purchased after July 1,
32 1999 that are driven one hundred eighty thousand miles, regardless of year model, will be subject
33 to the replacement value of eight and one-third percent as determined by the state board. In
34 addition, in any school year in which its net enrollment increases when compared to the net
35 enrollment the year immediately preceding, a school district may apply to the state superintendent
36 for funding for an additional bus or buses. The state superintendent shall make a decision
37 regarding each application based upon an analysis of the individual school district's net enrollment
38 history and transportation needs: *Provided*, That the superintendent shall not consider any
39 application which fails to document that the county has applied for federal funding for additional
40 buses. If the state superintendent finds that a need exists, a request for funding shall be included
41 in the budget request submitted by the state board for the upcoming fiscal year;

42 (4) Notwithstanding the restriction on the use of funds for the replacement of buses
43 pursuant to subdivision (3) of this subsection, up to \$200,000 of these funds in any school year
44 may be used by a county for school facility and equipment repair, maintenance and improvement
45 or replacement or other current expense priorities if a request by the county superintendent listing
46 the amount, the intended use of the funds and the serviceability of the bus fleet is approved by
47 the state superintendent; and

48 ~~(4)~~ (5) Aid in lieu of transportation equal to the state average amount per pupil for each
49 pupil receiving the aid within each county.

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

54 (c) One half of one percent of the transportation allowance distributed to each county shall
55 be for the purpose of trips related to academic classroom curriculum and not related to any
56 extracurricular activity. Any remaining funds credited to a county for the purpose of trips related

57 to academic classroom curriculum during the fiscal year shall be carried over for use in the same
 58 manner the next fiscal year and shall be separate and apart from, and in addition to, the
 59 appropriation for the next fiscal year. The state board may request a county to document the use
 60 of funds for trips related to academic classroom curriculum if the board determines that it is
 61 necessary.

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

1 (a) The total allowance to improve instructional programs shall be the sum of the following:

2 (1) For instructional improvement, in accordance with county and school electronic
 3 strategic improvement plans required by section five, article two-e of this chapter, an amount
 4 equal to ~~ten~~ five percent of the increase in the local share amount for the next school year above
 5 any required allocation pursuant to section six-b of this article shall be added to the amount of the
 6 appropriation for this purpose for the immediately preceding school year. The sum of these
 7 amounts shall be ~~distributed~~ allocated to the counties as follows:

8 (A) One hundred fifty thousand dollars shall be allocated to each county; and

9 (B) ~~Distribution~~ Allocation to the counties of the remainder of these funds shall be made
 10 proportional to the average of each county's average daily attendance for the preceding year and
 11 the county's second month net enrollment.

12 Moneys allocated by ~~provision of~~ this subdivision shall be used to improve instructional
 13 programs according to the county and school strategic improvement plans required by section
 14 five, article two-e of this chapter and approved by the state board. ~~Provided, That notwithstanding~~
 15 ~~any other provision of this code to the contrary, moneys allocated by provision of this section also~~
 16 ~~may be used in the implementation and maintenance of the uniform integrated regional computer~~
 17 ~~information system.~~

18 Up to twenty-five percent of this allocation may be used to employ professional educators
 19 and service personnel in counties after all applicable provisions of sections four and five of this

20 article have been fully utilized.

21 Prior to the use of any funds from this subdivision for personnel costs, the county board
22 must receive authorization from the state superintendent. The state superintendent shall require
23 the county board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal
24 responsibility in staffing; (3) sharing of services with adjoining counties and the regional
25 educational service agency for that county in the use of the total local district board budget; and
26 (4) employment of technology integration specialists to meet the needs for implementation of the
27 West Virginia t Strategic Technology Learning Plan. County boards shall make application for the
28 use of funds for personnel for the next fiscal year by May 1 of each year. On or before June 1,
29 the state superintendent shall review all applications and notify applying county boards of the
30 approval or disapproval of the use of funds for personnel during the fiscal year appropriate. The
31 state superintendent shall require the county board to demonstrate the need for an allocation for
32 personnel based upon the county's inability to meet the requirements of state law or state board
33 policy.

34 The provisions relating to the use of any funds from this subdivision for personnel costs
35 are subject to the following: (1) The funds available for personnel under this subsection may not
36 be used to increase the total number of professional noninstructional personnel in the central
37 office beyond four; and (2) For the school year beginning July 1, 2013, and thereafter, any funds
38 available to a county for use for personnel under this subsection above the amount available for
39 the 2012-2013 school year, only may be used for technology systems specialists until the state
40 superintendent determines that the county has sufficient technology systems specialists to serve
41 the needs of the county.

42 The plan shall be made available for distribution to the public at the office of each affected
43 county board; plus

44 (2) For the purposes of improving instructional technology, an amount equal to ~~twenty~~
45 twenty-five percent of the increase in the local share amount for the next school year above any

46 required allocation pursuant to section six-b of this article shall be added to the amount of the
47 appropriation for this purpose for the immediately preceding school year. The sum of these
48 amounts shall be ~~distributed~~ allocated to the counties as follows:

49 (A) ~~Thirty~~ Fifty thousand dollars shall be allocated to each county; and

50 (B) ~~Distribution~~ Allocation to the counties of the remainder of these funds shall be made
51 proportional to the average of each county's average daily attendance for the preceding year and
52 the county's second month net enrollment.

53 ~~Effective July 1, 2014, Moneys allocated by provision of this subdivision shall be used to~~
54 ~~improve instructional technology programs according to the county and school strategic~~
55 ~~improvement plans. plus~~

56 The improvement of instructional technology programs may include, after all applicable
57 provisions of this section and sections four and five of this article have been fully utilized, the use
58 of these moneys for the employment of up to one technology system specialist, or one technology
59 system specialist for each one thousand students in net enrollment, whichever is greater. The
60 amount of these moneys used for this purpose may not exceed the county's average professional
61 educator salary and fixed charges multiplied by the number of technology system specialists, or
62 major fraction thereof, employed with these moneys. Prior to the use of any of these moneys for
63 technology system specialist employment, the county board must receive authorization from the
64 state superintendent. The state superintendent shall require the county board to demonstrate: (i)
65 The need for this use of these moneys; (ii) efficiency and fiscal responsibility in staffing; (iii)
66 sharing of services with adjoining counties and the regional educational service agency for that
67 county in the use of the total local district board budget; and (iv) employment of technology
68 integration specialists to meet the needs for implementation of the West Virginia Strategic
69 Technology Learning Plan. County boards shall make application for the use of these funds for
70 the employment of technology system specialists for the next fiscal year by May 1 of each year.
71 On or before June 1, the state superintendent shall review all applications and notify applying

72 county boards of the approval or disapproval; plus

73 (3) One percent of the state average per pupil state aid multiplied by the number of
74 students enrolled in dual credit, advanced placement and international baccalaureate courses, as
75 defined by the state board, distributed to the counties proportionate to enrollment in these courses
76 in each county; plus

77 (4) An amount not less than the amount required to meet debt service requirements on
78 any revenue bonds issued prior to January 1, 1994, and the debt service requirements on any
79 revenue bonds issued for the purpose of refunding revenue bonds issued prior to January 1,
80 1994, shall be paid by the Department of Education in accordance with the expenditure schedule
81 approved by the state budget office into the School Building Capital Improvements Fund created
82 by section six, article nine-d of this chapter and shall be used solely for the purposes of that article.
83 The School Building Capital Improvements Fund shall not be utilized to meet the debt services
84 requirement on any revenue bonds or revenue refunding bonds for which moneys contained
85 within the School Building Debt Service Fund have been pledged for repayment pursuant to that
86 section.

87 (b) When the school improvement bonds secured by funds from the School Building
88 Capital Improvements Fund mature, the State Board of Education shall annually deposit an
89 amount equal to \$24,000,000 from the funds allocated in this section into the School Construction
90 Fund created pursuant to the provisions of section six, article nine-d of this chapter to continue
91 funding school facility construction and improvements.

92 (c) Any project funded by the School Building Authority shall be in accordance with a
93 comprehensive educational facility plan which must be approved by the state board and the
94 School Building Authority.

NOTE: The purpose of this bill is to create additional flexibility for school systems in the use of school aid funds and prevent the loss of position funding for the next school year due to employment anomalies affecting the basic foundation calculation. The bill moves

the basis for calculation the foundation allowances for professional educators and service personnel to an authorized positions ratio, rather than the number employed subject to a limiting ratio. The bill makes necessary related adjustments and addresses issues raised by the Legislative Auditor related to the allocation of instructional personnel at multi county facilities and programs and to the Allowance for Teachers Retirement. The bill also authorizes counties to use up to \$200,000 of the formula funds restricted to bus purchases certain facility, equipment and other current expense priorities if requested and approved by the state superintendent. The bill provides for the improvement of instructional technology, from the current 30% growth in local share for Step 7, the bill directs 25% for improving instructional technology, increases the base to be distributed to each county to \$50,000 and allows the employment of technology system specialists subject to maximum ratio, but at least 1, if authorized by state superintendent.

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