

**WEST VIRGINIA LEGISLATURE**  
**2017 FIRST EXTRAORDINARY SESSION**

**Introduced**

**Senate Bill 1008**

**FISCAL  
NOTE**

BY SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO

[BY REQUEST OF THE EXECUTIVE]

[Introduced May 24, 2017; Referred to the Committee on

Finance]

1 A BILL to amend and reenact §11-8-6f of the Code of West Virginia, 1931, as amended; and to  
 2 amend and reenact §18-9A-2 and §18-9A-11 of said code, all relating to public school  
 3 support; removing limit on increase in total property tax revenues if the current regular levy  
 4 rates of the county boards of education were to be imposed; increasing the regular levy  
 5 rates for the 2018 tax year and beyond; providing that counties meeting certain  
 6 requirements may decrease levy rates only to the extent the rate exceeds the county's  
 7 total basic foundation program; deleting required periodic legislative review of definition of  
 8 "net enrollment"; defining terms; requiring the state board to utilize the maximum levies for  
 9 general current expense purposes beginning with the 2018-2019 school year calculations;  
 10 and making technical changes.

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

1 That §11-8-6f of the Code of West Virginia, 1931, as amended, be amended and  
 2 reenacted; and that §18-9A-2 and §18-9A-11 of said code be amended and reenacted, all to read  
 3 as follows:

## **CHAPTER 11. TAXATION.**

### **ARTICLE 8. LEVIES.**

#### **§11-8-6f. Regular school board levy rate; creation and implementation of Growth County School Facilities Act; creation of Growth County School Facilities Act Fund.**

1 ~~(a) Notwithstanding any other provision of law, where any annual appraisal, triennial~~  
 2 ~~appraisal or general valuation of property would produce a statewide aggregate assessment that~~  
 3 ~~would cause an increase of two percent or more in the total property tax revenues that would be~~  
 4 ~~realized were the then current regular levy rates of the county boards of education to be imposed,~~  
 5 ~~the rate of levy for county boards of education shall be reduced uniformly statewide and~~  
 6 ~~proportionately for all classes of property for the forthcoming tax year so as to cause the rate of~~  
 7 ~~levy to produce no more than one hundred two percent of the previous year's projected statewide~~

8 ~~aggregate property tax revenues from extending the county board of education levy rate, unless~~  
9 ~~subsection (b) of this section is complied with. The reduced rates of levy shall be calculated in the~~  
10 ~~following manner: (1) The total assessed value of each class of property as it is defined by section~~  
11 ~~five of this article for the assessment period just concluded shall be reduced by deducting the~~  
12 ~~total assessed value of newly created properties not assessed in the previous year's tax book for~~  
13 ~~each class of property; (2) the resulting net assessed value of Class I property shall be multiplied~~  
14 ~~by .01; the value of Class II by .02; and the values of Classes III and IV, each by .04; (3) total the~~  
15 ~~current year's property tax revenue resulting from regular levies for the boards of education~~  
16 ~~throughout this state and multiply the resulting sum by one hundred two percent: *Provided, That*~~  
17 ~~the one hundred two percent figure shall be increased by the amount the boards of education's~~  
18 ~~increased levy provided for in subsection (b), section eight, article one c of this chapter; (4) divide~~  
19 ~~the total regular levy tax revenues, thus increased in subdivision (3) of this subsection, by the~~  
20 ~~total weighted net assessed value as calculated in subdivision (2) of this subsection and multiply~~  
21 ~~the resulting product by one hundred; the resulting number is the Class I regular levy rate, stated~~  
22 ~~as cents per one hundred dollars of assessed value; and (5) the Class II rate is two times the~~  
23 ~~Class I rate; Classes III and IV, four times the Class I rate as calculated in the preceding~~  
24 ~~subdivision.~~

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

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

33 ~~(a) Notwithstanding any other provision of this code to the contrary, for the 2017 tax year,~~

34 the regular levy rates for the county boards of education shall be: (1) For Class I property, 19.40  
35 cents per \$100; (2) for Class II property, 38.80 cents per \$100; (3) for Class III and IV property,  
36 77.60 cents per \$100. Beginning with the 2018 tax year and thereafter, the regular levy rates for  
37 county boards of education shall be the sum of the levy rates set forth in subdivisions (1), (2) and  
38 (3), section six-c of this article for each class of property, which are: (1) For Class I property, 22.95  
39 cents per \$100; (2) for Class II property, 45.9 cents per \$100; and (3) for Class III and Class IV  
40 property, 91.8 cents per \$100: *Provided*, That annually beginning with the 2018 tax year and  
41 thereafter, county boards of education with a local share for the upcoming school year that  
42 exceeds the county's total basic foundation program computed under section twelve, article nine-  
43 a, chapter eighteen may decrease their regular levy rates to a rate that would reduce the overall  
44 projected regular levy tax collections for the county by an amount no more than the difference  
45 between their local share and their total basic foundation program.

46       ~~(e)~~ (b) The State Tax Commissioner shall report to the Joint Committee on Government  
47 and Finance and the Legislative Oversight Commission on Education Accountability by March 1  
48 of each year on the progress of assessors in each county in assessing properties at the  
49 constitutionally required sixty percent of market value and the effects of increasing the limit on the  
50 increase in total property tax revenues set forth in this section to two percent.

51       ~~(d)~~ (c) *Growth County School Facilities Act. — Legislative findings. --*

52       The Legislature finds and declares that there has been, overall, a statewide decline in  
53 enrollment in the public schools of this state; due to this decline, most public schools have ample  
54 space for students, teachers and administrators; however, some counties of this state have  
55 experienced significant increases in enrollment due to significant growth in those counties; that  
56 those counties experiencing significant increases do not have adequate facilities to accommodate  
57 students, teachers and administrators. Therefore, the Legislature finds that county boards of  
58 education in those high-growth counties should have the authority to designate revenues  
59 generated from the application of the regular school board levy due to new construction or

60 improvements placed in a Growth County School Facilities Act Fund be used for school facilities  
61 in those counties to promote the best interests of this state's students.

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

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

68 (3) For any growth county, as defined in subdivision (1) of this subsection, that adopts a  
69 resolution choosing to use the provisions of this subsection, pursuant to subdivision (2) of this  
70 subsection, assessed values resulting from additional appraisal or valuation due to new  
71 construction or improvements to existing real property shall be designated as new property values  
72 and identified by the county assessor. The ~~statewide~~ regular school board levy rate ~~as established~~  
73 ~~by the Legislature~~ shall be applied to the assessed value designated as new property values and  
74 the resulting property tax revenues collected from application of the regular school board levy rate  
75 shall be placed in a separate account designated as the Growth County School Facilities Act  
76 Fund. Revenues deposited in the Growth County School Facilities Act Fund shall be appropriated  
77 by the county board of education for construction, maintenance or repair of school facilities.  
78 Revenues in the fund may be carried over for an indefinite length of time and may be used as  
79 matching funds for the purpose of obtaining funds from the School Building Authority or for the  
80 payment of bonded indebtedness incurred for school facilities. For any growth county choosing  
81 to use the provisions of this subsection, estimated school board revenues generated from  
82 application of the regular school board levy rate to new property values are not to be considered  
83 as local funds for purposes of the computation of local share under the provisions of section  
84 eleven, article nine-a, chapter eighteen of this code.

85 ~~(e)~~ (d) This section, as amended during the legislative session in the year 2004, shall be

86 effective as to any regular levy rate imposed for the county boards of education for taxes due and  
87 payable on or after July 1, 2004. If any provision of this section is held invalid, the invalidity shall  
88 not affect other provisions or applications of this section which can be given effect without the  
89 invalid provision or its application and to this end the provisions of this section are declared to be  
90 severable.

## CHAPTER 18. EDUCATION.

### ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

#### §18-9A-2. Definitions.

1 For the purpose of this article:

2 (a) "State board" means the West Virginia Board of Education.

3 (b) "County board" or "board" means a county board of education.

4 (c) "Professional salaries" means the state legally mandated salaries of the professional  
5 educators as provided in article four, chapter eighteen-a of this code.

6 (d) "Professional educator" ~~shall be~~ is synonymous with and ~~shall have~~ has the same  
7 meaning as "teacher" as defined in section one, article one of this chapter, and includes  
8 technology integration specialists.

9 (e) "Professional instructional personnel" means a professional educator whose regular  
10 duty is as that of a classroom teacher, librarian, attendance director or school psychologist. A  
11 professional educator having both instructional and administrative or other duties shall be  
12 included as professional instructional personnel for that ratio of the school day for which he or she  
13 is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance  
14 or psychologist duties.

15 (f) "Professional student support personnel" means a "teacher" as defined in section one,  
16 article one of this chapter who is assigned and serves on a regular full-time basis as a counselor  
17 or as a school nurse with a bachelor's degree and who is licensed by the West Virginia Board of

18 Examiners for Registered Professional Nurses. For all purposes except for the determination of  
19 the allowance for professional educators pursuant to section four of this article, professional  
20 student support personnel are professional educators.

21 (g) "Service personnel salaries" means the state legally mandated salaries for service  
22 personnel as provided in section eight-a, article four, chapter eighteen-a of this code.

23 (h) "Service personnel" means all personnel as provided in section eight, article four,  
24 chapter eighteen-a of this code. For the purpose of computations under this article of ratios of  
25 service personnel to net enrollment, a service employee ~~shall be~~ is counted as that number found  
26 by dividing his or her number of employment days in a fiscal year by two hundred: *Provided*, That  
27 the computation for any service person employed for three and one-half hours or less per day as  
28 provided in section eight-a, article four, chapter eighteen-a of this code ~~shall be~~ is calculated as  
29 one half an employment day.

30 (i) "Net enrollment" means the number of pupils enrolled in special education programs,  
31 kindergarten programs and grades one to twelve, inclusive, of the public schools of the county.  
32 Net enrollment further shall include:

33 (1) Adults enrolled in regular secondary vocational programs existing as of the effective  
34 date of this section, subject to the following:

35 (A) Net enrollment includes no more than one thousand of those adults counted on the  
36 basis of full-time equivalency and apportioned annually to each county in proportion to the adults  
37 participating in regular secondary vocational programs in the prior year counted on the basis of  
38 full-time equivalency; and

39 (B) Net enrollment does not include any adult charged tuition or special fees beyond that  
40 required of the regular secondary vocational student;

41 (2) Students enrolled in early childhood education programs as provided in section forty-  
42 four, article five of this chapter, counted on the basis of full-time equivalency;

43 (3) No pupil ~~shall~~ may be counted more than once by reason of transfer within the county

44 or from another county within the state, and no pupil shall be counted who attends school in this  
45 state from another state;

46 (4) The enrollment shall be modified to the equivalent of the instructional term and in  
47 accordance with the eligibility requirements and rules established by the state board; and

48 (5) For the purposes of determining the county's basic foundation program only, for any  
49 county whose net enrollment as determined under all other provisions of this definition is less than  
50 one thousand four hundred, the net enrollment of the county shall be increased by an amount to  
51 be determined in accordance with the following:

52 (A) Divide the state's lowest county student population density by the county's actual  
53 student population density;

54 (B) Multiply the amount derived from the calculation in paragraph (A) of this subdivision  
55 by the difference between one thousand four hundred and the county's actual net enrollment;

56 (C) If the increase in net enrollment as determined under this subdivision plus the county's  
57 net enrollment as determined under all other provisions of this subsection is greater than one  
58 thousand four hundred, the increase in net enrollment shall be reduced so that the total does not  
59 exceed one thousand four hundred; and

60 ~~(D) During the 2008-2009 interim period and every three interim periods thereafter, the~~  
61 ~~Legislative Oversight Commission on Education Accountability shall review this subdivision to~~  
62 ~~determine whether or not these provisions properly address the needs of counties with low~~  
63 ~~enrollment and a sparse population density~~

64 (j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any  
65 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this  
66 section, of the definition of "net enrollment", to the square miles of the county is less than five.

67 (k) "Low-density county" means a county whose ratio of net enrollment, excluding any  
68 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this  
69 section, of the definition of "net enrollment", to the square miles of the county is equal to or greater



70 than five but less than ten.

71 (l) "Medium-density county" means a county whose ratio of net enrollment, excluding any  
72 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this  
73 section, of the definition of "net enrollment", to the square miles of the county is equal to or greater  
74 than ten but less than twenty.

75 (m) "High-density county" means a county whose ratio of net enrollment, excluding any  
76 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this  
77 section, of the definition of "net enrollment", to the square miles of the county is equal to or greater  
78 than twenty.

79 (n) "Levies for general current expense purposes" means ninety percent of the levy rate  
80 for county boards of education calculated or set by the Legislature pursuant to section six f, article  
81 eight, chapter eleven of this code.

82 (o) "Maximum levies for general current expense purposes" means ninety percent of the  
83 maximum levy rate for county boards of education as derived from the sum of the levy rates in  
84 subdivisions (1), (2) and (3), section six-c, article eight, chapter eleven of this code for each class  
85 of property.

86 ~~(p)~~ (p) "Technology integration specialist" means a professional educator who has  
87 expertise in the technology field and is assigned as a resource teacher to provide information and  
88 guidance to classroom teachers on the integration of technology into the curriculum.

89 ~~(q)~~ (q) "State aid eligible personnel" means all professional educators and service  
90 personnel employed by a county board in positions that are eligible to be funded under this article  
91 and whose salaries are not funded by a specific funding source such as a federal or state grant,  
92 donation, contribution or other specific funding source not listed.

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

1 (a) On the basis of each county's certificates of valuation as to all classes of property as  
2 determined and published by the assessors pursuant to section six, article three, chapter eleven  
3 of this code for the next ensuing fiscal year in reliance upon the assessed values annually  
4 developed by each county assessor pursuant to articles one-c and three of that chapter, the state  
5 board shall for each county compute by application of the levies for general current expense  
6 purposes, as defined in section two of this article, the amount of revenue which the levies would  
7 produce if levied upon one hundred percent of the assessed value of each of the several classes  
8 of property contained in the report or revised report of the value made to it by the Tax  
9 Commissioner as follows: Provided, That beginning with the calculations for the 2018-2019 school  
10 year and thereafter, the state board shall utilize the maximum levies for general current expense  
11 purposes:

12 (1) ~~For each fiscal year beginning before July 1, 2014, the state board shall first take~~  
13 ~~ninety-five percent of the amount ascertained by applying these rates to the total assessed public~~  
14 ~~utility valuation in each classification of property in the county. For each fiscal year beginning after~~  
15 ~~June 30, 2014, the~~ The state board shall first take ninety-six percent of the amount ascertained  
16 by applying these rates to the total assessed public utility valuation in each classification of  
17 property in the county; and

18 (2) ~~For each fiscal year beginning before July 1, 2014, the state board shall then apply~~  
19 ~~these rates to the assessed taxable value of other property in each classification in the county as~~  
20 ~~determined by the Tax Commissioner and shall deduct therefrom five percent as an allowance~~  
21 ~~for the usual losses in collections due to discounts, exonerations, delinquencies and the like. For~~  
22 ~~each fiscal year beginning after June 30, 2014, the~~ The state board shall then apply these rates  
23 to the assessed taxable value of other property in each classification in the county as determined  
24 by the Tax Commissioner and shall deduct therefrom four percent as an allowance for the usual  
25 losses in collections due to discounts, exonerations, delinquencies and the like. All of the amount  
26 so determined shall be added to the ~~ninety-five or ninety-six percent, as applicable,~~ of public utility

27 taxes computed as provided in subdivision (1) of this subsection and this total shall be further  
28 reduced by the amount due each county assessor's office pursuant to section eight, article one-  
29 c, chapter eleven of this code and this amount shall be the local share of the particular county.

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

33 (b) It is the intent of the Legislature that the computation of local share for public school  
34 support continue to be based upon actual real property values rather than assumed assessed  
35 real property values that are based upon an assessment ratio study, and that the annual amount  
36 of local share for which a county board of education is responsible continue to be computed  
37 without reference to whether the real property assessments in that county were at least fifty-four  
38 percent of market value in the prior year as indicated by the assessment ratio study. Accordingly,  
39 the effective date of the operation of this section as amended and reenacted during 2014, and  
40 the effective date of the operation of the repeal of section two-a of this article and the operation  
41 of the repeal of section five-b, article one-c, chapter eleven of this code, all as provided under this  
42 enactment, are expressly made retrospective to June 30, 2013.

43 (c) Whenever in any year a county assessor or a county commission fails or refuses to  
44 comply with this section in setting the valuations of property for assessment purposes in any class  
45 or classes of property in the county, the State Tax Commissioner shall review the valuations for  
46 assessment purposes made by the county assessor and the county commission and shall direct  
47 the county assessor and the county commission to make corrections in the valuations as  
48 necessary so that they comply with the requirements of chapter eleven of this code and this  
49 section and the Tax Commissioner may enter the county and fix the assessments at the required  
50 ratios. Refusal of the assessor or the county commission to make the corrections constitutes  
51 grounds for removal from office.

52 (d) For the purposes of any computation made in accordance with this section, in any

53 taxing unit in which tax increment financing is in effect pursuant to article eleven-b, chapter seven  
54 of this code, the assessed value of a related private project shall be the base-assessed value as  
55 defined in section two of said article.

56 (e) For purposes of any computation made in accordance with this section, in any county  
57 where the county board of education has adopted a resolution choosing to use the Growth County  
58 School Facilities Act set forth in section six-f, article eight, chapter eleven of this code, estimated  
59 school board revenues generated from application of the regular school board levy rate to new  
60 property values, as that term is designated in said section, may not be considered local share  
61 funds and shall be subtracted before the computations in subdivisions (1) and (2), subsection (a)  
62 of this section are made.

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

NOTE: The purpose of this bill is to increase regular levy rates, and allow counties meeting certain requirements to decrease levy rates to the extent the rate exceeds the county's total basic foundation program, and to set forth maximum levies for general current expense purposes to be used annually beginning with the 2018-2019 school year.

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