

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2527

BY DELEGATES WESTFALL AND COOPER

[Introduced February 16, 2017; Referred
to the Committee on Education then Finance.]

1 A BILL to repeal §18-9A-8 of the Code of West Virginia, 1931, as amended; and to amend and
2 reenact §18-9A-2, §18-9A-4, §18-9A-5, §18-9A-7 and §18-9A-10 of said code, all relating
3 to public school support; repealing the section providing for the foundation allowance for
4 professional student support services; adding Treasurer/Chief School Business Official
5 with a bachelor's degree and Child Nutrition Director with a bachelor's degree to definition
6 of professional student support personnel; changing method for determining the basic
7 foundation allowance to the county for professional educators, for service personnel and
8 for transportation; and changing the method for determining total allowance to improve
9 instructional programs.

Be it enacted by the Legislature of West Virginia:

1 That §18-9A-8 of the Code of West Virginia, 1931, as amended be repealed; and that §18-
2 9A-2, §18-9A-4, §18-9A-5, §18-9A-7 and §18-9A-10 of said code be amended and reenacted, all
3 to read as follows:

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~~ is

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 Treasurer/Chief School Business Official with a bachelor's degree, Child Nutrition Director with a
18 bachelor's degree or as a school nurse with a bachelor's degree and who is licensed by the West
19 Virginia Board of Examiners for Registered Professional Nurses. For all purposes ~~except for~~
20 including the determination of the allowance for professional educators pursuant to section four
21 of this article, professional student support personnel are professional educators.

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

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

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

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

36 (A) Net enrollment includes no more than one thousand of those adults counted on the
37 basis of full-time equivalency and apportioned annually to each county in proportion to the adults

38 participating in regular secondary vocational programs in the prior year counted on the basis of
39 full-time equivalency; and

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

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

44 (3) No pupil ~~shall~~ may be counted more than once by reason of transfer within the county
45 or from another county within the state, and no pupil ~~shall~~ may be counted who attends school in
46 this state from another state;

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

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

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

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

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

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

64 enrollment and a sparse population density.

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

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

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

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

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

83 (o) "Technology integration specialist" means a professional educator who has expertise
84 in the technology field and is assigned as a resource teacher to provide information and guidance
85 to classroom teachers on the integration of technology into the curriculum.

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

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

1 (a) The basic foundation allowance to the county for professional educators ~~shall be~~ is 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 making this computation no county shall
5 may 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 may not exceed seventy-two and one-tenth professional educators per each
10 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 may not exceed seventy-two and twenty-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 may not exceed seventy-two and four-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 may not exceed seventy-two and fifty-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. When the
24 number of state aid eligible professional educator positions determined for a county pursuant to
25 subdivision (1) of this subsection exceeds the number employed, the average state funded salary

26 of professional educators for the county shall be used as the salary for this vacant positions and
27 shall be provided to the county.

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 county board shall establish and maintain
35 a minimum ratio of professional instructional personnel per one thousand students in net
36 enrollment as follows:

37 (1) For each high-density county, the minimum number of professional instructional
38 personnel per one thousand students in net enrollment is sixty-five and eight tenths;

39 (2) For each medium-density county, the minimum number of professional instructional
40 personnel per one thousand students in net enrollment is sixty-five and nine tenths;

41 (3) For each low-density county, the minimum number of professional instructional
42 personnel per one thousand students in net enrollment is sixty-six;

43 (4) For each sparse-density county, the minimum number of professional instructional
44 personnel per one thousand students in net enrollment is sixty-six and five one hundredths.

45 (c) For the ratios applicable to each of the four density categories set forth in subsection
46 (b) of this subsection, the number of professional instructional personnel per each one thousand
47 students in net enrollment increases by five one hundredths per year for each of fiscal years 2010,
48 2011, 2012 and 2013. For each fiscal year thereafter, the ratios remain at the 2013 level.

49 (d) Any county board which does not establish and maintain the applicable minimum ratio
50 required in subsection (b) of this section shall suffer a pro rata reduction in the allowance for
51 professional educators under this section: *Provided, That ~~no~~ a county shall may not be penalized*

52 if it has increases in enrollment during that school year: *Provided, however,* That for the school
 53 year 2008-2009, only, ~~no~~ a county ~~shall~~ may not be penalized for not meeting the applicable
 54 minimum ratio required in subsection (b) of this section.

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

60 (f) As the number of professional educators per each one thousand students in net
 61 enrollment increases during fiscal years 2009 through 2013, any additional positions that are
 62 created as a result of that increase shall be positions that will enhance student achievement and
 63 are consistent with the needs as identified in each county board's electronic county strategic
 64 improvement plan. County boards are encouraged to fill at least some of the additional positions
 65 with technology integration specialists.

66 (g) During the 2008-2009 interim period, and every three interim periods thereafter, the
 67 Legislative Oversight Commission on Education Accountability shall review the four density
 68 categories created in section two of this article, the ratios for professional educators established
 69 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~~ is the
 2 amount of money required to pay the annual state minimum salaries in accordance with ~~the~~
 3 ~~provisions of~~ article four, chapter eighteen-a of this code, ~~to such service personnel employed,~~
 4 ~~subject to~~ in accordance with the following:

5 (1) For the school year beginning on July 1, 2008, and thereafter, ~~no~~ a county ~~shall~~ may
 6 not receive an allowance for an amount in excess of service personnel per one thousand students
 7 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~~ may not exceed forty-three and ninety-seven one hundredths service
10 personnel 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~~ may not exceed forty-four and fifty-three one hundredths service
13 personnel 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~~ may 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 is used as the salary for these
23 positions and shall be provided to the county.

24 ~~(2)~~ (3) Where two or more counties join together in support of a vocational or
25 comprehensive high school or any other program or service, the service personnel for the school
26 or program may be prorated among the participating counties on the basis of each one's
27 enrollment therein and that the personnel ~~shall be~~ is considered within the above-stated limit.

§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~~ is 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~~ is 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 million and the amount for the school year
30 beginning July 1, 2016, will be \$18 million. The amount shall only be used for the replacement of
31 buses. Buses purchased after July 1, 1999 that are driven one hundred eighty thousand miles,

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

42 (4) Notwithstanding the restriction on the use of funds for the replacement of buses
43 pursuant to subdivision (3) of this subsection, not to exceed \$200,000, of these funds in any
44 school year may be used by a county for school facility and equipment repair, maintenance and
45 improvement, replacement or other current expense priorities if a request made by the county
46 superintendent listing the amount, the intended use of the funds and the serviceability of the bus
47 fleet is approved by the state superintendent. Before approving the request, the state
48 superintendent shall verify the serviceability of the county's bus fleet based upon the state school
49 bus inspection defect rate of the county over the two prior years; and

50 ~~(4)~~ (5) Aid in lieu of transportation equal to the state average amount per pupil for each
51 pupil receiving the aid within each county.

52 (b) The total state share for this purpose is the sum of the county shares: *Provided*, That
53 ~~no~~ a county ~~shall~~ may not receive an allowance which is greater than one-third above the
54 computed state average allowance per transportation mile multiplied by the total transportation
55 mileage in the county exclusive of the allowance for the purchase of additional buses.

56 (c) One half of one percent of the transportation allowance distributed to each county ~~shall~~
57 ~~be~~ is for the purpose of trips related to academic classroom curriculum and not related to any

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

§18-9A-10. Foundation allowance to improve instructional 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 percent of the increase in the local share amount for the next school year above any
5 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 to the counties as follows:

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

9 (B) Distribution to the counties of the remainder of these funds shall be made proportional
10 to the average of each county's average daily attendance for the preceding year and the county's
11 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 percent of the increase in the local share amount for the next school year above any required

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

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

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

53 (C) Notwithstanding the restriction on the use of funds for improving instructional
54 technology, pursuant to (2) of this subsection, not to exceed fifty percent of these funds in any
55 school year may be used by a county for school facility and equipment repair, maintenance and
56 improvement, replacement or other current expense priorities if a report made by the county
57 superintendent listing the amount to the state superintendent.

58 Effective July 1, 2014, moneys allocated by provision of this subdivision shall be used to
59 improve instructional technology programs according to the county and school strategic
60 improvement plans; plus

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

65 (4) An amount not less than the amount required to meet debt service requirements on
66 any revenue bonds issued prior to January 1, 1994, and the debt service requirements on any
67 revenue bonds issued for the purpose of refunding revenue bonds issued prior to January 1,
68 1994, shall be paid into the School Building Capital Improvements Fund created by section six,
69 article nine-d of this chapter and shall be used solely for the purposes of that article. The School
70 Building Capital Improvements Fund ~~shall~~ may not be utilized to meet the debt services
71 requirement on any revenue bonds or revenue refunding bonds for which moneys contained

72 within the School Building Debt Service Fund have been pledged for repayment pursuant to that
73 section.

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

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

NOTE: The purpose of this bill is to repeal §18-9A-8 that provided for the foundation allowance for professional student support services. The bill adds "Treasurer/Chief School Business Official with a bachelor's degree" and "Child Nutrition Director with a bachelor's degree" to the definition of Professional student support personnel. The bill changes method for determining the basic foundation allowance to the county for professional educators, for service personnel and for transportation. And, the bill changes the method for determining total allowance to improve instructional programs.

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