

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 4002**

4 (By Perry, Lawrence, Marshall, Morgan,  
5 Barrett, Barill, Lynch, Fleischauer, Craig,  
6 Eldridge and Barker)

7 (Originating in the Committee on Finance)

8 [January 23, 2014]

9  
10 A BILL to repeal §11-1C-5b of the Code of West Virginia, 1931, as  
11 amended; to repeal §18-9A-2a of said code; and to amend and  
12 reenact §18-9A-2 and §18-9A-11 of said code, all relating to  
13 the computation of local share for public school support  
14 purposes; repealing, retrospectively to June 30, 2013,  
15 provisions requiring the use of assumed assessed real property  
16 values that are based upon an assessment ratio study instead  
17 of actual real property values for the purpose of the  
18 computation of local share for public school support purposes;  
19 repealing, retrospectively to June 30, 2013, provisions that  
20 require that the annual amount of local share for which a  
21 county board of education is responsible be increased where,  
22 during the prior year, the real property assessments in that  
23 county were not at least fifty-four percent of market value as  
24 indicated by the assessment ratio study; revising definitions;  
25 reducing the amount deducted as an allowance for usual losses  
26 in collections, due to discounts, exonerations, delinquencies  
27 and the like, for purposes of calculating local share;

1 expressing legislative intent to continue the computation of  
2 local share for public school support based upon actual real  
3 property values rather assumed assessed real property values;  
4 expressing legislative intent that the annual amount of local  
5 share for which a county board of education is responsible  
6 continue to be computed without reference to whether the real  
7 property assessments in that county were at least fifty-four  
8 percent of market value in the prior year; and removing  
9 provisions requiring county school boards to provide funding  
10 for public libraries from local share.

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

12 That §11-1C-5b of the Code of West Virginia, 1931, as amended,  
13 be repealed; that §18-9A-2a of said code be repealed; and that  
14 §18-9A-2 and §18-9A-11 of said code be amended and reenacted, all  
15 to read as follows:

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

17 **§18-9A-2. Definitions.**

18 For the purpose of this article:

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

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

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

25 (d) "Professional educator" shall be synonymous with and shall  
26 have the same meaning as "teacher" as defined in section one,

1 article one of this chapter, and includes technology integration  
2 specialists.

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

11 (f) "Professional student support personnel" means a "teacher"  
12 as defined in section one, article one of this chapter who is  
13 assigned and serves on a regular full-time basis as a counselor or  
14 as a school nurse with a bachelor's degree and who is licensed by  
15 the West Virginia Board of Examiners for Registered Professional  
16 Nurses. For all purposes except for the determination of the  
17 allowance for professional educators pursuant to section four of  
18 this article, professional student support personnel are  
19 professional educators.

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

23 (h) "Service personnel" means all personnel as provided in  
24 section eight, article four, chapter eighteen-a of this code. For  
25 the purpose of computations under this article of ratios of service  
26 personnel to net enrollment, a service employee shall be counted as

1 that number found by dividing his or her number of employment days  
2 in a fiscal year by two hundred: *Provided*, That the computation  
3 for any service person employed for three and one-half hours or  
4 less per day as provided in section eight-a, article four, chapter  
5 eighteen-a of this code shall be calculated as one-half an  
6 employment day.

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

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

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

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

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

25 (3) No pupil shall be counted more than once by reason of  
26 transfer within the county or from another county within the state,

1 and no pupil shall be counted who attends school in this state from  
2 another state;

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

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

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

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

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

23 (D) During the 2008-2009 interim period and every three  
24 interim periods thereafter, the Legislative Oversight Commission on  
25 Education Accountability shall review ~~the provisions of this~~  
26 subdivision to determine whether or not ~~they~~ these provisions

1 properly address the needs of counties with low enrollment and a  
2 sparse population density.

3 (j) "Sparse-density county" means a county whose ratio of net  
4 enrollment, excluding any increase in the net enrollment of  
5 counties pursuant to subdivision (5) of the definition of net  
6 enrollment, to the square miles of the county is less than five.

7 (k) "Low-density county" means a county whose ratio of net  
8 enrollment, excluding any increase in the net enrollment of  
9 counties pursuant to subdivision (5) of the definition of net  
10 enrollment, to the square miles of the county is equal to or  
11 greater than five but less than ten.

12 (l) "Medium-density county" means a county whose ratio of net  
13 enrollment, excluding any increase in the net enrollment of  
14 counties pursuant to subdivision (5) of the definition of net  
15 enrollment, to the square miles of the county is equal to or  
16 greater than ten but less than twenty.

17 (m) "High-density county" means a county whose ratio of net  
18 enrollment, excluding any increase in the net enrollment of  
19 counties pursuant to subdivision (5) of the definition of net  
20 enrollment, to the square miles of the county is equal to or  
21 greater than twenty.

22 (n) "Levies for general current expense purposes" means  
23 ~~ninety-four~~ ninety percent of the levy rate for county boards of  
24 education calculated or set by the Legislature pursuant to ~~the~~  
25 ~~provisions of~~ section six-f, article eight, chapter eleven of this  
26 code. ~~Provided, That beginning July 1, 2008, "levies for general~~

1 ~~current expense purposes" means ninety percent of the levy rate for~~  
2 ~~county boards of education calculated or set by the Legislature~~  
3 ~~pursuant to the provisions of section six-f, article eight, chapter~~  
4 ~~eleven of this code: Provided, however, That effective July 1,~~  
5 ~~2010, the definitions set forth in this subsection are subject to~~  
6 ~~the provisions of section two-a of this article~~

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

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

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

22 (a) On the basis of each county's certificates of valuation as  
23 to all classes of property as determined and published by the  
24 assessors pursuant to section six, article three, chapter eleven of  
25 this code for the next ensuing fiscal year in reliance upon the

1 assessed values annually developed by each county assessor pursuant  
2 to ~~the provisions of~~ articles one-c and three of ~~said~~ that chapter,  
3 the state board shall for each county compute by application of the  
4 levies for general current expense purposes, as defined in section  
5 two of this article, the amount of revenue which the levies would  
6 produce if levied upon one hundred percent of the assessed value of  
7 each of the several classes of property contained in the report or  
8 revised report of the value, made to it by the Tax Commissioner as  
9 follows:

10 (1) The state board shall first take ninety-five percent of  
11 the amount ascertained by applying these rates to the total  
12 assessed public utility valuation in each classification of  
13 property in the county; and

14 (2) The state board shall then apply these rates to the  
15 assessed taxable value of other property in each classification in  
16 the county as determined by the Tax Commissioner and shall deduct  
17 therefrom five percent as an allowance for the usual losses in  
18 collections due to discounts, exonerations, delinquencies and the  
19 like: Provided, That for the fiscal year beginning on July 1, 2014,  
20 and for each fiscal year thereafter, four percent shall be deducted  
21 from the revenue calculated pursuant to subdivision (1) of this  
22 subsection as an allowance for the usual losses in collections due  
23 to discounts, exonerations, delinquencies and the like. All of the  
24 amount so determined shall be added to the ninety-five percent of  
25 public utility taxes computed as provided in subdivision (1) of  
26 this subsection and this total shall be further reduced by the

1 amount due each county assessor's office pursuant to ~~the provisions~~  
2 ~~of~~ section eight, article one-c, chapter eleven of this code and  
3 this amount shall be the local share of the particular county.

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

9 ~~(b) Effective the first day of July, two thousand thirteen,~~  
10 ~~subsection (a) of this section is void and local share shall be~~  
11 ~~calculated in accordance with the following:~~

12 ~~(1) The state board shall for each county compute by~~  
13 ~~application of the levies for general current expense purposes, as~~  
14 ~~defined in sections two and two-a of this article, the amount of~~  
15 ~~revenue which the levies would produce if levied upon one hundred~~  
16 ~~percent of the assessed value calculated pursuant to section~~  
17 ~~five b, article one c, chapter eleven of this code;~~

18 ~~(2) Five percent shall be deducted from the revenue calculated~~  
19 ~~pursuant to subdivision (1) of this subsection as an allowance for~~  
20 ~~the usual losses in collections due to discounts, exonerations,~~  
21 ~~delinquencies and the like; and~~

22 ~~(3) The amount calculated in subdivision (2) of this~~  
23 ~~subsection shall further be reduced by the sum of money due each~~  
24 ~~assessor's office pursuant to the provisions of section eight,~~  
25 ~~article one c, chapter eleven of this code and this reduced amount~~  
26 ~~shall be the local share of the particular county.~~

1       (b) It is the intent of the Legislature that the computation  
2 of local share for public school support continue to be based upon  
3 actual real property values rather assumed assessed real property  
4 values that are based upon an assessment ratio study, and that the  
5 annual amount of local share for which a county board of education  
6 is responsible continue to be computed without reference to whether  
7 the real property assessments in that county were at least  
8 fifty-four percent of market value in the prior year as indicated  
9 by the assessment ratio study. Accordingly, the effective date of  
10 the operation of this section as amended and reenacted during 2014,  
11 and the effective date of the operation of the repeal of section  
12 two-a of this article and the operation of the repeal of section  
13 five-b, article one-c, chapter eleven of this code, all as provided  
14 under this enactment, are expressly made retrospective to June 30,  
15 2013.

16       (c) Whenever in any year a county assessor or a county  
17 commission fails or refuses to comply with ~~the provisions of this~~  
18 section in setting the valuations of property for assessment  
19 purposes in any class or classes of property in the county, the  
20 State Tax Commissioner shall review the valuations for assessment  
21 purposes made by the county assessor and the county commission and  
22 shall direct the county assessor and the county commission to make  
23 corrections in the valuations as necessary so that they comply with  
24 the requirements of chapter eleven of this code and this section  
25 and the Tax Commissioner shall enter the county and fix the  
26 assessments at the required ratios. Refusal of the assessor or the

1 county commission to make the corrections constitutes grounds for  
2 removal from office.

3 (d) For the purposes of any computation made in accordance  
4 with ~~the provisions of~~ this section, in any taxing unit in which  
5 tax increment financing is in effect pursuant to ~~the provisions of~~  
6 article eleven-b, chapter seven of this code, the assessed value of  
7 a related private project shall be the base-assessed value as  
8 defined in section two of said article.

9 (e) For purposes of any computation made in accordance with  
10 ~~the provisions of~~ this section, in any county where the county  
11 board of education has adopted a resolution choosing to use ~~the~~  
12 ~~provisions of~~ the Growth County School Facilities Act set forth in  
13 section six-f, article eight, chapter eleven of this code,  
14 estimated school board revenues generated from application of the  
15 regular school board levy rate to new property values, as that term  
16 is designated in said section, may not be considered local share  
17 funds and shall be subtracted before the computations in  
18 subdivisions (1) and (2), subsection (a) of this section ~~or in~~  
19 ~~subdivisions (2) and (3), subsection (b) of this section, as~~  
20 ~~applicable,~~ are made.

21 (f) The Legislature finds that public school systems  
22 throughout the state provide support in varying degrees to public  
23 libraries through a variety of means including budgeted  
24 allocations, excess levy funds and portions of their regular school  
25 board levies. ~~as may be provided by special act~~ A number of public  
26 libraries are situated on the campuses of public schools and

1 several are within public school buildings serving both the  
2 students and public patrons. To the extent that public schools  
3 recognize and choose to avail the resources of public libraries  
4 toward developing within their students such legally recognized  
5 elements of a thorough and efficient education as literacy,  
6 interests in literature, knowledge of government and the world  
7 around them and preparation for advanced academic training, work  
8 and citizenship, public libraries serve a legitimate school purpose  
9 and may do so economically. ~~For the purposes of any computation~~  
10 ~~made in accordance with the provisions of this section, the library~~  
11 ~~funding obligation on the regular school board levies which is~~  
12 ~~created by a special act and is due and payable from the levy~~  
13 ~~revenues to a library shall be paid from the county school board's~~  
14 ~~discretionary retainage, which is hereby defined as the amount by~~  
15 ~~which the regular school board levies exceeds the local share as~~  
16 ~~determined hereunder. If the library funding obligation which is~~  
17 ~~created by a special act and is due and payable to a library is~~  
18 ~~greater than the county school board's discretionary retainage, the~~  
19 ~~library funding obligation created by the special act is amended~~  
20 ~~and is reduced to the amount of the discretionary retainage,~~  
21 ~~notwithstanding any provisions of the special act to the contrary.~~  
22 ~~Any excess of the discretionary retainage over the library funding~~  
23 ~~obligation shall be available for expenditure by the county board~~  
24 ~~in its discretion for its properly budgeted purposes. Therefore,~~  
25 county boards are encouraged to support public libraries within  
26 their counties.

1       ~~(g) It is the intent of the Legislature that whenever a~~  
2 ~~provision of subsection (f) of this section is contrary to any~~  
3 ~~special act of the Legislature which has been or may in the future~~  
4 ~~be enacted by the Legislature that creates a library funding~~  
5 ~~obligation on the regular school board levy of a county, subsection~~  
6 ~~(f) of this section controls over the special act. Specifically,~~  
7 ~~the special acts which are subject to said subsection upon the~~  
8 ~~enactment of this section during the 2007 regular session of the~~  
9 ~~Legislature include:~~

10       ~~(1) Enrolled Senate Bill No. 11, passed on February 12, 1970,~~  
11 ~~applicable to the Berkeley County Board of Education;~~

12       ~~(2) Enrolled House Bill No. 1352, passed on April 7, 1981,~~  
13 ~~applicable to the Hardy County Board of Education;~~

14       ~~(3) Enrolled Committee Substitute for House Bill No. 2833,~~  
15 ~~passed on March 14, 1987, applicable to the Harrison County Board~~  
16 ~~of Education;~~

17       ~~(4) Enrolled House Bill No. 161, passed on March 6, 1957,~~  
18 ~~applicable to the Kanawha County Board of Education;~~

19       ~~(5) Enrolled Senate Bill No. 313, passed on March 12, 1937, as~~  
20 ~~amended by Enrolled House Bill No. 1074, passed on March 8, 1967,~~  
21 ~~and as amended by Enrolled House Bill No. 1195, passed on January~~  
22 ~~18, 1982, applicable to the Ohio County Board of Education;~~

23       ~~(6) Enrolled House Bill No. 938, passed on February 28, 1969,~~  
24 ~~applicable to the Raleigh County Board of Education;~~

25       ~~(7) Enrolled House Bill No. 398, passed on March 1, 1935,~~  
26 ~~applicable to the Tyler County Board of Education;~~

1       ~~(8) Enrolled Committee Substitute for Senate Bill No. 450,~~  
2 ~~passed on March 11, 1994, applicable to the Upshur County Board of~~  
3 ~~Education; and~~

4       ~~(9) Enrolled House Bill No. 2994, passed on March 13, 1987,~~  
5 ~~applicable to the Wood County Board of Education.~~

6       ~~(h) Notwithstanding any provision of any special act set forth~~  
7 ~~in subsection (g) of this section to the contrary, the county board~~  
8 ~~of any county with a special act creating a library obligation out~~  
9 ~~of the county's regular school levy revenues may transfer that~~  
10 ~~library obligation so that it becomes a continuing obligation of~~  
11 ~~its excess levy revenues instead of an obligation of its regular~~  
12 ~~school levy revenues, subject to the following:~~

13       ~~(1) If a county board chooses to transfer the library~~  
14 ~~obligation pursuant to this subsection, the library funding~~  
15 ~~obligation shall remain an obligation of the regular school levy~~  
16 ~~revenues until the fiscal year in which the excess levy is~~  
17 ~~effective or would have been effective if it had been passed by the~~  
18 ~~voters;~~

19       ~~(2) If a county board chooses to transfer the library~~  
20 ~~obligation pursuant to this subsection, the county board shall~~  
21 ~~include the funding of the public library obligation in the same~~  
22 ~~amount as its library funding obligation which exists or had~~  
23 ~~existed on its regular levy revenues as one of the purposes for the~~  
24 ~~excess levy to be voted on as a specifically described line item of~~  
25 ~~the excess levy: Provided, That if the county board has~~  
26 ~~transferred the library obligation to the excess levy and the~~

1 ~~excess levy fails to be passed by the voters or the excess levy~~  
2 ~~passes and thereafter expires upon the time limit for continuation~~  
3 ~~as set forth in section sixteen, article eight, chapter eleven of~~  
4 ~~this code, then in any subsequent excess levy which the county~~  
5 ~~board thereafter submits to the voters the library funding~~  
6 ~~obligation again shall be included as one of the purposes of the~~  
7 ~~subsequent excess levy as a specifically described line item of the~~  
8 ~~excess levy;~~

9       ~~(3) If a county board chooses to transfer the library~~  
10 ~~obligation pursuant to this subsection, regardless of whether or~~  
11 ~~not the excess levy passes, effective the fiscal year in which the~~  
12 ~~excess levy is effective or would have been effective if it had~~  
13 ~~been passed by the voters, a county's library obligation on its~~  
14 ~~regular levy revenues is void notwithstanding any provision of the~~  
15 ~~special acts set forth in subsection (g) of this section to the~~  
16 ~~contrary; and~~

17       ~~(4) Nothing in subdivision (3) of this subsection prohibits a~~  
18 ~~county board from funding its public library obligation~~  
19 ~~voluntarily.~~