



1 Commissioner to waive the use of the sales ratio analysis for  
 2 calculating local share upon a showing by the assessor of that  
 3 county that the preliminary sales ratio for the next  
 4 succeeding year would meet the minimum ratio; delaying the  
 5 increase in the percent of local levy rate for county boards  
 6 of education used for calculating local share until the second  
 7 consecutive year, and consecutive years thereafter, that  
 8 assessments are below sixty percent of market value including  
 9 the ten-percent variance; and requiring the state to use the  
 10 most recent projections or estimations that may be available  
 11 from the Tax Department for any estimation or preliminary  
 12 computations of local share required prior to the report to  
 13 the state board by the Tax Commissioner.

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

15 That §11-1C-5b of the Code of West Virginia, 1931, as amended,  
 16 be amended and reenacted; and that §18-9A-2, §18-9A-2a and  
 17 §18-9A-11 of said code be amended and reenacted, all to read as  
 18 follows:

19 **CHAPTER 11. TAXATION.**

20 **ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.**

21 **§11-1C-5b. Assessment for purpose of calculating local share.**

22 (a) This section is effective July 1, 2013, and distribution  
 23 of state aid pursuant to the local share calculations made pursuant

1 to this section shall occur during the 2014-2015 fiscal year and  
2 all fiscal years thereafter.

3 (b) The Tax Commissioner shall calculate the total assessed  
4 values for the purpose of calculating local share for each county  
5 each year pursuant to this section and report the total assessed  
6 values to the state Board of Education on or before ~~December 1~~  
7 March 1 of each year.

8 (c) To provide for assessors to assess at sixty percent of  
9 market value, it is the intent of the Legislature that local share,  
10 as set forth in section eleven, article nine-a, chapter eighteen of  
11 this code, be calculated assuming that the types of property  
12 included in the assessment ratio study in each county are assessed  
13 at a level in which the assessment ratio study indicates would be  
14 sixty percent of market value.

15 (d) For each of Classes II, III and IV as set forth in section  
16 five, article eight of this chapter, all real property of the type  
17 that is or would be included in the assessment ratio study if sold  
18 is assumed for the purpose of calculating local share to be  
19 assessed at the amount the property would be assessed at if all the  
20 property in the class were adjusted under the assumption that,  
21 using a ratio of sixty percent, all the property were ~~under or over~~  
22 ~~assessed~~ under-assessed or over-assessed to the same extent as that  
23 property included in the assessment ratio study so that using the

1 assessment ratio study as an indicator all the property in the  
2 class would be assessed at the ratio of sixty percent of market  
3 value, subject to the following:

4 (1) ~~Provided, That~~ If the sales ratio analysis indicates that  
5 assessments are within ten percent of sixty percent of market  
6 value, assessments are considered to be sixty percent of market  
7 value for the purposes of this section;

8 (2) For tax years beginning on and after the July 1, 2013,  
9 assessment date, for the first tax year when a county's assessments  
10 are below sixty percent of market value, including the ten percent  
11 variance:

12 (A) The actual assessed values of the properties to which this  
13 subsection applies shall be used for the purposes of calculating  
14 local share; and

15 (B) In addition to any other sanctions and notices the  
16 Property Valuation Training and Procedures Commission may elect to  
17 adopt or apply, the commission shall, at a minimum, notify the  
18 county assessor that the sales ratio study indicates that  
19 assessments are below sixty percent of market value including the  
20 ten percent variance;

21 (3) For the second consecutive year that assessments are below  
22 sixty percent of market value including the ten percent variance,  
23 the use of the assumed assessed values shall be used for the

1 purposes of calculating local share in the next succeeding tax year  
2 after the first tax year when a county's assessments are below  
3 sixty percent of market value, including the ten percent variance,  
4 and for succeeding consecutive years thereafter until such time as  
5 assessments are not below sixty percent of market value, including  
6 the ten percent variance. For the purposes of this subsection,  
7 only tax years beginning on or after the July 1, 2013, assessment  
8 date may count as the first year;

9       (4) In any county for which a valid sales ratio analysis  
10 cannot be obtained, owing to a lack of arm's-length sales of  
11 property in the county, it shall be assumed, for purposes of this  
12 section, that all property in that county is assessed at sixty  
13 percent of the appraised value, as determined by the Tax  
14 Commissioner; and

15       (5) Should a county fail in any year to meet the minimum sales  
16 ratio required by this section, the county may, upon express  
17 written waiver of the Tax Commissioner, be relieved of the  
18 penalties imposed by this section upon a showing by the assessor of  
19 that county that the preliminary sales ratio for the next  
20 succeeding year would meet the minimum ratio.

21       (e) The amount of the assumed assessed values determined  
22 pursuant to subsection (d) of this section shall be added to the  
23 actual assessed values of personal property, farmland, managed

1 timberland, public utility property or any other centrally assessed  
2 property provided in paragraphs (A), (B), (C) and (D), subdivision  
3 (2), subsection (a), section five of this article and the sum of  
4 these values is the total assessed value for the purpose of  
5 calculating local share.

6 **CHAPTER 18. EDUCATION.**

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

8 **§18-9A-2. Definitions.**

9 For the purpose of this article:

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

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

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

16 (d) "Professional educator" shall be synonymous with and shall  
17 have the same meaning as "teacher" as defined in section one,  
18 article one of this chapter, and includes technology integration  
19 specialists.

20 (e) "Professional instructional personnel" means a  
21 professional educator whose regular duty is as that of a classroom  
22 teacher, librarian, attendance director or school psychologist. A  
23 professional educator having both instructional and administrative

1 or other duties shall be included as professional instructional  
2 personnel for that ratio of the school day for which he or she is  
3 assigned and serves on a regular full-time basis in appropriate  
4 instruction, library, attendance, or psychologist duties.

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

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

17 (h) "Service personnel" means all personnel as provided in  
18 section eight, article four, chapter eighteen-a of this code. For  
19 the purpose of computations under this article of ratios of service  
20 personnel to net enrollment, a service employee shall be counted as  
21 that number found by dividing his or her number of employment days  
22 in a fiscal year by two hundred: *Provided*, That the computation  
23 for any service person employed for three and one-half hours or

1 less per day as provided in section eight-a, article four, chapter  
2 eighteen-a of this code shall be calculated as one-half an  
3 employment day.

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

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

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

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

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

22 (3) No pupil shall be counted more than once by reason of  
23 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

1 interim periods thereafter, the Legislative Oversight Commission on  
2 Education Accountability shall review the provisions of this  
3 subdivision to determine whether or not they properly address the  
4 needs of counties with low enrollment and a sparse population  
5 density.

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

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

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

20 (m) "High-density county" means a county whose ratio of net  
21 enrollment, excluding any increase in the net enrollment of  
22 counties pursuant to subdivision (5) of the definition of net  
23 enrollment, to the square miles of the county is equal to or

1 greater than twenty.

2       (n) "Levies for general current expense purposes" means  
3 ~~ninety-four percent of the levy rate for county boards of education~~  
4 ~~calculated or set by the Legislature pursuant to the provisions of~~  
5 ~~section six-f, article eight, chapter eleven of this code:~~  
6 ~~Provided, That beginning July 1, 2008, "levies for general current~~  
7 ~~expense purposes" means~~ ninety percent of the levy rate for county  
8 boards of education calculated or set by the Legislature pursuant  
9 to the provisions of section six-f, article eight, chapter eleven  
10 of this code: ~~Provided, however, That effective July 1, 2010, the~~  
11 ~~definitions~~ definition set forth in this subsection ~~are~~ is subject  
12 to the provisions of section two-a of this article.

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

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

1 **§18-9A-2a. Definition of levies for general current expense**  
2 **purposes.**

3 (a) For the purposes of this section only, "property" means  
4 only Classes II, III and IV properties exclusive of natural  
5 resources property as defined in section ten, article one-c,  
6 chapter eleven of this code, personal property, farmland, managed  
7 timberland, public utility property or any other centrally assessed  
8 property provided in paragraphs (A), (B), (C) and (D), subdivision  
9 (2), subsection (a), section five, article one-c, chapter eleven of  
10 this code: *Provided*, That nothing in this subsection may be  
11 construed to require that levies for general current expense  
12 purposes be applied only to those properties that are included in  
13 this definition.

14 (b) For the purposes of this section only, the median ratio of  
15 the assessed values to actual selling prices in the assessment  
16 ratio study applicable to the immediately preceding fiscal year  
17 shall be used as the indicator to determine the percentage market  
18 value that properties are being assessed at.

19 (c) For tax years beginning on and after the July 1, 2013,  
20 assessment date, for the first tax year when a county's assessments  
21 are below sixty percent of market value, including the ten percent  
22 variance, the requirements of subdivision (2), subsection (d),  
23 section five-b, article one-c, chapter eleven of this code shall

1 apply.

2 ~~(c)~~ (d) Notwithstanding any other provision of this section or  
3 section two of this article, ~~effective July 1, 2013 for any county~~  
4 ~~that is not assessing property at least at fifty-four percent of~~  
5 ~~market value~~ for the second consecutive year that a county's  
6 assessments are below sixty percent of market value including the  
7 ten percent variance and for any next succeeding consecutive years  
8 thereafter that assessments remain below that level, "levies for  
9 general current expense purposes" means ninety-eight percent of the  
10 levy rate for county boards of education set by the Legislature  
11 pursuant to section six-f, article eight, chapter eleven of this  
12 code. For the purposes of this subsection, only tax years  
13 beginning on or after the July 1, 2013, assessment date may count  
14 as the first year.

15 ~~(d)~~ (e) Any county that receives additional state aid due to  
16 its using a percentage less than ninety-eight percent in the  
17 calculation of levies for general current expense purposes, shall  
18 report to the state board how the additional state aid was used.  
19 The state board shall compile the reports from all the county  
20 boards into a single report, and shall report to the Legislative  
21 Oversight Commission on Education Accountability how the county  
22 boards used this additional state aid. The report shall be made  
23 annually as soon as practical after the end of each fiscal year.

1 **§18-9A-11. Computation of local share; appraisal and assessment of**  
2 **property; public library support.**

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

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

20 (2) The state board shall then apply these rates to the  
21 assessed taxable value of other property in each classification in  
22 the county as determined by the Tax Commissioner and shall deduct  
23 therefrom five percent as an allowance for the usual losses in

1 collections due to discounts, exonerations, delinquencies and the  
2 like. All of the amount so determined shall be added to the  
3 ninety-five percent of public utility taxes computed as provided in  
4 subdivision (1) of this subsection and this total shall be further  
5 reduced by the amount due each county assessor's office pursuant to  
6 the provisions of section eight, article one-c, chapter eleven of  
7 this code and this amount shall be the local share of the  
8 particular county.

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

14 (b) Effective July 1, 2013, subsection (a) of this section is  
15 void and local share shall be calculated in accordance with the  
16 following:

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

23 (2) Five percent shall be deducted from the revenue calculated

1 pursuant to subdivision (1) of this subsection as an allowance for  
2 the usual losses in collections due to discounts, exonerations,  
3 delinquencies and the like; and

4 (3) The amount calculated in subdivision (2) of this  
5 subsection shall further be reduced by the sum of money due each  
6 assessor's office pursuant to the provisions of section eight,  
7 article one-c, chapter eleven of this code and this reduced amount  
8 shall be the local share of the particular county.

9 As to any estimations or preliminary computations of local  
10 share required prior to the report to the state board by the Tax  
11 Commissioner pursuant to section five-b, article one-c, chapter  
12 eleven of this code, including computations necessary for the  
13 Governor's proposed budget, the state shall use the most recent  
14 projections or estimations that may be available from the Tax  
15 Department for that purpose.

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

1 the requirements of chapter eleven of this code and this section  
2 and the Tax Commissioner shall enter the county and fix the  
3 assessments at the required ratios. Refusal of the assessor or the  
4 county commission to make the corrections constitutes grounds for  
5 removal from office.

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

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

1           (f) The Legislature finds that public school systems  
2 throughout the state provide support in varying degrees to public  
3 libraries through a variety of means including budgeted  
4 allocations, excess levy funds and portions of their regular school  
5 board levies as may be provided by special act. A number of public  
6 libraries are situated on the campuses of public schools and  
7 several are within public school buildings serving both the  
8 students and public patrons. To the extent that public schools  
9 recognize and choose to avail the resources of public libraries  
10 toward developing within their students such legally recognized  
11 elements of a thorough and efficient education as literacy,  
12 interests in literature, knowledge of government and the world  
13 around them and preparation for advanced academic training, work  
14 and citizenship, public libraries serve a legitimate school purpose  
15 and may do so economically. For the purposes of any computation  
16 made in accordance with the provisions of this section, the library  
17 funding obligation on the regular school board levies which is  
18 created by a special act and is due and payable from the levy  
19 revenues to a library shall be paid from the county school board's  
20 discretionary retainage, which is hereby defined as the amount by  
21 which the regular school board levies exceeds the local share as  
22 determined hereunder. If the library funding obligation which is  
23 created by a special act and is due and payable to a library is

1 greater than the county school board's discretionary retainage, the  
2 library funding obligation created by the special act is amended  
3 and is reduced to the amount of the discretionary retainage,  
4 notwithstanding any provisions of the special act to the contrary.  
5 Any excess of the discretionary retainage over the library funding  
6 obligation shall be available for expenditure by the county board  
7 in its discretion for its properly budgeted purposes.

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

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

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

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

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

3 (5) Enrolled Senate Bill No. 313, passed on March 12, 1937, as  
4 amended by Enrolled House Bill No. 1074, passed on March 8, 1967,  
5 and as amended by Enrolled House Bill No. 1195, passed on January  
6 18, 1982, applicable to the Ohio County Board of Education;

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

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

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

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

16 (h) Notwithstanding any provision of any special act set forth  
17 in subsection (g) of this section to the contrary, the county board  
18 of any county with a special act creating a library obligation out  
19 of the county's regular school levy revenues may transfer that  
20 library obligation so that it becomes a continuing obligation of  
21 its excess levy revenues instead of an obligation of its regular  
22 school levy revenues, subject to the following:

23 (1) If a county board chooses to transfer the library

1 obligation pursuant to this subsection, the library funding  
2 obligation shall remain an obligation of the regular school levy  
3 revenues until the fiscal year in which the excess levy is  
4 effective or would have been effective if it had been passed by the  
5 voters;

6 (2) If a county board chooses to transfer the library  
7 obligation pursuant to this subsection, the county board shall  
8 include the funding of the public library obligation in the same  
9 amount as its library funding obligation which exists or had  
10 existed on its regular levy revenues as one of the purposes for the  
11 excess levy to be voted on as a specifically described line item of  
12 the excess levy: *Provided*, That if the county board has  
13 transferred the library obligation to the excess levy and the  
14 excess levy fails to be passed by the voters or the excess levy  
15 passes and thereafter expires upon the time limit for continuation  
16 as set forth in section sixteen, article eight, chapter eleven of  
17 this code, then in any subsequent excess levy which the county  
18 board thereafter submits to the voters the library funding  
19 obligation again shall be included as one of the purposes of the  
20 subsequent excess levy as a specifically described line item of the  
21 excess levy;

22 (3) If a county board chooses to transfer the library  
23 obligation pursuant to this subsection, regardless of whether or

1 not the excess levy passes, effective the fiscal year in which the  
2 excess levy is effective or would have been effective if it had  
3 been passed by the voters, a county's library obligation on its  
4 regular levy revenues is void notwithstanding any provision of the  
5 special acts set forth in subsection (g) of this section to the  
6 contrary; and

7 (4) Nothing in subdivision (3) of this subsection prohibits a  
8 county board from funding its public library obligation  
9 voluntarily.

NOTE: The purpose of this bill is to delay the imposition of penalties until a county's assessments are below the constitutionally required 60% of market value including the 10% variance for two consecutive years; changing the Tax Commissioner's deadline for reporting the total assessed values to the state Board of Education from December 1 to March 1; requiring that in any county for which a valid sales ratio analysis cannot be obtained due to a lack of arm's-length sales of property in the county it be assumed that all property in the county is assessed at 60% for the purpose of determining whether to use the sales ratio analysis for calculating local share; allowing the Tax Commissioner to waive the use of the sales ratio analysis for calculating local share upon a showing by the Assessor that the preliminary sales ratio for the next succeeding year would meet the minimum ratio; and providing that the state use the most recent projections or estimations that may be available from the Tax Department for the purpose of estimations or preliminary computation of local share required prior to the report to the state board by the Tax commissioner.

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