

COMMITTEE SUBSTITUTE

for

H. B. 2478

(BY MR. SPEAKER, (MR. ARMSTEAD)

AND DELEGATE MILEY)

[BY REQUEST OF THE EXECUTIVE]

(Originating in the Committee on Finance)

[February 25, 2015]

A BILL to amend and reenact §11-8-6f of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-9A-4, §18-9A-5, §18-9A-7, §18-9A-11 and §18-9A-12 of said code, all relating to public school finance; eliminating authority of growth county boards of education to designate regular school board levy revenues due to new construction or improvements to a growth county school facilities act fund; removing the reduction in a county's basic foundation allowance to a county school system for

professional educators and service personnel if the number employed is less than the maximum allowed for formula funding; adjusting the foundation school program allowance for transportation costs for the school years 2015-2016 and 2016-2017; including propane as an eligible fuel for the ten percent additional percentage allowance for school bus systems using alternative fuels; changing the percent of the replacement value of bus fleets included in the calculation of the allowance in the foundation school program for transportation; and eliminating certain adjustments in basic foundation program.

Be in enacted by the Legislature of West Virginia:

That §11-8-6f of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §18-9A-4, §18-9A-5, §18-9A-7, §18-9A-11 and §18-9A-12 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 8. LEVIES.

§11-8-6f. Regular school board levy rate.

- 1 (a) Notwithstanding any other provision of law, where any
- 2 annual appraisal, triennial appraisal or general valuation of

3 property would produce a statewide aggregate assessment that
4 would cause an increase of two percent or more in the total
5 property tax revenues that would be realized were the then
6 current regular levy rates of the county boards of education to be
7 imposed, the rate of levy for county boards of education shall be
8 reduced uniformly statewide and proportionately for all classes
9 of property for the forthcoming tax year so as to cause the rate
10 of levy to produce no more than one hundred two percent of the
11 previous year's projected statewide aggregate property tax
12 revenues from extending the county board of education levy rate,
13 unless subsection (b) of this section is complied with. The
14 reduced rates of levy shall be calculated in the following
15 manner: (1) The total assessed value of each class of property as
16 it is defined by section five of this article for the assessment
17 period just concluded shall be reduced by deducting the total
18 assessed value of newly created properties not assessed in the
19 previous year's tax book for each class of property; (2) the
20 resulting net assessed value of Class I property shall be
21 multiplied by .01; the value of Class II by .02; and the values of
22 Classes III and IV, each by .04; (3) total the current year's

23 property tax revenue resulting from regular levies for the boards
24 of education throughout this state and multiply the resulting sum
25 by one hundred two percent: *Provided*, That the one hundred two
26 percent figure shall be increased by the amount the boards of
27 education's increased levy provided for in subsection (b), section
28 eight, article one-c of this chapter; (4) divide the total regular
29 levy tax revenues, thus increased in subdivision (3) of this
30 subsection, by the total weighted net assessed value as calculated
31 in subdivision (2) of this subsection and multiply the resulting
32 product by one hundred; the resulting number is the Class I
33 regular levy rate, stated as cents-per-\$100 of assessed value; and
34 (5) the Class II rate is two times the Class I rate; Classes III and
35 IV, four times the Class I rate as calculated in the preceding
36 subdivision.

37 An additional appraisal or valuation due to new construction
38 or improvements, including beginning recovery of natural
39 resources, to existing real property or newly acquired personal
40 property shall not be an annual appraisal or general valuation
41 within the meaning of this section, nor shall the assessed value
42 of the improvements be included in calculating the new tax levy

43 for purposes of this section. Special levies shall not be included
44 in any calculations under this section.

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

49 (c) The State Tax Commissioner shall report to the Joint
50 Committee on Government and Finance and the Legislative
51 Oversight Commission on Education Accountability by March
52 1, of each year on the progress of assessors in each county in
53 assessing properties at the constitutionally required sixty percent
54 of market value and the effects of increasing the limit on the
55 increase in total property tax revenues set forth in this section to
56 two percent.

57 ~~(d) Growth County School Facilities Act. — Legislative~~
58 ~~findings. —~~

59 ~~The Legislature finds and declares that there has been,~~
60 ~~overall, a statewide decline in enrollment in the public schools~~
61 ~~of this state; due to this decline, most public schools have ample~~
62 ~~space for students, teachers and administrators; however, some~~

~~63 counties of this state have experienced significant increases in
64 enrollment due to significant growth in those counties; that those
65 counties experiencing significant increases do not have adequate
66 facilities to accommodate students, teachers and administrators.
67 Therefore, the Legislature finds that county boards of education
68 in those high-growth counties should have the authority to
69 designate revenues generated from the application of the regular
70 school board levy due to new construction or improvements
71 placed in a Growth County School Facilities Act Fund be used
72 for school facilities in those counties to promote the best
73 interests of this state's students.~~

~~74 (1) For the purposes of this subsection, "growth county"
75 means any county that has experienced an increase in second
76 month net enrollment of fifty or more during any three of the last
77 five years, as determined by the state Department of Education.~~

~~78 (2) The provisions of this subsection shall only apply to any
79 growth county, as defined in subdivision (1) of this subsection;
80 that, by resolution of its county board of education, chooses to
81 use the provisions of this subsection.~~

82 ~~(3) For any growth county, as defined in subdivision (1) of~~
83 ~~this subsection, that adopts a resolution choosing to use the~~
84 ~~provisions of this subsection, pursuant to subdivision (2) of this~~
85 ~~subsection, assessed values resulting from additional appraisal~~
86 ~~or valuation due to new construction or improvements to existing~~
87 ~~real property shall be designated as new property values and~~
88 ~~identified by the county assessor. The statewide regular school~~
89 ~~board levy rate as established by the Legislature shall be applied~~
90 ~~to the assessed value designated as new property values and the~~
91 ~~resulting property tax revenues collected from application of the~~
92 ~~regular school board levy rate shall be placed in a separate~~
93 ~~account designated as the Growth County School Facilities Act~~
94 ~~Fund. Revenues deposited in the Growth County School~~
95 ~~Facilities Act Fund shall be appropriated by the county board of~~
96 ~~education for construction, maintenance or repair of school~~
97 ~~facilities. Revenues in the fund may be carried over for an~~
98 ~~indefinite length of time and may be used as matching funds for~~
99 ~~the purpose of obtaining funds from the School Building~~
100 ~~Authority or for the payment of bonded indebtedness incurred~~
101 ~~for school facilities. For any growth county choosing to use the~~
102 ~~provisions of this subsection, estimated school board revenues~~

103 ~~generated from application of the regular school board levy rate~~
104 ~~to new property values are not to be considered as local funds for~~
105 ~~purposes of the computation of local share under the provisions~~
106 ~~of section eleven, article nine-a, chapter eighteen of this code.~~

107 (c) ~~This section, as amended during the legislative session in~~
108 ~~the year 2004, shall be effective as to any regular levy rate~~
109 ~~imposed for the county boards of education for taxes due and~~
110 ~~payable on or after July 1, 2004. If any provision of this section~~
111 ~~is held invalid, the invalidity shall not affect other provisions or~~
112 ~~applications of this section which can be given effect without the~~
113 ~~invalid provision or its application and to this end the provisions~~
114 ~~of this section are declared to be severable.~~

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

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

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

6 (1) ~~Subject to subdivision (2) of this subsection~~ In making
7 this computation ~~no~~ a county shall receive an allowance for the
8 ~~personnel which number is in excess of~~ number of state aid
9 eligible professional educators to each one thousand students in
10 net enrollment as follows:

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

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

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

24 (D) For each sparse-density county, ~~the number of personnel~~
25 ~~for which a county shall receive the allowance shall not exceed~~

26 seventy-two and ~~fifty-five~~ seventy-five one hundredths
27 professional educators per each one thousand students in net
28 enrollment;

29 ~~(2) For the ratios applicable to each of the four density~~
30 ~~categories set forth in subdivision (1) of this subsection, the~~
31 ~~number of professional educators per each one thousand students~~
32 ~~in net enrollment increases by five one hundredths per year for~~
33 ~~each of fiscal years 2010, 2011, 2012 and 2013. For each fiscal~~
34 ~~year thereafter, the ratios remain at the 2013 level.~~

35 ~~(3)~~ (2) The number of and the allowance for personnel paid
36 in part by state and county funds shall be prorated; and

37 ~~(4)~~ (3) Where two or more counties join together in support
38 of a vocational or comprehensive high school or any other
39 program or service, the professional educators for the school or
40 program may be prorated among the participating counties on
41 the basis of each one's enrollment therein and the personnel shall
42 be considered within the above-stated limit.

43 ~~(b) Subject to subsection (c) of this section, Each county~~
44 board shall establish and maintain a minimum ratio of
45 professional instructional personnel ~~per one thousand students in~~

46 ~~net enrollment~~ state aid funded professional educators as
47 follows:

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

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

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

64 (4) For each sparse-density county, the minimum ~~number~~
65 ratio of professional instructional personnel per ~~one thousand~~

66 ~~students in net enrollment is sixty-six and five one hundredths~~
67 state aid funded professional educators, or the number employed,
68 whichever is less, is ninety-one and seven one hundredths
69 percent.

70 (c) ~~For the ratios applicable to each of the four density~~
71 ~~categories set forth in subsection (b) of this subsection, the~~
72 ~~number of professional instructional personnel per each one~~
73 ~~thousand students in net enrollment increases by five one~~
74 ~~hundredths per year for each of fiscal years 2010, 2011, 2012~~
75 ~~and 2013. For each fiscal year thereafter, the ratios remain at the~~
76 ~~2013 level.~~

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

86 ~~(e) No~~ (d) A county shall may not increase the number of
87 administrative personnel employed as either professional
88 educators or pay grade “H” service personnel above the number
89 which were employed, or for which positions were posted, on
90 June 30, 1990, and, therefore, county boards shall whenever
91 possible utilize classroom teachers for curriculum administrative
92 positions through the use of modified or extended contracts.

93 ~~(f) As the number of professional educators per each one~~
94 ~~thousand students in net enrollment increases during fiscal years~~
95 ~~2009 through 2013, any additional positions that are created as~~
96 ~~a result of that increase shall be positions that will enhance~~
97 ~~student achievement and are consistent with the needs as~~
98 ~~identified in each county board’s electronic county strategic~~
99 ~~improvement plan. County boards are encouraged to fill at least~~
100 ~~some of the additional positions with technology integration~~
101 ~~specialists.~~

102 ~~(g) During the 2008-2009 interim period, and every three~~
103 ~~interim periods thereafter, the Legislative Oversight Commission~~
104 ~~on Education Accountability shall review the four density~~
105 ~~categories created in section two of this article, the ratios for~~

106 ~~professional educators established in this section and the ratios~~
107 ~~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
2 personnel ~~shall be~~ is the amount of money required to pay the
3 annual state minimum salaries in accordance with the provisions
4 of article four, chapter eighteen-a of this code, ~~to such service~~
5 ~~personnel employed, subject to~~ in accordance with the following:

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

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

15 (B) For each medium-density county, ~~the number of~~
16 ~~personnel for which a county shall receive the allowance shall~~
17 ~~not exceed~~ forty-four and ~~fifty-three~~ seventy-three one

18 hundredths service personnel per one thousand students in net
19 enrollment;

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

24 (D) For each sparse-density county, ~~the number of personnel~~
25 ~~for which a county shall receive the allowance shall not exceed~~
26 forty-five and ~~sixty-eight~~ eighty-eight one hundredths service
27 personnel per one thousand students in net enrollment; and

28 (2) Where two or more counties join together in support of
29 a vocational or comprehensive high school or any other program
30 or service, the service personnel for the school or program may
31 be prorated among the participating counties on the basis of each
32 one's enrollment therein and that the personnel shall be
33 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
2 county for transportation shall be the sum of the following
3 computations:

4 (1) A percentage of the transportation costs incurred by the
5 county for maintenance, operation and related costs exclusive of
6 all salaries, including the costs incurred for contracted
7 transportation services and public utility transportation, as
8 follows:

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

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

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

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

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

21 (F) For any county for that portion of its school bus system
22 that uses as an alternative fuel compressed natural gas or
23 propane, the percentage provided in paragraphs (A) through (D)

24 of this subdivision as applicable for the county plus an additional
25 ten percent: *Provided*, That for any county receiving an
26 additional ten percent for that portion of their bus system using
27 bio-diesel as an alternative fuel during the school year 2012-
28 2013, bio-diesel shall continue to qualify as an alternative fuel
29 under this paragraph to the extent that the additional percentage
30 applicable to that portion of the bus system using bio-diesel shall
31 be decreased by two and one-half percent per year for four
32 consecutive school years beginning in school year 2014-2015:
33 *Provided, however*, That any county using an alternative fuel and
34 qualifying for the additional allowance under this subdivision
35 shall submit a plan regarding the intended future use of
36 alternatively fueled school buses;

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

40 (3) An amount equal to eight and one-third percent of the
41 current replacement value of the bus fleet within each county as
42 determined by the state board: *Provided, That the amount for the*
43 *school year 2015-2016 will be \$13,500,000 and the amount for*

44 the school year 2016-2017 will be \$17,800,000. The amount
45 shall only be used for the replacement of buses. Buses purchased
46 after July 1, 1999 that are driven one hundred eighty thousand
47 miles, regardless of year model, will be subject to the
48 replacement value of eight and one-third percent as determined
49 by the state board. In addition, in any school year in which its net
50 enrollment increases when compared to the net enrollment the
51 year immediately preceding, a school district may apply to the
52 state superintendent for funding for an additional bus or buses.
53 The state superintendent shall make a decision regarding each
54 application based upon an analysis of the individual school
55 district's net enrollment history and transportation needs:
56 *Provided,* That the superintendent shall not consider any
57 application which fails to document that the county has applied
58 for federal funding for additional buses. If the state
59 superintendent finds that a need exists, a request for funding
60 shall be included in the budget request submitted by the state
61 board for the upcoming fiscal year; and

62 (4) Aid in lieu of transportation equal to the state average
63 amount per pupil for each pupil receiving the aid within each
64 county.

65 (b) The total state share for this purpose ~~shall be~~ is the sum
66 of the county shares: *Provided*, That no county shall receive an
67 allowance which is greater than one-third above the computed
68 state average allowance per transportation mile multiplied by the
69 total transportation mileage in the county exclusive of the
70 allowance for the purchase of additional buses.

71 (c) One half of one percent of the transportation allowance
72 distributed to each county shall be for the purpose of trips related
73 to academic classroom curriculum and not related to any
74 extracurricular activity. Any remaining funds credited to a
75 county for the purpose of trips related to academic classroom
76 curriculum during the fiscal year shall be carried over for use in
77 the same manner the next fiscal year and shall be separate and
78 apart from, and in addition to, the appropriation for the next
79 fiscal year. The state board may request a county to document
80 the use of funds for trips related to academic classroom
81 curriculum if the board determines that it is necessary.

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

1 (a) On the basis of each county's certificates of valuation as
2 to all classes of property as determined and published by the

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

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

23 (2) For each fiscal year beginning before July 1, 2014, the
24 state board shall then apply these rates to the assessed taxable
25 value of other property in each classification in the county as
26 determined by the Tax Commissioner and shall deduct therefrom
27 five percent as an allowance for the usual losses in collections
28 due to discounts, exonerations, delinquencies and the like. For
29 each fiscal year beginning after June 30, 2014, the state board
30 shall then apply these rates to the assessed taxable value of other
31 property in each classification in the county as determined by the
32 Tax Commissioner and shall deduct therefrom four percent as an
33 allowance for the usual losses in collections due to discounts,
34 exonerations, delinquencies and the like. All of the amount so
35 determined shall be added to the ninety-five or ninety-six
36 percent, as applicable, of public utility taxes computed as
37 provided in subdivision (1) of this subsection and this total shall
38 be further reduced by the amount due each county assessor's
39 office pursuant to section eight, article one-c, chapter eleven of
40 this code and this amount shall be the local share of the
41 particular county.

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

47 (b) It is the intent of the Legislature that the computation of
48 local share for public school support continue to be based upon
49 actual real property values rather than assumed assessed real
50 property values that are based upon an assessment ratio study,
51 and that the annual amount of local share for which a county
52 board of education is responsible continue to be computed
53 without reference to whether the real property assessments in
54 that county were at least fifty-four percent of market value in the
55 prior year as indicated by the assessment ratio study.
56 Accordingly, the effective date of the operation of this section as
57 amended and reenacted during 2014, and the effective date of the
58 operation of the repeal of section two-a of this article and the
59 operation of the repeal of section five-b, article one-c, chapter
60 eleven of this code, all as provided under this enactment, are
61 expressly made retrospective to June 30, 2013.

62 (c) Whenever in any year a county assessor or a county
63 commission fails or refuses to comply with this section in setting
64 the valuations of property for assessment purposes in any class
65 or classes of property in the county, the State Tax Commissioner
66 shall review the valuations for assessment purposes made by the
67 county assessor and the county commission and shall direct the
68 county assessor and the county commission to make corrections
69 in the valuations as necessary so that they comply with the
70 requirements of chapter eleven of this code and this section and
71 the Tax Commissioner may enter the county and fix the
72 assessments at the required ratios. Refusal of the assessor or the
73 county commission to make the corrections constitutes grounds
74 for removal from office.

75 (d) For the purposes of any computation made in accordance
76 with this section, in any taxing unit in which tax increment
77 financing is in effect pursuant to article eleven-b, chapter seven
78 of this code, the assessed value of a related private project shall
79 be the base-assessed value as defined in section two of said
80 article.

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

91 (f) (e) The Legislature finds that public school systems
92 throughout the state provide support in varying degrees to public
93 libraries through a variety of means including budgeted
94 allocations, excess levy funds and portions of their regular
95 school board levies. A number of public libraries are situated on
96 the campuses of public schools and several are within public
97 school buildings serving both the students and public patrons. To
98 the extent that public schools recognize and choose to avail the
99 resources of public libraries toward developing within their
100 students such legally recognized elements of a thorough and

101 efficient education as literacy, interests in literature, knowledge
102 of government and the world around them and preparation for
103 advanced academic training, work and citizenship, public
104 libraries serve a legitimate school purpose and may do so
105 economically. Therefore, county boards are encouraged to
106 support public libraries within their counties.

§18-9A-12. County basic foundation; total basic state aid allowance.

1 (a) The basic foundation program for each county for the
2 fiscal year shall be the sum of the amounts computed in
3 accordance with the provisions of sections four, five, six, seven,
4 eight, nine and ten of this article. On the first working day of
5 July, in each year, the state board shall determine the basic
6 foundation program for each county for that fiscal year. Data
7 used in the computations relating to net and adjusted enrollment,
8 and the number of professional educators, shall be for the second
9 month of the prior school term. Transportation expenditures used
10 in these computations shall be for the most recent year in which
11 data are available. The allocated state aid share of the county's
12 basic foundation program shall be the difference between the

13 cost of its basic foundation program and the county's local share
14 as determined in section eleven of this article except as provided
15 in subsection (b) of this section.

16 (b) The allocated state aid share shall be adjusted in the
17 following circumstances in the following manner: *Provided,*
18 That prior to such adjustment, the State Tax Commissioner shall
19 provide the state board, by January 15, of each year, a certified
20 listing of those counties in which such adjustment shall be made
21 pursuant to this subsection, together with the amount of revenue
22 which will not be available to each county board in the ensuing
23 fiscal year as a result of the circumstance:

24 (1) In those instances where the local share as computed
25 under section eleven of this article is not reflective of local funds
26 available because the county is under a final court order, or a
27 final decision of a board of assessment appeals under section
28 twenty-four-b, article three, chapter eleven of this code, to
29 refund or credit property taxes paid in prior years, the allocated
30 state aid share shall be the county's basic foundation program,
31 minus the local share as computed under section eleven of this
32 article, plus the amount of property tax the county is unable to

33 collect or must refund due to the final court order or final
34 decision of a board of assessment appeals. ~~Provided, That said~~
35 ~~adjustment shall not be made or shall only be made~~
36 ~~proportionately when the Legislature fails to fund or funds only~~
37 ~~in part the public school basic foundation support plan state~~
38 ~~share at a level sufficient to cover the reduction in state share:~~
39 ~~Provided, however, That nothing herein provided shall be~~
40 ~~construed to require or mandate any level of funding by the~~
41 ~~Legislature.~~

42 (2) In those instances where the local share as computed
43 under section eleven of this article is not reflective of local funds
44 available because the county is collecting tax based upon an
45 assessed value which is less than that determined by the Tax
46 Commissioner in the most recent published survey of property
47 valuations in the state due to an error in the published survey,
48 which error is certified to by the Tax Commissioner, the
49 allocated state aid share shall be the county's basic foundation
50 program, minus the local share as computed under section eleven
51 of this article, plus the amount of property tax the county is
52 unable to collect based on differences in the assessed valuation

53 between those in the most recent published survey of valuation
54 and the corrected assessed value actually levied upon by the
55 county. ~~Provided, That said adjustment shall not be made or~~
56 ~~shall only be made proportionately when the Legislature fails to~~
57 ~~fund or funds only in part the public school basic foundation~~
58 ~~support plan state share at a level sufficient to cover the~~
59 ~~reduction in state share. Provided, however, That nothing herein~~
60 ~~provided shall be construed to require or mandate any level of~~
61 ~~funding by the Legislature.~~

62 (3) In instances where a county is unable to collect property
63 taxes from a taxpayer during the pendency of any court
64 proceeding, the allocated state aid share shall be the county's
65 basic foundation program minus the local share as computed
66 under section eleven of this article, plus the amount the county
67 is unable to collect as a result of the pending court proceedings
68 as certified by the Tax Commissioner: *Provided*, That the county
69 is required to reimburse the amount of allocated state aid share
70 attributable to the amount of property tax it later receives upon
71 completion of court proceedings, which shall be paid into the
72 General Revenue Fund of the state. ~~Provided, however, That said~~

73 ~~adjustment shall not be made or shall only be made~~
74 ~~proportionately when the Legislature fails to fund or funds only~~
75 ~~in part the public school basic foundation support plan state~~
76 ~~share at a level sufficient to cover the reduction in state share:~~
77 ~~Provided further, That nothing herein provided shall be~~
78 ~~construed to require or mandate any level of funding by the~~
79 ~~Legislature.~~

80 (c) The allocated state aid share shall be adjusted in any
81 county receiving payments or contributions in lieu of property
82 taxes. In instances where a county receives payments or
83 contributions in lieu of property taxes, the allocated state aid
84 share shall be the county's basic foundation program minus the
85 local share as computed under section eleven of this article, plus
86 any amounts added pursuant to subsection (b) of this section
87 minus the payments or contributions in lieu of property taxes
88 which are distributed by the sheriff to the county board of
89 education. In determining the amount of such contribution or
90 payment in lieu of taxes, each county commission shall provide
91 to the State Tax Commissioner, by January 1, of each year, the
92 total amount of such payments or contributions paid to the

93 county and the proportion of the total amount that has been or
94 will be distributed to the county board of education. The State
95 Tax Commissioner then shall provide the state board, by January
96 15, of each year, a certified listing of those counties in which an
97 adjustment pursuant to this section shall be made, together with
98 the amount of revenue which will be available to each county
99 board in the ensuing fiscal year as a result of contribution or
100 payment in lieu of taxes.

101 (d) Total basic state aid to the county shall be the computed
102 state share of basic foundation support. After such computation
103 is completed, the state board shall immediately certify to each
104 county board the amount of state aid allocated to the county for
105 that fiscal year, subject to any qualifying provisions of this
106 article.

