

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Engrossed

Committee Substitute

for

Senate Bill 609

BY SENATORS FERNS, AZINGER, RUCKER AND CLINE

[Originating in the Committee on Education; reported
on March 24, 2017]

1 A BILL to amend and reenact §11-8-6f and §11-8-12 of the Code of West Virginia, 1931, as
2 amended; to amend and reenact §18-9A-2, §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7,
3 §18-9A-9, §18-9A-10 and §18-9A-11 of said code; and to amend said code by adding
4 thereto a new section, designated §18-9A-25, all relating to public school support;
5 removing limit on increase in total property tax revenues if the current regular levy rates
6 of the county boards of education were to be imposed; requiring each county board of
7 education to establish its regular levy rates each year up to the statutory maximum levy
8 rates; allowing a county board to change its proposed regular levy rates from the original
9 proposed levy rates in its required statement to the Auditor; deleting required periodic
10 legislative review of definition of “net enrollment”; changing term “levies for general current
11 expense purposes” to “maximum levies for general current expense purposes” and
12 modifying the definition to mean ninety percent of the maximum levy rates for county
13 boards of education; determining allowance for fundable professional educators at set
14 ratio, rather than the number employed subject to a limit; providing for determination of
15 allowance for fundable positions in excess of number employed; deleting expired
16 provisions; basing minimum professional instructional personnel required on percent of
17 fundable professional educators or the number employed, whichever is less; providing for
18 prorating professional instructional personnel among participating counties in joint school
19 or program or service; removing penalty for not meeting applicable professional
20 instructional personnel ratio for 2017-2018 school year; deleting expired provisions;
21 deleting required periodic legislative review of density category ratios; determining
22 allowance for fundable service personnel at set ratio, rather than number employed
23 subject to a limit; providing for determination of allowance for fundable positions in excess
24 of number employed; providing for proration of number and allowance of personnel
25 employed in part by state and county funds; adding professional student support
26 personnel allowance to calculation of Teachers Retirement Fund allowance; basing

27 Teachers Retirement Fund allowance on average retirement contribution rate of each
28 county and defining “average rate”; allowing limited portion of funds for bus purchases to
29 be used for facility and equipment repair maintenance and improvement or replacement
30 or other current expense priorities if requested and approved by state superintendent
31 following verification; changing calculation of allowance for current expense from percent
32 allowances for professional and service personnel to county’s state average costs per
33 square footage per student for operations and maintenance; basing the allowance to
34 improve instructional programs and instructional technology on the portion of the increase
35 in local share amount for the next school year that is due to an increase in assessed values
36 only; removing authorization for use of instructional improvement funds for implementation
37 and maintenance of the uniform integrated regional computer information system;
38 removing requirement for fully utilizing applicable provisions of allowances for professional
39 and service personnel before using instructional improvement funds for employment;
40 removing restriction limiting use of new instructional improvement funds for employment
41 except for technology system specialists until certain determination made by state
42 superintendent; authorizing use of instructional technology improvement funds for
43 employment of technology system specialists and requiring amount used to be included
44 and justified in strategic technology plan; specifying when certain debt service payments
45 are to be made into School Building Capital Improvement Fund; authorizing use of
46 percentages of allocations for improving instructional programs and improving
47 instructional technology for facility and equipment repair, maintenance and improvement
48 or replacement and other current expense priorities and for emergency purposes;
49 requiring amounts used to be included and justified in respective strategic plans; and
50 basing the computation of local share on the maximum levies for general current expense
51 purposes.

Be it enacted by the Legislature of West Virginia:

1 That §11-8-6f and §11-8-12 of the Code of West Virginia, 1931, as amended, be amended
2 and reenacted; that §18-9A-2, §18-9A-4, §18-9A-5, §18-9A-6a, §18-9A-7, §18-9A-9, §18-9A-10
3 and §18-9A-11 of said code be amended and reenacted; and that said code be amended by
4 adding thereto a new section, designated §18-9A-25, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 8. LEVIES.

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

1 ~~(a) Notwithstanding any other provision of law, where any annual appraisal, triennial~~
2 ~~appraisal or general valuation of property would produce a statewide aggregate assessment that~~
3 ~~would cause an increase of two percent or more in the total property tax revenues that would be~~
4 ~~realized were the then current regular levy rates of the county boards of education to be imposed,~~
5 ~~the rate of levy for county boards of education shall be reduced uniformly statewide and~~
6 ~~proportionately for all classes of property for the forthcoming tax year so as to cause the rate of~~
7 ~~levy to produce no more than one hundred two percent of the previous year's projected statewide~~
8 ~~aggregate property tax revenues from extending the county board of education levy rate, unless~~
9 ~~subsection (b) of this section is complied with. The reduced rates of levy shall be calculated in the~~
10 ~~following manner: (1) The total assessed value of each class of property as it is defined by section~~
11 ~~five of this article for the assessment period just concluded shall be reduced by deducting the~~
12 ~~total assessed value of newly created properties not assessed in the previous year's tax book for~~
13 ~~each class of property; (2) the resulting net assessed value of Class I property shall be multiplied~~
14 ~~by .01; the value of Class II by .02; and the values of Classes III and IV, each by .04; (3) total the~~
15 ~~current year's property tax revenue resulting from regular levies for the boards of education~~
16 ~~throughout this state and multiply the resulting sum by one hundred two percent: Provided, That~~
17 ~~the one hundred two percent figure shall be increased by the amount the boards of education's~~
18 ~~increased levy provided for in subsection (b), section eight, article one-c of this chapter; (4) divide~~

19 ~~the total regular levy tax revenues, thus increased in subdivision (3) of this subsection, by the~~
20 ~~total weighted net assessed value as calculated in subdivision (2) of this subsection and multiply~~
21 ~~the resulting product by one hundred; the resulting number is the Class I regular levy rate, stated~~
22 ~~as cents per one hundred dollars of assessed value; and (5) the Class II rate is two times the~~
23 ~~Class I rate; Classes III and IV, four times the Class I rate as calculated in the preceding~~
24 ~~subdivision.~~

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

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

33 (a) Notwithstanding any other provision of code to the contrary, for the 2018 tax year and
34 thereafter, the regular levy rates for county boards of education shall be the sum of the levy rates
35 set forth in subdivisions (1), (2) and (3), section six-c of this article for each class of property,
36 which are: (1) For Class I property, 22.95 cents per \$100; (2) for Class II property, 45.9 cents per
37 \$100; and (3) for Class III and Class IV property, 91.8 cents per \$100: *Provided, That, annually,*
38 county boards of education may decrease their regular levy rates to no lower than the following
39 rates: (1) For Class I property, 19.4 cents per \$100; (2) for Class II property, 38.8 cents per \$100;
40 and (3) for Class III and Class IV property, 77.6 cents per \$100.

41 ~~(e) (b)~~ The State Tax Commissioner shall report to the Joint Committee on Government
42 and Finance and the Legislative Oversight Commission on Education Accountability by March 1
43 of each year on the progress of assessors in each county in assessing properties at the

44 constitutionally required sixty percent of market value and the effects of increasing the limit on the
45 increase in total property tax revenues set forth in this section to two percent.

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

47 The Legislature finds and declares that there has been, overall, a statewide decline in
48 enrollment in the public schools of this state; due to this decline, most public schools have ample
49 space for students, teachers and administrators; however, some counties of this state have
50 experienced significant increases in enrollment due to significant growth in those counties; that
51 those counties experiencing significant increases do not have adequate facilities to accommodate
52 students, teachers and administrators. Therefore, the Legislature finds that county boards of
53 education in those high-growth counties should have the authority to designate revenues
54 generated from the application of the regular school board levy due to new construction or
55 improvements placed in a Growth County School Facilities Act Fund be used for school facilities
56 in those counties to promote the best interests of this state's students.

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

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

63 (3) For any growth county, as defined in subdivision (1) of this subsection, that adopts a
64 resolution choosing to use the provisions of this subsection, pursuant to subdivision (2) of this
65 subsection, assessed values resulting from additional appraisal or valuation due to new
66 construction or improvements to existing real property shall be designated as new property values
67 and identified by the county assessor. ~~The statewide regular school board levy rate as established~~
68 ~~by the Legislature~~ shall be applied to the assessed value designated as new property values and
69 the resulting property tax revenues collected from application of the regular school board levy rate

70 shall be placed in a separate account designated as the Growth County School Facilities Act
71 Fund. Revenues deposited in the Growth County School Facilities Act Fund shall be appropriated
72 by the county board of education for construction, maintenance or repair of school facilities.
73 Revenues in the fund may be carried over for an indefinite length of time and may be used as
74 matching funds for the purpose of obtaining funds from the School Building Authority or for the
75 payment of bonded indebtedness incurred for school facilities. For any growth county choosing
76 to use the provisions of this subsection, estimated school board revenues generated from
77 application of the regular school board levy rate to new property values are not to be considered
78 as local funds for purposes of the computation of local share under the provisions of section
79 eleven, article nine-a, chapter eighteen of this code.

80 ~~(e)~~ (d) This section, as amended during the legislative session in the year 2004, shall be
81 effective as to any regular levy rate imposed for the county boards of education for taxes due and
82 payable on or after July 1, 2004. If any provision of this section is held invalid, the invalidity shall
83 not affect other provisions or applications of this section which can be given effect without the
84 invalid provision or its application and to this end the provisions of this section are declared to be
85 severable.

§11-8-12. Levy estimate by board of education; certification and publication.

1 (a) Each board of education shall, at the session provided for in section nine of this article,
2 if the laying of a levy has been authorized by the voters of the district under article nine, chapter
3 eighteen of this code, ascertain the condition of the fiscal affairs of the district, and make a
4 statement setting forth:

5 (1) The amount due, and the amount that will become due and collectible during the
6 current fiscal year except from the levy of taxes to be made for the year;

7 (2) The interest, sinking fund and amortization requirements for the fiscal year of bonded
8 indebtedness legally incurred upon a vote of the people, as provided by law, by any school district
9 existing prior to May 22, 1933, before the adoption of the Tax Limitation Amendment;

10 (3) Other contractual indebtedness not bonded, legally incurred by any such school district
11 existing prior to May 22, 1933, before the adoption of the Tax Limitation Amendment, owing by
12 such district;

13 (4) The amount to be levied for the permanent improvement fund;

14 (5) The total of all other expenditures to be paid out of the receipts for the current fiscal
15 year, with proper allowance for delinquent taxes, exonerations and contingencies;

16 (6) The amount of such total to be raised by the levy of taxes for the current fiscal year;

17 (7) The proposed rate of levy in cents on each \$100 assessed valuation of each class of
18 property;

19 (8) The separate and aggregate amounts of the assessed valuation of real, personal and
20 public utility property within each class.

21 (b) The secretary of the board shall forward immediately a certified copy of the statement
22 to the Auditor and shall publish the statement immediately. The session shall then stand
23 adjourned until the third Tuesday in April, at which time it shall reconvene except where otherwise
24 permitted by section nine of this article: *Provided*, That no provision of this section or section nine
25 of this article may be construed to abrogate any requirement imposed on the board of education
26 by article nine-b, chapter eighteen of this code.

27 (c) Notwithstanding any other provision of code to the contrary, for the 2018 tax year only,
28 at the session that is reconvened on the third Tuesday in April, 2017, the county board may
29 change its proposed regular levy rates from the original proposed levy rates that were included in
30 the statement required by subsection (a) of this section. All other requirements pertaining to
31 county boards of education establishing their regular levy rates continue to apply including the
32 requirement for the State Auditor to approve the levy rate.

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-2. Definitions.

1 For the purpose of this article:

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

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

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

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

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

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

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

23 (h) "Service personnel" means all personnel as provided in section eight, article four,
24 chapter eighteen-a of this code. For the purpose of computations under this article of ratios of
25 service personnel to net enrollment, a service employee ~~shall be~~ is counted as that number found
26 by dividing his or her number of employment days in a fiscal year by two hundred: *Provided, That*

27 the computation for any service person employed for three and one-half hours or less per day as
28 provided in section eight-a, article four, chapter eighteen-a of this code ~~shall be~~ is calculated as
29 one-half an employment day.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

75 (m) "High-density county" means a county whose ratio of net enrollment, excluding any
76 increase in the net enrollment of counties, pursuant to subdivision (5), subsection (i) of this

77 section, of the definition of “net enrollment”, to the square miles of the county is equal to or greater
78 than twenty.

79 (n) “~~Levies~~ Maximum levies for general current expense purposes” means ninety percent
80 of the maximum levy rate for county boards of education ~~calculated or set by the Legislature~~
81 ~~pursuant to section six-f, as derived from the sum of the levy rates in subdivisions (1), (2) and (3),~~
82 section six-c, article eight, chapter eleven of this code for each class of property.

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~~ In making this computation ~~no~~ a county
5 shall 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 not exceed~~ seventy-two and ~~one-tenth~~ three tenths professional educators
10 per each 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 not exceed~~ seventy-two and ~~twenty-five~~ forty-five 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 not exceed~~ seventy-two and ~~four~~ six 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 not exceed~~ seventy-two and ~~fifty-five~~ seventy-five one hundredths
19 professional educators per each one thousand students in net enrollment; and

20 (E) For any professional educator positions, or fraction thereof, determined for a county
21 pursuant to paragraphs (A), (B), (C) and (D) of this subdivision that exceed the number employed,
22 the county's allowance for these positions shall be determined using the average state-funded
23 salary of professional educators for the county;

24 ~~(2) For the ratios applicable to each of the four density categories set forth in subdivision~~
25 ~~(1) of this subsection, the number of professional educators per each one thousand students in~~
26 ~~net enrollment increases by five one hundredths per year for each of fiscal years 2010, 2011,~~
27 ~~2012 and 2013. For each fiscal year thereafter, the ratios remain at the 2013 level~~

28 ~~(3) (2)~~ The number of and the allowance for personnel paid in part by state and county
29 funds shall be prorated; and

30 ~~(4) (3)~~ Where two or more counties join together in support of a vocational or
31 comprehensive high school or any other program or service, the professional educators for the
32 school or program may be prorated among the participating counties on the basis of each one's
33 enrollment therein and the personnel shall be considered within the above-stated limit.

34 (b) ~~Subject to subsection (c) of this section each,~~ Each county board shall establish and
35 maintain a minimum ratio of professional instructional personnel per ~~one thousand students in net~~
36 ~~enrollment~~ state aid-funded professional educators employed as follows:

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

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

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

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

53 (5) Where two or more counties join together in support of a vocational or comprehensive
54 high school or any other program or service, the professional instructional personnel for the school
55 or program may be prorated among the participating counties on the basis of each one's
56 enrollment therein and the personnel shall be considered within the above stated minimum ratios.

57 ~~(c) For the ratios applicable to each of the four density categories set forth in subsection~~
58 ~~(b) of this subsection, the number of professional instructional personnel per each one thousand~~
59 ~~students in net enrollment increases by five one hundredths per year for each of fiscal years 2010,~~
60 ~~2011, 2012 and 2013. For each fiscal year thereafter, the ratios remain at the 2013 level~~

61 ~~(d)~~ (c) Any county board which does not establish and maintain the applicable minimum
62 ratio required in subsection (b) of this section shall suffer a pro rata reduction in the allowance for

63 professional educators under this section: *Provided, That ~~no~~ a county shall may not* be penalized
64 if it has increases in enrollment during that school year: *Provided, however, That for the school*
65 *year ~~2008-2009, only, no county shall~~ 2017-2018, only, a county may not* be penalized for not
66 meeting the applicable minimum ratio required in subsection (b) of this section.

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

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

78 ~~(g) During the 2008-2009 interim period, and every three interim periods thereafter, the~~
79 ~~Legislative Oversight Commission on Education Accountability shall review the four density~~
80 ~~categories created in section two of this article, the ratios for professional educators established~~
81 ~~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 (1) ~~For the school year beginning on July 1, 2008, and thereafter, no~~ A county shall receive
2 an allowance for ~~an amount in excess of~~ state aid-eligible service personnel positions per one
3 thousand students in net enrollment, as follows:

4 (A) For each high-density county, ~~the number of personnel for which a county shall receive~~
5 ~~the allowance shall not exceed~~ forty-three and ninety-seven one hundredths service personnel
6 per one thousand students in net enrollment;

7 (B) For each medium-density county, ~~the number of personnel for which a county shall~~
8 ~~receive the allowance shall not exceed~~ forty-four and fifty-three one hundredths service personnel
9 per one thousand students in net enrollment;

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

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

16 (E) For any service personnel positions, or fraction thereof, determined for a county
17 pursuant to this subsection that exceed the number employed, the county's allowance for these
18 positions shall be determined using the average state-funded minimum salary of service
19 personnel for the county;

20 (2) The number of and the allowance for personnel paid in part by state and county funds
21 shall be prorated; and

22 ~~(2)~~ (3) Where two or more counties join together in support of a vocational or
23 comprehensive high school or any other program or service, the service personnel for the school
24 or program may be prorated among the participating counties on the basis of each one's
25 enrollment therein and that the personnel shall be considered within the above stated limit.

§18-9A-6a. Teachers Retirement Fund allowance; unfunded liability allowance.

1 (a) The total Teachers Retirement Fund allowance ~~shall be~~ is the sum of the basic
2 foundation allowance for professional educators, the basic foundation allowance for professional
3 student support personnel and the basic foundation allowance for service personnel, as provided
4 in sections four, ~~and~~ five and eight of this article; all salary equity appropriations authorized in
5 section five, article four of chapter eighteen-a; and such amounts as are to be paid by the counties
6 pursuant to sections five-a and five-b of said article to the extent such county salary supplements

7 are equal to the amount distributed for salary equity among the counties, multiplied by ~~fifteen~~
8 ~~percent~~ the average retirement contribution rate for each county board. The average contribution
9 rate for each county board is based on the required employer contributions for state aid-eligible
10 employees participating in the retirement plans pursuant to articles seven-a and seven-b of this
11 chapter.

12 (b) The Teachers Retirement Fund allowance amounts provided for in subsection (a) of
13 this section shall be accumulated in the Employers Accumulation Fund of the state Teachers
14 Retirement System pursuant to section eighteen, article seven-a of this chapter, and shall be in
15 lieu of the contribution required of employers pursuant to subsection (b) of said section as to all
16 personnel included in the allowance for state aid in accordance with sections four, ~~and five~~ and
17 eight of this article.

18 (c) In addition to the Teachers Retirement Fund allowance provided for in subsection (a)
19 of this section, there shall be an allowance for the reduction of any unfunded liability of the
20 Teachers Retirement Fund in accordance with the following provisions of this subsection. On or
21 before December 31, of each year, the actuary or actuarial firm employed in accordance with the
22 provisions of section four, article ten-d, chapter five of this code shall submit a report to the
23 President of the Senate and the Speaker of the House of Delegates which sets forth an actuarial
24 valuation of the Teachers Retirement Fund as of the preceding ~~the thirtieth day of~~ June 30. Each
25 annual report shall recommend the actuary's best estimate, at that time, of the funding necessary
26 to both eliminate the unfunded liability over a forty-year period beginning on ~~the first day of July,~~
27 ~~one thousand nine hundred ninety four~~ July 1, 1994, and to meet the cash flow requirements of
28 the fund in fulfilling its future anticipated obligations to its members. In determining the amount of
29 funding required, the actuary shall take into consideration all funding otherwise available to the
30 fund for that year from any source: *Provided*, That the appropriation and allocation to the Teachers
31 Retirement Fund made pursuant to the provisions of section six-b of this article shall be included
32 in the determination of the requisite funding amount. In any year in which the actuary determines

33 that the Teachers Retirement Fund is not being funded in such a manner, the allowance made
34 for the unfunded liability for the next fiscal year shall be not less than the amount of the actuary's
35 best estimate of the amount necessary to conform to the funding requirements set forth in this
36 subsection.

§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), inclusive, of this
13 subdivision as 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),
16 inclusive, of this subdivision as applicable for the county plus an additional ten percent: *Provided,*
17 That for any county receiving an additional ten percent for that portion of their bus system using
18 bio-diesel as an alternative fuel during the school year 2012-2013, bio-diesel shall continue to
19 qualify as an alternative fuel under this paragraph to the extent that the additional percentage
20 applicable to that portion of the bus system using bio-diesel shall be decreased by two and one-
21 half percent per year for four consecutive school years beginning in school year 2014-2015:

22 *Provided, however,* That any county using an alternative fuel and qualifying for the additional
23 allowance under this subdivision shall submit a plan regarding the intended future use of
24 alternatively fueled school 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 \$15,000,000 and the amount for the school year~~
30 ~~beginning July 1, 2016, will be \$18,000,000.~~ The amount shall only be used for the replacement
31 of buses except as provided in subdivision (4) of this subsection. Buses purchased after July 1,
32 1999 that are driven one hundred eighty thousand miles, regardless of year model, ~~will be~~ are
33 subject to the replacement value of eight and one-third percent as determined by the state board.
34 In addition, in any school year in which its net enrollment increases when compared to the net
35 enrollment the year immediately preceding, a school district may apply to the state superintendent
36 for funding for an additional bus or buses. The state superintendent shall make a decision
37 regarding each application based upon an analysis of the individual school district's net enrollment
38 history and transportation needs: *Provided,* That the superintendent ~~shall~~ may not consider any
39 application which fails to document that the county has applied for federal funding for additional
40 buses. If the state superintendent finds that a need exists, a request for funding shall be included
41 in the budget request submitted by the state board for the upcoming fiscal year;

42 (4) Notwithstanding the restriction on the use of funds for the replacement of buses
43 pursuant to subdivision (3) of this subsection, up to \$200,000 of these funds in any school year
44 may be used by a county for school facility and equipment repair, maintenance and improvement
45 or replacement or other current expense priorities if a request by the county superintendent listing
46 the amount, the intended use of the funds and the serviceability of the bus fleet is approved by
47 the state superintendent. Before approving the request, the state superintendent shall verify the

48 serviceability of the county's bus fleet based upon the state school bus inspection defect rate of
49 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-9. Foundation allowance for other current expense and substitute employees and
faculty senates.**

1 The total allowance for other current expense and substitute employees ~~shall be~~ is the
2 sum of the following:

3 ~~(1) For current expense, ten percent of the sum of the computed state allocation for~~
4 ~~professional educators, professional student support personnel and service personnel as~~
5 ~~determined in sections four, five and eight of this article. Distribution to the counties shall be made~~
6 ~~proportional to the average of each county's average daily attendance for the preceding year and~~
7 ~~the county's second month net enrollment; plus~~

8 (1) For current expense:

9 (A) The nonsalary-related expenditures for operations and maintenance, exclusive of
10 expenditures reported in special revenue funds, for the latest available school year, in each
11 county, divided by the total square footage of school buildings in each county is used to calculate
12 a state average expenditure per square foot for operations and maintenance;

13 (B) The total square footage of school buildings in each county divided by each county's
14 net enrollment for school aid purposes is used to calculate a state average square footage per
15 student;

16 (C) Each county's net enrollment for school aid purposes multiplied by the state average
17 expenditure per square foot for operations and maintenance as calculated in paragraph (A) of this
18 subdivision and multiplied by the state average square footage per student as calculated in
19 paragraph (B) of this subdivision is that county's state average costs per square footage per
20 student for operations and maintenance;

21 (D) Where two or more counties join together in support of a vocational or comprehensive
22 high school or any other program or service, the allowance for current expense may be prorated
23 among the participating counties by adjusting the net enrollment for school aid purposes utilized
24 in the calculation by the number of students enrolled therein for each county; and

25 (E) Each county's allowance for current expense is 70.25 percent of the county's state
26 average costs per square footage per student for operations and maintenance amount as
27 calculated in paragraph (C) of this subdivision; plus

28 (2) For professional educator substitutes or current expense, two and five-tenths percent
29 of the computed state allocation for professional educators and professional student support
30 personnel as determined in sections four and eight of this article. Distribution to the counties shall
31 ~~be~~ is made proportional to the number of professional educators and professional student support
32 personnel authorized for the county in compliance with sections four and eight of this article; plus

33 (3) For service personnel substitutes or current expense, two and five-tenths percent of
34 the computed state allocation for service personnel as determined in section five of this article.

35 Distribution to the counties ~~shall be~~ is made proportional to the number of service personnel
36 authorized for the county in compliance with said section; plus

37 (4) For academic materials, supplies and equipment for use in instructional programs,
38 \$200 multiplied by the number of professional instructional personnel and professional student
39 support personnel employed in the schools of the county. Distribution ~~shall be~~ is made to each
40 county for allocation to the faculty senate of each school in the county on the basis of \$200 per
41 professional instructional personnel employed at the school. "Faculty senate" means a faculty
42 senate created pursuant to section five, article five-a of this chapter. Decisions for the expenditure
43 of such funds ~~shall be~~ are made at the school level by the faculty senate in accordance with the
44 provisions of said section and ~~shall~~ may not be used to supplant the current expense expenditures
45 of the county. Beginning on September 1, 1994, and every September thereafter, county boards
46 shall forward to each school for the use by faculty senates the appropriation specified in this
47 section. Each school shall be responsible for keeping accurate records of expenditures.

§18-9A-10. Foundation allowance to improve instructional programs and instructional technology.

1 (a) The total allowance to improve instructional programs ~~shall be~~ and instructional
2 technology is the sum of the following:

3 (1) For instructional improvement, in accordance with county and school electronic
4 strategic improvement plans required by section five, article two-e of this chapter, an amount
5 equal to ten percent of the portion of the increase in the local share amount for the next school
6 year that is due to an increase in assessed values only above any required allocation pursuant to
7 section six-b of this article shall be added to the amount of the appropriation for this purpose for
8 the immediately preceding school year. The sum of these amounts shall be ~~distributed~~ allocated
9 to the counties as follows:

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

11 (B) ~~Distribution~~ Allocation to the counties of the remainder of these funds shall be made
12 proportional to the average of each county's average daily attendance for the preceding year and
13 the county's second month net enrollment.

14 Moneys allocated by ~~provision of~~ this subdivision shall be used to improve instructional
15 programs according to the county and school strategic improvement plans required by section
16 five, article two-e of this chapter and approved by the state board. ~~Provided, That notwithstanding~~
17 ~~any other provision of this code to the contrary, moneys allocated by provision of this section also~~
18 ~~may be used in the implementation and maintenance of the uniform integrated regional computer~~
19 ~~information system.~~

20 Up to twenty-five percent of this allocation for the improvement of instructional programs
21 may be used to employ professional educators and service personnel in ~~counties after all~~
22 ~~applicable provisions of sections four and five of this article have been fully utilized~~ the county.
23 Prior to the use of any funds from this subdivision for personnel costs, the county board must
24 receive authorization from the state superintendent. The state superintendent shall require the
25 county board to demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility
26 in staffing; (3) sharing of services with adjoining counties and the Regional ~~educational~~ Education
27 Service Agency for that county in the use of the total local district board budget; and (4)
28 employment of technology integration specialists to meet the needs for implementation of the
29 West Virginia Strategic Technology Learning Plan. County boards shall make application for the
30 use of funds for personnel for the next fiscal year by May 1 of each year. On or before June 1,
31 the state superintendent shall review all applications and notify applying county boards of the
32 approval or disapproval of the use of funds for personnel during the fiscal year appropriate. The
33 state superintendent shall require the county board to demonstrate the need for an allocation for
34 personnel based upon the county's inability to meet the requirements of state law or state board
35 policy.

36 ~~The provisions relating to the use of any funds from this subdivision for personnel costs~~
37 ~~are subject to the following: (1) The funds available for personnel under this subsection~~
38 ~~subdivision may not be used to increase the total number of professional noninstructional~~
39 ~~personnel in the central office beyond four. and (2) For the school year beginning July 1, 2013,~~
40 ~~and thereafter, any funds available to a county for use for personnel under this subsection above~~
41 ~~the amount available for the 2012-2013 school year, only may be used for technology systems~~
42 ~~specialists until the state superintendent determines that the county has sufficient technology~~
43 ~~systems specialists to serve the needs of the county.~~

44 The plan shall be made available for distribution to the public at the office of each affected
45 county board; plus

46 (2) For the purposes of improving instructional technology, an amount equal to twenty
47 percent of the portion of the increase in the local share amount for the next school year that is
48 due to an increase in assessed values only above any required allocation pursuant to section six-
49 b of this article shall be added to the amount of the appropriation for this purpose for the
50 immediately preceding school year. The sum of these amounts shall be ~~distributed~~ allocated to
51 the counties as follows:

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

53 (B) ~~Distribution~~ Allocation to the counties of the remainder of these funds shall be made
54 proportional to the average of each county's average daily attendance for the preceding year and
55 the county's second month net enrollment.

56 ~~Effective July 1, 2014, Moneys allocated by provision of this subdivision shall be used to~~
57 ~~improve instructional technology programs according to the county and school strategic~~
58 ~~improvement plans~~ board's strategic technology learning plan. plus

59 This allocation for the improvement of instructional technology programs may also be used
60 for the employment of technology system specialists essential for the technology systems of the
61 schools of the county to be fully functional and readily available when needed by classroom

62 teachers. The amount of this allocation used for the employment of technology system specialists
63 shall be included and justified in the county board's strategic technology learning plan; plus

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

68 (4) An amount not less than the amount required to meet debt service requirements on
69 any revenue bonds issued prior to January 1, 1994, and the debt service requirements on any
70 revenue bonds issued for the purpose of refunding revenue bonds issued prior to January 1,
71 1994, shall be paid by the West Virginia Department of Education in accordance with the
72 expenditure schedule approved by the state budget office into the School Building Capital
73 Improvements Fund created by section six, article nine-d of this chapter and shall be used solely
74 for the purposes of that article. The School Building Capital Improvements Fund shall not be
75 utilized to meet the debt services requirement on any revenue bonds or revenue refunding bonds
76 for which moneys contained within the School Building Debt Service Fund have been pledged for
77 repayment pursuant to that section.

78 (b) Notwithstanding the restrictions on the use of funds pursuant to subdivisions (1) and
79 (2), subsection (a) of this section, a county board may:

80 (1) Utilize up to twenty-five percent of the allocation for the improvement of instructional
81 programs in any school year for school facility and equipment repair, maintenance and
82 improvement or replacement and other current expense priorities and for emergency purposes.

83 The amount of this allocation used for any of these purposes shall be included and justified in the
84 county and school strategic improvement plans or amendments thereto; and

85 (2) Utilize up to fifty percent of the allocation for improving instructional technology in any
86 school year for school facility and equipment repair, maintenance and improvement or
87 replacement and other current expense priorities and for emergency purposes. The amount of

88 this allocation used for any of these purposes shall be included and justified in the county board's
89 strategic technology learning plan or amendments thereto.

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

95 (e) (d) Any project funded by the School Building Authority shall be in accordance with a
96 comprehensive educational facility plan which must be approved by the state board and the
97 School Building Authority.

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

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

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

14 by applying these rates to the total assessed public utility valuation in each classification of
15 property in the county; and

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

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

31 (b) It is the intent of the Legislature that the computation of local share for public school
32 support continue to be based upon actual real property values rather than assumed assessed
33 real property values that are based upon an assessment ratio study, and that the annual amount
34 of local share for which a county board of education is responsible continue to be computed
35 without reference to whether the real property assessments in that county were at least fifty-four
36 percent of market value in the prior year as indicated by the assessment ratio study. Accordingly,
37 the effective date of the operation of this section as amended and reenacted during 2014, and
38 the effective date of the operation of the repeal of section two-a of this article and the operation

39 of the repeal of section five-b, article one-c, chapter eleven of this code, all as provided under this
40 enactment, are expressly made retrospective to June 30, 2013.

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

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

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

61 (f) The Legislature finds that public school systems throughout the state provide support
62 in varying degrees to public libraries through a variety of means including budgeted allocations,
63 excess levy funds and portions of their regular school board levies. A number of public libraries
64 are situated on the campuses of public schools and several are within public school buildings

65 serving both the students and public patrons. To the extent that public schools recognize and
66 choose to avail the resources of public libraries toward developing within their students such
67 legally recognized elements of a thorough and efficient education as literacy, interests in literature,
68 knowledge of government and the world around them and preparation for advanced academic
69 training, work and citizenship, public libraries serve a legitimate school purpose and may do so
70 economically. Therefore, county boards are encouraged to support public libraries within their
71 counties.

§18-9A-25. Effective date of changes during 2017 regular session of the Legislature.

1 The amendments to sections two, four, five, six-a, seven, nine, ten and eleven of this
2 article during the 2017 regular session of the Legislature shall be effective for the calculations and
3 distribution of state aid for the 2018 fiscal year and thereafter; and the provisions in place before
4 those amendments are only effective for the calculations and distribution of state aid prior to the
5 2018 fiscal year.