

**WEST VIRGINIA LEGISLATURE**  
**2019 FIRST EXTRAORDINARY SESSION**

**Introduced**  
**House Bill 162**

BY DELEGATES SHOTT, FOSTER, WESTFALL, GRAVES,  
ESPINOSA, SUMMERS, KUMP, PHILLIPS, HARSHBARGER,  
AND JENNINGS)

[Introduced June 17, 2019; Referred  
to the Select Committee on Education Reform A]

1 A BILL to repeal §18-2-5d, §18-2-13b, §18-2-16, §18-2-16a, §18-2-29, and §18-2-35 of the Code  
2 of West Virginia, 1931, as amended; to repeal §18-2K-1 and §18-2K-4 of said code, as  
3 amended; to repeal §18-3-9b of said code; to repeal §18-4-12 of said code; to repeal §18-  
4 5-18c, §18-5-18e, and §18-5-43 of said code; to repeal §18-5D-1, and §18-5D-2 of said  
5 code; to repeal §18-7A-36 of said code; to repeal §18-8A-1, §18-8A-2, §18-8A-3 and  
6 §18-8A-4 of said code; to repeal §18-9A-8a, §18-9A-17, and §18-9A-20 of said code; to  
7 repeal §18-9B-11a of said code; to repeal §18-9E-1 of said code; to repeal §18-9F-1 and  
8 §18-9F-8 of said code; to repeal §18-10J-1 of said code; and to amend and reenact §18-  
9 2K-2 and §18-2K-3 of said code; to amend and reenact §18-5-16a of said code; to amend  
10 and reenact §18-5D-3 and §18-5D-5 of said code; to amend and reenact §18-9A-2, §18-  
11 9A-6a, §18-9A-7, §18-9A-8, §18-9A-9, §18-9A-10, §18-9A-11, §18-9A-14, §18-9A-15,  
12 §18-9A-16, §18-9A-18, §18-9A-21, and §18-9A-24; to amend and reenact §18-9B-1, §18-  
13 9B-2, §18-9B-3, §18-9B-4, §18-9B-5, §18-9B-6, §18-9B-6a, §18-9B-7, §18-9B-8, §18-9B-  
14 9, §18-9B-10, §18-9B-12, §18-9B-13, §18-9B-14, §18-9B-15, §18-9B-17, §18-9B-18, §18-  
15 9B-19, §18-9B-20 and §18-9B-21 of said code; to amend and reenact §18-9E-3, §18-9E-  
16 4, and §18-9E-5 of said code; to amend and reenact §18-9F-4, and §18-9F-9 of said code;  
17 to amend and reenact §18-10J-6 of said code; and to amend and reenact §18-17-3 of said  
18 code, all relating to removing antiquated, redundant, or expired provisions of the code;  
19 updating references; removing outdated report requirements; removing the requirement  
20 for the State Board of Education to consult the Department of Health and Human Services  
21 when developing guidelines for care plans; removing dates that are no longer relevant;  
22 relating to the public school support program, also known as the school aid funding  
23 formula; removing or revising obsolete, outdated, antiquated, inoperative, surplus or  
24 superseded provisions; setting foundation allowance for professional support personnel;  
25 deleting provisions relating to School Construction Fund and the School Building Authority;  
26 reducing the proportion of assessed value on certain classifications of property; and

27 removing the requirement of the Legislature to appropriate the budget amount as  
 28 calculated by the State Superintendent of Schools; removing references to the Division of  
 29 Health and to RESA entities that no longer exist; updating references to local health  
 30 departments; updating procedural language for rule-making procedures; removing  
 31 redundant short titles for articles of the code; updating references to local health  
 32 departments; updating procedural language for rule-making procedures; and removing  
 33 provisions relating to the costs of providing clothing to indigent pupils attending West  
 34 Virginia schools for the deaf and blind.

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

**CHAPTER 18. EDUCATION.**

**ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-5d. Duty of board to report guidelines for productive and safe schools.**

1 [Repealed.]

**§18-2-13b. Additional authority of state Board of Education concerning revenue bonds for dormitories, homes or refectories.**

1 [Repealed.]

**§18-2-16. Establishment and operation of state camp and conference center; rental thereof; expenditures; gifts and donations; county court may erect and equip buildings.**

1 [Repealed.]

**§18-2-16a. Construction of buildings and recreational facilities at state camp and conference center; charges for use; financing by revenue bonds or notes permissible; trustee for holders of bonds or notes; contents of trust agreement.**

1 [Repealed.]

**§18-2-29. Competitive grant program for selected schools and school districts.**

2 [Repealed.]

**§18-2-35. Dress codes requiring school uniforms for students.**

1 [Repealed.]

**ARTICLE 2K. THE DIABETES CARE PLAN ACT.**

**§18-2K-1. Title of article.**

1 [Repealed.]

**§18-2K-2. Adoption of guidelines for individual diabetes care plans.**

1 (a) The State Board of Education shall adopt guidelines for the development and  
2 implementation of individual diabetes care plans. ~~on or before January 1, 2007~~ The guidelines for  
3 information and allowable actions in a diabetes care plan shall meet or exceed the American  
4 Diabetes Association's recommendations for the management of children with diabetes in the  
5 school and day care setting. ~~The State Board of Education shall consult with the Bureau for Public  
6 Health and the Department of Health and Human Resources in the development of these  
7 guidelines~~ The State Board of Education also shall consult with county board of education  
8 employees who have been designated as responsible for coordinating their individual county's  
9 efforts to comply with federal regulations adopted under Section 504 of the Rehabilitation Act of  
10 1973, as amended, 29 U.S.C. § 794. In its development of these guidelines, the state Board of  
11 Education shall consider recent resolutions by the Office of Civil Rights of the United States  
12 Department of Education regarding investigation of complaints alleging discrimination against  
13 students with diabetes.

14 The guidelines adopted by the state board shall include:

15 (1) Procedures for school nurses to develop an individual diabetes care plan for any  
16 student diagnosed with diabetes, which shall involve the parent or guardian, the student's health  
17 care provider, the student's classroom teacher, the student if appropriate, and other appropriate  
18 school personnel;

19 (2) Procedures for regular review of an individual care plan.

20 (3) Information to be included in a diabetes care plan, including the responsibilities and  
21 appropriate staff development for teachers and other school personnel, an emergency care plan,

22 the identification of allowable actions to be taken, the extent to which the student is able to  
23 participate in the student's diabetes care and management and other information necessary for  
24 teachers and other school personnel in order to offer appropriate assistance and support to the  
25 student; and

26 (4) Procedures for information and staff development to be made available to teachers  
27 and other school personnel in order to appropriately support and assist students with diabetes.

28 (b) The State Board of Education shall provide that the guidelines and any subsequent  
29 changes are published and disseminated to county boards of education.

**§18-2K-3. Establishment and implementation of diabetes care plans by county boards to support and assist students with diabetes.**

1 ~~Each~~ A county board of education shall establish and adopt a diabetes care plan which  
2 shall be implemented in schools in which students diagnosed with diabetes are enrolled. The plan  
3 shall be adopted not later than six months after the state Board of Education adopts guidelines  
4 for the plans pursuant to section two of this article. The plan shall meet all of the guidelines for  
5 diabetes care plans adopted by the state Board of Education pursuant to section two of this article.  
6 In particular, the boards shall require the implementation of the procedures set forth in those  
7 guidelines for the development and implementation of individual diabetes care plans. County  
8 boards also shall make available necessary information and staff development to teachers and  
9 school personnel in order to appropriately support and assist students with diabetes in  
10 accordance with their individual diabetes care plans.

**§18-2K-4. Progress report to the Legislature.**

1 [Repealed.]

**ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.**

**§18-3-9b. Reduction in amount budgeted for personal services.**

1 [Repealed.]

**ARTICLE 4. COUNTY SUPERINTENDENT OF SCHOOLS.**

**§18-4-12. Exception to §18-4-4.**

1 [Repealed.]

**ARTICLE 5. COUNTY BOARD OF EDUCATION.**

**§18-5-16a. Authorization to transfer pupils from one district to another; mandatory transfer; payment of tuition; net enrollment.**

1 Whenever, in the opinion of the board of education of any county, the education and  
2 welfare of a pupil will be enhanced, the board of education of such county shall have the authority  
3 to transfer any such pupil or pupils on a part-time or full-time basis from one school district to  
4 another school district within the state: *Provided*, That the boards of education of both the  
5 transferor and the transferee districts agree to the same by official action of both boards as  
6 reflected in the minutes of their respective meetings.

7 ~~Any pupil attending a school in a district of this state adjacent to the district of residence~~  
8 ~~during the school year one thousand nine hundred eighty four eighty five, is authorized to~~  
9 ~~continue such attendance in the adjacent district, and, upon written request therefor by the parent~~  
10 ~~or guardian, any person who is entitled to attend the public schools of this state and who resides~~  
11 ~~in the same household and is a member of the immediate family of such pupil is authorized to~~  
12 ~~enroll in such adjacent district. The transferor and transferee school districts shall effectuate any~~  
13 ~~transfer herein authorized in accordance with the provisions of this section~~

14 Whenever a pupil is transferred from one school district to another district on a full-time or  
15 part-time basis, the board of education of the school district in which the pupil is a bona fide  
16 resident shall pay to the board of education of the school district to which the pupil is transferred  
17 a tuition that is agreed upon by both such boards. Tuition for each full-time pupil shall not exceed  
18 the difference between the state aid per pupil received by the county to which the pupil is  
19 transferred and the county cost per pupil in the county to which said pupil is transferred.

20 For purposes of net enrollment as defined in §18-9A-2 of this code: (1) Whenever a pupil  
 21 is transferred on a full-time basis from one school district to another district pursuant to the  
 22 provisions of this section, the county to which the pupil is transferred shall include such pupil in  
 23 its net enrollment; and (2) whenever a pupil is transferred on a part-time basis from one school  
 24 district to another school district pursuant to the provisions of this section, the county in which the  
 25 student is a bona fide resident shall count the pupil in its net enrollment.

**§18-5-18c. Early childhood programs; eligibility and standards for placement; guidelines and criteria.**

1 [Repealed.]

**§18-5-18e. Study of limits on the number of pupils per teacher in a classroom in elementary and middle schools.**

1 [Repealed.]

**§18-5-43. Duty of the county board of education to report the county-wide productive and safe school plans to the West Virginia Board of Education.**

1 [Repealed.]

**ARTICLE 5D. WEST VIRGINIA FEED TO ACHIEVE ACT.**

**§18-5D-1. Short title.**

1 [Repealed.]

**§18-5D-2. Legislative findings; intent.**

1 [Repealed.]

**§18-5D-3. School nutrition programs.**

2 (a) ~~Each~~ A county board of education shall establish and operate school nutrition  
 3 programs under which, at a minimum, a nutritious breakfast and lunch are made effectively  
 4 available to all students enrolled in the schools of the county in accordance with the State Board  
 5 of Education standards. The standards shall include guidelines for determining the eligibility of  
 6 students for paid, free and reduced meals. The standards shall also establish procedures and

7 guidelines for the Feed to Achieve initiative to allow for the provision of healthy, nutritious meals  
8 to all elementary school students, without cost to students, where schools find it practical to do  
9 so.

10 (b) The Feed to Achieve initiative will be phased in for all elementary schools as sufficient  
11 funds become available, through donations, contributions and payments made by individuals,  
12 communities, businesses, organizations and parents or guardians on behalf of students. Nothing  
13 in this article prohibits any school from providing free meals to all of its students.

14 (c) Each county board of education shall:

15 (1) Require all schools to adopt a delivery system approved by the state Office of Child  
16 Nutrition ~~no later than the 2015 school year~~ that ensures all students are given an adequate  
17 opportunity to eat breakfast. These approved systems shall include, but are not limited to, Grab-  
18 And-Go Breakfasts, Breakfast in the Classroom or Breakfast After First Period; and

19 (2) Collaborate with the state Office of Child Nutrition to develop strategies and methods  
20 to increase the percentage of children participating in the school breakfast and lunch nutrition  
21 programs.

22 (d) In addition to other statistics, the county boards of education, in consultation with the  
23 state Office of Child Nutrition, shall determine the number of children in each school who are  
24 participating in each meal offered by the school; the number of children who are not eating each  
25 meal offered by the school; and the total daily attendance.

26 (e) The state Office of Child Nutrition shall report to ~~the Joint Committee on Government~~  
27 ~~and Finance, the Select Committee on Children and Poverty and the Legislative Oversight~~  
28 Commission on Education Accountability on or before December 31, 2015, and each year  
29 thereafter, on the impacts of the Feed to Achieve Act and any recommendations for legislation.

30 (f) County boards of education may utilize the nonprofit funds or foundations established  
31 in section four of this article or other available funds to offset the costs of providing free meals,  
32 after school and summer nutrition programs to elementary students.



33 (g) If at any time federal financial appropriations to this state for school nutrition programs  
34 are terminated, county boards of education are hereby authorized, but not required, to continue  
35 the programs at their own expense.

36 (h) Classroom teachers may not be required to participate in the operation of the school  
37 breakfast program as part of their regular duties.

**§18-5D-5. Shared table initiative.**

1 ~~(a) The Legislature finds and determines that:~~

2 ~~(1) In West Virginia, one in four children suffer from food insecurity; however, every day~~  
3 ~~each school has a large percentage of food that is left uneaten and thrown away, and in many~~  
4 ~~cases this food can be reused;~~

5 ~~(2) A new initiative called "The Shared Table" encourages schools to collect unused food~~  
6 ~~appropriate for redistribution, and make that food available throughout the day to students who~~  
7 ~~may be hungry, to provide a method for discrete distribution of that food to be taken home by kids~~  
8 ~~with food insecurity, and to donate any unused food to local food pantries and other entities that~~  
9 ~~distribute food to those in need;~~

10 ~~(3) This program has begun to catch on nationally and has shown itself to be an effective~~  
11 ~~way to distribute excess school food;~~

12 ~~(4) The Shared Table initiative can be as simple as designating a table or location in the~~  
13 ~~school for food to be taken by students through the school day, and can also provide a system of~~  
14 ~~discretely placing food in containers in student's lockers each day to take home, and other creative~~  
15 ~~initiatives to promote consumption of unused food already provided by schools to students and~~  
16 ~~others who have food insecurity at home; and~~

17 ~~(5) The Shared Table initiative does not require school cafeterias to produce extra food~~  
18 ~~and is only intended to promote the more effective consumption of existing food particularly to~~  
19 ~~students who may otherwise go without. Similar initiatives have been implemented in various~~

20 ~~states and have been very successful in safely distributing food consistent with U.S. Food and~~  
21 ~~Drug Administration and local health agencies requirements.~~

22 ~~Therefore, the purpose of this section is to establish a statewide initiative to facilitate this~~  
23 ~~worthwhile program~~

24 ~~(b)~~ (a) The state board shall promulgate a rule in accordance with §29A-3B-1 *et seq.* of  
25 this code that provides policy guidance to county boards on the management and distribution of  
26 excess school food consistent with state and county health department and United States Food  
27 and Drug Administration requirements and guidelines for the distribution of excess foods. The  
28 guidance policy at a minimum shall provide a list of food products and methodologies for  
29 distribution that include, but are not limited to:

30 (1) The types of foods that may be distributed;

31 (2) Methods of distribution to make excess food available at other times during the school  
32 day;

33 (3) Methods of distributing excess food to students to consume after school; and

34 (4) Methods to otherwise donate excess food to persons or organizations providing food  
35 to persons or families suffering from food insecurity.

36 ~~(e)~~ (b) The preparation, safety, and donation of food made available to students during a  
37 regular school meal time and donated to a food bank or any other nonprofit charitable organization  
38 for distribution, shall comply with and be thereby covered by the Good Samaritan Food Donation  
39 Act, §55-7D-1 *et seq.* of this code.

40 ~~(d)~~ (c) The methods of distributing excess food to students within a school may include a  
41 sharing table where food service staff, students and faculty may return appropriate food items  
42 consistent with state board guidelines to make those food items available to students during the  
43 school day.

44 ~~(e)~~ (d) Each county board of education shall establish a program to assist and encourage  
45 schools to participate in the Shared Table Initiative.

**ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.**

**§18-7A-36. Joint study of state retirement systems; report to Joint Committee on Government and Finance by specified date of study conclusions.**

1 [Repealed.]

**ARTICLE 8A. ATTENDANCE OF HOMELESS CHILDREN.**

**§18-8A-1. Legislative findings; definition of homeless child.**

1 [Repealed.]

**§18-8A-2. Residence of child.**

1 [Repealed.]

**§18-8A-3. Attendance of homeless children.**

1 [Repealed.]

**§18-8A-4. Report on at-risk children.**

1 [Repealed.]

**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 §18A-4-1 *et seq.* of this code.

6 (d) "Professional educator" shall be synonymous with and shall have the same meaning  
7 as "teacher" as defined in §18-1-1 of this code and includes technology integration specialists.

8 (e) "Professional instructional personnel" means a professional educator whose regular  
9 duty is as that of a classroom teacher, librarian, attendance director, or school psychologist. A  
10 professional educator having both instructional and administrative or other duties shall be

11 included as professional instructional personnel for that ratio of the school day for which he or she  
12 is assigned and serves on a regular full-time basis in appropriate instruction, library, attendance,  
13 or psychologist duties.

14 (f) "Professional student support personnel" means a "teacher" as defined in §18-1-1 of  
15 this code who is assigned and serves on a regular full-time basis as a counselor or as a school  
16 nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for  
17 Registered Professional Nurses. For all purposes except for the determination of the allowance  
18 for professional educators pursuant to §18-9A-4 of this code, professional student support  
19 personnel are professional educators.

20 (g) "Service personnel salaries" means the state legally mandated salaries for service  
21 personnel as provided in §18A-4-8a of this code.

22 (h) "Service personnel" means all personnel as provided in §18A-4-8 of this code. For the  
23 purpose of computations under this article of ratios of service personnel to net enrollment, a  
24 service employee shall be counted as that number found by dividing his or her number of  
25 employment days in a fiscal year by 200: *Provided*, That the computation for any service person  
26 employed for three and one-half hours or fewer per day as provided in §18A-4-8a of this code  
27 shall be calculated as one-half an employment day.

28 (i) "Net enrollment" means the number of pupils enrolled in special education programs,  
29 kindergarten programs, and grades one to 12, inclusive, of the public schools of the county. Net  
30 enrollment further shall include:

31 (1) Adults enrolled in regular secondary vocational programs, subject to the following:

32 (A) Net enrollment includes no more than 2,500 of those adults counted on the basis of  
33 full-time equivalency and apportioned annually to each county to support Advanced Career  
34 Education programs, as provided in §18-2E-11 of this code, in proportion to the adults  
35 participating in regular secondary vocational programs in the prior year counted on the basis of  
36 full-time equivalency: *Provided*, That beginning with the 2021 fiscal year and every year

37 thereafter, a career technical education center may only receive the funding for enrollment as  
38 authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this  
39 code; and

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

42 (2) Students enrolled in early childhood education programs as provided in §18-5-44 of  
43 this code, counted on the basis of full-time equivalency;

44 (3) A pupil may not be counted more than once by reason of transfer within the county or  
45 from another county within the state, and a pupil may not be counted who attends school in this  
46 state from another state;

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

49 (5) For the purposes of determining the county's basic foundation program only, for any  
50 county whose net enrollment as determined under all other provisions of this definition is less than  
51 1,400, the net enrollment of the county shall be increased by an amount to be determined in  
52 accordance with the following:

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

55 (B) Multiply the amount derived from the calculation in paragraph (A) of this subdivision  
56 by the difference between 1,400 and the county's actual net enrollment;

57 (C) If the increase in net enrollment as determined under this subdivision plus the county's  
58 net enrollment as determined under all other provisions of this subsection is greater than 1,400,  
59 the increase in net enrollment shall be reduced so that the total does not exceed 1,400; 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 10.

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 10 but less than 20.

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 section  
77 of the definition of "net enrollment", to the square miles of the county is equal to or greater than  
78 20.

79 (n) "Levies for general current expense purposes" means 90 percent of the levy rate for  
80 county boards of education calculated pursuant to §11-8-6c of this code or set by the Legislature  
81 pursuant to §11-8-6f of this code.

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

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

**§18-9A-6a. Teachers retirement fund allowance; unfunded liability allowance.**

1           (a) The total teachers retirement fund allowance is the sum of the basic foundation  
2 allowance for professional educators, the basic foundation allowance for professional student  
3 support personnel and the basic foundation allowance for service personnel, as provided in §18-  
4 9A-4, §18-9A-5 and §18-9A-8 of this code; all salary equity appropriations authorized in §18A-4-  
5 5 of this code; and such amounts as are to be paid by the counties pursuant to §18A-4-5a and  
6 §18A-4-5b of this code to the extent such county salary supplements are equal to the amount  
7 distributed for salary equity among the counties, multiplied by the average retirement contribution  
8 rate for each county board. The average contribution rate for each county board is based on the  
9 required employer contributions for state aide eligible employees participating in the retirement  
10 plans pursuant to §18-7A-1 *et seq.* and §18-7B-1 *et seq.* of this code.

11           (b) The teachers retirement fund allowance amounts provided for in subsection (a) of this  
12 section shall be accumulated in the employers accumulation fund of the State Teachers  
13 Retirement Fund pursuant to §18-7A-18 of this code and shall be in lieu of the contribution  
14 required of employers pursuant to §18-7A-18(b) of this code as to all personnel included in the  
15 allowance for state aid in accordance with §18-9A-4, §18-9A-5 and §18-9A-8 of this code.

16           (c) In addition to the teachers retirement fund allowance provided for in subsection (a) of  
17 this section, there shall be an allowance for the reduction of any unfunded liability of the teachers  
18 retirement fund in accordance with the following provisions of this subsection. On or before  
19 December 31, of each year, the actuary or actuarial firm employed in accordance with the  
20 provisions of §5-10D-4 of this code shall submit a report to the President of the Senate and the  
21 Speaker of the House of Delegates which sets forth an actuarial valuation of the teachers  
22 retirement fund as of the preceding thirtieth day of June. Each annual report shall recommend the  
23 actuary's best estimate, at that time, of the funding necessary to both eliminate the unfunded  
24 liability over a 40-year period beginning on July 1, 1994, and to meet the cash flow requirements  
25 of the fund in fulfilling its future anticipated obligations to its members. In determining the amount

26 of funding required, the actuary shall take into consideration all funding otherwise available to the  
27 fund for that year from any source. ~~Provided, That the appropriation and allocation to the teachers'~~  
28 ~~retirement fund made pursuant to the provisions of section six-b of this article shall be included in~~  
29 ~~the determination of the requisite funding amount~~ In any year in which the actuary determines  
30 that the teachers retirement fund is not being funded in such a manner, the allowance made for  
31 the unfunded liability for the next fiscal year shall be not less than the amount of the actuary's  
32 best estimate of the amount necessary to conform to the funding requirements set forth in this  
33 subsection.

**§18-9A-7. Foundation allowance for transportation cost.**

1 (a) The allowance in the foundation school program for each county for transportation is  
2 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, 87.5 percent;

7 (B) For each medium-density county, 90 percent;

8 (C) For each low-density county, 92.5 percent;

9 (D) For each sparse-density county, 95 percent;

10 (E) For any county for the transportation cost for maintenance, operation and related  
11 costs, exclusive of all salaries, for transporting students to and from classes at a multicounty  
12 vocational center, the percentage provided in paragraphs (A) through (D) of this subdivision as  
13 applicable for the county plus an additional 10 percent; and

14 (F) For any county for that portion of its school bus system that uses as an alternative fuel  
15 compressed natural gas or propane, the percentage provided in paragraphs (A) through (D) of  
16 this subdivision as applicable for the county plus an additional 10 percent: ~~Provided, That for any~~  
17 ~~county receiving an additional ten percent for that portion of their bus system using bio-diesel as~~



18 ~~an alternative fuel during the school year 2012-2013, bio-diesel shall continue to qualify as an~~  
19 ~~alternative fuel under this paragraph to the extent that the additional percentage applicable to that~~  
20 ~~portion of the bus system using bio-diesel shall be decreased by two and one-half percent per~~  
21 ~~year for four consecutive school years beginning in school year 2014-2015: *Provided, however*~~  
22 That any county using an alternative fuel and qualifying for the additional allowance under this  
23 subdivision shall submit a plan regarding the intended future use of alternatively fueled school  
24 buses;

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

27 (3) An amount equal to 8.33 percent of the current replacement value of the bus fleet  
28 within each county as determined by the state board. The amount shall only be used for the  
29 replacement of buses except as provided in subdivision (4) of this subsection. Buses purchased  
30 after July 1, 1999 that are driven 180,000 miles, regardless of year model, are subject to the  
31 replacement value of 8.33 percent as determined by the state board. In addition, in any school  
32 year in which its net enrollment increases when compared to the net enrollment the year  
33 immediately preceding, a school district may apply to the state superintendent for funding for an  
34 additional bus or buses. The state superintendent shall make a decision regarding each  
35 application based upon an analysis of the individual school district's net enrollment history and  
36 transportation needs: *Provided, That the superintendent may not consider any application which*  
37 *fails to document that the county has applied for federal funding for additional buses. If the state*  
38 *superintendent finds that a need exists, a request for funding shall be included in the budget*  
39 *request submitted by the state board for the upcoming fiscal year;*

40 (4) Notwithstanding the restriction on the use of funds for the replacement of buses  
41 pursuant to subdivision (3) of this subsection, up to \$200,000 of these funds in any school year  
42 may be used by a county for school facility and equipment repair, maintenance and improvement  
43 or replacement or other current expense priorities if a request by the county superintendent listing

44 the amount, the intended use of the funds and the serviceability of the bus fleet is approved by  
45 the state superintendent. Before approving the request, the state superintendent shall verify the  
46 serviceability of the county's bus fleet based upon the state school bus inspection defect rate of  
47 the county over the two prior years; and

48 (5) Aid in lieu of transportation equal to the state average amount per pupil for each pupil  
49 receiving the aid within each county.

50 (b) The total state share for this purpose is the sum of the county shares: *Provided*, That  
51 a county may not receive an allowance which is greater than one-third above the computed state  
52 average allowance per transportation mile multiplied by the total transportation mileage in the  
53 county exclusive of the allowance for the purchase of additional buses.

54 (c) One half of one percent of the transportation allowance distributed to each county is  
55 for the purpose of trips related to academic classroom curriculum and not related to any  
56 extracurricular activity. Any remaining funds credited to a county for the purpose of trips related  
57 to academic classroom curriculum during the fiscal year shall be carried over for use in the same  
58 manner the next fiscal year and shall be separate and apart from, and in addition to, the  
59 appropriation for the next fiscal year. The state board may request a county to document the use  
60 of funds for trips related to academic classroom curriculum if the board determines that it is  
61 necessary.

**§18-9A-8. Foundation allowance for professional student support services.**

1 (a) The basic foundation allowance to the county for professional student support  
2 personnel shall be the same amount of money ~~determined in accordance with the following:~~

3 ~~(1) The sum of the state minimum salaries, as determined in accordance with the~~  
4 ~~provisions of §18-4-1 et seq. of this code, for all state aid eligible school nurse and counselor~~  
5 ~~positions in the county during the 2008 fiscal year which number shall be reduced in the same~~  
6 ~~proportion as the number of professional educators allowed to be funded under §18-9A-4 of this~~  
7 ~~code to the total number of professional educators employed that are state aid eligible. In~~

8 ~~performing this calculation, the numerator shall be the number of professional educators actually~~  
 9 ~~funded under §18-9A-4 of this code and the denominator shall be the total number of professional~~  
 10 ~~educators employed that are eligible to be funded under §18-9A-4 of this code;~~

11 ~~(2) The amount derived from the calculation in §18-9A-8(a)(1) of this code is increased by~~  
 12 ~~one half percent;~~

13 ~~(3) The amount derived from the calculation in §18-9A-8(a)(2) of this code is the basic~~  
 14 ~~foundation allowance to the county for professional student support personnel for the 2009 fiscal~~  
 15 ~~year;~~

16 ~~(4) For fiscal years 2010, 2011, 2012, and 2013, the basic foundation allowance to the~~  
 17 ~~county for professional student support personnel increases by one half percent per year over~~  
 18 ~~the allowance for the previous year; and~~

19 ~~(5) For all fiscal years thereafter, the basic foundation allowance to the county for~~  
 20 ~~professional student support personnel remains the same amount as in the 2013 fiscal year, plus~~  
 21 ~~any additional amount of funding necessary to cover the any increases in the State Minimum~~  
 22 ~~Salary Schedule set forth in §18A-4-2 of this code effective for the fiscal year beginning July 1,~~  
 23 ~~2018, and thereafter.~~

24 ~~(b) The additional positions for counselors that may be created as a result of the one~~  
 25 ~~percent increase provided pursuant to this section shall be assigned to schools where the~~  
 26 ~~counselor can:~~

27 ~~(1) Enhance student achievement;~~

28 ~~(2) Provide early intervention for students in grades prekindergarten through five; and~~

29 ~~(3) Enhance student development and career readiness~~

**§18-9A-8a. Foundation allowance for regional education service agencies.**

1 [Repealed.]

**§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 is the sum of the  
2 following:

3           (1) For current expense:

4           (A) The non-salary related expenditures for operations and maintenance, exclusive of  
5 expenditures reported in special revenue funds, for the latest available school year, in each  
6 county, divided by the total square footage of school buildings in each county is used to calculate  
7 a state average expenditure per square foot for operations and maintenance;

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

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

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

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

23           (2) For professional educator substitutes or current expense, two and five-tenths percent  
24 of the computed state allocation for professional educators and professional student support  
25 personnel as determined in §18-9A-4 and §18-9A-8 of this code. Distribution to the counties is  
26 made proportional to the number of professional educators and professional student support

27 personnel authorized for the county in compliance with §18-9A-4 and §18-9A-8 of this code; plus

28 (3) For service personnel substitutes or current expense, two and five-tenths percent of  
29 the computed state allocation for service personnel as determined in §18-9A-5 of this code.

30 Distribution to the counties is made proportional to the number of service personnel authorized  
31 for the county in compliance with §18-9A-5 of this code.; plus

32 (4) For academic materials, supplies and equipment for use in instructional programs,  
33 \$200 multiplied by the number of professional instructional personnel and professional student  
34 support personnel employed in the schools of the county. Distribution is made to each county for  
35 allocation to the faculty senate of each school in the county on the basis of \$200 per professional  
36 instructional personnel employed at the school. "Faculty Senate" means a faculty senate created  
37 pursuant to section five, article five-a of this chapter. Decisions for the expenditure of such funds  
38 are made at the school level by the faculty senate in accordance with the provisions of said section  
39 five, article five-a and may not be used to supplant the current expense expenditures of the  
40 county. ~~Beginning on September 1, 1994, and every September thereafter~~ Every September,  
41 county boards shall forward to each school for the use by faculty senates the appropriation  
42 specified in this section. Each school shall be responsible for keeping accurate records of  
43 expenditures.

**§18-9A-10. Foundation allowance to improve instructional programs, instructional  
technology, and technology system specialists; dual credit, advanced placement  
and international baccalaureate courses; teacher and leader induction and  
professional growth.**

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

3 (1) For instructional improvement, in accordance with county and school electronic  
4 strategic improvement plans required by §18-2E-5 of this code, an amount equal to ten percent  
5 of the increase in the local share amount for the next school year shall be added to the amount

6 of the appropriation for this purpose for the immediately preceding school year. The sum of these  
7 amounts shall be allocated to the counties as follows:

8 (A) \$150,000 shall be allocated to each county; and

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

12 Moneys allocated by this subdivision shall be used to improve instructional programs  
13 according to the county and school strategic improvement plans required by §18-2E-5 of this code  
14 and approved by the state board.

15 Up to 50 percent of this allocation for the improvement of instructional programs may be  
16 used to employ professional educators and service personnel in the county. Prior to the use of  
17 any funds from this subdivision for personnel costs, the county board must receive authorization  
18 from the state superintendent. The state superintendent shall require the county board to  
19 demonstrate: (1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3)  
20 sharing of services with adjoining counties in the use of the total local district board budget; and  
21 (4) employment of technology integration specialists to meet the needs for implementation of the  
22 West Virginia Strategic Technology Learning Plan. County boards shall make application for the  
23 use of funds for personnel for the next fiscal year by May 1 of each year. On or before June 1,  
24 the state superintendent shall review all applications and notify applying county boards of the  
25 approval or disapproval of the use of funds for personnel during the fiscal year appropriate. The  
26 state superintendent shall require the county board to demonstrate the need for an allocation for  
27 personnel based upon the county's inability to meet the requirements of state law or state board  
28 policy.

29 The funds available for personnel under this subdivision may not be used to increase the  
30 total number of professional noninstructional personnel in the central office beyond four.

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

33           (2) For the purposes of improving instructional technology, an amount equal to twenty  
34 percent of the increase in the local share amount for the next school year shall be added to the  
35 amount of the appropriation for this purpose for the immediately preceding school year. The sum  
36 of these amounts shall be allocated to the counties as follows:

37           (A) \$30,000 shall be allocated to each county; and

38           (B) Allocation to the counties of the remainder of these funds shall be made proportional  
39 to the average of each county's average daily attendance for the preceding year and the county's  
40 second month net enrollment.

41           Moneys allocated by this subdivision shall be used to improve instructional technology  
42 programs according to the county board's strategic technology learning plan.

43           This allocation for the improvement of instructional technology programs may also be used  
44 for the employment of technology system specialists essential for the technology systems of the  
45 schools of the county to be fully functional and readily available when needed by classroom  
46 teachers. The amount of this allocation used for the employment of technology system specialists  
47 shall be included and justified in the county board's strategic technology learning plan; plus

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

52           (4) For the purpose of supporting county-level implementation of the comprehensive  
53 systems for teacher and leader induction and professional growth pursuant to §18A-3C-3 of this  
54 code, an amount equal to 20 percent of the increase in the local share amount for the next school  
55 year shall be added to the amount of the appropriation for this purpose for the immediately

56 preceding school year. The sum of these amounts shall be allocated to the counties in a manner  
57 established by the state board which takes into account the following factors:

58 (A) The number of full-time-equivalent teachers employed by the county with zero years  
59 of experience;

60 (B) The total number of full-time-equivalent teachers employed by the county with one  
61 year of experience, with two years of experience and with three years of experience;

62 (C) The number of full-time-equivalent principals, assistant principals and vocational  
63 administrators employed by the county who are in their first or second year of employment as a  
64 principal, assistant principal or vocational administrator;

65 (D) The number of full-time-equivalent principals, assistant principals and vocational  
66 administrators employed by the county who are in their first year in an assignment at a school  
67 with a programmatic level in which they have not previously served as a principal, assistant  
68 principal or vocational administrator; and

69 (E) Needs identified in the strategic plans for continuous improvement of schools and  
70 school systems including those identified through the performance evaluations of professional  
71 personnel.

72 ~~Notwithstanding~~ Notwithstanding any provision of this subsection to the contrary, no  
73 county may receive an allocation for the purposes of this subdivision which is less than the  
74 county's total 2016-2017 allocation from the Teacher Mentor and Principals Mentorship  
75 appropriations to the Department of Education. Moneys allocated by this subdivision shall be  
76 used for implementation of the comprehensive systems for teacher and leader induction and  
77 professional growth pursuant to §18A-3C-3 of this code; ~~plus~~

78 ~~(5) An amount not less than the amount required to meet debt service requirements on~~  
79 ~~any revenue bonds issued prior to January 1, 1994, and the debt service requirements on any~~  
80 ~~revenue bonds issued for the purpose of refunding revenue bonds issued prior to January 1,~~  
81 ~~1994, shall be paid by the Department of Education in accordance with the expenditure schedule~~



82 ~~approved by the state budget office into the School Building Capital Improvements Fund created~~  
83 ~~by §18-9D-6 of this code and shall be used solely for the purposes of that article. The School~~  
84 ~~Building Capital Improvements Fund shall not be utilized to meet the debt services requirement~~  
85 ~~on any revenue bonds or revenue refunding bonds for which moneys contained within the School~~  
86 ~~Building Debt Service Fund have been pledged for repayment pursuant to that section~~

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

89 (1) Utilize up to 25 percent of the allocation for the improvement of instructional programs  
90 in any school year for school facility and equipment repair, maintenance and improvement or  
91 replacement and other current expense priorities and for emergency purposes. The amount of  
92 this allocation used for any of these purposes shall be included and justified in the county and  
93 school strategic improvement plans or amendments thereto; and

94 (2) Utilize up to 50 percent of the allocation for improving instructional technology in any  
95 school year for school facility and equipment repair, maintenance and improvement or  
96 replacement and other current expense priorities and for emergency purposes. The amount of  
97 this allocation used for any of these purposes shall be included and justified in the county board's  
98 strategic technology learning plan or amendments thereto.

99 ~~(c) When the school improvement bonds secured by funds from the School Building~~  
100 ~~Capital Improvements Fund mature, the State Board of Education shall annually deposit an~~  
101 ~~amount equal to \$24,000,000 from the funds allocated in this section into the School Construction~~  
102 ~~Fund created pursuant to the provisions of §18-9D-6 of this code to continue funding school facility~~  
103 ~~construction and improvements.~~

104 ~~(d) Any project funded by the School Building Authority shall be in accordance with a~~  
105 ~~comprehensive educational facility plan which must be approved by the state board and the~~  
106 ~~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; duties of Tax Commissioner; 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 §11-3-6 of this code for the next ensuing  
3 fiscal year in reliance upon the assessed values annually developed by each county assessor  
4 pursuant to §11-1C-1 *et seq.* and §11-3-1 *et seq.* of this code, the state board shall for each  
5 county compute by application of the levies for general current expense purposes, as defined in  
6 §11-9A-2 of this code, the amount of revenue which the levies would produce if levied upon one  
7 hundred percent of the assessed value of each of the several classes of property contained in the  
8 report or revised report of the value made to it by the Tax Commissioner as follows:

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

15 ~~(2) For each fiscal year beginning before July 1, 2014, the state board shall then apply~~  
16 ~~these rates to the assessed taxable value of other property in each classification in the county as~~  
17 ~~determined by the Tax Commissioner and The state board shall deduct therefrom five percent as~~  
18 ~~an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and~~  
19 ~~the like. For each fiscal year beginning after June 30, 2014, the state board shall then apply these~~  
20 ~~rates to the assessed taxable value of other property in each classification in the county as~~  
21 ~~determined by the Tax Commissioner and shall deduct therefrom four percent as an allowance~~  
22 ~~for the usual losses in collections due to discounts, exonerations, delinquencies and the like. All~~  
23 ~~of the amount so determined shall be added to the ninety-five or ninety-six percent, as applicable,~~  
24 ~~of public utility taxes computed as provided in subdivision (1) of this subsection and this total This~~

25 subtotal shall be further reduced by the amount due each county assessor's office pursuant to  
26 §11-1C-8 of this code and this amount shall be the local share of the particular county.

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

30 ~~(b) It is the intent of the Legislature that the computation of local share for public school~~  
31 ~~support continue to be based upon actual real property values rather than assumed assessed~~  
32 ~~real property values that are based upon an assessment ratio study, and that the annual amount~~  
33 ~~of local share for which a county board of education is responsible continue to be computed~~  
34 ~~without reference to whether the real property assessments in that county were at least fifty-four~~  
35 ~~percent of market value in the prior year as indicated by the assessment ratio study. Accordingly,~~  
36 ~~the effective date of the operation of this section as amended and reenacted during 2014, and~~  
37 ~~the effective date of the operation of the repeal of section two-a of this article and the operation~~  
38 ~~of the repeal of section five-b, article one-c, chapter eleven of this code, all as provided under this~~  
39 ~~enactment, are expressly made retrospective to June 30, 2013.~~

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

49 ~~(d)~~ (b) For the purposes of any computation made in accordance with this section, in any  
50 taxing unit in which tax increment financing is in effect pursuant to pursuant to §7-11B-1 *et seq.*

51 of this code, the assessed value of a related private project shall be the base-assessed value as  
 52 defined in §7-11B-2 of this code.

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

60 ~~(f)~~ (d) The Legislature finds that public school systems throughout the state provide  
 61 support in varying degrees to public libraries through a variety of means including budgeted  
 62 allocations, excess levy funds and portions of their regular school board levies. A number of public  
 63 libraries are situated on the campuses of public schools and several are within public school  
 64 buildings serving both the students and public patrons. To the extent that public schools recognize  
 65 and choose to avail the resources of public libraries toward developing within their students such  
 66 legally recognized elements of a thorough and efficient education as literacy, interests in literature,  
 67 knowledge of government and the world around them and preparation for advanced academic  
 68 training, work and citizenship, public libraries serve a legitimate school purpose and may do so  
 69 economically. Therefore, county boards are encouraged to support public libraries within their  
 70 counties.

**§18-9A-14. Allowance for county transfers.**

1 In order to encourage county boards to utilize fully their facilities and to provide county  
 2 boards with fiscal flexibility, county boards that agree to transfer students to another county  
 3 pursuant to an agreement approved by the state board ~~after the effective date of this article,~~  
 4 pursuant to ~~subsection (19), section thirteen, article five, chapter eighteen~~ §18-5-13(s) of this  
 5 code, shall forward in the year in which the transfers occur to the receiving county the amount

6 agreed upon in the agreement, not to exceed the per pupil allocation in the state aid formula.  
 7 Subject to appropriations by the Legislature, funds equal to the agreed upon amount will be  
 8 provided to the county which transfers students as an allowance for facility efficiency in the year  
 9 in which the transfers occur. Subject to appropriations by the Legislature, for the first year after  
 10 the transfers occur, the sending county board shall receive one-half the amount provided for in  
 11 the agreement. Subject to appropriations by the Legislature, for the second year after the transfers  
 12 occur, the county board shall receive one-fourth the amount provided for in the agreement. If  
 13 professional or service personnel obtain full-time employment pursuant to the terms of §18A-4-8i  
 14 of this code, then the state board shall deduct an appropriate amount from the funds to be  
 15 received pursuant to this section.

**§18-9A-15. Allowance for increased enrollment; extraordinary sustained increased enrollment impact supplement.**

1 (a) To provide for the support of increased net enrollments in the counties in a school year  
 2 over the net enrollments used in the computation of total state aid for that year, there shall be  
 3 ~~appropriated for that purpose from the General Revenue Fund~~ allowed an amount to be  
 4 determined as follows:

5 (1) The state board shall promulgate a rule pursuant to §29A-3B-1 *et seq.* of this code that  
 6 establishes an objective method for projecting the increase in net enrollment for each school  
 7 district. The state superintendent shall use the method prescribed by the rule to project the  
 8 increase in net enrollment for each school district.

9 (2) The state superintendent shall multiply the average total state aid per net pupil by the  
 10 sum of the projected increases in net enrollment for all school districts and report this amount to  
 11 the Governor for inclusion in his or her proposed budget to the Legislature. ~~The Legislature shall~~  
 12 ~~appropriate to the West Virginia Department of Education the amount calculated by the state~~  
 13 ~~superintendent and proposed by the Governor.~~

14 (3) ~~The~~ From the amount appropriated by the Legislature for this purpose, the state

15 superintendent shall calculate each school district's share of the appropriation by multiplying the  
16 projected increase in net enrollment for the school district by the average total state aid per net  
17 pupil and shall distribute 60 percent of each school district's share to the school district on or  
18 before September 1, of each year. The state superintendent shall make a second distribution of  
19 the remainder of the appropriation in accordance with subdivision (4) of this subsection.

20 (4) After the first distribution pursuant to subdivision (3) of this subsection is made and  
21 after the actual increase in net enrollment is available, the state superintendent shall compute the  
22 total actual amount to be allocated to each school district for the year. The total actual amount to  
23 be allocated to each school district for the year is the actual increase in the school district's net  
24 enrollment multiplied by the average total state aid per net pupil. The state superintendent shall  
25 make the second distribution to each school district in an amount determined so that the total  
26 amount distributed to the district for the year, in both the first and second distributions, equals the  
27 actual increase in net enrollment multiplied by the average total state aid per net pupil. The state  
28 superintendent shall make the second distribution on or before December 31, of each year:  
29 *Provided*, That if the amount distributed to a school district during the first distribution is greater  
30 than the total amount to which a district is entitled to receive for the year, the district shall refund  
31 the difference to the Department of Education prior to June 30 of the fiscal year in which the  
32 excess distribution is made.

33 (5) If the amount of the appropriation for increased enrollment is not sufficient to provide  
34 payment in full for the ~~total of these several~~ calculated allocations, each county allocation shall be  
35 reduced to an amount which is equal to the county's proportionate share of ~~to~~ the available  
36 appropriation ~~compared to the total of the several allocations and the allocations as thus adjusted~~  
37 ~~shall be distributed to the counties as provided in this section~~: *Provided*, That the Governor shall  
38 request a supplemental appropriation at the next legislative session for the reduced amount.

39 (b) ~~To~~ In addition to the amount allocated under subsection (a) of this section, to help  
40 offset the budgetary impact of extraordinary and sustained increases in net enrollment in a county,

41 there shall be included in the basic state aid of any county whose most recent three-year average  
 42 growth in second month net enrollment is two percent or more, an amount equal to one fourth of  
 43 the state average per pupil state aid multiplied by the increase in the county's second month net  
 44 enrollment in the latest year.

45 (c) No provision of this section shall be construed to in any way affect the allocation of  
 46 moneys for educational purposes to a county under other provisions of law.

**§18-9A-16. General School Fund and its use.**

1 There ~~shall be established~~ is continued a separate school fund to be known as the General  
 2 School Fund which shall be administered by the ~~same board as provided in section five, article~~  
 3 ~~nine of this chapter~~ state superintendent. The proceeds from the income of this school fund, and  
 4 the interest thereon, as provided for under the irreducible school fund amendment to the  
 5 Constitution shall accrue to the general school fund which, with moneys appropriated by the  
 6 Legislature, shall be used to support the public schools of the state. All other state funds and  
 7 taxes formerly dedicated to the general school fund shall hereafter be paid into the state general  
 8 fund.

9 ~~No person who, at the time of passage of this article, depended on the general school~~  
 10 ~~fund in part or in whole for payment of his salary shall have his salary reduced by virtue of this~~  
 11 ~~article.~~

**§18-9A-17. Administration of school finance.**

1 [Repealed.]

**§18-9A-18. Rules and regulations.**

1 The state board shall have authority to make such reasonable rules and ~~regulations~~  
 2 policies as may be necessary to enable it to carry out the purposes and intent of this article with  
 3 respect to the allocation of state aid for schools.

**§18-9A-20. Repeal of inconsistent provisions.**

1 [Repealed.]

**§18-9A-21. Funding for alternative education programs.**

1 (a) An appropriation may be made to the state department to be distributed to county  
2 boards for the operation of alternative education and prevention programs established in  
3 accordance with policies and procedures adopted by the state board under §18-2-6 of this code  
4 ~~The appropriation shall be in~~ an amount equal to \$18 per student in net enrollment, subject to  
5 appropriation by the Legislature. The state board shall distribute 98 percent of the total  
6 appropriation to the county boards proportionate to each county's net enrollment. The remaining  
7 two percent of the appropriation shall be retained by the state department to support the provision  
8 of services to the county boards in administering programs established in accordance with policies  
9 and procedures adopted by the state board under §18-2-6 of this code.

10 (b) Nothing in this section may be construed to require any specific level of funding by the  
11 Legislature.

12 ~~(c) The increase from \$12 per student in net enrollment to \$18 per student in net~~  
13 ~~enrollment pursuant to the amendment and enactment of this section during the 2010 regular~~  
14 ~~session of the Legislature is not subject to the provisions of section three-a~~

**§18-9A-24. Foundation allowance for Public Employees Insurance Fund; employer contributions for persons employed outside of foundation allowance.**

1 (a) The allowance to the Public Employees Insurance Agency for school employees shall  
2 be made in accordance with the following: The number of individuals employed by county boards  
3 as professional educators pursuant to §18-9A-4 of this code, plus the number of individuals  
4 employed by county boards as service personnel pursuant to §18-9A-5 of this code, plus the  
5 number of individuals employed by county boards as professional student support personnel  
6 pursuant to §18-9A-8 of this code, multiplied by the average premium rate for all county board of  
7 education employees established by the Public Employees Insurance Agency Finance Board.  
8 The average premium rate for all county board of education employees shall be incorporated into  
9 each financial plan developed by the Finance Board in accordance with §5-16-5 of this code. The



10 premiums shall include any proportionate share of retirees subsidy established by the Finance  
11 Board and the difference, if any, between the previous year's actual premium costs and the  
12 previous year's appropriation, if the actual cost was greater than the appropriation. The amount  
13 of the allowance provided in this subsection shall be paid directly to the West Virginia Public  
14 Employees Insurance Agency. Each county board shall reflect its share of the payment as  
15 revenue on its financial statements to offset its expense for the employer annual required  
16 contribution, as defined in §5-16D-1 *et seq.* of this code.

17 (b) Notwithstanding any other provision of §5-16D-6 of this code to the contrary, any  
18 amount of employer annual required contribution allocated and billed to county boards ~~on or after~~  
19 ~~July 1, 2012, and any amount of the employer annual required contribution allocated and billed to~~  
20 ~~the county boards prior to that date~~ for employees who are employed as professional employees  
21 within the limits authorized by section four of this article, employees who are employed as service  
22 personnel within the limits authorized by section five of this article, and employees who are  
23 employed as professional student support personnel within the limits authorized §18-9A-8 of this  
24 code, shall be charged to the state: *Provided*, That nothing in this subsection requires any specific  
25 level of funding by the Legislature in any particular year: *Provided, however*, That charging  
26 specified amounts to the state pursuant to this section is not to be construed as creating an  
27 employer employee relationship between the State of West Virginia and any employee under the  
28 employ of a county board or as creating a liability of the state.

29 (c) County boards are liable for the employer annual required contribution allocated and  
30 billed to the county boards ~~on or after July 1, 2012, and any amount of the employer annual~~  
31 ~~required contribution allocated and billed to the county boards prior to that date~~ for individuals  
32 who are employed as professional employees above and beyond those authorized by §18-9A-4  
33 of this code, individuals who are employed as service personnel above and beyond those  
34 authorized by §18-9A-5 of this code and individuals who are employed as professional student  
35 support personnel above and beyond those authorized by §18-9A-8 of this code. For each such

36 employee, the county board shall forward to the Public Employees Insurance Agency an amount  
 37 equal to the average premium rate established by the finance board in accordance with  
 38 subsection (a) of this section: *Provided*, That the county board shall pay the actual employer  
 39 premium costs for any county board employee paid from special revenues, federal or state grants,  
 40 or sources other than state general revenue or county funds.

41 (d) ~~Prior to July 1, 1995, nothing in this article shall be construed to limit the ability of~~  
 42 ~~county boards to use funds appropriated to county boards pursuant to this article to pay employer~~  
 43 ~~premiums to the Public Employees Insurance Agency for employees whose positions are funded~~  
 44 ~~pursuant to this article~~ Funds appropriated to county boards pursuant to this article shall not be  
 45 used to pay employer premiums for employees of such boards whose positions are not, or will  
 46 not be within 20 months, funded by funds appropriated pursuant to this article.

**ARTICLE 9B. STATE BOARD OF SCHOOL FINANCE COUNTY SCHOOL BOARD**  
**BUDGETS AND AUDITS.**

**§18-9B-1. Purpose and construction of article.**

1 Because of the adoption of the "Tax Limitation Amendment," it has become necessary for  
 2 the state to participate to an increasing degree in the financing of the free public schools. In the  
 3 fiscal year 1938-1939, this participation aggregated 55 percent of the total expended by county  
 4 boards of education for the operation of the schools of the state, and in 17 counties state aid  
 5 represented in excess of 70 percent of the total amounts spent for public education in those  
 6 counties. In consequence of this state investment in local education, the state has acquired a  
 7 paramount interest in the sound and stable management of the financial affairs of county school  
 8 districts so that the maximum effectiveness of education may be obtained from the expenditure  
 9 of the limited funds available.

10 With the foregoing purposes in view, this article is enacted to develop improved methods  
 11 of financial administration and to bring increased financial guidance and assistance to the

12 management of county school affairs.

13 The provisions of this article shall be construed to be in addition to the authority now  
 14 exercised by the ~~Tax Commissioner~~ State Auditor as chief inspector and supervisor of public  
 15 offices (~~under article nine, chapter six of the code~~) under §6-9-1 *et seq.* of the code for the  
 16 purposes of fidelity accounting and auditing. The intent of the Legislature is that the powers  
 17 granted by this article to the ~~state board of school finance~~ State Superintendent of Schools over  
 18 financial management shall in administration be fully coordinated with those of the ~~Tax~~  
 19 ~~Commissioner~~ State Auditor over the legality and fidelity of public expenditures.

20 The provisions of this article shall be liberally construed to give effect to the purposes  
 21 stated.

**§18-9B-2. Definitions.**

1 For the purposes of this article:

2 "~~Board of finance~~" means the state board of school finance

3 "Budget" means the annual budget of school revenues and expenditures prepared and  
 4 adopted by a county board of education in accordance with this article.

5 "Levy estimate" means the summary statement of the total budgeted school requirements  
 6 prepared and adopted by a county board of education in accordance with law, in justification of  
 7 the amount levied upon taxable property within the county for the support of the local schools.

8 "Appropriation" means an item, or the amount of an item, budgeted by a county board of  
 9 education for expenditure during the fiscal year.

10 "Expenditure schedule" means a schedule for the expenditure of amounts budgeted  
 11 throughout the fiscal year and adopted in conjunction with the annual budget.

12 "County board" means a county board of education.

13 "~~Employment term~~" means ~~ten months of employment as defined in section fifteen, article~~  
 14 ~~five of this chapter.~~

15 "~~Instructional term~~" shall be that as defined in section fifteen, article five of this chapter

16 "State superintendent" means the State Superintendent of Schools.

**§18-9B-3. State board of school finance State Superintendent of Schools.**

1 ~~There is hereby created the "state board of school finance" which shall consist of the state~~  
 2 ~~superintendent of free schools, as chairman, the State Tax Commissioner, and the director of the~~  
 3 ~~budget as secretary. The members of the board shall serve without additional compensation. The~~  
 4 ~~board shall meet upon the call of the chairman or a majority of its members. It shall keep a minute~~  
 5 ~~record of all proceedings and a special record of general regulations and special orders. The~~  
 6 ~~meeting place of the board shall be at the state capital. The concurrence of a majority of the~~  
 7 ~~members shall be necessary for all official acts. The board State Superintendent of Schools shall~~  
 8 exercise the powers and perform the duties conferred upon ~~it~~ him or her by this article.

9 ~~The personnel of the state departments represented upon the membership of the board~~  
 10 ~~shall be available to the board for performance of its powers and duties~~

**§18-9B-4. Powers and duties of ~~board~~ State Superintendent of Schools.**

1 ~~The board of finance~~ State Superintendent Schools, in addition to the specific powers and  
 2 duties conferred upon ~~it~~ him or her, shall advise and assist county boards of education and county  
 3 superintendents in the planning and management of school finances to the end that the most  
 4 effective program of public education be realized from the funds available for expenditure by the  
 5 several counties.

6 In the exercise of ~~its powers~~ the powers granted under this article, the ~~board of finance~~  
 7 state superintendent shall not substitute ~~its~~ his or her discretion and judgment for that of a county  
 8 board of education with respect to the desirability or reasonability of a lawful school expenditure  
 9 if the provisions of law and the orders of the ~~board of finance~~ state superintendent are complied  
 10 with by the county board. If, however, a county board fails or refuses to provide for the support of  
 11 the standard school term, to adhere to the budget and the expenditure schedule, or to comply  
 12 with other provisions of this article, the ~~board of finance~~ state superintendent may require such  
 13 action on the part of the county board, not in violation of law, as the ~~board of finance~~ state

14 superintendent may find to be best calculated to restore the financial affairs of the county board  
15 to a proper and lawful basis.

**§18-9B-5. School district budgeting.**

1 The ~~board of finance~~ state superintendent shall formulate and prescribe a uniform system  
2 of school district budgeting for the use of all county school districts to include, at least:

3 (1) Itemization schedules for estimating anticipated revenues and receipts of all kinds;

4 (2) Itemization schedules for estimating anticipated requirements for expenditure during  
5 the fiscal year;

6 (3) The form, classification and itemization of budget items for appropriation purposes;

7 (4) Expenditure schedules for the allotment of amounts of proposed expenditures  
8 throughout the fiscal year;

9 (5) A budget calendar fixing the dates by or upon which schedules shall be prepared,  
10 budgets adopted, and reports made to the ~~board of finance~~ state superintendent;

11 (6) Methods and procedures of budgeting to be followed in the use of the uniform system.

**§18-9B-6. Submission and approval of budget.**

1 A county board of education shall, on or before the day fixed by the budget calendar,  
2 submit its proposed budget to the ~~board of finance~~ state superintendent together with such  
3 supporting schedules as the ~~board of finance~~ state superintendent may require.

4 A county board shall not finally adopt its budget until after the written approval of the ~~board~~  
5 ~~of finance~~ state superintendent has been received, and the levy estimate has been approved by  
6 the ~~Tax Commissioner~~ State Auditor as required by law. If the ~~Tax Commissioner~~ State Auditor  
7 finds that the levy estimate, based upon the budget, does not conform to the requirements of law,  
8 the board shall authorize and require such further revision of the budget as may be necessary for  
9 the correction of the levy estimate as required by the ~~Tax Commissioner~~ State Auditor.

10 A county board of education shall submit a preliminary budget upon requirement of the  
11 board of finance, which approved budget shall be considered by the ~~Tax Commissioner~~ State

12 Auditor when approving levy estimates.

**§18-9B-6a. Delaying submission of budget.**

1 Notwithstanding any other provisions of the code to the contrary, the county board shall  
 2 not be required to submit its budget for approval by the state ~~Board of Education~~ superintendent  
 3 as provided by ~~section twelve a, article eight, chapter eleven of this code and~~ §18-9B-6 and §18-  
 4 9B-7 of this code, until the 10th day next following the state ~~board's~~ superintendent's transmittal  
 5 of final state aid computations following the adoption of the state budget, but no later than May  
 6 30: *Provided*, That, in any year in which the state budget is not adopted on or before May 1, the  
 7 state ~~board~~ superintendent may require the county board to adopt a preliminary budget and to  
 8 submit it to the state ~~board~~ superintendent no later than May 30, and when final computations of  
 9 state aid are transmitted to the county board, the county board shall make such adjustments as  
 10 are necessary prior to final adoption of the budget.

**§18-9B-7. Determination by the ~~board of finance~~ state superintendent before final approval  
 of budget; length of term.**

1 The ~~board of finance~~ state superintendent, before giving its final approval to a proposed  
 2 budget, shall require that:

- 3 (1) Estimates of revenue and receipts are reasonable and accurate;  
 4 (2) Amounts are budgeted so as to cover actual requirements of school operation; and  
 5 (3) Amounts are budgeted so as to maintain the schools of the county for the employment  
 6 term and the instructional term as defined in ~~defined in section fifteen, article five of this chapter~~  
 7 provided by §18-5-45 of this code.

**§18-9B-8. Projected expenditures order of revision in budget.**

1 If the ~~board of finance~~ state superintendent finds that the proposed budget for a county  
 2 will not maintain the proposed educational program as well as other financial obligations of their  
 3 county board of education, ~~it~~ he or she may require that the budget be revised, but in no case  
 4 shall he or she permit the reduction of the instructional term pursuant to the provisions contained

5 in ~~section fifteen, article five of this chapter~~ §18-5-45 of this code nor the employment term below  
 6 200 days. Any required revision in the budget for this purpose may be made in the following order:

7 (1) Postpone expenditures for permanent improvements and capital outlays except from  
 8 the permanent improvement fund;

9 (2) Reduce the amount budgeted for maintenance exclusive of service personnel so as to  
 10 guarantee the payment of salaries for the employment term; or

11 (3) Adjust amounts budgeted in any other way so as to assure the required employment  
 12 term of 200 days and the required instructional term of 180 days under the applicable provisions  
 13 of law.

**§18-9B-9. Uniform accounting systems for school districts.**

1 The ~~board of finance~~ state superintendent shall formulate the requirements of a uniform  
 2 system of management accounting for the use of county school districts. The requirements shall  
 3 include at least:

4 (1) The accrual accounting of all revenues and other receipts from whatever source;

5 (2) The accounting of expenditures under the several items of appropriation in accordance  
 6 with the expenditure schedule;

7 (3) Monthly and quarterly reports of rate of expenditure, encumbrances, and free balances  
 8 under the several items of appropriation;

9 (4) Methods of accounting practice and procedures to be followed in the use of the uniform  
 10 system.

11 The accounting requirements so formulated shall be certified ~~by the secretary of the board~~  
 12 to the ~~Tax Commissioner~~ State Auditor. The ~~Tax Commissioner~~ State Auditor shall then  
 13 incorporate the requirements into a uniform system of school district accounting and as chief  
 14 inspector and supervisor of ~~public offices~~ local government offices, shall prescribe the use of the  
 15 uniform system by all county school districts by virtue of the authority vested in him or her by §6-  
 16 9-2 of this code.

**§18-9B-10. Restrictions on county boards.**

1 County boards of education shall:

2 (1) Authorize the expenditure of funds and incur obligations only in accordance with the  
3 budget and the expenditure schedule;

4 (2) Make transfers between items of appropriation only with the prior written approval of  
5 the ~~board of finance~~ state superintendent.

**§18-9B-11a. Adjustments in average daily attendance to assure equitable allocation of aid.**

1 [Repealed.]

**§18-9B-12. Practices of fiscal administration.**

1 The ~~state board of school finance~~ state superintendent may formulate the requirements of  
2 adequate practices of fiscal administration to be followed by county school districts. Such  
3 requirements may include:

4 (1) Procedures for the receipts, control and disbursement of county school funds;

5 (2) Forms for requisitions, purchase orders, disbursements and other necessary  
6 documents;

7 (3) Regulations for the performance of the powers and duties pertaining to school finance;

8 (4) Regulations for the exercise of the comptroller function;

9 (5) Other instructions and regulations for the proper procedures and practices of fiscal  
10 administration in the county schools.

11 The requirements formulated by the ~~board of finance~~ state superintendent shall be  
12 certified by the ~~secretary of the board~~ state superintendent to the ~~Tax Commissioner~~ State  
13 Auditor. The ~~Tax Commissioner~~ State Auditor as chief inspector and supervisor of ~~public offices~~  
14 local government offices shall incorporate the requirements so certified in his or her instructions  
15 with respect to fiscal administration and shall prescribe their use by all county school districts by  
16 virtue of the authority vested in him or her by §6-9-2 of this code.

**§18-9B-13. Inspection and audit of school finance administration.**



1           The ~~board of finance~~ state superintendent may, through ~~its~~ his or her duly authorized  
 2 representatives, make inspections and examinations of the fiscal administration of a county  
 3 school district. The inspection and examination may extend to any matter or practice subject to  
 4 regulation by the ~~state board~~ state superintendent. Regular and special examinations may be  
 5 made by a certified public accountant approved pursuant to §6-9-7 of this code selected by the  
 6 county board in accordance with nonemergency regulations submitted by the chief inspector, or  
 7 by the chief inspector himself or herself. All examinations shall be made as provided in §6-9-7 of  
 8 this code. The ~~board~~ state superintendent may make selective audits to determine the accuracy  
 9 of statements and reports made by a county board or superintendent.

10           The report of the examination shall be certified to the county board, which should include  
 11 the identification of procedures and practices found to not be in accordance with the requirements  
 12 of the ~~state board~~ state superintendent. The county board shall comply with the instructions  
 13 forthwith.

14           The ~~state board~~ state superintendent, through ~~its~~ his or her duly authorized  
 15 representatives, shall have full access to all books, records, papers and documents of the county  
 16 board.

**§18-9B-14. Establishment of permanent improvement fund; contents and use of fund.**

1           A county board of education may establish a special fund for county school purposes to  
 2 be known as the Permanent Improvement Fund. The fund shall consist of:

3           (1) The proceeds of the levy allocated to that purpose by ~~section six c, article eight,~~  
 4 ~~chapter eleven of the code, as amended~~ §11-8-6c, §11-8-12 and §11-8-12a of this code;

5           (2) Unexpended balances of other funds transferred to the fund, with the approval of the  
 6 ~~board of finance~~ state superintendent, at the end of the fiscal year; and

7           (3) Any other moneys authorized by law to be used for the purposes of the fund.

8           The proceeds of the fund shall be used only for the support of building and permanent  
 9 improvement projects. The fund may be accumulated from year to year but moneys shall not be

10 paid into the fund so as to increase the assets of the fund to a total amount in excess of 25 percent  
 11 of the amount of the foundation school program for that county for the same school year.

**§18-9B-15. Permanent improvement fund -- To be treated as separate fund; expenditures; limitation on accumulations and assets of fund.**

1 A county board shall treat the permanent improvement fund as a separate fund in the  
 2 annual budget for county school purposes. Expenditures shall be made from the fund only in  
 3 accordance with an appropriation made pursuant to the annual budget or made otherwise in  
 4 accordance with this article. If the ~~board of finance~~ state superintendent finds, in ~~its~~ his or her  
 5 examination of the budget of a county school district, that a county board has accumulated, or  
 6 with proposed additions to the fund in the fiscal year will accumulate, the fund of the county to an  
 7 amount in excess of 25 percent of the amount of the foundation school program of the county for  
 8 the same fiscal year, the ~~board of finance~~ state superintendent shall order that no moneys in  
 9 excess of the limitation be appropriated for or paid into the fund. If the ~~board of finance~~ state  
 10 superintendent finds that the assets of the fund of a county exceed 25 percent of the amount of  
 11 the foundation school program for the county for the same year, the ~~board~~ state superintendent  
 12 may require that building and permanent improvement projects included in the annual budget, be  
 13 paid for out of the fund.

14 The ~~board of finance~~ state superintendent shall administer this section so as to keep the  
 15 accumulated assets of the fund, as near as may be, within the limitation of 25 percent of the  
 16 amount of the foundation school program.

**§18-9B-17. Duties of county board and county superintendent.**

1 A county board of education and a county superintendent shall comply with the  
 2 instructions of the state ~~board of school finance~~ superintendent and shall perform the duties  
 3 required of them in accordance with the provisions of this article.

**§18-9B-18. Issuance and enforcement of orders.**

1 The ~~board of finance~~ state superintendent shall enforce the requirements of and its

2 regulations issued under this article. The ~~board~~ state superintendent may issue orders to county  
 3 boards of education requiring specific compliance with ~~its~~ his or her instructions. If a county board  
 4 fails or refuses to comply, the ~~board~~ state superintendent may proceed to enforce ~~its~~ his or her  
 5 order by any appropriate remedy in any court of competent jurisdiction.

**§18-9B-19. Withholding of state aid for noncompliance by county board.**

1 The ~~board of finance~~ state superintendent may withhold payment of state aid from a  
 2 county board that fails or refuses to comply with the provisions of this article or the requirements  
 3 of the state ~~board~~ superintendent made in accordance therewith.

**§18-9B-20. Fiscal reports to ~~board of finance~~ state superintendent.**

1 The state ~~board of school finance~~ superintendent may require, and prescribe the form of,  
 2 fiscal reports to be made to the ~~board~~ state superintendent at such times and to contain such  
 3 information as the ~~board~~ state superintendent may determine.

**§18-9B-21. Reports by ~~board of finance~~ state superintendent.**

1 The ~~board of school finance~~ state superintendent shall make an annual report to the  
 2 Governor and to the Legislature pertaining to the work of the ~~board~~ state superintendent and the  
 3 finances of school districts. The ~~board~~ state superintendent shall make such special reports as  
 4 the Governor or the Legislature may request.

**ARTICLE 9E. AIR QUALITY IN NEW SCHOOLS ACT.**

**§18-9E-1. Short title.**

1 [Repealed.]

**§18-9E-3. Air quality in new schools.**

2 (a) In an effort to create well-ventilated school environments and notwithstanding any  
 3 other provision of this code to the contrary, any new school building designed and constructed in  
 4 the state by a county board, regardless of the funding source, shall be designed and constructed  
 5 in compliance with the current standards of the American society of heating, refrigerating and air  
 6 conditioning engineers handbook (ASHRAE), the national fire protection association code (NFPA)

7 and the code of the building officials and code administrators (BOCA).

8 (b) Upon notice from the School Building Authority that a new public school building is  
9 occupied, ~~the division of health~~ a local health department shall perform radon testing in the school  
10 within the first year after occupancy and at least every five years thereafter. The county board  
11 shall provide any reasonable assistance to the ~~division of health~~ local health department that is  
12 necessary to perform the radon testing. The radon testing shall include all major student-occupied  
13 areas at or below grade level. If it is determined that radon is present in amounts greater than the  
14 amount determined to be acceptable by the rules promulgated by the School Building Authority,  
15 ~~pursuant to subsection (d) of this section~~ any industry accepted mitigation technique shall be used  
16 to reduce the radon level to the level or below the level determined acceptable by the School  
17 Building Authority.

18 (c) If the School Building Authority determines that it is feasible to test for radon prior to  
19 the construction of a school building, the School Building Authority may cause preconstruction  
20 site testing for radon to be performed.

21 (d) The School Building Authority shall ~~promulgate rules~~ propose rules for legislative  
22 approval, pursuant to §29A-3-1 *et seq.* of this code, to ensure that any new school building  
23 ~~designed after the effective date of this article~~ is designed and constructed in accordance with the  
24 current ASHRAE, NFPA and BOCA standards. The School Building Authority shall ~~promulgate~~  
25 ~~rules~~ propose rules for legislative approval, pursuant to §29A-3-1 *et seq.* of this code, that  
26 establish standards for safe levels of radon for public school buildings. The rules shall include the  
27 requirement that county boards submit all new school designs to the School Building Authority for  
28 review and approval for compliance with current education standards and design efficiencies prior  
29 to preparation of final bid documents.

30 (e) ~~On or before July 1, 2002, the~~ The School Building Authority shall ~~promulgate rules~~  
31 propose rules for legislative approval, pursuant to §29A-3-1 et seq. of this code, to establish a  
32 process for independent testing, adjusting and balancing (TABS) (TAB) heating, ventilation and

33 air conditioning (HVAC) systems in new school buildings or renovated schools when the HVAC  
34 system has been replaced prior to occupancy. The process shall be consistent with current  
35 ASHRAE standards and shall include, but not be limited to, the following:

36 (1) Requiring HVAC designers to be professional engineers registered in this state in the  
37 specific discipline associated with the system being designed;

38 (2) Requiring a process to ensure that the HVAC system has been installed in the  
39 prescribed manner and will operate within the performance guidelines as designed;

40 (3) Requiring participation of the design engineer who designed the system to verify the  
41 intent of the design;

42 (4) Requiring the TAB agent to be qualified to perform the desired services and perform  
43 testing and balancing procedures, or qualified to perform other School Building Authority-  
44 approved certification according to the procedures contained in the associated air balance council  
45 (AABC) national standards, the national environmental balancing bureau (NEBB) procedural  
46 standards and the environment engineering consultants (EEC) standards for testing, adjusting  
47 and balancing of environmental systems;

48 (5) Requiring that the independent TAB agent directly represent the building owner and is  
49 under contract with the building owner and paid from project funds;

50 (6) Requiring that sufficient documentation is provided to the owner to facilitate control  
51 and maintenance of the systems in accordance with the manufacturer's requirements;

52 (7) Requiring that sufficient training is provided by the equipment manufacturer or an agent  
53 of the manufacturer to those persons who will operate and maintain the systems prior to  
54 occupation of the facility, including at least one full day follow-up training between six and eight  
55 months after the facility has been occupied; and

56 (8) Requiring certification upon successful completion of the TAB process by the  
57 independent TAB agent.

58 (f) To ensure proper maintenance and operation of new and replacement HVAC

59 equipment, the Department of Education, using existing staff, shall provide county maintenance  
60 personnel additional training on the equipment and its controls at the site of the installation. The  
61 training shall occur within one year after student occupation of any new school facility or at any  
62 existing school facility where the HVAC system has been replaced or generally rehabilitated.  
63 Additionally, the Department of Education's facility staff shall provide on-site training to the county  
64 maintenance staff on the county's HVAC equipment at any facility that has been determined to  
65 have problematic indoor air quality as identified through the complaint procedure set forth in state  
66 board policy 6202.

67 (g) Upon completion of the required training, the Department of Education's facility staff  
68 shall provide the county board a report summarizing the training that was completed and a plan  
69 for continuing education of the county's HVAC staff. If sufficient staff is not available to the county  
70 to perform maintenance on HVAC systems, the Department of Education's staff shall assist the  
71 county in the development of an immediate and long range maintenance plan to ensure that  
72 HVAC systems are maintained and operated according to the manufacturer's recommendations.

73 (h) ~~Beginning July 1, 2002, and every~~ Every three months thereafter, the Department of  
74 Education shall forward to the School Building Authority copies of any complaints received by the  
75 Department of Education of indoor air quality problems which require system repair or  
76 replacement and are identified through the complaint procedure established in state board policy  
77 6202.

78 (i) The state board shall promulgate rules, pursuant to §29A-3B-1 *et seq.* of this code, ~~in~~  
79 ~~consultation with the division of health~~, that authorize the use of any appropriate floor covering in  
80 public school buildings, based on user needs and performance specifications.

**§18-9E-4. Heating, ventilation, and air-conditioning technicians.**

1 (a) Subject to appropriation by the Legislature ~~therefor~~, the state board, ~~in consultation~~  
2 ~~with the division of health~~, shall promulgate rules pursuant to §29A-3B-1 *et seq.* of this code that  
3 will address servicing public school buildings by heating, ventilation and air-conditioning (HVAC)

4 technicians. The rules shall set forth a job description for the HVAC technician. At the discretion  
 5 of the state board, HVAC technicians may be employed by the county board of education, by the  
 6 regional educational service agency servicing the county or by the Department of Education using  
 7 the funds allocated pursuant to this section. The hiring entity shall set a salary for the HVAC  
 8 technician that is competitive with other employers of HVAC technicians in the region after  
 9 accounting for annual leave, sick leave, insurance benefits, retirement benefits and any other  
 10 benefits provided. Existing employees who have advanced HVAC skills or existing employees  
 11 who receive appropriate HVAC training may be utilized as HVAC technicians. The rules also shall  
 12 provide for sufficient continuing education training for HVAC technicians to maintain proficiency  
 13 in the changing technologies in the field. ~~The rules shall be submitted to the Legislative Oversight~~  
 14 ~~commission on educational accountability prior to September 1, 1999~~

15 (b) County boards ~~regional educational service agencies~~ and the Department of Education  
 16 shall have the option to contract for HVAC services from prequalified vendors if this option is more  
 17 cost effective than using existing employees or creating a new position: *Provided*, That an existing  
 18 employee may not be displaced by contracting for HVAC technician services: *Provided, however*,  
 19 That HVAC services that have been performed in the past or which require knowledge and  
 20 experience the employer does not have access to, may be contracted out to a prequalified vendor.

21 (c) Funds appropriated for the purpose of hiring HVAC technicians shall be appropriated  
 22 originally to the Department of Education. ~~The Department of Education then may allocate the~~  
 23 ~~funds to the regional educational service agencies or to the counties, depending upon which entity~~  
 24 ~~employs the HVAC technician as specified by rule~~

**§18-9E-5. Investigation of indoor air quality complaints in existing schools and schools  
 subsequently constructed.**

1 (a) The state board, ~~in consultation with the division of health~~ shall promulgate rules,  
 2 pursuant to §29A-3B-1 *et seq.* of this code, which require each county board to investigate all  
 3 reports of indoor air quality problems within the county. The rules shall set forth a designated

4 official or officials within the county school system to be responsible for addressing, pursuant to  
5 this section, any indoor air quality complaints. The rules also shall set forth a procedure for any  
6 party to file a complaint with the designated official or officials. Any indoor air quality complaint  
7 found to be valid by the designated official or officials shall be addressed by forming a plan of  
8 correction. Any county board that addresses an indoor air quality complaint is encouraged to seek  
9 any available assistance from local, state and federal agencies in both investigating the complaint  
10 and in forming the plan of correction. A county board shall consider any documented plans of  
11 closure of a school building when forming any plan of correction for that school building. ~~The rules~~  
12 ~~shall be submitted to the Legislative Oversight commission on education accountability prior to~~  
13 ~~September 1, 1999~~ Additionally, the rules shall set an appropriate cost for a plan of correction  
14 over which all such plans of correction shall be reported to the Legislative Oversight commission  
15 on education accountability. Based upon the Legislative Oversight commission on education  
16 accountability's experience in receiving the complaints, the commission shall submit a  
17 recommendation for funding the plans of correction.

18 (b) Furthermore, each plan of correction shall be incorporated into county board's 10-year  
19 county-wide major improvement plan set forth in §18-9D-16 of this code. Also pursuant to §18-9D-  
20 16 of this code, the state board may restrict the use of the necessary funds or otherwise allocate  
21 funds from moneys appropriated by the Legislature for those purposes set forth in §18-9A-9 of  
22 this code: *Provided*, That nothing in this subsection shall be interpreted as requiring that a county  
23 board make addressing an air quality complaint a priority over other projects in the county board's  
24 10-year county-wide major improvement plan.

## **ARTICLE 9F. SCHOOL ACCESS SAFETY ACT.**

### **§18-9F-1. Legislative findings and intent.**

1 [Repealed.]

### **§18-9F-4. Guidelines and procedures for school access safety plans; project evaluation; on-site inspection of facilities.**



1 (a) ~~By June 1, 2007, the~~ The authority shall establish and distribute to each county board  
2 guidelines and procedures regarding school access safety plans and school access safety  
3 projects, which shall address at least the following:

4 (1) All of the necessary elements of the school access safety plan required in accordance  
5 with the provisions of §18-9F-3 of this code;

6 (2) The manner, time line and process for submission to the authority of each safety plan  
7 and annual plan update, including guidelines for modification of an approved safety plan;

8 (3) Any project and maintenance specifications considered appropriate by the authority;

9 (4) Procedures for a county board to submit a preliminary plan, plan outline or plan  
10 proposal to the authority prior to submitting the safety plan. The preliminary plan, plan outline or  
11 plan proposal shall be the basis for a consultation meeting between representatives of the county  
12 board and the authority. The meeting shall be held as soon as practicable following submission  
13 in order to:

14 (A) Ensure understanding of the goals of this article;

15 (B) Discuss ways the plan may be structured to meet the goals of this article; and

16 (C) Ensure efficiency and productivity in the approval process; and

17 (5) Procedures for notifying county boards of the funds available for allocation and  
18 disbursement during each fiscal year pursuant to section six of this article.

19 (b) ~~By June 1, 2007, the~~ The authority shall establish and distribute to each county board  
20 guidelines and procedures for evaluating safety plans and safety projects that address at least  
21 the following:

22 (1) Whether the proposed safety project furthers the safety plan and complies with the  
23 guidelines established by the authority;

24 (2) How the safety plan and safety project will ensure the prudent and resourceful

25 expenditure of state funds and achieve the purposes of this article;

26 (3) Whether the safety plan and safety project advance student health and safety needs,  
27 including, but not limited to, critical health and safety needs;

28 (4) Whether the safety plan and safety project include regularly scheduled preventive  
29 maintenance; and

30 (5) Consideration of the prioritized list of projects required by section three of this article.

31 (c) The authority shall establish guidelines and procedures for allocating and disbursing  
32 funds in accordance with section six of this article, subject to the availability of funds.

33 (d) Each county board receiving funds pursuant to this article annually shall conduct an  
34 on-site inspection and submit an audit review to the state board. The inspection shall be  
35 conducted in accordance with the provisions of the Department of Education's Handbook on  
36 Planning School Facilities.

#### **§18-9F-8. Report.**

1 [Repealed.]

#### **§18-9F-9. Crisis Response Plan.**

1 (a) The state board in conjunction with the Division of Homeland Security and Emergency  
2 Management shall promulgate ~~by December 31, 2014~~ a legislative rule in accordance with ~~article~~  
3 ~~three-b, chapter twenty-nine-a~~ §29-3B-1 *et seq.* of this code, ~~and if necessary may promulgate~~  
4 ~~an emergency rule in accordance with said article~~ for the establishment of an up-to-date, school  
5 specific crisis response plan at every school in the state. In developing the rule, the state board  
6 shall consider plans currently being developed as part of the Safe Schools Initiative currently  
7 underway by the School Building Authority and the Division of Homeland Security and Emergency  
8 Management. In addition, those portions of a school's access safety plan created pursuant to  
9 section three of this article may be used as a portion of the school's school specific crisis response

10 plan if there are any overlapping requirements. The rule shall provide for at least the following:

11 (1) A model school crisis response plan for use by each school in the state, including a  
12 uniform template which shall be used by each school to file the plan, including at least the  
13 following information, in a secure electronic system identified by the Division of Homeland  
14 Security and Emergency Management:

15 (A) The school employee in charge during a crisis and a designated substitute;

16 (B) A communication plan to be used during a crisis;

17 (C) Protocols for responding to immediate physical harm of students, faculty or staff and  
18 to traumatic events, including the period after the events have concluded;

19 (D) Disaster and emergency procedures to respond to earthquakes, fire, flood, other  
20 natural disasters, explosions or other events or conditions in which death or serious injury is likely;

21 (E) Crisis procedures for safe entrance to and exit from the school by students, parents,  
22 and employees, including an evacuation and lock down plan; and

23 (F) Policies and procedures for enforcing school discipline and maintaining a safe and  
24 orderly environment during the crisis.

25 (2) A requirement that each school's school specific crisis response plan shall be in place  
26 and filed with that school's county board, and included in a secure electronic system identified by  
27 the Division of Homeland Security and Emergency Management; ~~no later than August 1, 2013,~~  
28 ~~or soon after completion by the school, whichever occurs first~~

29 (3) The necessary safeguards to protect information contained in each school specific  
30 crisis response plan that may be considered protected critical infrastructure information, law  
31 enforcement sensitive information or for official use only. These safeguards must have the  
32 approval the Division of Homeland Security and Emergency Management. County boards shall  
33 provide the same necessary safeguards for the information in the plan;

34 (4) The annual review and necessary update of the model plan and uniform template by  
35 state board in conjunction with the Division of Homeland Security and Emergency Management

36 by December 31 of each year; ~~after 2011~~

37 (5) The development by each school of a school specific crisis response plan by using the  
38 state board's model plan as an example and with consultation from local social services agencies,  
39 local first response agencies including police, fire, emergency medical services (EMS),  
40 emergency management and any other local entities that the school's crisis response planning  
41 team determines should be consulted;

42 (6) Procedures for the annual review and update if necessary by each school of its school  
43 specific crisis response planning plan. Each school shall file either an updated crisis response  
44 plan or a memorandum stating that no update to the crisis response plan was necessary with its  
45 county board and the Division of Homeland Security and Emergency Management no later than  
46 August 1 of each year; ~~after 2013~~

47 (7) Procedures for each school within the state to form a crisis response planning team,  
48 which team may consist of the school's Local School Improvement Council or a separate team  
49 consisting of the principal, two teachers, one service person and two parents of children attending  
50 the school. In addition the school may include on the team one member of the county board, a  
51 school counselor, a member from local law-enforcement authorities, the local county emergency  
52 services director and one student in grade ten or higher if the school has those grades;

53 (8) Procedures for informing and training school personnel on any actions required of them  
54 to effectuate the school's school specific crisis response plan;

55 (9) A model template for redacted copies of the school crisis response plan for the public  
56 inspection and for the release and notice to parents of information related to the plan; and

57 (10) Procedures for non-public schools to establish, file and update school crisis response  
58 plans consistent with subdivision (1), subsection (a) of this section.

59 (b) The county board shall keep the current crisis response plan of each school in the  
60 county on file and, unless otherwise provided for, provide a copy of each school's crisis response  
61 plan to each local emergency response agency that has a role in the plan. Local emergency

62 response agencies that maintain a copy of the plan shall provide the necessary safeguards for  
63 the information in the plan established pursuant to the state board rule promulgated pursuant to  
64 subsection (a) of this section. Upon request, a redacted copy of a school crisis response plan  
65 shall be made available for inspection by the public with any information removed that is  
66 necessary for compliance with the necessary safeguards. Following the filing of its school specific  
67 crisis response plan with the county board pursuant to subdivision (2), subsection (a) of this  
68 section, each school shall annually send notice home to all parents and guardians of students at  
69 the school alerting the parents and guardians to the existence of the plan and the ability to review  
70 a redacted copy at the offices of the county board.

## **ARTICLE 10J. BLIND PERSONS' LITERACY RIGHTS AND EDUCATION ACT.**

### **§18-10J-1. Short title.**

1 [Repealed.]

### **§18-10J-6. Teacher certification and training.**

1 As part of the professional certification process, teachers seeking to become certified in  
2 the education of blind and visually impaired children shall demonstrate competence in reading  
3 and writing braille. Before issuing a professional certificate to teach the blind and visually  
4 impaired, the West Virginia Department of Education shall require that the applicant demonstrate,  
5 based upon standards adopted by the national library service for the blind and physically  
6 handicapped, library of congress, Washington, D.C., that he or she is proficient in reading and  
7 writing braille. ~~This requirement becomes effective July 1, 2000~~ Teachers already certified in the  
8 education of blind and visually impaired children are not required to demonstrate that proficiency  
9 in order to retain their certification. Further, the West Virginia Department of Education shall, on  
10 a schedule of at least once every three years, make available to all teachers of blind and visually  
11 impaired children a continuing education class in reading or writing braille or a college credit  
12 course in reading and writing braille, or both. In order to achieve successful completion of a  
13 course, a teacher shall demonstrate proficiency in reading and writing braille at a level

14 commensurate with the standards adopted by the national library service for the blind and  
15 physically handicapped, library of congress.

## **ARTICLE 17. WEST VIRGINIA SCHOOLS FOR THE DEAF AND THE BLIND.**

### **§18-17-3. Tuition, board and clothing of pupils; indigent clothing fund.**

1 All such deaf pupils and blind pupils shall be admitted to the schools without charge for  
2 board and tuition. When not otherwise provided with clothing they shall be furnished therewith by  
3 the institution while they are pupils therein. ~~and the superintendent shall make out an account~~  
4 ~~therefor in each case against the county where the pupil receiving the clothing resided at the time~~  
5 ~~the clothing was furnished, in an amount not exceeding \$75 per annum for any one pupil, which~~  
6 ~~account shall be sworn to by the superintendent and countersigned by the business manager and~~  
7 ~~shall be transmitted by the superintendent to the Auditor of the state, who shall forward a copy~~  
8 ~~thereof to the clerk of the county court of such county. The county court shall, at its next levy term,~~  
9 ~~provide for the payment of the same and cause the amount to be paid directly to the West Virginia~~  
10 ~~schools for the deaf and the blind to be deposited into the indigent clothing fund. All money so~~  
11 ~~received shall be disbursed upon requisitions for the payment of accounts incurred thereunder. If~~  
12 ~~any such accounts are not paid within a reasonable time after such levy term, it shall be the duty~~  
13 ~~of the Auditor to collect the same~~

NOTE: The purpose of this bill is to remove sections of the West Virginia Code, or portions of some sections, which contain antiquated, redundant, or outdated requirements for the administration of education in West Virginia.

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