

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 5438**

By Delegates Toney and Statler

[Introduced in the Committee on Education on  
February 19, 2026 and the to the Committee on  
Finance]

1 A BILL to amend and reenact §18-9A-10 of the Code of West Virginia, 1931, as amended, relating  
2 to modifying the foundation allowance to improve instructional programs; relating to the  
3 implementation and funding of a replacement uniform budgeting and accounting system;  
4 providing for the Governor to include in each budget for the reappropriation for expenditure  
5 during the ensuing fiscal year the unused accumulated balance remaining with the  
6 Department of Education to continue initiatives; providing funding to support the full  
7 implementation of the Third Grade Success Act; providing for the Department of Education  
8 to reduce retained funding by the unused accumulated balance; and providing that county  
9 boards of education may utilize up to 50% of the allocation for teacher and leader induction  
10 in any school year for the purpose of funding projects identified in the Safe Schools Fund.

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

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

**§18-9A-10. Foundation allowance to improve instructional programs, instructional technology, and 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 10 percent of  
5 the increase in the local share amount for the next school year shall be added to the amount of the  
6 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) One hundred fifty thousand dollars shall be allocated to each county; and

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

12 (C) 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 any~~  
17 ~~funds from this subdivision for personnel costs, the county board must receive authorization from~~  
18 ~~the state superintendent. The state superintendent shall require the county board to demonstrate:~~  
19 ~~(1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3) sharing of~~  
20 ~~services with adjoining counties in the use of the total local district board budget; and (4)~~  
21 ~~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, the~~  
24 ~~state superintendent shall review all applications and notify applying county boards of the approval~~  
25 ~~or disapproval of the use of funds for personnel during the fiscal year appropriate. The state~~  
26 ~~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 (D) The funds available for personnel under this subdivision may not be used to increase  
30 the total number of professional noninstructional personnel in the central office beyond four.

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

33 (2) For the purposes of improving instructional technology, an amount equal to 20 percent  
34 of the increase in the local share amount for the next school year shall be added to the amount of  
35 the appropriation for this purpose for the immediately preceding school year. The sum of these  
36 amounts shall be allocated to the counties as follows:

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

38 (B) Allocation to the counties of the remainder of these funds shall be made proportional to

39 the average of each county's average daily attendance for the preceding year and the county's  
40 second month net enrollment.

41 (C) 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 (D) This allocation for the improvement of instructional technology programs may also be  
44 used for the employment of technology system specialists essential for the technology systems of  
45 the 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 (E) The total appropriation computed under the preceding allocation structure will be  
49 reduced annually by an amount not to exceed \$15 million to be retained by the Department of  
50 Education to implement and fund annually a replacement uniform budgeting and accounting  
51 system pursuant to Department requirements outlined in §18A-9B-5 and §18A-9B-9 of this code,  
52 respectively; plus

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

57 (4) For the purpose of supporting county-level implementation of the comprehensive  
58 systems for teacher and leader induction and professional growth pursuant to §18A-3C-3 of this  
59 code, an amount equal to 20 percent of the increase in the local share amount for the next school  
60 year shall be added to the amount of the appropriation for this purpose for the immediately  
61 preceding school year. The sum of these amounts shall be allocated to the counties in a manner  
62 established by the state board which considers the following factors:

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

65 (B) The number of full-time-equivalent teachers employed by the county who are less than  
66 fully certified for the teaching position in which they are employed;

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

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

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

76 (F) Needs identified in the strategic plans for continuous improvement of schools and  
77 school systems including those identified through the performance evaluations of professional  
78 personnel.

79 (G) Notwithstanding any provision of this subsection to the contrary, no county may receive  
80 an allocation for the purposes of this subdivision which is less than the county's total 2016-2017  
81 allocation from the Teacher Mentor and Principals Mentorship appropriations to the Department of  
82 Education. Moneys allocated by this subdivision shall be used for implementation of the  
83 comprehensive systems for teacher and leader induction and professional growth pursuant to  
84 §18A-3C-3 of this code. ~~Notwithstanding any provision of this subsection to the contrary, for each~~  
85 ~~of the five school years beginning with the school year 2020—2021 and ending after the school~~  
86 ~~year 2024—2025, from funds to be allocated under this subdivision, \$100,000 shall be retained by~~  
87 ~~the Department of Education to assist county boards with the design and implementation of a~~  
88 ~~teacher leader framework to accomplish the teacher induction and professional growth aspects of~~  
89 ~~their comprehensive systems of support for teacher and leader induction and professional growth~~  
90 ~~pursuant to §18A-3C-3 of this code.~~

91           (H) The Department of Education may ~~also~~ retain an ~~additional~~ amount of funds to be  
92 allocated under this subdivision beginning with the school year 2024 – 2025, not exceeding  
93 \$15,000,000, to accommodate the participation by county school systems in regional professional  
94 learning cadres or teacher leadership networks established or supported by the Department of  
95 Education, to expand regional professional learning cadres or teacher leadership networks  
96 designed to support the full implementation of the Third Grade Success Act provided in §18-2E-10  
97 of this code, to implement the Department of Education's academic initiatives, and to assist  
98 teachers who are less than fully certified for the teaching position in which they are employed as  
99 further provided in §18A-3C-3 of this code. The Governor shall also provide in each budget for the  
100 reappropriation for expenditure during the ensuing fiscal year the unused accumulated balance  
101 remaining with the Department of Education to continue these initiatives. Up to \$1,000,000 of the  
102 \$15,000,000 shall be distributed to county boards for the purpose of expanding the school districts'  
103 ability to contract with organizations that facilitate the school districts' participation in regional  
104 professional learning cadres or teacher leadership networks designed to support math and  
105 science improvement or to support teachers who are less than fully certified for the teaching  
106 position in which they are employed as further provided in §18A-3C-3 of this code. The \$1,000,000  
107 shall be distributed to the county boards under a grant program to be established by the state  
108 board by rule pursuant to §29A-3B-1 *et seq.* of this code. The rule shall include at least the  
109 following:

110           (A) A requirement and procedures for county boards to submit applications for a grant;

111           (B) Criteria on which awards of the grants will be based on; and

112           (C) A requirement for an external evaluation for any program funded by a grant.

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

115           ~~(1) Utilize up to 25 percent of the allocation for the improvement of instructional programs~~  
116 ~~in any school year for school facility and equipment repair, maintenance, and improvement or~~

117 ~~replacement and other current expense priorities and for emergency purposes. The amount of this~~  
118 ~~allocation used for any of these purposes shall be included and justified in the county and school~~  
119 ~~strategic improvement plans or amendments thereto; and~~

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

125 (H) County boards of education may utilize up to 50% of the allocation for teacher and  
126 leader induction in any school year for the purpose of funding projects identified in the Safe  
127 Schools Fund requests established under §18-5-48 of this code.

NOTE: The purpose of this bill is to modify the foundation allowance to improve instructional programs.

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