

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 437

By Senators Deeds, Morris, and Hamilton

[Reported February 13, 2026, from the Committee on
Education]

1 A BILL to amend and reenact §18-9A-2 and §18-9A-19 of the Code of West Virginia, 1931, as
2 amended, relating to public school district funding; adding additional weighting for special
3 education students for purposes of determining each county school district's net
4 enrollment used to calculate the county's basic foundation program; requiring calculations
5 of the additional funding due to the additional weighting for special education students to
6 be made after all other calculations under the definition of "net enrollment" are made;
7 providing that block grant provisions applicable to most state aid do not apply to funds
8 generated by the additional weighting for special education students; limiting additional
9 expenditures of funding generated by the additional weighting for special education
10 students to only being spent on direct instruction of special education students and
11 prohibiting expenditures on facilities, administration, or training; requiring West Virginia
12 Board of Education to monitor the expenditures to ensure the funds are spent only for
13 allowable purposes; and providing that a school district cannot be penalized for the 2026-
14 2027 school year only for not meeting the applicable minimum ratio of professional
15 instructional personnel per state aid-funded professional educators, or the number
16 employed, whichever is less.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-2. Definitions.

1 For the purpose of this article:

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

3 (b) "High-density county" means a county whose ratio of net enrollment, excluding any
4 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(6) of this code, of the definition
5 of "net enrollment", to the square miles of the county is equal to or greater than 20.

6 (c) "Level I special education students" are primarily served in general education
7 classrooms with academic and/or behavioral support from special education teachers or

8 instructional staff. These students require adaptation to content, methodology, or delivery of
9 instruction to access the general education curriculum. Level I students may require additional
10 related services or assistive technology to access the general curriculum.

11 (d) "Level II special education students" may engage in general education settings with
12 significant one-on-one or small group support. These students require intensive and explicit
13 instruction to integrate academic and functional skills and may require a wide range of related
14 services and support to make progress. Assistive technology may also be required for students to
15 access the general education curriculum and communicate with some adult support.

16 (e) "Level III special education students" require close and significant adult supervision to
17 safely and effectively access general education settings. These students require extensive
18 instruction and adult support to access the general education curriculum and extensive related
19 services and support are needed to address complex needs of the students. They may often rely
20 on assistive technology to access the general education curriculum, communicate, and acquire
21 daily living skills with significant adult support.

22 (f) "Levies for general current expense purposes" means 85 percent of the levy rate for
23 county boards of education calculated or set by the Legislature pursuant to §11-8-6f of this code.

24 (g) "Low-density county" means a county whose ratio of net enrollment, excluding any
25 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(6) of this code, of the definition
26 of "net enrollment", to the square miles of the county is equal to or greater than five but less than
27 10.

28 (h) "Medium-density county" means a county whose ratio of net enrollment, excluding any
29 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(6) of this code, of the definition
30 of "net enrollment", to the square miles of the county is equal to or greater than 10 but less than 20.

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

34 (1) Adults enrolled in vocational programs: *Provided*, That net enrollment includes no
35 more than 2,500 of those adults counted on the basis of full-time equivalency and apportioned
36 annually to each county to support Advanced Career Education programs, as provided in §18-2E-
37 11 of this code, in proportion to the adults participating in vocational programs counted on the
38 basis of full-time equivalency: *Provided further*, That beginning with the 2021 fiscal year and every
39 year thereafter, a career technical education center may only receive the funding for enrollment as
40 authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code;

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

43 (3) Additional weighting for special education students as follows:

44 (A) One-tenth of a pupil shall be added for each level one special education student;

45 (B) Two-tenths of a pupil shall be added for each level two special education student; and

46 (C) Three-tenths of a pupil shall be added for each level three special education student;

47 (D) Calculations of the additional funding generated under this subdivision shall be made
48 after all other calculations set forth in this subsection are made;

49 (E) The provisions in §18-9A-19 providing that each county board shall receive its
50 allocated state aid share in the form of a block grant and that these funds distributed in the form of
51 a block grant are exempt from expenditure requirements and limitations contained in this article do
52 not apply to the additional funds generated by this subdivision;

53 (F) The additional funding generated by this subdivision may only be spent on direct
54 instruction of special education students and may not be spent on facilities, administration, or
55 training. The state board shall monitor the expenditures made using the funds generated under
56 this subdivision to ensure these funds are spent only in accordance with this paragraph; and

57 (G) For the school year 2026-2027 only, a county school district may not be penalized for
58 not meeting the applicable minimum ratio required by §18-9A-4(b).

59 (4) A pupil may not be counted more than once by reason of transfer within the county or
60 from another county within the state, and a pupil may not be counted who attends school in this
61 state from another state;

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

64 (6) For the purposes of determining the county's basic foundation program only, for any
65 county whose net enrollment as determined under all other provisions of this definition except
66 subdivision (3) of this subsection is less than 1,400, the net enrollment of the county shall be
67 increased by an amount to be determined in accordance with the following:

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

70 (B) Multiply the amount derived from the calculation in §18-9A-2(i)(6)(A) of this code by the
71 difference between 1,400 and the county's actual net enrollment;

72 (C) Add the amount derived from the calculation in paragraph (B) of this subdivision to the
73 county's actual net enrollment and increase that total amount by 10 percent; and

74 (D) If the net enrollment as determined under this subdivision is greater than 1,400, the
75 calculated net enrollment shall be reduced to 1,400; and

76 (E) During the 2008-2009 interim period and every three interim periods thereafter, the
77 Legislative Oversight Commission on Education Accountability shall review this subdivision to
78 determine whether these provisions properly address the needs of counties with low enrollment
79 and a sparse population density.

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

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

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

88 (l) “Professional salaries” means the state legally mandated salaries of the professional
89 educators as provided in §18A-4-1 et seq. of this code.

90 (m) “Professional student support personnel” means a “teacher” as defined in §18-1-1 of
91 this code who is assigned and serves on a regular full-time basis as a counselor or as a school
92 nurse with a bachelor’s degree and who is licensed by the West Virginia Board of Examiners for
93 Registered Professional Nurses. Professional student support personnel shall also include
94 professional personnel providing direct social and emotional support services to students, as well
95 as professional personnel addressing chronic absenteeism. For all purposes except for the
96 determination of the allowance for professional educators pursuant to §18-9A-4 of this code,
97 professional student support personnel are professional educators.

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

104 (o) “Service personnel salaries” means the state legally mandated salaries for service
105 personnel as provided in §18A-4-8a of this code.

106 (p) “Sparse-density county” means a county whose ratio of net enrollment, excluding any
107 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(6) of this code, of the definition
108 of “net enrollment”, to the square miles of the county is less than five.

109 (q) “State aid eligible personnel” means all professional educators and service personnel
110 employed by a county board in positions that are eligible to be funded under this article and whose

111 salaries are not funded by a specific funding source such as a federal or state grant, donation,
112 contribution, or other specific funding source not listed.

113 (a) ~~(r)~~ "State board" means the West Virginia Board of Education.

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

115 (c) "Professional salaries" means the state legally mandated salaries of the professional
116 educators as provided in §18A-4-1 ~~et seq.~~ of this code.

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

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

125 (f) "Professional student support personnel" means a "teacher" as defined in §18-1-1 of
126 this code who is assigned and serves on a regular full-time basis as a counselor or as a school
127 nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for
128 Registered Professional Nurses. Professional student support personnel shall also include
129 professional personnel providing direct social and emotional support services to students, as well
130 as professional personnel addressing chronic absenteeism. For all purposes except for the
131 determination of the allowance for professional educators pursuant to §18-9A-4 of this code,
132 professional student support personnel are professional educators.

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

135 (h) "Service personnel" means all personnel as provided in §18A-4-8 of this code. For the
136 purpose of computations under this article of ratios of service personnel to net enrollment, a

137 ~~service employee shall be counted as that number found by dividing his or her number of~~
138 ~~employment days in a fiscal year by 200: *Provided*, That the computation for any service person~~
139 ~~employed for three and one-half hours or fewer per day as provided in §18A-4-8a of this code shall~~
140 ~~be calculated as one-half an employment day.~~

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

144 ~~(1) Adults enrolled in vocational programs: *Provided*, That net enrollment includes no~~
145 ~~more than 2,500 of those adults counted on the basis of full-time equivalency and apportioned~~
146 ~~annually to each county to support Advanced Career Education programs, as provided in §18-2E-~~
147 ~~11 of this code, in proportion to the adults participating in vocational programs counted on the~~
148 ~~basis of full-time equivalency: *Provided further*, That beginning with the 2021 fiscal year and every~~
149 ~~year thereafter, a career technical education center may only receive the funding for enrollment as~~
150 ~~authorized by this paragraph if the center has satisfied the requirements of §18-2E-11 of this code;~~

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

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

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

158 ~~(5) For the purposes of determining the county's basic foundation program only, for any~~
159 ~~county whose net enrollment as determined under all other provisions of this definition is less than~~
160 ~~1,400, the net enrollment of the county shall be increased by an amount to be determined in~~
161 ~~accordance with the following:~~

162 ~~(A) Divide the state's lowest county student population density by the county's actual~~
163 ~~student population density;~~

164 ~~(B) Multiply the amount derived from the calculation in §18-9A-2(i)(5)(A) of this code by the~~
165 ~~difference between 1,400 and the county's actual net enrollment;~~

166 ~~(C) Add the amount derived from the calculation in paragraph (B) of this subdivision to the~~
167 ~~county's actual net enrollment and increase that total amount by 10 percent; and~~

168 ~~(D) If the net enrollment as determined under this subdivision is greater than 1,400, the~~
169 ~~calculated net enrollment shall be reduced to 1,400; and~~

170 ~~(E) During the 2008-2009 interim period and every three interim periods thereafter, the~~
171 ~~Legislative Oversight Commission on Education Accountability shall review this subdivision to~~
172 ~~determine whether these provisions properly address the needs of counties with low enrollment~~
173 ~~and a sparse population density.~~

174 ~~(j) "Sparse density county" means a county whose ratio of net enrollment, excluding any~~
175 ~~increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition~~
176 ~~of "net enrollment", to the square miles of the county is less than five.~~

177 ~~(k) "Low density county" means a county whose ratio of net enrollment, excluding any~~
178 ~~increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition~~
179 ~~of "net enrollment", to the square miles of the county is equal to or greater than five but less than~~
180 ~~10.~~

181 ~~(l) "Medium density county" means a county whose ratio of net enrollment, excluding any~~
182 ~~increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition~~
183 ~~of "net enrollment", to the square miles of the county is equal to or greater than 10 but less than 20.~~

184 ~~(m) "High density county" means a county whose ratio of net enrollment, excluding any~~
185 ~~increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition~~
186 ~~of "net enrollment", to the square miles of the county is equal to or greater than 20.~~

187 ~~(n) "Levies for general current expense purposes" means 85 percent of the levy rate for~~
188 ~~county boards of education calculated or set by the Legislature pursuant to §11-8-6f of this code.~~

189 ~~(e)~~ (s) “Technology integration specialist” means a professional educator who has
190 expertise in the technology field and is assigned as a resource teacher to provide information and
191 guidance to classroom teachers on the integration of technology into the curriculum.

192 ~~(p)~~ “State aid eligible personnel” means all professional educators and service personnel
193 employed by a county board in positions that are eligible to be funded under this article and whose
194 salaries are not funded by a specific funding source such as a federal or state grant, donation,
195 contribution, or other specific funding source not listed.

196 ~~(q)~~ (t) The amendments to this section during the ~~2019 First Extraordinary~~ 2026 Regular
197 Session of the Legislature shall be effective for the ~~2019-2020~~ 2026-2027 funding year, and the
198 provisions of this section existing immediately prior to the ~~2019 First Extraordinary~~ 2026 Regular
199 Session of the Legislature remain in effect for funding years prior to the ~~2019-2020~~ 2026-2027
200 funding year.

§18-9A-19. State Aid Block Grant Funding.

201 Beginning for the school year 2019-2020 and thereafter, each county board shall receive
202 its allocated state aid share of the county’s basic foundation program as calculated pursuant to this
203 article in the form of block grants. Notwithstanding other provisions within this article, all funds
204 distributed to a county board in a block grant shall be exempt from expenditure requirements and
205 limitations contained within this article and a recipient county board may expend such funds in any
206 authorized and allowable manner the county board deems appropriate, subject to the following:

207 ~~Provided, That all~~

208 (a) All expenditures shall be consistent with the provisions of all other articles of this code;
209 and

210 (b) Additional funds generated by the additional weighting for special education students
211 pursuant to §18-9A-2(i)(3) may only be spent in accordance with that subdivision.

212