WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1971

ENROLLED
Committee Substitute
SENATE BILL NO. 122
Original Sponsor
(By Mr. McCall, Jr., President
And Mr. Polhemus)

PASSED March 13, 1971

In Effect July 14, 1971. Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 7-2-71
ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 122

(MR. McCOURT, MR. PRESIDENT, and MR. PALUMBO,

original sponsors)

[Passed March 13, 1971; in effect July 1, 1971.]

AN ACT to repeal sections six and six-a, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact article nine-a, chapter eighteen of said code; and to amend and reenact sections two, seven and eight, article four, chapter eighteen-a of said code, all relating to the financial support of the free public school system, the powers and duties of the state board of school finance and the minimum salary schedule for public school teachers and auxiliary and service personnel.
Be it enacted by the Legislature of West Virginia:

That sections six and six-a, article nine, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed; that article nine-a, chapter eighteen of said code be amended and reenacted; and that sections two, seven and eight, article four, chapter eighteen-a of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-1. Public school support plan.

The intent of this article is to provide a plan of financial support for the public schools to be known as the West Virginia public school support plan, and to fix statutorily both state and county responsibility for the financing of the same. In enacting this plan, the Legislature has in mind the following purpose: To effect a basic foundation support plan that shall provide for program growth which will assure more equitable educational opportunity for all children and youth irrespective of where they may live.


For the purpose of this article:
“State board” means the West Virginia board of education.

“County board” or “board” means a county board of education.

“Professional salaries” means the state legal-mandated salaries of the professional educators as provided in article four, chapter eighteen-a of this code.

“Professional educator” shall be synonymous with and shall have the same meaning as “teacher” as defined in section one, article one, chapter eighteen of this code.

“Employment term” means the months of employment as defined in section fifteen, article five of this chapter.

“Net enrollment” means the number of pupils enrolled in special education programs, early childhood programs and grades one to twelve, inclusive, of the public schools of the county.

“Adjusted enrollment” means the net enrollment plus twice the number of pupils enrolled for special education, all adjusted to the equivalent of the instructional term and in accordance with such eligibility requirements and regulations as established by the state board, but no pupil
shall be counted more than once by reason of transfer within the county or from another county within the state, and no pupil shall be counted who attends school in this state from another state.

"Levies for general current expense purposes" means on each hundred dollars of valuation, nineteen and six-tenths cents on Class I property, thirty-nine and two-tenths cents on Class II property, and seventy-eight and four-tenths cents on Classes III and IV property.

§18-9A-3. Total state basic foundation program.

The total basic foundation program for the state for any year shall be the sum of the computed costs for the counties in aggregate, as hereinafter determined, for the following:

1. Allowance for professional educators;
2. Allowance for other personnel;
3. Allowance for fixed charges;
4. Allowance for transportation cost;
5. Allowance for administrative cost;
6. Allowance for other current expense; and
7. Allowance toward national average attainment.
§18-9A-4. Foundation allowance for professional educators.

1 The basic foundation allowance to the county for professional educators shall be the amount of money required to pay the state minimum salaries, in accordance with provisions of article four, chapter eighteen-a of the code, to such personnel employed: Provided, That in making this computation no county shall receive an allowance for such personnel which number is in excess of fifty-five professional educators to each one thousand students in adjusted enrollment: Provided, That any county not qualifying under the provision of section fourteen of this article shall be eligible for a growth-rate in professional personnel in any one year not to exceed twenty percent of its total potential increase under this provision, except that in no case shall such limit be fewer than five professional: Provided, however, That the number of and the allowance for personnel paid in part by state and county funds shall be prorated: Provided further, That where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional educators for
such school or program may be prorated among the participating counties on the basis of each one's enrollment therein and that such personnel shall be considered within the above stated limit.

§18-9A-5. Foundation allowance for other personnel.

The total allowance for other personnel shall be the sum of the following:

1. An amount equal to thirteen and one-half percent of the computed total state allocation for professional educators, as defined in section four, above, such amount to be distributed to the counties in proportion to the adjusted enrollment; and

2. An amount equal to five and one-half percent of the total state allocation for professional educators, such amount to be distributed in proportion to the number of full-time school bus drivers employed within the several counties.

§18-9A-6. Foundation allowance for fixed charges.

The total allowance for fixed charges shall be equal to the sum of the foundation allowance for professional educators and the foundation allowance for other personnel,
as determined in sections four and five above, multiplied
by the sum of the current social security rate of con-
tribution plus two percent. Computation for distribution

to the counties shall be made in the same manner.


The allowance in the foundation school program for
each county for transportation shall be the sum of the
following computations:

(1) Eighty percent of the transportation cost within
each county for maintenance, operation and related costs,
exclusive of all salaries;

(2) The total cost, within each county, of insurance
premiums on buses, buildings and equipment used in
transportation: Provided, That such premiums were pro-
cured through competitive bidding;

(3) An amount equal to ten percent of the current re-
placement value of the bus fleet within each county as
determined by the state board, such amount to be used
only for the replacement of buses;

(4) Eighty percent of the cost of contracted transpor-
tation services and public utility transportation with each
county; and
(5) Aid in lieu of transportation equal to the state average amount per pupil for each pupil receiving such aid within each county.

The total state share for this purpose shall be the sum of the county shares: Provided, That no county shall receive an allowance which is greater than one third above the computed state average allowance per mile multiplied by the total mileage in the county.


1 The allowance for administrative cost shall be equal to one percent of the allocation for professional educators, as determined in section four of this article. Distribution of the computed allowance shall be made to the counties in equal amounts.


1 The total allowance for other current expense shall be equal to ten percent of the sum of the computed state allocation for professional educators and other personnel as determined in sections four and five of this article. Distribution to the counties shall be made proportional to adjusted enrollment.
§18-9A-10. **Foundation allowance toward national average attainment.**

1. So long as the average expenditure per pupil in West Virginia remains below the national average as computed by the United States office of education, funds which accrue from allocations due to increase in total local share, from balances in the general school fund, or from appropriations for such purpose shall be allocated proportional to adjusted enrollment.

§18-9A-11. **Computation of local share; appraisal and assessment of property.**

1. On the basis of the most recent survey of property valuations in the state, completed as to all classes of property in all counties determined by the tax commissioner under present or former provisions of this article, the state board shall for each county compute by application of the levies for general current expense purposes, as defined in section two of this article, the amount of revenue which such levies would produce if levied upon one hundred percent of the appraised value of each of the several classes of property contained in the report.
or revised report of such value, made to it by the tax
commissioner as follows: (1) The state board shall first
take ninety-seven and one-half percent of the amount
ascertained by applying these rates to the total assessed
public utility valuation in each classification of property
in the county. (2) The state board shall then apply these
rates to the appraised value of other property in each
classification in the county as determined by the tax
commissioner and shall deduct therefrom five percent as
an allowance for the usual losses in collections due to
discounts, exonerations, delinquencies and the like. Fifty
percent of the amount so determined shall be added to
the ninety-seven and one-half percent of public utility
taxes computed as provided above and this total shall
be the local share of the particular county.
The tax commissioner shall make or cause to be made
an appraisal in the several counties of the state of all
nonutility real property and of all nonutility personal
property which shall be based upon true and actual
value as set forth in article three, chapter eleven of this
code. In determining the value of personal property—
other than all machinery, equipment, furniture and fixtures of any industrial plant, mine, quarry or installation
and of any commercial, industrial, or professional establishment—the tax commissioner shall prescribe accepted
methods of determining such values. The tax commissioner shall in accordance with such methods determine the
value of such property.

For the purpose of appraising commercial, industrial and professional properties, the tax commissioner, after
consultation with the county court, may employ a competent property appraisal firm or firms, which appraisals
shall be under his supervision and direction.

In making or causing to be made such appraisal, the tax commissioner shall employ such assistance as available appropriations will permit and shall prescribe and use such accepted methods and procedures for checking property values and determining the amount of property in the several classes of property provided by law as are customarily employed for appraisal purposes.

Such appraisal of all said property in the several counties shall be completed prior to the first day of July,
one thousand nine hundred sixty-seven. Each year after
the completion of the property appraisal in a county
the tax commissioner shall maintain the appraisal by
making or causing to be made such surveys, examina-
tions, audits, maps and investigations of the value of
the several classes of property in each county which
should be listed and taxed under the several classifica-
tions, and shall determine the appraised value thereof.
On the basis of information so ascertained, the tax com-
missioner shall annually revise his reports to the Legis-
lature and to the state board concerning such appraisals,
such reports to be made not later than the first day of
January of each year.
As information from such appraisal of property in a
county under the provisions of this section becomes avail-
able for a district, municipality and county, the tax
commissioner shall notify the county court and the as-
sessor of said county that such information is available
and shall make available to said county court and assessor
all data, records and reports or other information relating
to said work, along with a list of any properties in said
district, municipality and county which are entered on
the assessment rolls but for which no appraisal has been
made, a list of any properties which were appraised but
which cannot be found on the assessment rolls and a
list of all properties carried on the assessment rolls which
have not been identified on the map. Said list shall set
forth the name of the owner and a description of the
property and the reason, if known, for its failure to have
been entered on the assessment rolls or to have been
 appraised or to have been identified on the map, as the
case may be.

As such appraisal of property in a county, under this
section, is completed to the extent that a total valuation
for each class of property can be determined, such ap-
praisal shall be delivered to the assessor and the county
court, and in each assessment year commencing after
such appraisal is so delivered and received, the county
assessor and the county court, sitting as a board of
equalization and review, shall use such appraised valua-
tions as a basis for determining the true and actual value
for assessment purposes of the several classes of property.
The total assessed valuation in each of the four classes of property shall be not less than fifty percent nor more than one hundred percent of the appraised valuation of each said class of property.

Whenever in any year a county assessor or a county court shall fail or refuse to comply with the provisions of this section in setting the valuations of property for assessment purposes in any class or classes of property in the county, the state tax commissioner shall review the valuations for assessment purposes made by the county assessor and the county court and shall direct the county assessor and the county court to make such corrections in the valuations as may be necessary so that they shall comply with the requirements of chapter eleven of this code and of this section, and the tax commissioner shall enter the county and fix the assessments at the required ratios. Refusal of the assessor or the county court to make such corrections shall constitute grounds for removal from office.

In any year in which the total assessed valuation of a county shall fail to meet the minimum requirements
above set forth, the county court of such county shall allocate for such year to the county board of education from the tax levies allowed to the county court a sufficient portion of its levies as will, when applied to the valuations for assessment purposes of such property in the county, provide a sum of money equal to the difference between the amount of revenue which will be produced by application of the allowable school levy rates defined in section two of this article upon the valuations for assessment purposes of such property and the amount of revenue which would be yielded by the application of such levies to fifty percent of the total of appraised valuations of such property. In the event the county court shall fail or refuse to make the reallocation of levies as provided for herein, the county board of education, the tax commissioner, the state board, or any other interested party, shall have the right to enforce the same by writ of mandamus in any court of competent jurisdiction.

In conjunction with and as a result of the appraisal herein set forth the tax commissioner shall have the
power, and it shall be his duty, to establish a permanent records system for each county in the state, consisting of:

(1) Tax maps of the entire county drawn to scale or aerial maps, which maps shall indicate all property and lot lines, set forth dimensions or areas, indicate whether the land is improved, and identify the respective parcels or lots by a system of numbers or symbols and numbers, whereby the ownership of such parcels and lots can be ascertained by reference to the property record cards and property owner's index;

(2) Property record cards arranged geographically according to the location of property on the tax maps, which cards shall set forth the location and description thereof, the acreage or dimensions, description of improvements, if any, the owner's name, address and date of acquisition, the purchase price, if any, set forth in the deed of acquisition, the amount of tax stamps, if any, on the deed, the assessed valuation, and the identifying number or symbol and number, shown on the tax map; and

(3) Property owner's index consisting of an alphabetical listing of all property owners, setting forth brief
158 descriptions of each parcel or lot owned and cross-indexed
159 with the property record cards and the tax map.
160 The tax commissioner is hereby authorized and em-
161 powered to enter into such contracts as may be neces-
162 sary, and for which funds may be available, to establish
163 the permanent records system herein provided for, or
164 may through his staff and employees, prepare and com-
165 plete such system.
166 All microfilm photography and original copies of tax
167 maps created under the provisions of this section are
168 the property of the state of West Virginia and the re-
169 production, copying, distribution or sale of such microfilm,
170 photography or tax maps or any copies thereof without
171 the written permission of the state tax commissioner
172 is prohibited. Any person who shall violate the provisions
173 of this paragraph shall be guilty of a misdemeanor, and,
174 upon conviction thereof, shall be fined not less than
175 fifty dollars nor more than three hundred dollars, or
176 imprisoned in the county jail not less than thirty days
177 nor more than one year, or both fined and imprisoned.
178 Justices of the peace shall have concurrent jurisdiction
with other courts having jurisdiction for the trial of all
misdemeanors arising under this paragraph.

The tax commissioner shall by uniform regulations
establish a procedure for the sale of reproduction of
microfilm, photography and maps and may pay for
having such reproductions made from the appropriation
for "property appraisal." Any funds received as a result
of the sale of such reproductions shall be deposited to
the appropriated account from which the payment for
reproduction is made.

The cost of conducting the appraisal herein provided
for shall be borne jointly by the state and the several
counties in the following manner and terms: There
shall be appropriated from the general revenue fund
annually an amount sufficient to maintain the appraisal
in all counties of the state. Each county shall furnish,
through its county court, not more than ten percent of
the cost of such appraisal or reappraisal and permanent
records system for each county. Such county costs may
be paid over a period of three years with the approval
of the tax commissioner. In those instances where the
cost of the appraisal, reappraisal or permanent records
system required by this section has been paid by the
tax commissioner from funds appropriated for these
purposes, the share of such cost allocated to each coun-
ty shall, upon receipt thereof by the tax commissioner,
be deposited to the appropriated account from which
such payments have been made.

The county assessor and the county court shall comply
with the provisions of chapter eleven of this code in de-
termining the true and actual value of property for
assessment purposes and shall not arbitrarily use a direct
percentage application to the appraisal valuations, wheth-
er complete appraisal or spot survey, of any class of
property or property within a class for such purpose.

The provisions of this section shall not be construed to
alter or repeal in any manner the provisions of chapter
eleven of this code, but shall be construed in pari
materia therewith, and compliance with this section by
the assessor and county court shall be considered, pro
tanto, as compliance with said chapter eleven.
§18-9A-12. County basic foundation; total basic state aid allowance.

1 The basic foundation program for each county for the fiscal year shall be the sum of the amounts computed in accordance with the provisions of sections four, five, six, seven, eight, nine and ten of this article. On the first working day of July in each year, the state board shall determine the basic foundation program for each county for that fiscal year. Data used in the computations relating to net and adjusted enrollment, and the number of professional educators, shall be for the third month of the prior school term. Transportation expenditures used in these computations shall be for the most recent year in which data are available. The allocated state aid share of the county’s basic foundation program shall be the difference between the cost of its basic foundation program and the county’s local share as determined in section eleven of this article.

17 Total basic state aid to the county shall be the computed state share of basic foundation support. After such computation is completed, the state board shall imme-
diately certify to each county board the amount of state aid allocated to the county for that fiscal year, subject to any qualifying provisions of this article.


For the fiscal year beginning on the first day of July, one thousand nine hundred seventy-one, and for each of the next three fiscal years, there shall be an allowance for loss reduction which shall be distributed as provided in this section.

In order to determine which counties are entitled to such allowance, and the amount of such aid, the state board shall first compute the amount to be received by each county from the regular state aid appropriation for the fiscal year beginning on the first day of July, one thousand nine hundred seventy-one, allocated as provided in section twelve of this article. The state board shall then compare such amount with the state aid the county would have received from the plan in effect during the fiscal year one thousand nine hundred seventy—one thousand nine hundred seventy-one. From the funds appropriated for the purpose, the state board shall then
allocate to each county showing a loss in state aid on the basis of such comparison, eighty percent of such loss the first year, sixty percent the second year, forty percent the third year, and twenty percent the fourth and last year.


In order to encourage counties to move toward new and improved programs and to reduce class size, counties having ratios of adjusted enrollment to professional staff higher than the state average will be granted advance funds to employ sufficient additional staff to reach the state average: Provided, That in any one fiscal year no more than one half of such additional staff may be counted under this provision. Such funds shall be granted to each eligible county based on data at the end of the third month of school but only on the basis of actual staff members employed.


To provide for the support of increased net enrollments in the counties in a school year over the net enrollments
used in the computation of total state aid for that year, there shall be appropriated for that purpose from the general revenue fund an amount equal to the average total state aid per net pupil multiplied by the total of all of the increases in the net enrollments of the counties made by comparing the most recent reports of net enrollment for the third school month to the immediately previous year’s reports for the same school month.

Upon determination of the several increases in the respective counties’ net enrollments, as of the close of the third school month, each county showing such increase shall be allocated an amount equal to that county’s average per net pupil total state aid multiplied by the increase in that county’s net enrollment found as provided heretofore. Such allocations shall be distributed not later than December thirty-one of each year to the counties having increases in net enrollment as heretofore provided. If the amount appropriated for this purpose shall not be sufficient to provide payment in full for the total of these several allocations, each county allocation shall be reduced to an amount which is proportionate to the
24 appropriation compared to the total of the several allocations, and the allocations as thus adjusted shall be distributed to the counties as provided in this section.

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


1 There shall be established a separate school fund to be known as the “general school fund” which shall be administered by the same board as provided in section five, article nine of this chapter. The proceeds from the income of this school fund, and the interest thereon, as provided for under the irreducible school fund amendment to the constitution shall accrue to the general school fund which, with moneys appropriated by the Legislature, shall be used to support the public schools of the state.

10 All other state funds and taxes formerly dedicated to the general school fund shall hereafter be paid into the state general fund.

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


1 Notwithstanding any and all references to the board of school finance as found in article nine-b of this chapter, the West Virginia board of education, through its chief executive officer, shall direct and carry out all provisions of said article nine-b.


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


1 Each county board of education shall file a request schedule with the state board for payments of state aid to which it is entitled in each fiscal year. The state board shall have authority to examine and approve, disapprove or modify the schedule of payments, so long as its action does not unreasonably curtail the educational program of any county. The state board shall pay state aid
8 by requisition upon the state auditor in favor of the
9 fiscal officer of each county board in installments accord-
10 ing to the schedule as finally approved or modified.

1 The provisions of any section or parts of sections, or
2 articles or parts of articles, of the code of West Virginia,
3 one thousand nine hundred thirty-one, as amended, which
4 are inconsistent with the provisions of this article, are
5 hereby repealed to the extent of such inconsistency.

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 4. SALARIES, WAGES, AND OTHER BENEFITS.

§18A-4-2. State minimum salary schedule.

STATE MINIMUM SALARY SCHEDULE

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§18A-4-7. Substitute teachers.

1 The pay of the substitute teacher shall be based upon his training classification and experience and shall be in accordance with the salary schedule of the regularly employed teachers of the county in which he is employed; except that any substitute teacher who teaches five consecutive instructional days or less in the same position shall be paid only the basic salary in effect in his county.

§18A-4-8. Minimum pay for service and auxiliary personnel.

1 Until such time as a state minimum pay scale is established for service and auxiliary personnel, the foundation allowance as provided in section five, article nine-a,
chapter eighteen of the code shall be used for the employ-
ment, adjustment of and increase in the pay of such
personnel: Provided, That any increase in allocation
under this computation resulting solely from an increase
in the minimum pay schedule of teachers effective with
the date of passage of this act, or for any year thereafter,
shall be used solely to increase the pay of all such per-
sonnel included under the provisions of this section.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

To take effect July 1, 1971.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within approved this the 1st day of April, 1971.

Governor