WEST VIRGINIA LEGISLATURE
SEVENTY-EIGHTH LEGISLATURE
REGULAR SESSION, 2007

ENROLLED
COMMITTEE SUBSTITUTE
FOR
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FOR
Senate Bill No. 541

(Senators Plymale and Edgell, original sponsors)

[Passed March 10, 2007; to take effect July 1, 2007.]
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AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §11-1C-5b; to amend and reenact §11-8-6f of said code; to amend said code by adding thereto a new section, designated §11-21-23; to amend and reenact §18-9A-2,
§18-9A-11 and §18-9A-15 of said code; and to amend said code by adding thereto a new section, designated §18-9A-2a, all relating to public school finance; requiring local share to be calculated assuming properties are being assessed at sixty percent of market value; increasing the limit on revenue generated by the regular school board levy; amending “growth county” definition and clarifying what new property values to include for the purposes of the Growth County School Facilities Act; increasing state aid to counties by reducing the percentage used to calculate levies for general current expense purposes subject to exception; providing for a refundable property tax credit for real property taxes paid in excess of a certain percent of income; requiring that a library funding obligation created by special act be paid from certain funds; limiting a library funding obligation; allowing, under certain conditions, a transfer of the library funding obligation so that the obligation is paid from excess levy revenues; voiding the library funding obligation under certain conditions; and providing extraordinary sustained increased enrollment impact supplement.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §11-1C-5b; that §11-8-6f of said code be amended and reenacted; that said code be amended by adding thereto a new section, designated §11-21-23; that §18-9A-2, §18-9A-11 and §18-9A-15 of said code be amended and reenacted; and that said code be amended by adding thereto a new section, designated §18-9A-2a, all to read as follows:

CHAPTER 11. TAXATION.
ARTICLE 1C. FAIR AND EQUITABLE PROPERTY VALUATION.

§11-1C-5b. Assessment for purpose of calculating local share.

(a) This section is effective the first day of July, two thousand thirteen.

(b) The Tax Commissioner shall calculate the total assessed values for the purpose of calculating local share for each county each year pursuant to this section and report the total assessed values to the State Board of Education on or before the first day of December of each year.

(c) To provide for assessors to assess at sixty percent of market value, it is the intent of the Legislature that local share, as set forth in section eleven, article nine-a, chapter eighteen of this code, be calculated assuming that the types of property included in the assessment ratio study in each county are assessed at a level in which the assessment ratio study indicates would be sixty percent of market value.

(d) For each of Classes II, III and IV as set forth in section five, article eight of this chapter, all real property of the type that is or would be included in the assessment ratio study if sold is assumed for the purpose of calculating local share to be assessed at the amount the property would be assessed at if all the property in the class were adjusted under the assumption that, using a ratio of sixty percent, all the property were under or over assessed to the same extent as that property included in the assessment ratio study so that using the assessment ratio study as an indicator all the property in the class would be assessed at the ratio of sixty percent of market value: Provided, That

30 if the sales ratio analysis indicates that assessments are
31 within ten percent of sixty percent of market value,
32 assessments are considered to be sixty percent of
33 market value for the purposes of this section.

34 (e) The amount of the assumed assessed values
35 determined pursuant to subsection (d) of this section
36 shall be added to the actual assessed values of personal
37 property, farmland, managed timberland, public utility
38 property or any other centrally assessed property
39 provided in paragraphs (A), (B), (C) and (D), subdivision
40 (2), subsection (a), section five of this article and the
41 sum of these values is the total assessed value for the
42 purpose of calculating local share.

ARTICLE 8. LEVIES.

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

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

An additional appraisal or valuation due to new construction or improvements, including beginning recovery of natural resources, to existing real property or newly acquired personal property shall not be an annual appraisal or general valuation within the meaning of this section, nor shall the assessed value of
the improvements be included in calculating the new

(49) tax levy for purposes of this section. Special levies shall

49 not be included in any calculations under this section.

(b) After conducting a public hearing, the Legislature

(52) may, by act, increase the rate above the reduced rate

52 required in subsection (a) of this section if an increase

53 is determined to be necessary.

(c) The State Tax Commissioner shall report to the

(56) Joint Committee on Government and Finance and the

(57) Legislative Oversight Commission on Education

(58) Accountability by the first day of March of each year on

(59) the progress of assessors in each county in assessing

(60) properties at the constitutionally required sixty percent

(61) of market value and the effects of increasing the limit

(62) on the increase in total property tax revenues set forth

(63) in this section to two percent.

(d) Growth County School Facilities Act. —Legislative

(65) findings. —

The Legislature finds and declares that there has

(67) been, overall, a statewide decline in enrollment in the

(68) public schools of this state; due to this decline, most

(69) public schools have ample space for students, teachers

(70) and administrators; however, some counties of this state

(71) have experienced significant increases in enrollment

(72) due to significant growth in those counties; that those

(73) counties experiencing significant increases do not have

(74) adequate facilities to accommodate students, teachers

(75) and administrators. Therefore, the Legislature finds

(77) that county boards of education in those high-growth

(78) counties should have the authority to designate

(79) revenues generated from the application of the regular
school board levy due to new construction or improvements placed in a growth county school facilities act fund be used for school facilities in those counties to promote the best interests of this state's students.

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

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

(3) For any growth county, as defined in subdivision (1) of this subsection, that adopts a resolution choosing to use the provisions of this subsection, pursuant to subdivision (2) of this subsection, assessed values resulting from additional appraisal or valuation due to new construction or improvements to existing real property shall be designated as new property values and identified by the county assessor. The statewide regular school board levy rate as established by the Legislature shall be applied to the assessed value designated as new property values and the resulting property tax revenues collected from application of the regular school board levy rate shall be placed in a separate account designated as the Growth Counties School Facilities Act Fund. Revenues deposited in the Growth Counties School Facilities Act fund shall be appropriated by the county board of education for construction,
maintenance or repair of school facilities. Revenues in
the fund may be carried over for an indefinite length of
time and may be used as matching funds for the purpose
of obtaining funds from the School Building Authority
or for the payment of bonded indebtedness incurred for
school facilities. For any growth county choosing to use
the provisions of this subsection, estimated school board
revenues generated from application of the regular
school board levy rate to new property values are not to
be considered as local funds for purposes of the
computation of local share under the provisions of
section eleven, article nine-a, chapter eighteen of this
code.

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

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-23. Refundable credit for real property taxes paid in
excess of four percent of income.

(a) For the tax years beginning on or after the first day
of January, two thousand eight, any homeowner living
in his or her homestead shall be allowed a refundable
credit against the taxes imposed by this article equal to
the amount of real property taxes paid in excess of four
percent of their income. If the refundable credit
provided in this section exceeds the amount of taxes imposed by this article, the State Department of Revenue shall refund that amount to the homeowner.

(b) Due to the administrative cost of processing, the refundable credit authorized by this section may not be refunded if less than ten dollars.

(c) The credit for each property tax year shall be claimed by filing a claim for refund within twelve months after the real property taxes are paid on the homestead.

(d) For the purposes of this section:

(1) "Gross household income" is defined as federal adjusted gross income plus the sum of the following:

(A) Modifications in subsection (b), section twelve, article twenty-one of this chapter increasing federal adjusted gross income;

(B) Federal tax exempt interest reported on federal tax return;

(C) Workers' compensation and loss of earnings insurance; and

(D) Nontaxable social security benefits; and

(2) For the tax years beginning before the first day January, two thousand eight, "real property taxes paid" means the aggregate of regular levies, excess levies and bond levies extended against the homestead that are paid during the calendar year and determined after any
(e) A homeowner is eligible to benefit from this section or section twenty-one of this article, whichever section provides the most benefit as determined by the homeowner. No homeowner may receive benefits under both this section and section twenty-one of this article during the same taxable year. Nothing in this section denies those entitled to the homestead exemption provided in section three, article six-b of this chapter.

(f) No homeowner may receive a refundable tax credit imposed by this article in excess of one thousand dollars. This amount shall be reviewed annually by the Legislature to determine if an adjustment is necessary.

CHAPTER 18. EDUCATION.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.


For the purpose of this article:

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

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

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

(d) "Professional educator" shall be synonymous with and shall have the same meaning as "teacher" as defined in section one, article one of this chapter.

(e) "Professional instructional personnel" means a professional educator whose regular duty is as that of a classroom teacher, librarian, counselor, attendance director, school psychologist or school nurse with a bachelors degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses. A professional educator having both instructional and administrative or other duties shall be included as professional instructional personnel for that ratio of the school day for which he or she is assigned and serves on a regular full-time basis in appropriate instruction, library, counseling, attendance, psychologist or nursing duties.

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

(g) "Service personnel" means all personnel as provided in section eight, article four, chapter eighteen-a of this code. For the purpose of computations under this article of ratios of service personnel to adjusted enrollment, a service employee shall be counted as that number found by dividing his or her number of employment days in a fiscal year by two hundred: Provided, That the computation for any service person employed for three and one-half hours or less per day as provided in section eight-a, article four, chapter

39 eighteen-a of this code shall be calculated as one-half
40 an employment day.

41 (h) "Net enrollment" means the number of pupils
42 enrolled in special education programs, kindergarten
43 programs and grades one to twelve, inclusive, of the
44 public schools of the county. Commencing with the
45 school year beginning on the first day of July, one
46 thousand nine hundred eighty-eight, net enrollment
47 further shall include adults enrolled in regular
48 secondary vocational programs existing as of the
49 effective date of this section, subject to the following:

50 (1) Net enrollment includes no more than one
51 thousand of those adults counted on the basis of
52 full-time equivalency and apportioned annually to each
53 county in proportion to the adults participating in
54 regular secondary vocational programs in the prior year
55 counted on the basis of full-time equivalency; and

56 (2) Net enrollment does not include any adult charged
57 tuition or special fees beyond that required of the
58 regular secondary vocational student.

59 (i) "Adjusted enrollment" means the net enrollment
60 plus twice the number of pupils enrolled for special
61 education, including gifted pupils in grades one through
62 eight and exceptional gifted pupils in grades nine
63 through twelve, plus the number of pupils in grades
64 nine through twelve enrolled for honors and advanced
65 placement programs, subject to the following:

66 (1) No more than four percent of net enrollment of
67 grades one through eight may be counted as enrolled in
68 gifted education and no more than six percent of net
enrollment of grades nine through twelve may be counted as enrolled in gifted education, exceptional gifted education (subject to the limitation set forth in section one, article twenty of this chapter) and honors and advanced placement programs for the purpose of determining adjusted enrollment within a county;

(2) Nothing herein shall be construed to limit the number of students who may actually enroll in gifted, exceptional gifted, honors or advanced placement education programs in any county;

(3) No pupil may be counted more than three times for the purpose of determining adjusted enrollment;

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

(5) 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.

(j) “Levies for general current expense purposes” means ninety-four percent of the levy rate for county boards of education calculated or set by the Legislature pursuant to the provisions of section six-f, article eight, chapter eleven of this code: Provided, That beginning the first day of July, two thousand eight, “levies for general current expense purposes” means ninety percent of the levy rate for county boards of education calculated or set by the Legislature pursuant to the provisions of section six-f, article eight, chapter eleven
§18-9A-2a. Definition of levies for general current expense purposes.

(a) For the purposes of this section only, "property" means only Classes II, III and IV properties exclusive of natural resources property as defined in section ten, article one-c, chapter eleven of this code, personal property, farmland, managed timberland, public utility property or any other centrally assessed property provided in paragraphs (A), (B), (C) and (D), subdivision (2), subsection (a), section five, article one-c, chapter eleven of this code: Provided, That nothing in this subsection may be construed to require that levies for general current expense purposes be applied only to those properties that are included in this definition.

(b) For the purposes of this section only, the median ratio of the assessed values to actual selling prices in the assessment ratio study applicable to the immediately preceding fiscal year shall be used as the indicator to determine the percentage market value that properties are being assessed at.

(c) Notwithstanding any other provision of this section or section two of this article, effective the first day of July, two thousand ten, for any county that is not assessing property at least at fifty-four percent of market value, “levies for general current expense purposes” means ninety-eight percent of the levy rate for county boards of education set by the Legislature

pursuant to section six-f, article eight, chapter eleven of
this code.

(d) Any county that receives additional state aid due
to its using a percentage less than ninety-eight percent
in the calculation of levies for general current expense
purposes, shall report to the state board how the
additional state aid was used. The state board shall
compile the reports from all the county boards into a
single report, and shall report to the Legislative
Oversight Commission on Education Accountability
how the county boards used this additional state aid.
The report shall be made annually as soon as practical
after the end of each fiscal year.

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

(a) On the basis of each county's certificates of
valuation as to all classes of property as determined and
published by the assessors pursuant to section six,
article three, chapter eleven of this code for the next
ensuing fiscal year in reliance upon the assessed values
annually developed by each county assessor pursuant to
the provisions of articles one-c and three of said
chapter, 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 the levies would produce if
levied upon one hundred percent of the assessed value
of each of the several classes of property contained in
the report or revised report of the value, made to it by
the Tax Commissioner as follows:

(1) The state board shall first take ninety-five 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 assessed taxable 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. All of the amount so determined shall be added to the ninety-five percent of public utility taxes computed as provided in subdivision (1) of this subsection and this total shall be further reduced by the amount due each county assessor's office pursuant to the provisions of section eight, article one-c, chapter eleven of this code and this amount shall be the local share of the particular county.

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

(b) Commencing with the two thousand thirteen fiscal year and each fiscal year thereafter, subsection (a) of this section is void and local share shall be calculated in accordance with the following:

(1) The state board shall for each county compute by application of the levies for general current expense purposes, as defined in sections two and two-a of this article, the amount of revenue which the levies would produce if levied upon one hundred percent of the
assessed value calculated pursuant to section five-b, article one-c, chapter eleven of this code;

(2) Five percent shall be deducted from the revenue calculated pursuant to subdivision (1) of this subsection as an allowance for the usual losses in collections due to discounts, exonerations, delinquencies and the like; and

(3) The amount calculated in subdivision (2) of this subsection shall further be reduced by the sum of money due each assessor's office pursuant to the provisions of section eight, article one-c, chapter eleven of this code and this reduced amount shall be the local share of the particular county.

(c) Whenever in any year a county assessor or a county commission 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 commission and shall direct the county assessor and the county commission to make corrections in the valuations as necessary so that they shall comply with the requirements of chapter eleven of this code and 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 commission to make the corrections constitutes grounds for removal from office.

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

(e) For purposes of any computation made in accordance with the provisions of this section, in any county where the county board of education has adopted a resolution choosing to use the provisions of the Growth County School Facilities Act set forth in section six-f, article eight, chapter eleven of this code, estimated school board revenues generated from application of the regular school board levy rate to new property values, as that term is designated in said section, may not be considered local share funds and shall be subtracted before the computations in subdivisions (1) and (2), subsection (a) of this section or in subdivisions (2) and (3), subsection (b) of this section as applicable, are made.

(f) The Legislature finds that public school systems throughout the state provide support in varying degrees to public libraries through a variety of means including budgeted allocations, excess levy funds and portions of their regular school board levies as may be provided by special act. A number of public libraries are situated on the campuses of public schools and several are within public school buildings serving both the students and public patrons. To the extent that public schools recognize and choose to avail the resources of public libraries toward developing within their students such legally recognized elements of a thorough and efficient education as literacy, interests in literature, knowledge of government and the world around them and preparation for advanced academic training, work and
citizenship, public libraries serve a legitimate school purpose and may do so economically. For the purposes of any computation made in accordance with the provisions of this section, the library funding obligation on the regular school board levies created by a special act shall be paid from that portion of the levies which exceeds the proportion determined to be local share. If the library funding obligation is greater than the amount available in excess of the county's local share, the obligation created by the special act is reduced to the amount which is available, not withstanding any provisions of the special act to the contrary.

(g) It is the intent of the Legislature that whenever a provision of subsection (f) of this section is contrary to any special act of the Legislature which has been or may in the future be enacted by the Legislature that creates a library funding obligation on the regular school board levy of a county, subsection (f) of this section controls over the special act. Specifically, the special acts which are subject to subsection (f) of this section upon the enactment of this section during the two thousand seven regular session of the Legislature include:

(1) Enrolled Senate Bill No. 11, passed on the twelfth day of February, one thousand nine hundred seventy, applicable to the Berkeley County Board of Education;

(2) Enrolled House Bill No. 1352, passed on seventh day of April, one thousand nine hundred eighty-one, applicable to the Hardy County Board of Education;

(3) Enrolled Committee Substitute for House Bill No. 2833, passed on the fourteenth day of March, one
(4) Enrolled House Bill No. 161, passed on the sixth day of March, one thousand nine hundred fifty-seven, applicable to the Kanawha County Board of Education;

(5) Enrolled Senate Bill No. 313, passed on the twelfth day of March, one thousand nine hundred thirty-seven, as amended by Enrolled House Bill No. 1074, passed on the eighth day of March, one thousand nine hundred sixty-seven, and as amended by Enrolled House Bill No. 1195, passed on the eighteenth day of January, one thousand nine hundred eighty-two, applicable to the Ohio County Board of Education;

(6) Enrolled House Bill No. 938, passed on the twenty-eighth day of February, one thousand nine hundred sixty-nine, applicable to the Raleigh County Board of Education;

(7) Enrolled House Bill No. 398, passed on the first day of March, one thousand nine hundred thirty-five, applicable to the Tyler County Board of Education;

(8) Enrolled Committee Substitute for Senate Bill No. 450, passed on the eleventh day of March, one thousand nine hundred ninety-four, applicable to the Upshur County Board of Education; and

(9) Enrolled House Bill No. 2994, passed on the thirteenth day of March, one thousand nine hundred eighty-seven, applicable to the Wood County Board of Education.

(h) Notwithstanding any provision of any special act set forth in subsection (g) of this section to the contrary, the county board of any county with a special act creating a library obligation out of the county's regular school levy revenues may transfer that library obligation so that it becomes an obligation of its excess levy revenues instead of its regular school levy revenues, subject to the following:

(1) If a county board chooses to transfer the library obligation pursuant to this subsection, the library funding obligation shall remain an obligation of the regular school levy revenues until after the fiscal year in which a vote on an excess levy occurs;

(2) If a county board chooses to transfer the library obligation pursuant to this subsection, the county board shall include the funding of the public library obligation in the same amount as its library funding obligation on its regular levy revenues as the purpose or one of the purposes for the excess levy to be voted on;

(3) If a county board chooses to transfer the library obligation pursuant to this subsection, regardless of whether or not the excess levy passes, effective the fiscal year after the fiscal year in which a vote on the excess levy occurs, a county's library obligation on its regular levy revenues is void notwithstanding any provision of the special acts set forth in subsection (g) of this section to the contrary; and

(4) Nothing is subdivision (3) of this subsection prohibits a county board from funding its public library obligation voluntarily.
§18-9A-15. Allowance for increased enrollment; extraordinary sustained increased enrollment impact supplement.

(a) 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 to be determined as follows:

(1) The state board shall promulgate a rule pursuant to article three-b, chapter twenty-nine-a of this code that establishes an objective method for projecting the increase in net enrollment for each school district. The state superintendent shall use the method prescribed by the rule to project the increase in net enrollment for each school district.

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

(3) The state superintendent shall calculate each school district's share of the appropriation by multiplying the projected increase in net enrollment for the school district by the average total state aid per net pupil and shall distribute sixty percent of each school district's share to the school district on or before the first day of September of each year. The state
superintendent shall make a second distribution of the remainder of the appropriation in accordance with subdivision (4) of this section.

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

(5) If the amount of the appropriation for increased enrollment is not 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 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: *Provided, That the Governor shall request a supplemental appropriation at the next legislative session for the reduced amount.*

(b) To help offset the budgetary impact of extraordinary and sustained increases in net enrollment in a county, there shall be included in the basic state aid of any county whose most recent three-year average growth in second month net enrollment is two percent or more, an amount equal to one fourth of the state average per pupil state aid multiplied by the increase in the county's second month net enrollment in the latest year.

(c) 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.
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.

In effect July 1, 2007.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this 4th Day of April, 2007.

Governor