WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2008

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4588

(By Delegates Perry, Browning, Poling, Shaver, Wysong, Duke, Romine, Williams and Ellis)

Passed March 8, 2008

In Effect July 1, 2008
AN ACT to repeal §18-9A-5a, §18-9A-5b, §18-9A-10a and §18-9A-22 of the Code of West Virginia, 1931, as amended; to amend and reenact §18-1-1 of said code; to amend and reenact §18-9A-2, §18-9A-3a, §18-9A-4, §18-9A-5, §18-9A-6, §18-9A-7, §18-9A-8, §18-9A-9, §18-9A-10 and §18-9A-21 of said code; and to amend and reenact §18-20-5 of said code all relating to public school support; defining terms; eliminating adjusted enrollment and certain waiver provisions; eliminating obsolete provisions; providing alternate computation of county and total basic foundation program funding for certain years; limiting basis of foundation allowances for personnel to certain ratios of net student enrollment instead of adjusted enrollment; establishing different net enrollment limits on the basis of differences in students per square mile and expiring existing ratios and funding provisions; providing for certain adjustments to net enrollment for allowances in low enrollment counties;
requiring review of certain issues; establishing minimum ratios of professional instructional personnel per students in net enrollment; providing criteria for certain new positions; establishing student density categories for determining allowance for transportation; modifying incentive for alternative fuel use and allowance for transporting students to certain multi-county centers; removing obsolete provisions for certain competitive bidding; deleting allowance for administrative costs; providing foundation allowance for professional student support personnel, including fixed charges; including professional student support personnel costs in determining professional substitute allowance; placing funding supplement for advanced placement and dual credit enrollment in allowance to improve instructional programs; repealing provisions for certain additional nursing positions; providing enrollment basis for alternative program funding and adding prevention programs; expiring certain provisions for funding for economies of scale in certain counties; requiring annual review and report by state superintendent on exceptional student services and accounting of services and costs; requiring appropriation for distribution upon application to support children with high acuity needs that exceed county capacity from funds available; and requiring rule to implement distribution.

Be it enacted by the Legislature of West Virginia:

That §18-9A-5a, §18-9A-5b, §18-9A-10a and §18-9A-22 of the Code of West Virginia, 1931, as amended, be repealed; that §18-1-1 of said code be amended and reenacted; that §18-9A-2, §18-9A-3a, §18-9A-4, §18-9A-5, §18-9A-6, §18-9A-7, §18-9A-8, §18-9A-9, §18-9A-10 and §18-9A-21 of said code be amended and reenacted; and that §18-20-5 of said code be amended and reenacted, all to read as follows:

CHAPTER 18. EDUCATION.
ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR EDUCATION.

§18-1-1. Definitions.

The following words used in this chapter and in any proceedings pursuant thereto have the meanings ascribed to them unless the context clearly indicates a different meaning:

(a) "School" means the students and teachers assembled in one or more buildings, organized as a unit;

(b) "District" means county school district;

(c) "State board" means the West Virginia Board of Education;

(d) "County board" or "board" means a county board of education;

(e) "State superintendent" means the State Superintendent of Free Schools;

(f) "County superintendent" or "superintendent" means a county superintendent of schools;

(g) "Teacher" means a teacher, supervisor, principal, superintendent, public school librarian or any other person regularly employed for instructional purposes in a public school in this state;

(h) "Service person" or "service personnel," whether singular or plural, means any non-teaching school employee who is not included in the meaning of "teacher" as defined in this section, and who serves the school or schools as a whole, in a nonprofessional capacity, including such areas as
secretarial, custodial, maintenance, transportation, school lunch and aides. Any reference to “service employee” or “service employees” in this chapter or chapter eighteen-a of this code means service person or service personnel as defined in this section;

(i) “Social worker” means a nonteaching school employee who, at a minimum, possesses an undergraduate degree in social work from an accredited institution of higher learning and who provides various professional social work services, activities or methods as defined by the State Board for the benefit of students;

(j) “Regular full-time employee” means any person employed by a county board who has a regular position or job throughout his or her employment term, without regard to hours or method of pay;

(k) “Career clusters” means broad groupings of related occupations;

(l) “Work-based learning” means a structured activity that correlates with and is mutually supportive of the school-based learning of the student and includes specific objectives to be learned by the student as a result of the activity;

(m) “School-age juvenile” means any individual who is entitled to attend or who, if not placed in a residential facility, would be entitled to attend public schools in accordance with: (1) Section five, article two of this chapter; (2) sections fifteen and eighteen, article five of this chapter; or (3) section one, article twenty of this chapter;

(n) “Student with a disability” means an exceptional child, other than gifted, pursuant to section one, article twenty of this chapter;
(o) "Casual deficit" means a deficit of not more than three percent of the approved levy estimate or a deficit that is nonrecurring from year to year.

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, and includes technology integration specialists.

(e) "Professional instructional personnel" means a professional educator whose regular duty is as that of a classroom teacher, librarian, attendance director or school psychologist. 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, attendance, or psychologist duties.

(f) "Professional student support personnel" means a "professional person" as those terms are defined in section
One article one, chapter eighteen-a of this code who is assigned and serves on a regular full-time basis as a counselor or as a school nurse with a bachelor's degree and who is licensed by the West Virginia Board of Examiners for Registered Professional Nurses.

(g) "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.

(h) "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 net 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 eighteen-a of this code shall be calculated as one-half an employment day.

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

(1) Adults enrolled in regular secondary vocational programs existing as of the effective date of this section, subject to the following:

(A) Net enrollment includes no more than one thousand of those adults counted on the basis of full-time equivalency and apportioned annually to each county in proportion to the adults participating in regular secondary vocational programs in the prior year counted on the basis of full-time equivalency; and
(B) Net enrollment does not include any adult charged
tuition or special fees beyond that required of the regular
secondary vocational student;

(2) Students enrolled in early childhood education
programs as provided in section forty-four, article five of this
chapter, counted on the basis of full-time equivalency;

(3) 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;

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

(5) For any county whose net enrollment as determined
under all other provisions of this definition is less than one
thousand four hundred, the net enrollment of the county shall
be increased by an amount to be determined in accordance
with the following:

(A) Divide the state’s lowest county student population
density by the county’s actual student population density;

(B) Multiply the amount derived from the calculation in
paragraph (A) of this subdivision by three hundred;

(C) If the increase in net enrollment as determined under
this subdivision plus the county’s net enrollment as
determined under all other provisions of this subsection is
greater than one thousand four hundred, the increase in net
enrollment shall be reduced so that the total does not exceed
one thousand four hundred; and
(D) During the two thousand eight - two thousand nine interim period and every three interim periods thereafter, the Legislative Oversight Commission on Education Accountability shall review the provisions of this subdivision to determine whether or not they properly address the needs of counties with low enrollment and a sparse population density.

(j) "Sparse-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties pursuant to subdivision (5) of the definition of net enrollment, to the square miles of the county is less than five.

(k) "Low-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties pursuant to subdivision (5) of the definition of net enrollment, to the square miles of the county is equal to or greater than five but less than ten.

(l) "Medium-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties pursuant to subdivision (5) of the definition of net enrollment, to the square miles of the county is equal to or greater than ten but less than twenty.

(m) "High-density county" means a county whose ratio of net enrollment, excluding any increase in the net enrollment of counties pursuant to subdivision (5) of the definition of net enrollment, to the square miles of the county is equal to or greater than twenty.

(n) "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
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 of this code: Provided, however. That effective the first day of July, two thousand ten, the definitions set forth in this subsection are subject to the provisions of section two-a of this article.

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

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

§18-9A-3a. Total state basic foundation program for fiscal years 2009 through 2013, only.

(a) Notwithstanding any other provisions of this article to the contrary, the total basic foundation program for the state for the fiscal years two thousand nine through two thousand thirteen shall be the sum of the amounts computed for each county in accordance with this section, less the county's local share:

(1) For the fiscal year two thousand nine, the department of education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this

article in effect for fiscal year two thousand eight. The total
basic foundation program for each county computed in
accordance with this article is limited to a growth of one fifth
above the amount computed for the county in accordance
with the provisions in effect for fiscal year two thousand
eight. The total basic foundation program for the county is
the greater of the two computations.

(2) For the fiscal year two thousand ten, the department
of education shall compute the total basic foundation
program for each county in accordance with the provisions of
this article and in accordance with the provisions of this
article in effect for fiscal year two thousand eight. The total
basic foundation program for each county computed in
accordance with this article is limited to a growth of two
fifths above the amount computed for the county in
accordance with the provisions in effect for fiscal year two
thousand eight. The total basic foundation program for the
county is the greater of the two computations.

(3) For the fiscal year two thousand eleven, the
department of education shall compute the total basic
foundation program for each county in accordance with the
provisions of this article and in accordance with the
provisions of this article in effect for fiscal year two thousand
eight. The total basic foundation program for each county
computed in accordance with this article is limited to a
growth of three fifths above the amount computed for the
county in accordance with the provisions in effect for fiscal
year two thousand eight. The total basic foundation program
for the county is the greater of the two computations.

(4) For the fiscal year two thousand twelve, the
department of education shall compute the total basic
foundation program for each county in accordance with the
provisions of this article and in accordance with the
provisions of this article in effect for fiscal year two thousand eight. The total basic foundation program for each county computed in accordance with this article is limited to a growth of four fifths above the amount computed for the county in accordance with the provisions in effect for fiscal year two thousand eight. The total basic foundation program for the county is the greater of the two computations.

(5) For the fiscal year two thousand thirteen and each year thereafter, the department of education shall compute the total basic foundation program for each county in accordance with the provisions of this article and in accordance with the provisions of this article in effect for fiscal year two thousand eight. For the fiscal year two thousand thirteen only, the total basic foundation program for the county is the greater of the two computations.

§18-9A-4. Foundation allowance for professional educators.

(a) 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 this code, to the personnel employed, subject to the following:

(1) Subject to subdivision (2) of this subsection, in making this computation no county shall receive an allowance for the personnel which number is in excess of professional educators to each one thousand students in net enrollment as follows:

(A) For each high-density county, the number of personnel for which a county shall receive the allowance shall not exceed seventy-two and one tenth professional educators per each one thousand students in net enrollment;
(B) For each medium-density county, the number of personnel for which a county shall receive the allowance shall not exceed seventy-two and twenty-five one hundredths professional educators per each one thousand students in net enrollment;

(C) For each low-density county, the number of personnel for which a county shall receive the allowance shall not exceed seventy-two and four tenths professional educators per each one thousand students in net enrollment; and

(D) For each sparse-density county, the number of personnel for which a county shall receive the allowance shall not exceed seventy-two and fifty-five one hundredths professional educators per each one thousand students in net enrollment;

(2) For the ratios applicable to each of the four density categories set forth in subdivision (1) of this subsection, the number of professional educators per each one thousand students in net enrollment increases by five one hundredths per year for each of fiscal years two thousand ten, two thousand eleven, two thousand twelve and two thousand thirteen. For each fiscal year thereafter, the ratios remain at the two thousand thirteen level.

(3) The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and

(4) 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 the school or program may be prorated among the participating counties on the basis of each one’s enrollment therein and the personnel shall be considered within the above-stated limit.
(b) Subject to subsection (c) of this section, each county board shall establish and maintain a minimum ratio of professional instructional personnel per one thousand students in net enrollment as follows:

1. For each high-density county, the minimum number of professional instructional personnel per one thousand students in net enrollment is sixty-five and eight tenths;

2. For each medium-density county, the minimum number of professional instructional personnel per one thousand students in net enrollment is sixty-five and nine tenths;

3. For each low-density county, the minimum number of professional instructional personnel per one thousand students in net enrollment is sixty-six;

4. For each sparse-density county, the minimum number of professional instructional personnel per one thousand students in net enrollment is sixty-six and five one hundredths.

(c) For the ratios applicable to each of the four density categories set forth in subsection (b) of this subsection, the number of professional instructional personnel per each one thousand students in net enrollment increases by five one hundredths per year for each of fiscal years two thousand ten, two thousand eleven, two thousand twelve and two thousand thirteen. For each fiscal year thereafter, the ratios remain at the two thousand thirteen level.

(d) Any county board which does not establish and maintain the applicable minimum ratio required in subsection (b) of this section shall suffer a pro rata reduction in the allowance for professional educators under this section:
Provided. That no county shall be penalized if it has
increases in enrollment during that school year: Provided,
however. That for the school year two thousand eight - two
thousand nine, only, no county shall be penalized for not
meeting the applicable minimum ratio required in subsection
(b) of this section.

(e) No county shall increase the number of administrative
personnel employed as either professional educators or pay
grade “H” service personnel above the number which were
employed, or for which positions were posted, on the thirtieth
day of June, one thousand nine hundred ninety, and,
therefore, county boards shall whenever possible utilize
classroom teachers for curriculum administrative positions
through the use of modified or extended contracts.

(f) As the number of professional educators per each one
thousand students in net enrollment increases during fiscal
years two thousand nine through two thousand thirteen, any
additional positions that are created as a result of that
increase shall be positions that will enhance student
achievement and are consistent with the needs as identified
in each county board’s electronic county strategic
improvement plan. County boards are encouraged to fill at
least some of the additional positions with technology
integration specialists.

(g) During the two thousand eight - two thousand nine
interim period, and every three interim periods thereafter, the
Legislative Oversight Commission on Education
Accountability shall review the four density categories
created in section two of this article, the ratios for
professional educators established in this section and the
ratios for service personnel established in section five of this
article.
§18-9A-5. Foundation allowance for service personnel.

(a) The basic foundation allowance to the county for service personnel shall be the amount of money required to pay the annual state minimum salaries in accordance with the provisions of article four, chapter eighteen-a of this code, to such service personnel employed, subject to the following:

(1) For the school year beginning on the first day of July, two thousand eight, and thereafter, no county shall receive an allowance for an amount in excess of service personnel per one thousand students in net enrollment, as follows:

(A) For each high-density county, the number of personnel for which a county shall receive the allowance shall not exceed forty-three and ninety-seven one hundredths service personnel per one thousand students in net enrollment;

(B) For each medium-density county, the number of personnel for which a county shall receive the allowance shall not exceed forty-four and fifty-three one hundredths service personnel per one thousand students in net enrollment;

(C) For each low-density county, the number of personnel for which a county shall receive the allowance shall not exceed forty-five and one tenth service personnel per one thousand students in net enrollment; and

(D) For each sparse-density county, the number of personnel for which a county shall receive the allowance shall not exceed forty-five and sixty-eight one hundredths service personnel per one thousand students in net enrollment; and
(2) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the service personnel for the school or program may be prorated among the participating counties on the basis of each one’s enrollment therein and that the personnel shall be considered within the above-stated limit.

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

The total allowance for fixed charges shall be the sum of the following:

(1) The sum of the foundation allowance for professional educators and the foundation allowance for other personnel, as determined in sections four, five and eight of this article, multiplied by the current social security rate of contribution; plus

(2) The sum of the foundation allowance for professional educators and the foundation allowance for other personnel, as determined in sections four, five and eight of this article, multiplied by four hundredths of one percent as an allowance for unemployment compensation contribution; plus

(3) The sum of the foundation allowance for professional educators and the foundation allowance for other personnel, as determined in sections four, five and eight of this article, multiplied by the rate which is derived by dividing the total estimated contributions for workers’ compensation for all county boards by the sum of the foundation allowance for professional educators and other personnel, as determined in sections four, five and eight of this article. The total estimated contribution for workers compensation is determined by multiplying each county board’s allowance for professional educators and other personnel, as determined by sections four, five and eight of this article, by the county’s
actual contribution rate by using data of the most recent year for which it is available; plus

(4) The teachers retirement fund allowance as determined in section six-a of this article.


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

1 (1) A percentage of the transportation costs incurred by the county for maintenance, operation and related costs exclusive of all salaries, including the costs incurred for contracted transportation services and public utility transportation, as follows:

(A) For each high-density county, eighty-seven and one half percent;

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

(C) For each low-density county, ninety-two and one half percent;

(D) For each sparse-density county, ninety-five percent;

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

(F) For any county for that portion of its school bus system that uses an alternative fuel such as compressed
natural gas or other acceptable alternative fuel, the percentage provided in paragraphs (A) through (D) of this subdivision as applicable for the county plus an additional ten percent: Provided. That any county using an alternative fuel and qualifying for the additional allowance under this subdivision shall submit a plan regarding the intended future use of alternatively fueled school buses;

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

(3) An amount equal to eight and one-third percent of the current replacement value of the bus fleet within each county as determined by the state board. The amount shall only be used for the replacement of buses. Buses purchased after the first day of July, one thousand nine hundred ninety-nine, that are driven one hundred eighty thousand miles, regardless of year model, will be subject to the replacement value of eight and one-third percent as determined by the state board. In addition, in any school year in which its net enrollment increases when compared to the net enrollment the year immediately preceding, a school district may apply to the state superintendent for funding for an additional bus or buses. The state superintendent shall make a decision regarding each application based upon an analysis of the individual school district’s net enrollment history and transportation needs: Provided, That the superintendent shall not consider any application which fails to document that the county has applied for federal funding for additional buses. If the state superintendent finds that a need exists, a request for funding shall be included in the budget request submitted by the state board for the upcoming fiscal year; and

(4) Aid in lieu of transportation equal to the state average amount per pupil for each pupil receiving the aid within each county.
(b) 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 transportation mile multiplied by the total transportation mileage in the county exclusive of the allowance for the purchase additional buses.

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

(d) The amendments made to this section during the two thousand eight regular session of the Legislature are intended to be temporary while the transportation issue is further studied during the two thousand eight-two thousand nine interim period.

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

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

(1) The sum of the state minimum salaries, as determined in accordance with the provisions of article four, chapter eighteen of this code, for all state aid eligible school nurse
and counselor positions in the county during the two thousand eight fiscal year which number shall be reduced in the same proportion as the number of professional educators allowed to be funded under section four of this article to the total number of professional educators employed that are state aid eligible. In performing this calculation, the numerator shall be the number of professional educators actually funded under section four of this article and the denominator shall be the total number of professional educators employed that are eligible to be funded under section four of this article;

(2) The amount derived from the calculation in subdivision (1) of this subsection is increased by one half percent;

(3) The amount derived from the calculation in subdivision (2) of this subsection is the basic foundation allowance to the county for professional student support personnel for the two thousand nine fiscal year;

(4) For fiscal years two thousand ten, two thousand eleven, two thousand twelve and two thousand thirteen, the basic foundation allowance to the county for professional student support personnel increases by one-half percent per year over the allowance for the previous year; and

(5) For all fiscal years thereafter, the basic foundation allowance to the county for professional student support personnel remains the same amount as in the two thousand thirteen fiscal year.

(b) The additional positions for counselors that may be created as a result of the one percent increase provided pursuant to this section shall be assigned to schools where the counselor can:
(1) Enhance student achievement;

(2) Provide early intervention for students in grades pre-kindergarten through five; and

(3) Enhance student development and career readiness.

§18-9A-9. Foundation allowance for other current expense and substitute employees.

The total allowance for other current expense and substitute employees shall be the sum of the following:

(1) For current expense, ten percent of the sum of the computed state allocation for professional educators and service personnel as determined in sections four and five of this article. Distribution to the counties shall be made proportional to the average of each county's average daily attendance for the preceding year and the county's second month net enrollment: plus

(2) For professional educator substitutes or current expense, two and five-tenths percent of the computed state allocation for professional educators and other professional personnel as determined in sections four and eight of this article. Distribution to the counties shall be made proportional to the number of professional educators and other professional personnel authorized for the county in compliance with sections four and eight of this article; plus

(3) For service personnel substitutes or current expense, two and five-tenths percent of the computed state allocation for service personnel as determined in section five of this article. Distribution to the counties shall be made proportional to the number of service personnel authorized for the county in compliance with section five of this article; plus
(4) For academic materials, supplies and equipment for use in instructional programs, two hundred dollars multiplied by the number of professional instructional personnel employed in the schools of the county. Distribution shall be made to each county for allocation to the faculty senate of each school in the county on the basis of two hundred dollars per professional instructional personnel employed at the school. Faculty senate means a faculty senate created pursuant to section five, article five-a of this chapter. Decisions for the expenditure of such funds shall be made at the school level by the faculty senate in accordance with the provisions of said section five, article five-a and shall not be used to supplant the current expense expenditures of the county. Beginning on the first day of September, one thousand nine hundred ninety-four, and every September thereafter, county boards shall forward to each school for the use by faculty senates the appropriation specified in this section. Each school shall be responsible for keeping accurate records of expenditures.

§18-9A-10. Foundation allowance to improve instructional programs.

(a) The total allowance to improve instructional programs shall be the sum of the following:

(1) For instructional improvement in accordance with county and school electronic strategic improvement plans required by section five, article two-e of this chapter, an amount equal to fifteen percent of the increase in the local share amount for the next school year above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be distributed to the counties as follows:
(A) One hundred fifty thousand dollars shall be allocated to each county;

(B) Distribution to the counties of the remainder of these funds shall be made proportional to the average of each county’s average daily attendance for the preceding year and the county’s second month net enrollment. Moneys allocated by provision of this section shall be used to improve instructional programs according to the county and school electronic strategic improvement plans required by section five, article two-e of this chapter and approved by the state board: Provided, That notwithstanding any other provision of this code to the contrary, moneys allocated by provision of this section may also be used in the implementation and maintenance of the uniform integrated regional computer information system.

Up to twenty-five percent of this allocation may be used to employ professional educators and service personnel in counties after all applicable provisions of sections four and five of this article have been fully utilized.

Prior to the use of any funds from this section for personnel costs, the county board must receive authorization from the state superintendent of schools. The state superintendent shall require the county board to demonstrate:

(1) The need for the allocation; (2) efficiency and fiscal responsibility in staffing; (3) sharing of services with adjoining counties and the regional educational service agency for that county in the use of the total local district board budget; and (4) employment of technology integration specialists to meet the needs for implementation of the West Virginia 21st Century Strategic Technology Learning Plan. County boards shall make application for available funds for the next fiscal year by the first day of May of each year. On or before the first day of June, the state superintendent shall
review all applications and notify applying county boards of the distribution of the allocation. The funds shall be distributed during the fiscal year appropriate. The state superintendent shall require the county board to demonstrate the need for an allocation for personnel based upon the county’s inability to meet the requirements of state law or state board policy: *Provided.* That the funds available for personnel under this section may not be used to increase the total number of professional non-instructional personnel in the central office beyond four. The plan shall be made available for distribution to the public at the office of each affected county board; plus

(2) For the purposes of the West Virginia 21st Century Strategic Technology Learning Plan provided for in section seven, article two-e of this chapter, an amount equal to fifteen percent of the increase in the local share amount for the next school year above any required allocation pursuant to section six-b of this article shall be added to the amount of the appropriation for this purpose for the immediately preceding school year. The sum of these amounts shall be allocated to the counties as provided in section seven, article two-e of this chapter to meet the objectives of the West Virginia 21st Century Strategic Technology Learning Plan; plus

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

(4) An amount not less than the amount required to meet debt service requirements on any revenue bonds issued prior to the first day of January, one thousand nine hundred ninety-four, and the debt service requirements on any revenue bonds
issued for the purpose of refunding revenue bonds issued prior to the first day of January, one thousand nine hundred ninety-four, shall be paid into the School Building Capital Improvements Fund created by section six, article nine-d of this chapter and shall be used solely for the purposes of that article. The School Building Capital Improvements Fund shall not be utilized to meet the debt services requirement on any revenue bonds or revenue refunding bonds for which moneys contained within the School Building Debt Service Fund have been pledged for repayment pursuant to that section.

(b) When the school improvement bonds secured by funds from the School Building Capital Improvements Fund mature, the State Board of Education shall annually deposit an amount equal to twenty-four million dollars from the funds allocated in this section into the School Construction Fund created pursuant to the provisions of section six, article nine-d of this chapter to continue funding school facility construction and improvements.

(c) Any project funded by the School Building Authority shall be in accordance with a comprehensive educational facility plan which must be approved by the state board and the School Building Authority.


(a) An appropriation may be made to the state department to be distributed to county boards for the operation of alternative education and prevention programs established in accordance with policies and procedures adopted by the state board under section six, article two of this chapter. The appropriation shall be an amount equal to twelve dollars per student in net enrollment, subject to appropriation by the Legislature. The state board shall distribute ninety-seven
9 percent of the total appropriation to the county boards
10 proportionate to each county’s net enrollment. The
11 remaining three percent of the appropriation shall be retained
12 by the state department to support the provision of services
13 to the county boards in administering programs established
14 in accordance with policies and procedures adopted by the
15 state board under section six, article two of this chapter:
16 Provided, That nothing in this section shall be construed to
17 require any specific level of funding by the Legislature.

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-5. Powers and duties of state superintendent.

1 (a) The state superintendent of schools shall organize,
2 promote, administer and be responsible for:

3 (1) Stimulating and assisting county boards of education
4 in establishing, organizing and maintaining special schools,
5 classes, regular class programs, home-teaching and visiting-
6 teacher services.

7 (2) Cooperating with all other public and private agencies
8 engaged in relieving, caring for, curing, educating and
9 rehabilitating exceptional children, and in helping coordinate
10 the services of such agencies.

11 (3)(A) Preparing the necessary rules, policies, formula for
12 distribution of available appropriated funds, reporting forms
13 and procedures necessary to define minimum standards in
14 providing suitable facilities for education of exceptional
15 children and ensuring the employment, certification and
16 approval of qualified teachers and therapists subject to
17 approval by the state board of education: Provided, That no
18 state rule, policy or standard under this article or any county
19 board rule, policy or standard governing special education
20 may exceed the requirements of federal law or regulation.
(B) The state superintendent shall annually review the rules, policies and standards of the state and federal law for serving the needs of exceptional children enrolled in the public schools and shall report to the legislative oversight commission on education accountability by the first day of December or as soon thereafter as requested by the commission, two thousand eight, and in each year thereafter, the findings of the review along with an accounting of the services provided and the costs thereof for exceptional children enrolled in the public schools of this state during the latest available school year. An appropriation shall be made to the department of education to be distributed to county boards to support children with high acuity needs that exceed the capacity of county to provide with funds available. Each county board shall apply to the state superintendent for receipt of this funding in a manner set forth by the state superintendent that assesses and takes into account varying acuity levels of the exceptional students. Any remaining funds at the end of a fiscal year from the appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be distributed to county boards for this purpose before any of the state appropriation is distributed. The state board shall promulgate a rule in accordance with the provisions of article three-b, chapter twenty-nine-a of this code that implements the provisions of this subdivision relating to distributing the funds to the county boards. The rule at least shall include a definition for “children with high acuity needs”.

(4) Receiving from county boards of education their applications, annual reports and claims for reimbursement from such moneys as are appropriated by the Legislature, auditing such claims and preparing vouchers to reimburse said counties the amounts reimbursable to them.

(5) Assuring that all exceptional children in the state, including children in mental health facilities, residential
institutions, private schools and correctional facilities as provided in section thirteen-f, article two of this chapter receive an education in accordance with state and federal laws: Provided, That the state superintendent shall also assure that adults in correctional facilities and regional jails receive an education to the extent funds are provided therefor.

(6) Performing other duties and assuming other responsibilities in connection with this program as needed.

(7) Receive the county plan for integrated classroom submitted by the county boards of education and submit a state plan, approved by the state board of education, to the legislative oversight commission on education accountability no later than the first day of December, one thousand nine hundred ninety-five.

(b) Nothing contained in this section shall be construed to prevent any county board of education from establishing and maintaining special schools, classes, regular class programs, home-teaching or visiting-teacher services out of funds available from local revenue.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect July 1, 2008.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within was approved this the 31st day of March, 2008.

Governor
PRESENTED TO THE
GOVERNOR

MAR 25 2008

Time 10:35 AM