

HB 4588

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OFFICE OF THE
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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

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COMMITTEE SUBSTITUTE

LEGISLATIVE SERVICES DIVISION
LEGISLATIVE SECRETARIAT
STATE OF WEST VIRGINIA

FOR

H. B. 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.

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

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

6 (b) "District" means county school district;

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

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

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

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

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

19 (h) "Service person" or "service personnel," whether
20 singular or plural, means any non-teaching school employee
21 who is not included in the meaning of "teacher" as defined in
22 this section, and who serves the school or schools as a whole,
23 in a nonprofessional capacity, including such areas as

24 secretarial, custodial, maintenance, transportation, school
25 lunch and aides. Any reference to “service employee” or
26 “service employees” in this chapter or chapter eighteen-a of
27 this code means service person or service personnel as
28 defined in this section;

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

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

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

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

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

52 (n) “Student with a disability” means an exceptional
53 child, other than gifted, pursuant to section one, article
54 twenty of this chapter;

55 (o) "Casual deficit" means a deficit of not more than
56 three percent of the approved levy estimate or a deficit that is
57 nonrecurring from year to year.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-2. Definitions.

1 For the purpose of this article:

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

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

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

9 (d) "Professional educator" shall be synonymous with
10 and shall have the same meaning as "teacher" as defined in
11 section one, article one of this chapter, and includes
12 technology integration specialists.

13 (e) "Professional instructional personnel" means a
14 professional educator whose regular duty is as that of a
15 classroom teacher, librarian, attendance director or school
16 psychologist. A professional educator having both
17 instructional and administrative or other duties shall be
18 included as professional instructional personnel for that ratio
19 of the school day for which he or she is assigned and serves
20 on a regular full-time basis in appropriate instruction, library,
21 attendance, or psychologist duties.

22 (f) "Professional student support personnel" means a
23 "professional person" as those terms are defined in section

24 one. article one, chapter eighteen-a of this code who is
25 assigned and serves on a regular full-time basis as a
26 counselor or as a school nurse with a bachelor's degree and
27 who is licensed by the West Virginia Board of Examiners for
28 Registered Professional Nurses.

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

32 (h) "Service personnel" means all personnel as provided
33 in section eight, article four, chapter eighteen-a of this code.
34 For the purpose of computations under this article of ratios of
35 service personnel to net enrollment, a service employee shall
36 be counted as that number found by dividing his or her
37 number of employment days in a fiscal year by two hundred:
38 *Provided*, That the computation for any service person
39 employed for three and one-half hours or less per day as
40 provided in section eight-a, article four, chapter eighteen-a of
41 this code shall be calculated as one-half an employment day.

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

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

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

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

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

61 (3) No pupil shall be counted more than once by reason
62 of transfer within the county or from another county within
63 the state, and no pupil shall be counted who attends school in
64 this state from another state;

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

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

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

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

77 (C) If the increase in net enrollment as determined under
78 this subdivision plus the county's net enrollment as
79 determined under all other provisions of this subsection is
80 greater than one thousand four hundred, the increase in net
81 enrollment shall be reduced so that the total does not exceed
82 one thousand four hundred; and

83 (D) During the two thousand eight - two thousand nine
84 interim period and every three interim periods thereafter, the
85 Legislative Oversight Commission on Education
86 Accountability shall review the provisions of this subdivision
87 to determine whether or not they properly address the needs
88 of counties with low enrollment and a sparse population
89 density.

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

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

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

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

110 (n) "Levies for general current expense purposes" means
111 ninety-four percent of the levy rate for county boards of
112 education calculated or set by the Legislature pursuant to the
113 provisions of section six-f, article eight, chapter eleven of this

114 code: *Provided*, That beginning the first day of July, two
115 thousand eight, “levies for general current expense purposes”
116 means ninety percent of the levy rate for county boards of
117 education calculated or set by the Legislature pursuant to the
118 provisions of section six-f, article eight, chapter eleven of this
119 code: *Provided, however*. That effective the first day of July,
120 two thousand ten, the definitions set forth in this subsection
121 are subject to the provisions of section two-a of this article.

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

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

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

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

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

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

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

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

40 (4) For the fiscal year two thousand twelve, the
41 department of education shall compute the total basic
42 foundation program for each county in accordance with the
43 provisions of this article and in accordance with the

44 provisions of this article in effect for fiscal year two thousand
45 eight. The total basic foundation program for each county
46 computed in accordance with this article is limited to a
47 growth of four fifths above the amount computed for the
48 county in accordance with the provisions in effect for fiscal
49 year two thousand eight. The total basic foundation program
50 for the county is the greater of the two computations.

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

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

1 (a) The basic foundation allowance to the county for
2 professional educators shall be the amount of money required
3 to pay the state minimum salaries, in accordance with
4 provisions of article four, chapter eighteen-a of this code, to
5 the personnel employed, subject to the following:

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

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

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

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

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

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

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

40 (4) Where two or more counties join together in support
41 of a vocational or comprehensive high school or any other
42 program or service, the professional educators for the school
43 or program may be prorated among the participating counties
44 on the basis of each one's enrollment therein and the
45 personnel shall be considered within the above-stated limit.

46 (b) Subject to subsection (c) of this section, each county
47 board shall establish and maintain a minimum ratio of
48 professional instructional personnel per one thousand
49 students in net enrollment as follows:

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

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

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

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

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

72 (d) Any county board which does not establish and
73 maintain the applicable minimum ratio required in subsection
74 (b) of this section shall suffer a pro rata reduction in the
75 allowance for professional educators under this section:

76 *Provided*, That no county shall be penalized if it has
77 increases in enrollment during that school year: *Provided*,
78 *however*, That for the school year two thousand eight - two
79 thousand nine, only, no county shall be penalized for not
80 meeting the applicable minimum ratio required in subsection
81 (b) of this section.

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

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

100 (g) During the two thousand eight - two thousand nine
101 interim period, and every three interim periods thereafter, the
102 Legislative Oversight Commission on Education
103 Accountability shall review the four density categories
104 created in section two of this article, the ratios for
105 professional educators established in this section and the
106 ratios for service personnel established in section five of this
107 article.

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

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

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

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

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

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

24 (D) For each sparse-density county, the number of
25 personnel for which a county shall receive the allowance
26 shall not exceed forty-five and sixty-eight one hundredths
27 service personnel per one thousand students in net
28 enrollment: and

29 (2) Where two or more counties join together in support
30 of a vocational or comprehensive high school or any other
31 program or service, the service personnel for the school or
32 program may be prorated among the participating counties on
33 the basis of each one's enrollment therein and that the
34 personnel shall be considered within the above-stated limit.

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

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

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

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

13 (3) The sum of the foundation allowance for professional
14 educators and the foundation allowance for other personnel,
15 as determined in sections four, five and eight of this article,
16 multiplied by the rate which is derived by dividing the total
17 estimated contributions for workers' compensation for all
18 county boards by the sum of the foundation allowance for
19 professional educators and other personnel, as determined in
20 sections four, five and eight of this article. The total
21 estimated contribution for workers compensation is
22 determined by multiplying each county board's allowance for
23 professional educators and other personnel, as determined by
24 sections four, five and eight of this article, by the county's

25 actual contribution rate by using data of the most recent year
26 for which it is available; plus

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

18-9A-7. Foundation allowance for transportation cost.

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

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

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

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

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

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

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

21 (F) For any county for that portion of its school bus
22 system that uses an alternative fuel such as compressed

23 natural gas or other acceptable alternative fuel, the percentage
24 provided in paragraphs (A) through (D) of this subdivision as
25 applicable for the county plus an additional ten percent:
26 *Provided*, That any county using an alternative fuel and
27 qualifying for the additional allowance under this subdivision
28 shall submit a plan regarding the intended future use of
29 alternatively fueled school buses;

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

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

54 (4) Aid in lieu of transportation equal to the state average
55 amount per pupil for each pupil receiving the aid within each
56 county.

57 (b) The total state share for this purpose shall be the sum
58 of the county shares: *Provided*, That no county shall receive
59 an allowance which is greater than one-third above the
60 computed state average allowance per transportation mile
61 multiplied by the total transportation mileage in the county
62 exclusive of the allowance for the purchase additional buses.

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

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

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

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

4 (1) The sum of the state minimum salaries, as determined
5 in accordance with the provisions of article four, chapter
6 eighteen of this code, for all state aid eligible school nurse

7 and counselor positions in the county during the two
8 thousand eight fiscal year which number shall be reduced in
9 the same proportion as the number of professional educators
10 allowed to be funded under section four of this article to the
11 total number of professional educators employed that are
12 state aid eligible. In performing this calculation, the
13 numerator shall be the number of professional educators
14 actually funded under section four of this article and the
15 denominator shall be the total number of professional
16 educators employed that are eligible to be funded under
17 section four of this article;

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

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

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

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

34 (b) The additional positions for counselors that may be
35 created as a result of the one percent increase provided
36 pursuant to this section shall be assigned to schools where the
37 counselor can:

38 (1) Enhance student achievement;

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

41 (3) Enhance student development and career readiness.

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

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

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

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

18 (3) For service personnel substitutes or current expense,
19 two and five-tenths percent of the computed state allocation
20 for service personnel as determined in section five of this
21 article. Distribution to the counties shall be made proportional
22 to the number of service personnel authorized for the county in
23 compliance with section five of this article; plus

24 (4) For academic materials, supplies and equipment for
25 use in instructional programs, two hundred dollars multiplied
26 by the number of professional instructional personnel
27 employed in the schools of the county. Distribution shall be
28 made to each county for allocation to the faculty senate of
29 each school in the county on the basis of two hundred dollars
30 per professional instructional personnel employed at the
31 school. Faculty senate means a faculty senate created
32 pursuant to section five, article five-a of this chapter.
33 Decisions for the expenditure of such funds shall be made at
34 the school level by the faculty senate in accordance with the
35 provisions of said section five, article five-a and shall not be
36 used to supplant the current expense expenditures of the
37 county. Beginning on the first day of September, one
38 thousand nine hundred ninety-four, and every September
39 thereafter, county boards shall forward to each school for the
40 use by faculty senates the appropriation specified in this
41 section. Each school shall be responsible for keeping
42 accurate records of expenditures.

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

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

3 (1) For instructional improvement in accordance with
4 county and school electronic strategic improvement plans
5 required by section five, article two-e of this chapter, an
6 amount equal to fifteen percent of the increase in the local
7 share amount for the next school year above any required
8 allocation pursuant to section six-b of this article shall be
9 added to the amount of the appropriation for this purpose for
10 the immediately preceding school year. The sum of these
11 amounts shall be distributed to the counties as follows:

12 (A) One hundred fifty thousand dollars shall be allocated
13 to each county;

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

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

31 Prior to the use of any funds from this section for
32 personnel costs, the county board must receive authorization
33 from the state superintendent of schools. The state
34 superintendent shall require the county board to demonstrate:
35 (1) The need for the allocation; (2) efficiency and fiscal
36 responsibility in staffing; (3) sharing of services with
37 adjoining counties and the regional educational service
38 agency for that county in the use of the total local district
39 board budget; and (4) employment of technology integration
40 specialists to meet the needs for implementation of the West
41 Virginia 21st Century Strategic Technology Learning Plan.
42 County boards shall make application for available funds for
43 the next fiscal year by the first day of May of each year. On
44 or before the first day of June, the state superintendent shall

45 review all applications and notify applying county boards of
46 the distribution of the allocation. The funds shall be
47 distributed during the fiscal year appropriate. The state
48 superintendent shall require the county board to demonstrate
49 the need for an allocation for personnel based upon the
50 county's inability to meet the requirements of state law or
51 state board policy: *Provided*, That the funds available for
52 personnel under this section may not be used to increase the
53 total number of professional non-instructional personnel in
54 the central office beyond four. The plan shall be made
55 available for distribution to the public at the office of each
56 affected county board; plus

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

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

74 (4) An amount not less than the amount required to meet
75 debt service requirements on any revenue bonds issued prior
76 to the first day of January, one thousand nine hundred ninety-
77 four, and the debt service requirements on any revenue bonds

78 issued for the purpose of refunding revenue bonds issued
79 prior to the first day of January, one thousand nine hundred
80 ninety-four, shall be paid into the School Building Capital
81 Improvements Fund created by section six, article nine-d of
82 this chapter and shall be used solely for the purposes of that
83 article. The School Building Capital Improvements Fund
84 shall not be utilized to meet the debt services requirement on
85 any revenue bonds or revenue refunding bonds for which
86 moneys contained within the School Building Debt Service
87 Fund have been pledged for repayment pursuant to that
88 section.

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

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

§18-9A-21. Funding for alternative education programs.

1 (a) An appropriation may be made to the state department
2 to be distributed to county boards for the operation of
3 alternative education and prevention programs established in
4 accordance with policies and procedures adopted by the state
5 board under section six, article two of this chapter. The
6 appropriation shall be an amount equal to twelve dollars per
7 student in net enrollment, subject to appropriation by the
8 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.

21 (B) The state superintendent shall annually review the
22 rules, policies and standards of the state and federal law for
23 serving the needs of exceptional children enrolled in the
24 public schools and shall report to the legislative oversight
25 commission on education accountability by the first day of
26 December or as soon thereafter as requested by the
27 commission, two thousand eight, and in each year thereafter,
28 the findings of the review along with an accounting of the
29 services provided and the costs thereof for exceptional
30 children enrolled in the public schools of this state during the
31 latest available school year. An appropriation shall be made
32 to the department of education to be distributed to county
33 boards to support children with high acuity needs that exceed
34 the capacity of county to provide with funds available. Each
35 county board shall apply to the state superintendent for
36 receipt of this funding in a manner set forth by the state
37 superintendent that assesses and takes into account varying
38 acuity levels of the exceptional students. Any remaining
39 funds at the end of a fiscal year from the appropriation shall
40 be carried over to the next fiscal year. When possible,
41 federal funds shall be distributed to county boards for this
42 purpose before any of the state appropriation is distributed.
43 The state board shall promulgate a rule in accordance with
44 the provisions of article three-b, chapter twenty-nine-a of this
45 code that implements the provisions of this subdivision
46 relating to distributing the funds to the county boards. The
47 rule at least shall include a definition for “children with high
48 acuity needs”.

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

54 (5) Assuring that all exceptional children in the state,
55 including children in mental health facilities, residential

56 institutions, private schools and correctional facilities as
57 provided in section thirteen-f, article two of this chapter
58 receive an education in accordance with state and federal
59 laws: *Provided*. That the state superintendent shall also
60 assure that adults in correctional facilities and regional jails
61 receive an education to the extent funds are provided
62 therefor.

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

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

71 (b) Nothing contained in this section shall be construed
72 to prevent any county board of education from establishing
73 and maintaining special schools, classes, regular class
74 programs, home-teaching or visiting-teacher services out of
75 funds available from local revenue.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



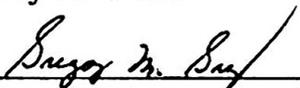
Chairman House Committee

Originating in the House.

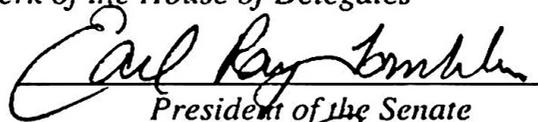
In effect July 1, 2008.



Clerk of the Senate



Clerk of the House of Delegates



President of the Senate



Speaker of the House of Delegates

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



Governor

PRESENTED TO THE
GOVERNOR

MAR 25 2008

Time 10:35 am