

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 41

By Senators Clements, Grady, and Queen

[Introduced January 11, 2023; referred
to the Committee on Education; and then to the
Committee on Finance]

1 A BILL to amend and reenact §18-9A-2 of the Code of West Virginia, 1931, as amended, relating
 2 to the school aid formula; and establishing a minimum net enrollment of 1,200 students for
 3 each county.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-2. Definitions.

1 For the purpose of this article:

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

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

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

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

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

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

21 professional student support personnel are professional educators.

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

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

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

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

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

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

46 (4) The enrollment shall be modified to the equivalent of the instructional term and in

47 accordance with the eligibility requirements and rules established by the state board; and

48 (5) For the purposes of determining the county’s basic foundation program only, for any
49 county whose net enrollment as determined under all other provisions of this definition is less than
50 1,400, the net enrollment of the county shall be increased by an amount to be determined in
51 accordance with the following:

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

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

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

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

60 (E) For the purposes of determining the county's basic foundation program for the 2023-
61 2024 school year and each year thereafter, in no event shall the net enrollment be set below 1,200,
62 subject to the following:

63 (i) For purposes of calculating funding for the 2023-2024 school year only, a county may
64 not be penalized for failure to meet the applicable minimum ratio of professional instructional
65 personnel per state aid funded professional educators set forth in §18A-9A-4 of this code to the
66 extent that that failure is due to an increase in net enrollment to 1,200 as a result of this paragraph;
67 and

68 (ii) Any increase in net enrollment that is due to a county board sending students to a jointly
69 established school in another county pursuant to §18-5-11 of this code shall be added to net
70 enrollment after application of this paragraph; and

71 ~~(E)~~ (F) During the 2008-2009 interim period and every three interim periods thereafter, the
72 Legislative Oversight Commission on Education Accountability shall review this subdivision to

73 determine whether these provisions properly address the needs of counties with low enrollment
74 and a sparse population density.

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

78 (k) "Low-density county" means a county whose ratio of net enrollment, excluding any
79 increase in the net enrollment of counties, pursuant to §18-9A-2(i)(5) of this code, of the definition
80 of "net enrollment", to the square miles of the county is equal to or greater than five but less than
81 10.

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

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

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

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

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

97 (q) The amendments to this section during the 2019 First Extraordinary Session of the
98 Legislature shall be effective for the 2019-2020 funding year, and the provisions of this section

99 existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in
100 effect for funding years prior to the 2019-2020 funding year.