

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2202**

4 (By Delegates Rowan, Romine, Pasdon, Duke, Perry, Moye, Ambler,
5 Butler, Pethtel, Cooper and D. Evans)
6

7 (Originating in the House Committee on Finance)

8 [February 23, 2015]
9

10 A BILL to amend and reenact §18-20-5 of the Code of West Virginia, 1931, as amended, relating
11 to the disbursement of funds to reimburse county boards of education for costs associated
12 with educating high cost/high acuity special needs students; requiring the state
13 superintendent to develop a new formula for the disbursement of the funds; removing the
14 requirement for the superintendent to review policies and report annually to the legislature.

15 *Be it enacted by the Legislature of West Virginia:*

16 That §18-20-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted
17 to read as follows:

18 **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

19 **§18-20-5. Powers and duties of state superintendent.**

20 (a) The State Superintendent of Schools shall organize, promote, administer and be
21 responsible for:

22 (1) Stimulating and assisting county boards of education in establishing, organizing and
23 maintaining special schools, classes, regular class programs, home-teaching and visiting-teacher

1 services for exceptional children.

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

5 (3) (A) Preparing the necessary rules, policies, ~~formula~~ formulas for distribution of available
6 appropriated funds, reporting forms and procedures necessary to define minimum standards in
7 providing suitable facilities for education of exceptional children and ensuring the employment,
8 certification and approval of qualified teachers and therapists subject to approval by the State Board
9 of Education: *Provided*, That no state rule, policy or standard under this article or any county board
10 rule, policy or standard governing special education may exceed the requirements of federal law or
11 regulation.

12 (B) ~~The state superintendent shall annually review the rules, policies and standards of the~~
13 ~~state and federal law for serving the needs of exceptional children enrolled in the public schools and~~
14 ~~shall report to the Legislative Oversight commission on Education Accountability by December 1,~~
15 ~~or as soon thereafter as requested by the commission, 2008, and in each year thereafter, the findings~~
16 ~~of the review along with an accounting of the services provided and the costs thereof for exceptional~~
17 ~~children enrolled in the public schools of this state during the latest available school year. An A~~
18 ~~separate~~ appropriation shall be made to the Department of Education to be ~~distributed~~ disbursed to
19 county boards to ~~support children~~ assist them with serving exceptional children with high cost/high
20 acuity special needs. ~~that exceed the capacity of county to provide with funds available~~ An
21 “exceptional child with high cost/high acuity special needs” is a student with a disability for whom
22 the costs to the county exceed three times the average per pupil expenditure.

1 (i) The state superintendent shall establish, in consultation and coordination with
2 representatives of the affected county boards, a method for disbursing the separate appropriation for
3 exceptional children with high cost/high acuity special needs.

4 (ii) The disbursement method shall reasonably account for and endeavor to equitably mitigate
5 the differing budgetary impacts that enrolled exceptional children with high cost/high acuity special
6 needs have on individual county boards' abilities to serve all of their enrolled students.

7 (iii) The disbursement method shall further provide that, whenever the separate appropriation
8 under this paragraph, when combined with federal funds available for this purpose, is insufficient
9 to reimburse all eligible county boards fully for their costs of serving the exceptional children with
10 high cost/high acuity special needs enrolled in their counties, the county boards shall receive
11 disbursements that equalize, as near as reasonably possible, the budget percentage for each county
12 board that is consumed by eligible, but not reimbursed, expenditures for serving exceptional children
13 with high cost/high acuity special needs so that no county board's budget is affected
14 disproportionately.

15 (iv) Each county board shall apply to the state superintendent for receipt of to receive this
16 funding in a manner set forth by the state superintendent. ~~that assesses and takes into account varying~~
17 acuity levels of the exceptional students Any remaining funds at the end of a fiscal year from the
18 appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be
19 ~~distributed~~ disbursed to county boards for this purpose before any of the state appropriation is
20 ~~distributed~~ disbursed. The state board shall promulgate a rule in accordance with ~~the provisions of~~
21 article three-b, chapter twenty-nine-a of this code that implements the provisions of this ~~subdivision~~
22 paragraph. relating to distributing the funds to the county boards The rule at least shall include a

1 definition for "~~children with high acuity needs~~" "exceptional child with high cost/high acuity special
2 needs" consistent with this paragraph.

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

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

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

13 (7) ~~Receive~~ Receiving the county ~~plan plans~~ for integrated ~~classroom~~ class rooms submitted
14 by the county boards of education and ~~submit~~ submitting a state plan, approved by the State Board
15 of Education, to the Legislative Oversight Commission on Education Accountability no later than
16 December 1, 1995.

17 (b) Nothing contained in this section shall be construed to prevent any county board of
18 education from establishing and maintaining special schools, classes, regular class programs,
19 home-teaching or visiting-teacher services for exceptional children out of funds available from local
20 revenue.