

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3221

BY DELEGATE HOWELL

[Introduced March 16, 2021; Referred to the
Committee on Education then Finance]

1 A BILL to amend and reenact §18-20-5 of the Code of West Virginia, 1931, as amended, relating
2 to requiring the Department of Education to calculate and assume the full costs associated
3 with wards of the state who are placed in out-of-state mental health facilities, residential
4 institutions, private schools or correctional facilities before calculating and disbursing a
5 county board of education's allocation of available appropriated funds; and removing from
6 the county board of education all financial responsibility for the costs associated with out-
7 of-state placement for such children.

Be it enacted by the Legislature of West Virginia:

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

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

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

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

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

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

16 (B) A separate appropriation shall be made to the Department of Education to be

17 disbursed to county boards and public charter schools authorized pursuant to §18-5G-1 *et seq.*
18 of this code to assist them with serving exceptional children with high cost/high acuity special
19 needs that exceed the capacity of county to provide with funds available. Each county board and
20 public charter school shall apply to the state superintendent to receive this funding in a manner
21 set forth by the state superintendent that assesses and takes into account varying acuity levels
22 of the exceptional students. Any remaining funds at the end of a fiscal year from the appropriation
23 shall be carried over to the next fiscal year. When possible, federal funds shall be disbursed to
24 county boards and public charter schools for this purpose before any of the state appropriation
25 is disbursed. The state board shall promulgate a rule in accordance with the provisions of §29A-
26 3B-1 *et seq.* of this code that implements the provisions of this subdivision relating to disbursing
27 the funds to the county boards and public charter schools. The rule at least shall include a
28 definition for “children with high acuity needs”.

29 (4) Receiving from county boards and public charter schools, their applications, annual
30 reports and claims for reimbursement from such moneys as are appropriated by the Legislature,
31 auditing such claims, and preparing vouchers to reimburse said counties the amounts
32 reimbursable to them.

33 (5) Assuring that all exceptional children in the state, including children in mental health
34 facilities, residential institutions, private schools and correctional facilities as provided in §18-2-
35 13f of this code receive an education in accordance with state and federal laws: *Provided, That*
36 the state superintendent shall also assure that adults in correctional facilities and regional jails
37 receive an education to the extent funds are provided therefor: *Provided, however, That the*
38 Department of Education shall calculate and assume the full cost for all children who are wards
39 of the state, within the meaning of chapter 49 of this code, and placed in out-of-state mental health
40 facilities, residential institutions, private schools or correctional facilities before calculating and
41 disbursing any county board’s allocation of available appropriated funds. No county board shall
42 be financially responsible for any cost associated with the out-of-state placement of wards of the

43 state.

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

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

NOTE: The purpose of this bill is to require the Department of Education to calculate and assume the full costs associated with wards of the state who are placed in out-of-state mental health facilities, residential institutions, private schools or correctional facilities before calculating and disbursing a county board's allocation of available appropriated funds; and to remove all financial responsibility for the out-of-state placements of such children from a county board of education.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.