

**H. B. 2202**

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

[Introduced January 22, 2015; referred to the  
Committee on Education then Finance.]

A BILL to amend and reenact §18-20-5 of the Code of West Virginia, 1931, as amended, relating to more equitable disbursement of funds to county boards to lessen budgetary impact of serving high cost/high acuity special needs students; eliminating requirement to annual review of rules, policies and standards and federal law and report to legislative oversight commission; defining high cost/high acuity special needs; and providing for method of fund disbursement.

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

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

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

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

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

(1) Stimulating and assisting county boards of education in establishing, organizing and

1 maintaining special schools, classes, regular class programs, home-teaching and visiting-teacher  
2 services.

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

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

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

1 the costs to the county exceed three times the average per pupil expenditure. The state  
2 superintendent shall establish, in consultation and coordination with representatives of the affected  
3 county boards, a method for the disbursement of this appropriation to the county boards which:

4 (i) Addresses the impact that the expenditures for serving high cost/high acuity special needs  
5 students enrolled in the schools of the county has on its budget for serving all of the students of the  
6 county;

7 (ii) If the separate appropriation under this paragraph, when combined with federal funds  
8 available for this purpose, is insufficient to reimburse all eligible county boards fully for the costs  
9 of serving the high cost/high acuity special needs students enrolled in the county, the disbursement  
10 of these combined funds shall be made using a method that equalizes, as near as possible, the  
11 percentage of the budget of each county consumed by eligible, but not reimbursed, expenditures for  
12 serving high cost/high acuity special needs students so that no county's budget is affected  
13 disproportionately.

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

1 special needs" consistent with this paragraph.

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

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

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

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

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

NOTE: The purpose of this bill is to provide a more equitable disbursement of funds to county boards to lessen the budgetary impact of serving high cost/high acuity special needs students. The bill eliminates the requirement of annual review of rules, policies and standards and federal law and report to legislative oversight commission. It defines high cost/high acuity special needs and provides for method of fund disbursement.

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