

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2202**

(BY DELEGATES ROWAN, ROMINE, DUKE, PERRY,  
AMBLER, BUTLER, PETHTEL, COOPER AND D. EVANS)

[Originating in the Committee on Finance,

February 22, 2016.]



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

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

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

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

16           ~~(B) The state superintendent shall annually review the rules, policies and standards of the~~  
17 ~~state and federal law for serving the needs of exceptional children enrolled in the public schools~~  
18 ~~and shall report to the Legislative Oversight commission on Education Accountability by~~  
19 ~~December 1, or as soon thereafter as requested by the commission, 2008, and in each year~~  
20 ~~thereafter, the findings of the review along with an accounting of the services provided and the~~  
21 ~~costs thereof for exceptional children enrolled in the public schools of this state during the latest~~  
22 ~~available school year. An appropriation shall be made to the~~

23           (B) The Department of Education to be distributed shall disburse to county boards to  
24 support children appropriations made to assist them with serving exceptional children with high  
25 cost/high acuity special needs. that exceed the capacity of county to provide with funds available  
26 An “exceptional child with high cost/high acuity special needs” is a student with a disability for  
27 whom the costs to the county exceed three times the average per pupil expenditure.

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

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

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

43            (iv) Each county board shall apply to the state superintendent ~~for receipt of~~ to receive this  
44 funding in a manner set forth by the state superintendent. ~~that assesses and takes into account~~  
45 ~~varying acuity levels of the exceptional students~~ Any remaining funds at the end of a fiscal year  
46 from the appropriation shall be carried over to the next fiscal year. When possible, federal funds  
47 shall be ~~distributed~~ disbursed to county boards for this purpose before any of the state  
48 appropriation is ~~distributed~~ disbursed. ~~The state board shall promulgate a rule in accordance with~~  
49 ~~the provisions of article three-b, chapter twenty-nine-a of this code that implements the provisions~~  
50 ~~of this subdivision relating to distributing the funds to the county boards. The rule at least shall~~  
51 ~~include a definition for “children with high acuity needs.”~~

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

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

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

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

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