

1 **H. B. 4470**

2
3 (By Delegates Walker, Williams, Barill, Pethtel,
4 Brown and Rowan)

5
6 [Introduced February 9, 2012; referred to the
7 Committee on Education then Finance.]

8 **FISCAL**
9 **NOTE**

10 A BILL to amend and reenact §18-2-26 of the Code of West Virginia,
11 1931, as amended; and to amend and reenact §18-5-13 of said
12 code, all relating to the State Board of Education;
13 multicounty regional educational service agencies and
14 providing that it is not intended to authorize these agencies
15 to provide services that would displace positions and duties
16 performed by the county board of education professional or
17 service employees; county board of education authority
18 generally; providing that county boards of education may not
19 be required to utilize regional services; and authorizing the
20 employment of certified bus trainers to train prospective
21 candidates for school bus operator certification.

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

23 That §18-2-26 of the Code of West Virginia, 1931, as amended,
24 be amended and reenacted; and that §18-5-13 of said code be amended
25 and reenacted, all to read as follows:

1 **ARTICLE 2. STATE BOARD OF EDUCATION.**

2 **§18-2-26. Establishment of multicounty regional educational**
3 **service agencies; purpose; authority of state**
4 **board; governance; annual performance standards.**

5 (a) *Legislative intent.* -- The intent of the Legislature in
6 providing for establishment of regional education service agencies,
7 hereinafter referred to in this section as agency or agencies, is
8 to provide for high quality, cost effective education programs and
9 services to students, schools and school systems.

10 Since the first enactment of this section in 1972, the focus
11 of public education has shifted from a reliance on input models to
12 determine if education programs and services are providing to
13 students a thorough and efficient education to a performance based
14 accountability model which relies on the following:

15 (1) Development and implementation of standards which set
16 forth the things that students should know and be able to do as the
17 result of a thorough and efficient education including measurable
18 criteria to evaluate student performance and progress;

19 (2) Development and implementation of assessments to measure
20 student performance and progress toward meeting the standards;

21 (3) Development and implementation of a system for holding
22 schools and school systems accountable for student performance and
23 progress toward obtaining a high quality education which is

1 delivered in an efficient manner; and

2 (4) Development and implementation of a method for building
3 the capacity and improving the efficiency of schools and school
4 systems to improve student performance and progress.

5 (b) *Purpose.* -- In establishing the agencies the Legislature
6 envisions certain areas of service in which the agencies can best
7 assist the state board in implementing the standards based
8 accountability model pursuant to subsection (a) of this section
9 and, thereby, in providing high quality education programs. It is
10 not the intent of this section to authorize these agencies to
11 provide services that would displace positions and duties performed
12 by county board of education professional or service employees as
13 defined in section one, article one, chapter eighteen-a of this
14 code and this practice is prohibited. ~~These~~ The areas of service
15 that these agencies may provide service include the following:

16 (1) Providing technical assistance to low performing schools
17 and school systems;

18 (2) Providing high quality, targeted staff development
19 designed to enhance the performance and progress of students in
20 state public education;

21 (3) Facilitating coordination and cooperation among the county
22 boards within their respective regions in such areas as cooperative
23 purchasing; sharing of specialized personnel, communications and
24 technology; curriculum development; and operation of specialized

1 programs for exceptional children;

2 (4) Installing, maintaining and/or repairing education related
3 technology equipment and software with special attention to the
4 state level basic skills and SUCCESS programs;

5 (5) Receiving and administering grants under the provisions of
6 federal and/or state law; and

7 (6) Developing and/or implementing any other programs or
8 services as directed by law or by the state board.

9 (c) *State board rule.* -- The state board shall reexamine the
10 powers and duties of the agencies in light of the changes in state
11 level education policy that have occurred and shall establish
12 multicounty regional educational service agencies by rule,
13 promulgated in accordance with the provisions of article three-b,
14 chapter twenty-nine-a of this code.

15 The rule shall contain all information necessary for the
16 effective administration and operation of the agencies. In
17 developing the rule, the state board may not delegate its
18 constitutional authority for the general supervision of schools to
19 the agencies, however, it may allow the agencies greater latitude
20 in the development and implementation of programs in the service
21 areas outlined in subsection (b) of this section with the
22 exceptions of providing technical assistance to low performing
23 schools and school systems and providing high quality, targeted
24 staff development designed to enhance the performance and progress

1 of students in state public education. These two areas constitute
2 the most important responsibilities for the agencies.

3 The rule establishing the agencies shall be promulgated before
4 November 1, 2002, and shall be consistent with the provisions of
5 this section. It shall include, but is not limited to, the
6 following procedures:

7 (1) Providing for a uniform governance structure for the
8 agencies containing at least these elements:

9 (A) Selection by the state board of an executive director who
10 shall be responsible for the administration of his or her
11 respective agency. The rule shall provide for the state board to
12 consult with the appropriate regional council during the selection
13 process;

14 (B) Development of a job description and qualifications for
15 the position of executive director, together with procedures for
16 informing the public of position openings and for taking and
17 evaluating applications for these positions;

18 (C) Provisions for the agencies to employ other staff, as
19 necessary, with the approval of the state board and upon the
20 recommendation of the executive director: *Provided*, That prior to
21 July 1, 2003, no person who is an employee of an agency on the
22 effective date of this section may be terminated or have his or her
23 salary and benefit levels reduced as the sole result of the changes
24 made to this section or by state board rule;

1 (D) Appointment by the county boards of a regional council in
2 each agency area consisting of representatives of county boards and
3 county superintendents from within that area for the purpose of
4 advising and assisting the executive director in carrying out his
5 or her duties. The state board may provide for membership on the
6 regional council for representatives from other agencies and
7 institutions who have interest or expertise in the development or
8 implementation of regional education programs; and

9 (E) Selection by the state superintendent of a representative
10 from the State Department of Education to serve on each regional
11 council. These representatives shall meet with their respective
12 regional councils at least quarterly;

13 (2) Establishing statewide standards by the state board for
14 service delivery by the agencies. These standards may be revised
15 annually and shall include, but are not limited to, programs and
16 services to fulfill the purposes set forth in subsection (b) of
17 this section;

18 (3) Establishing procedures for developing and adopting an
19 annual basic operating budget for each agency and for other
20 budgeting and accounting procedures as the state board may require;

21 (4) Establishing procedures to clarifying that agencies may
22 acquire and hold real property;

23 (5) Dividing the state into appropriate, contiguous
24 geographical areas and designating an agency to serve each area.

1 The rule shall provide that each of the state's counties is
2 contained within a single service area and that all counties
3 located within the boundaries of each agency, as determined by the
4 state board, shall be members of that agency; and

5 (6) Such other standards or procedures as the state board
6 finds necessary or convenient.

7 (d) *Regional services.* -- In furtherance of the purposes
8 provided in this section, the state board and the regional council
9 of each agency shall continually explore possibilities for the
10 delivery of services on a regional basis which will facilitate
11 equality in the education offerings among counties in its service
12 area, permit the delivery of high quality education programs at a
13 lower per student cost, strengthen the cost effectiveness of
14 education funding resources, reduce administrative and/or
15 operational costs, including the consolidation of administrative,
16 coordinating and other county level functions into region level
17 functions, and promote the efficient administration and operation
18 of the public school systems generally: Provided, That county
19 boards of education may not be required to utilize these regional
20 services.

21 Technical, operational, programmatic or professional services
22 are among the types of services appropriate for delivery on a
23 regional basis.

24 (e) *Virtual education.* -- The state board, in conjunction with

1 the various agencies, shall develop an effective model for the
2 regional delivery of instruction in subjects where there exists low
3 student enrollment or a shortage of certified teachers or where the
4 delivery method substantially improves the quality of an
5 instructional program. The model shall incorporate an interactive
6 electronic classroom approach to instruction. To the extent funds
7 are appropriated or otherwise available, county boards or regional
8 educational service agencies may adopt and utilize the model for
9 the delivery of the instruction.

10 (f) *Computer information system.* -- Each county board of
11 education shall use the uniform integrated regional computer
12 information system recommended by the state board for data
13 collection and reporting to the State Department of Education.
14 County boards of education shall bear the cost of and fully
15 participate in the implementation of the system by using one of the
16 following methods:

17 (1) Acquiring necessary, compatible equipment to participate
18 in the regional computer information system; or

19 (2) Following receipt of a waiver from the state
20 superintendent, operating a comparable management information
21 system at a lower cost which provides at least all uniform
22 integrated regional computer information system software modules
23 and allows on-line, interactive access for schools and the county
24 board office onto the statewide communications network. All data

1 formats shall be the same as for the uniform integrated regional
2 information system and will reside at the regional computer.

3 Any county granted a waiver shall receive periodic
4 notification of any incompatibility or deficiency in its system.
5 No county shall expand any system either through the purchase of
6 additional software or hardware that does not advance the goals and
7 implementation of the uniform integrated regional computer
8 information system as recommended by the state board.

9 (g) *Reports and evaluations.* -- Each agency shall submit to
10 the state superintendent on such date and in such form as specified
11 in the rules adopted by the state board a report and evaluation of
12 the technical assistance and other services provided and utilized
13 by the schools within each respective region and their
14 effectiveness. Additionally, any school may submit an evaluation
15 of the services provided by the agency to the state superintendent
16 at any time. This report shall include an evaluation of the agency
17 program, suggestions on methods to improve utilization and
18 suggestions on the development of new programs and the enhancement
19 of existing programs. The reports and evaluations submitted
20 pursuant to this subsection shall be submitted to the state board
21 and shall be made available upon request to the standing committees
22 on education of the West Virginia Senate and House of Delegates and
23 to the secretary of education and the arts.

24 (h) *Funding sources.* -- An agency may receive and disburse

1 funds from the state and federal governments, from member counties,
2 or from gifts and grants.

3 (i) *Employee expenses.* -- Notwithstanding any other provision
4 of this code to the contrary, employees of agencies shall be
5 reimbursed for travel, meals and lodging at the same rate as state
6 employees under the travel management office of the Department of
7 Administration.

8 A county board member may not be an employee of an agency.

9 (j) *Meetings and compensation.* --

10 (1) Agencies shall hold at least one half of their regular
11 meetings during hours other than those of a regular school day.
12 The executive director of each agency shall attend at least one
13 meeting of each of the member county boards of education each year
14 to explain the agency's services, garner suggestions for program
15 improvement and provide any other information as may be requested
16 by the county board.

17 (2) Notwithstanding any other provision of this code to the
18 contrary, county board members serving on regional councils may
19 receive compensation at a rate not to exceed \$100 per meeting
20 attended, not to exceed fifteen meetings per year. County board
21 members serving on regional councils may be reimbursed for travel
22 at the same rate as state employees under the rules of the travel
23 management office of the Department of Administration.

24 (k) *Computer installation, maintenance and repair.* --

1 Agencies shall serve as the lead agency for computer installation,
2 maintenance and repair for the basic skills and SUCCESS computer
3 programs. Each agency shall submit a quarterly status report on
4 turn around time for computer installation, maintenance and repair
5 to the State Superintendent of Schools who shall then submit a
6 report to the Legislative Oversight Commission on Education
7 Accountability. The status report for turn around time for
8 computer installation, maintenance and repair shall be based on the
9 following suggested time schedules:

- 10 Network File Servers.....forty-eight hours
- 11 Local Area Networks.....forty-eight hours
- 12 West Virginia Education
13 Information System.....twenty-four hours
- 14 Computer Workstations.....three to five days
- 15 Printers.....three to five days
- 16 Other Peripherals.....three to five days

17 Agencies also shall submit an audit report to the Legislative
18 Oversight Commission on Education Accountability each year.

19 (1) *Professional development.* -- Pursuant to the processes and
20 provisions of section twenty-three-a, article two, chapter eighteen
21 of this code, each agency shall provide coordinated professional
22 development programs within its region to meet the professional
23 development goals established by the state board.

24 **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

1 **§18-5-13. Authority of boards generally.**

2 Subject to the provisions of this chapter and the rules of the
3 state board, each county board may:

4 (a) Control and manage all of the schools and school interests
5 for all school activities and upon all school property owned or
6 leased by the county, including:

7 (1) Requiring schools to keep records regarding funds
8 connected with the school or school interests, including all
9 receipts and disbursements of all funds collected or received by:

10 (A) Any principal, teacher, student or other person in
11 connection with the schools and school interests;

12 (B) Any program, activity or other endeavor of any nature
13 operated or conducted by or in the name of the school; and

14 (C) Any organization or body directly connected with the
15 school;

16 (2) Allowing schools to expend funds for student, parent,
17 teacher and community recognition programs. A school may use only
18 funds it generates through a fund-raising or donation-soliciting
19 activity. Prior to commencing the activity, the school shall:

20 (A) Publicize the activity as intended for this purpose; and

21 (B) Designate for this purpose the funds generated;

22 (3) Auditing the records and conserving the funds, including
23 securing surety bonds by expending board moneys. The funds
24 described in this subsection are quasipublic funds, which means the

1 moneys were received for the benefit of the school system as a
2 result of curricular or noncurricular activities;

3 (b) Establish:

4 (1) Schools, from preschool through high school;

5 (2) Vocational schools; and

6 (3) Schools and programs for post-high school instruction,
7 subject to approval of the state board;

8 (c) Close any school:

9 (1) Which is unnecessary and assign the students to other
10 schools. The closing shall occur pursuant to official action of
11 the county board. Except in emergency situations when the timing
12 and manner of notification are subject to approval by the state
13 superintendent, the county board shall notify the affected teachers
14 and service personnel of the county board action not later than the
15 first Monday in April. The board shall provide notice in the same
16 manner as set forth in section four of this article; or

17 (2) Pursuant to the provisions of subsection (e) of this
18 section;

19 (d) Consolidate schools;

20 (e) Close any elementary school whose average daily attendance
21 falls below twenty students for two consecutive months. The county
22 board may assign the students to other schools in the district or
23 to schools in adjoining districts. If the teachers in the closed
24 school are not transferred or reassigned to other schools, they

1 shall receive one month's salary;

2 (f) Provide transportation according to rules established by
3 the county board, as follows:

4 (1) To provide at public expense adequate means of
5 transportation:

6 (A) For all children of school age who live more than two
7 miles distance from school by the nearest available road;

8 (B) For school children participating in county board-approved
9 curricular and extracurricular activities;

10 (C) Across county lines for students transferred from one
11 district to another by mutual agreement of both county boards. The
12 agreement shall be recorded in the meeting minutes of each
13 participating county board and is subject to the provisions of
14 subsection (h) of this section; and

15 (D) Within available revenues, for students within two miles
16 distance of the school; and

17 (2) To provide transportation for participants in projects
18 operated, financed, sponsored or approved by the Bureau of Senior
19 Services. This transportation shall be provided at no cost to the
20 county board. All costs and expenses incident in any way to this
21 transportation shall be borne by the bureau or the local or county
22 affiliate of the bureau;

23 (3) Any school bus owned by the county board may be operated
24 only by a bus operator regularly employed by the county board;

1 (4) Pursuant to rules established by the state board, the
2 county board may provide for professional employees to be certified
3 to drive county board-owned vehicles that have a seating capacity
4 of fewer than ten passengers. These employees may use the vehicles
5 to transport students for school-sponsored activities, but may not
6 use the vehicles to transport students between school and home.
7 Not more than one of these vehicles may be used for any school-
8 sponsored activity;

9 (5) Students may not be transported to a school-sponsored
10 activity in any county-owned or leased vehicle that does not meet
11 school bus or public transit ratings. This section does not
12 prohibit a parent from transporting ten or fewer students in a
13 privately-owned vehicle;

14 (6) Students may be transported to a school-sponsored activity
15 in a vehicle that has a seating capacity of sixteen or more
16 passengers which is not owned and operated by the county board only
17 as follows:

18 (A) The state board shall promulgate a rule to establish
19 requirements for:

20 (i) Automobile insurance coverage;

21 (ii) Vehicle safety specifications;

22 (iii) School bus or public transit ratings; and

23 (iv) Driver training, certification and criminal history
24 record check; and

1 (B) The vehicle owner shall provide to the county board proof
2 that the vehicle and driver satisfy the requirements of the state
3 board rule; and

4 (7) Buses shall be used for extracurricular activities as
5 provided in this section only when the insurance coverage required
6 by this section is in effect;

7 (g) Lease school buses pursuant to rules established by the
8 county board.

9 (1) Leased buses may be operated only by bus operators
10 regularly employed by the county board.

11 (2) The lessee shall bear all costs and expenses incurred by,
12 or incidental to the use of, the bus.

13 (3) The county board may lease buses to:

14 (A) Public and private nonprofit organizations and private
15 corporations to transport school-age children for camps or
16 educational activities;

17 (B) Any college, university or officially recognized campus
18 organization for transporting students, faculty and staff to and
19 from the college or university. Only college and university
20 students, faculty and staff may be transported pursuant to this
21 paragraph. The lease shall include provisions for:

22 (i) Compensation for bus operators;

23 (ii) Consideration for insurance coverage, repairs and other
24 costs of service; and

1 (iii) Any rules concerning student behavior;

2 (C) Public and private nonprofit organizations, including
3 education employee organizations, for transportation associated
4 with fairs, festivals and other educational and cultural events.
5 The county board may charge fees in addition to those charges
6 otherwise required by this subsection;

7 (h) To provide at public expense for insurance coverage
8 against negligence of the drivers of school buses, trucks or other
9 vehicles operated by the county board. Any contractual agreement
10 for transportation of students shall require the vehicle owner to
11 maintain insurance coverage against negligence in an amount
12 specified by the county board;

13 (i) Provide for the full cost or any portion thereof for group
14 plan insurance benefits not provided or available under the West
15 Virginia Public Employees Insurance Act. Any of these benefits
16 shall be provided:

17 (1) Solely from county board funds; and

18 (2) For all regular full-time employees of the county board;

19 (j) Employ teacher aides; to provide in-service training for
20 the aides pursuant to rules established by the state board; and,
21 prior to assignment, to provide a four-clock-hour program of
22 training for a service person assigned duties as a teacher aide in
23 an exceptional children program. The four-clock-hour program shall
24 consist of training in areas specifically related to the education

1 of exceptional children;

2 (k) Establish and operate a self-supporting dormitory for:

3 (1) Students attending a high school or participating in a
4 post high school program; and

5 (2) Persons employed to teach in the high school or post high
6 school program;

7 (l) At the county board's discretion, employ, contract with or
8 otherwise engage legal counsel in lieu of using the services of the
9 prosecuting attorney to advise, attend to, bring, prosecute or
10 defend, as the case may be, any matters, actions, suits and
11 proceedings in which the county board is interested;

12 (m) Provide appropriate uniforms for school service personnel;

13 (n) Provide at public expense for payment of traveling
14 expenses incurred by any person invited to appear to be interviewed
15 concerning possible employment by the county board, subject to
16 rules established by the county board;

17 (o) Allow designated employees to use publicly provided
18 carriage to travel from their residences to their workplace and
19 return. The use:

20 (1) Is subject to the supervision of the county board; and

21 (2) Shall be directly connected with, required by and
22 essential to the performance of the employee's duties and
23 responsibilities;

24 (p) Provide at public expense adequate public liability

1 insurance, including professional liability insurance, for county
2 board employees;

3 (q) Enter into cooperative agreements with other county boards
4 to provide improvements to the instructional needs of each
5 district. The cooperative agreements may be used to employ
6 specialists in a field of academic study or for support functions
7 or services for the field. The agreements are subject to approval
8 by the state board;

9 (r) Provide information about vocational and higher education
10 opportunities to exceptional students. The county board shall
11 provide in writing to the students and their parents or guardians
12 information relating to programs of vocational education and to
13 programs available at state institutions of higher education. The
14 information may include sources of available funding, including
15 grants, mentorships and loans for students who wish to attend
16 classes at institutions of higher education;

17 (s) Enter into agreements with other county boards for the
18 transfer and receipt of any funds determined to be fair when
19 students are permitted or required to attend school in a district
20 other than the district of their residence. These agreements are
21 subject to the approval of the state board; and

22 (t) Enter into job-sharing arrangements, as defined in section
23 one, article one, chapter eighteen-a of this code, with its
24 employees, subject to the following provisions:

1 (1) A job-sharing arrangement shall meet all the requirements
2 relating to posting, qualifications and seniority, as provided in
3 article four, chapter eighteen-a of this code;

4 (2) Notwithstanding any contrary provision of this code or
5 legislative rule and specifically the provisions of article
6 sixteen, chapter five of this code, a county board that enters into
7 a job-sharing arrangement:

8 (A) Shall provide insurance coverage to the one employee
9 mutually agreed upon by the employees participating in that
10 arrangement; and

11 (B) May not provide insurance benefits of any type to more
12 than one of the job-sharing employees, including any group plan
13 available under the state Public Employees Insurance Act;

14 (3) Each job-sharing agreement shall be in writing on a form
15 prescribed and furnished by the county board. The agreement shall
16 designate specifically one employee only who is entitled to the
17 insurance coverage. Any employee who is not designated is not
18 eligible for state public employees insurance coverage regardless
19 of the number of hours he or she works;

20 (4) All employees involved in the job-sharing agreement shall
21 meet the requirements of subdivision (3), section two, article
22 sixteen, chapter five of this code; and

23 (5) When entering into a job-sharing agreement, the county
24 board and the participating employees shall consider issues such as

1 retirement benefits, termination of the job-sharing agreement and
2 any other issue the parties consider appropriate. Any provision in
3 the agreement relating to retirement benefits may not cause any
4 cost to be incurred by the retirement system that is more than the
5 cost that would be incurred if a single employee were filling the
6 position ; and

7 (u) Under rules it establishes for each child, expend an
8 amount not to exceed the proportion of all school funds of the
9 district that each child would be entitled to receive if all the
10 funds were distributed equally among all the children of school age
11 in the district upon a per capita basis;and

12 (v) Employ certified bus trainers to train prospective
13 candidates for school bus operator certification: *Provided, That*
14 nothing contained herein may prohibit a board of education from
15 employing a regular employee of the county board of education
16 pursuant to an extracurricular assignment agreement to train
17 prospective candidates for school bus operator certification.

NOTE: The purpose of this bill is to provide that it is not intended that multicounty regional educational service agencies provide services that would displace positions and duties performed by the county board of education professional or service employees. The bill provides that county boards of education may not be required to utilize regional services. The bill also authorizes the employment of certified bus trainers to train prospective candidates for school bus operator certification.

Strike-throughs indicate language that would be stricken from

the present law, and underscoring indicates new language that would be added.