

1 **H. B. 4137**

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3 (By Delegates Lawrence, Fragale, Ambler, Cooper,  
4 D. Evans, Rowan, Young, Perry and M. Poling)

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6 [Introduced January 14, 2014; referred to the  
7 Committee on Education then Finance.]

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10 A BILL to amend and reenact §18-20-5 of the Code of West Virginia,  
11 1931, as amended, relating to more equitable distribution to  
12 county boards of reimbursement of the costs of serving high  
13 cost/high acuity special needs students; eliminating  
14 requirement for annual review of rules, policies and standards  
15 and federal law and report to Legislative Oversight  
16 Commission; defining high cost/high acuity special needs; and  
17 providing for method of fund disbursement.

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

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

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

22 **§18-20-5. Powers and duties of state superintendent.**

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

25 (1) Stimulating and assisting county boards of education in

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

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

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

18 (B) ~~The state superintendent shall annually review the rules,~~  
19 ~~policies and standards of the state and federal law for serving the~~  
20 ~~needs of exceptional children enrolled in the public schools and~~  
21 ~~shall report to the Legislative Oversight commission on education~~  
22 ~~accountability by December 1, or as soon thereafter as requested by~~  
23 ~~the commission, 2008, and in each year thereafter, the findings of~~  
24 ~~the review along with an accounting of the services provided and~~

1 ~~the costs thereof for exceptional children enrolled in the public~~  
2 ~~schools of this state during the latest available school year. An~~  
3 A separate appropriation shall be made to the Department of  
4 Education to be ~~distributed~~ disbursed to county boards to ~~support~~  
5 ~~children~~ assist them with serving exceptional children with high  
6 cost/high acuity special needs. ~~that exceed the capacity of county~~  
7 ~~to provide with funds available. Each county board shall apply to~~  
8 ~~the state superintendent for receipt of this funding in a manner~~  
9 ~~set forth by the state superintendent that assesses and takes into~~  
10 ~~account varying acuity levels of the exceptional students. An~~  
11 exceptional child with high cost/high acuity special needs is a  
12 student with a disability for whom the costs to the county exceed  
13 three times the state average per pupil expenditure. The state  
14 superintendent shall establish, in consultation and coordination  
15 with representatives of the county boards, a method for the  
16 disbursement of this appropriation to the county boards which:

17 (i) Addresses the impact that expenditures for serving all  
18 exceptional children with high cost/high acuity special needs  
19 enrolled with the school system has on the budget of the county  
20 board; and

21 (ii) If the separate appropriation under this paragraph in  
22 combination with federal funds available for these purposes are  
23 insufficient to reimburse county boards fully for the costs of  
24 serving all exceptional children with high cost/high acuity special

1 needs enrolled with the county, the disbursement equalizes, as near  
2 as possible, the percentage of the county's budget consumed by  
3 expenditures for children with high cost/high acuity special needs  
4 that are not reimbursed so that no county's budget is affected  
5 disproportionately. Any remaining funds at the end of a fiscal  
6 year from the appropriation shall be carried over to the next  
7 fiscal year. When possible, federal funds shall be distributed to  
8 county boards for this purpose before any of the state  
9 appropriation is distributed. The state board shall promulgate a  
10 rule in accordance with the provisions of article three-b, chapter  
11 twenty-nine-a of this code that implements the provisions of this  
12 subdivision relating to distributing the funds to the county  
13 boards. The rule at least shall include a definition for "children  
14 with high acuity needs" consistent with this subdivision.

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

20 (5) Assuring that all exceptional children in the state,  
21 including children in mental health facilities, residential  
22 institutions, private schools and correctional facilities as  
23 provided in section thirteen-f, article two of this chapter receive  
24 an education in accordance with state and federal laws: *Provided,*

1 That the state superintendent shall also assure that adults in  
2 correctional facilities and regional jails receive an education to  
3 the extent funds are provided therefor.

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

6 ~~(7) Receive the county plan for integrated classroom submitted~~  
7 ~~by the county boards of education and submit a state plan, approved~~  
8 ~~by the State Board of Education, to the Legislative Oversight~~  
9 ~~Commission on Education Accountability no later than December 1,~~  
10 ~~1995.~~

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

NOTE: The purpose of this bill is to provide a more equitable distribution to county boards of reimbursement of the costs of serving high cost/high acuity special needs students. These are students whose educational costs exceed three times the average per student cost and include regularly enrolled, out-of-state placed and residential facility students with special needs who are enrolled with a county board. The reimbursement of costs over that limit is made with a combination of state and federal funds, but currently meet only fifty-four percent of the eligible requests. At less than full reimbursement, counties with higher percentages high cost/high acuity special needs students spend a disproportionate percentage of their instructional budgets on them. The bill requires a distribution formula that equalizes the budgetary impact as much as possible.

Strike-throughs indicate existing language that would be removed, and underscoring indicates new language that would be added.