

ENROLLED

H. B. 2140

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[Passed March 13, 2015;
in effect ninety days from passage.]

AN ACT to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to building governance and leadership capacity of county board during period of state intervention; providing flexibility on strategic plans; authorizing removal, subject to reemployment, of will and pleasure employees of the county superintendent during intervention in operation of school system; requiring during periods of intervention, county board goals and action plans for improvement and sustained success to end intervention in not more than five years; specifying minimum components of goals and action plans; requiring annual assessment and report of readiness of county to accept return and sustain improvement; requiring public hearing if determination made at fifth annual assessment the county board not ready; continued intervention allowed only after hearing; requiring continued supports as needed for three years following end of intervention; and requiring public hearing for another intervention within this three years.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-5. Process for improving education; education standards; statewide assessment program; accountability measures; Office of Education Performance Audits; school accreditation and school system approval; intervention to correct low performance.

1 (a) *Legislative findings, purpose and intent.* — The Legisla-
2 ture makes the following findings with respect to the process for
3 improving education and its purpose and intent in the enactment
4 of this section:

5 (1) The process for improving education includes four
6 primary elements, these being:

7 (A) Standards which set forth the knowledge and skills that
8 students should know and be able to perform as the result of a
9 thorough and efficient education that prepares them for the
10 twenty-first century, including measurable criteria to evaluate
11 student performance and progress;

12 (B) Assessments of student performance and progress
13 toward meeting the standards;

14 (C) A system of accountability for continuous improvement
15 defined by high-quality standards for schools and school systems
16 articulated by a rule promulgated by the state board and outlined
17 in subsection (c) of this section that will build capacity in
18 schools and districts to meet rigorous outcomes that assure
19 student performance and progress toward obtaining the knowl-
20 edge and skills intrinsic to a high-quality education rather than

21 monitoring for compliance with specific laws and regulations;
22 and

23 (D) A method for building the capacity and improving the
24 efficiency of schools and school systems to improve student
25 performance and progress;

26 (2) As the constitutional body charged with the general
27 supervision of schools as provided by general law, the state
28 board has the authority and the responsibility to establish the
29 standards, assess the performance and progress of students
30 against the standards, hold schools and school systems account-
31 able and assist schools and school systems to build capacity and
32 improve efficiency so that the standards are met, including, when
33 necessary, seeking additional resources in consultation with the
34 Legislature and the Governor;

35 (3) As the constitutional body charged with providing for a
36 thorough and efficient system of schools, the Legislature has the
37 authority and the responsibility to establish and be engaged
38 constructively in the determination of the knowledge and skills
39 that students should know and be able to do as the result of a
40 thorough and efficient education. This determination is made by
41 using the process for improving education to determine when
42 school improvement is needed, by evaluating the results and the
43 efficiency of the system of schools, by ensuring accountability
44 and by providing for the necessary capacity and its efficient use;

45 (4) In consideration of these findings, the purpose of this
46 section is to establish a process for improving education that
47 includes the four primary elements as set forth in subdivision (1)
48 of this subsection to provide assurances that the high-quality
49 standards are, at a minimum, being met and that a thorough and
50 efficient system of schools is being provided for all West
51 Virginia public school students on an equal education opportu-
52 nity basis; and

53 (5) The intent of the Legislature in enacting this section and
54 section five-c of this article is to establish a process through
55 which the Legislature, the Governor and the state board can
56 work in the spirit of cooperation and collaboration intended in
57 the process for improving education to consult and examine the
58 performance and progress of students, schools and school
59 systems and, when necessary, to consider alternative measures
60 to ensure that all students continue to receive the thorough and
61 efficient education to which they are entitled. However, nothing
62 in this section requires any specific level of funding by the
63 Legislature.

64 (b) *Electronic county and school strategic improvement*
65 *plans.* — The state board shall promulgate a rule consistent with
66 the provisions of this section and in accordance with article
67 three-b, chapter twenty-nine-a of this code establishing an
68 electronic county strategic improvement plan for each county
69 board and an electronic school strategic improvement plan for
70 each public school in this state. Each respective plan shall be for
71 a period of no more than five years and shall include the mission
72 and goals of the school or school system to improve student,
73 school or school system performance and progress, as applica-
74 ble. The strategic plan shall be revised annually in each area in
75 which the school or system is below the standard on the annual
76 performance measures. The plan shall be revised when required
77 pursuant to this section to include each annual performance
78 measure upon which the school or school system fails to meet
79 the standard for performance and progress, the action to be taken
80 to meet each measure, a separate time line and a date certain for
81 meeting each measure, a cost estimate and, when applicable, the
82 assistance to be provided by the department and other education
83 agencies to improve student, school or school system perfor-
84 mance and progress to meet the annual performance measure.

85 The department shall make available to all public schools
86 through its website or the West Virginia Education Information

87 System an electronic school strategic improvement plan
88 boilerplate designed for use by all schools to develop an
89 electronic school strategic improvement plan which incorporates
90 all required aspects and satisfies all improvement plan require-
91 ments of the No Child Left Behind Act.

92 (c) *High-quality education standards and efficiency stan-*
93 *dards.* — In accordance with the provisions of article three-b,
94 chapter twenty-nine-a of this code, the state board shall adopt
95 and periodically review and update high-quality education
96 standards for student, school and school system performance and
97 processes in the following areas:

- 98 (1) Curriculum;
- 99 (2) Workplace readiness skills;
- 100 (3) Finance;
- 101 (4) Transportation;
- 102 (5) Special education;
- 103 (6) Facilities;
- 104 (7) Administrative practices;
- 105 (8) Training of county board members and administrators;
- 106 (9) Personnel qualifications;
- 107 (10) Professional development and evaluation;
- 108 (11) Student performance, progress and attendance;
- 109 (12) Professional personnel, including principals and central
110 office administrators, and service personnel attendance;
- 111 (13) School and school system performance and progress;

112 (14) A code of conduct for students and employees;

113 (15) Indicators of efficiency; and

114 (16) Any other areas determined by the state board.

115 (d) *Comprehensive statewide student assessment pro-*
116 *gram.* — The state board shall establish a comprehensive
117 statewide student assessment program to assess student perfor-
118 mance and progress in grades three through twelve. The assess-
119 ment program is subject to the following:

120 (1) The state board shall promulgate a rule in accordance
121 with the provisions of article three-b, chapter twenty-nine-a of
122 this code establishing the comprehensive statewide student
123 assessment program;

124 (2) Prior to the 2014-2015 school year, the state board shall
125 align the comprehensive statewide student assessment for all
126 grade levels in which the test is given with the college-readiness
127 standards adopted pursuant to section thirty-nine, article two of
128 this chapter or develop other aligned tests to be required at each
129 grade level so that progress toward college readiness in Eng-
130 lish/language arts and math can be measured;

131 (3) The state board may require that student proficiencies be
132 measured through the ACT EXPLORE and the ACT PLAN
133 assessments or other comparable assessments, which are
134 approved by the state board and provided by future vendors;

135 (4) The state board may require that student proficiencies be
136 measured through the West Virginia writing assessment at any
137 grade levels determined by the state board to be appropriate; and

138 (5) The state board may provide through the statewide
139 assessment program other optional testing or assessment
140 instruments applicable to grade levels kindergarten through

141 grade twelve which may be used by each school to promote
142 student achievement. The state board annually shall publish and
143 make available, electronically or otherwise, to school curriculum
144 teams and teacher collaborative processes the optional testing
145 and assessment instruments.

146 (e) *State annual performance measures for school and*
147 *school system accreditation.* —

148 The state board shall promulgate a rule in accordance with
149 the provisions of article three-b, chapter twenty-nine-a of this
150 code that establishes a system to assess and weigh annual
151 performance measures for state accreditation of schools and
152 school systems. The state board also may establish performance
153 incentives for schools and school systems as part of the state
154 accreditation system. On or before December 1, 2013, the state
155 board shall report to the Governor and to the Legislative
156 Oversight Commission on Education Accountability the pro-
157 posed rule for establishing the measures and incentives of
158 accreditation and the estimated cost therefore, if any. Thereafter,
159 the state board shall provide an annual report to the Governor
160 and to the Legislative Oversight Commission on Education
161 Accountability on the impact and effectiveness of the accredita-
162 tion system. The rule for school and school system accreditation
163 proposed by the board may include, but is not limited to, the
164 following measures:

165 (1) Student proficiency in English and language arts, math,
166 science and other subjects determined by the board;

167 (2) Graduation and attendance rate;

168 (3) Students taking and passing AP tests;

169 (4) Students completing a career and technical education
170 class;

171 (5) Closing achievement gaps within subgroups of a school's
172 student population; and

173 (6) Students scoring at or above average attainment on SAT
174 or ACT tests.

175 (f) *Indicators of efficiency.* — In accordance with the
176 provisions of article three-b, chapter twenty-nine-a of this code,
177 the state board shall adopt by rule and periodically review and
178 update indicators of efficiency for use by the appropriate
179 divisions within the department to ensure efficient management
180 and use of resources in the public schools in the following areas:

181 (1) Curriculum delivery including, but not limited to, the use
182 of distance learning;

183 (2) Transportation;

184 (3) Facilities;

185 (4) Administrative practices;

186 (5) Personnel;

187 (6) Use of regional educational service agency programs and
188 services, including programs and services that may be estab-
189 lished by their assigned regional educational service agency or
190 other regional services that may be initiated between and among
191 participating county boards; and

192 (7) Any other indicators as determined by the state board.

193 (g) *Assessment and accountability of school and school*
194 *system performance and processes.* — In accordance with the
195 provisions of article three-b, chapter twenty-nine-a of this code,
196 the state board shall establish by rule a system of education
197 performance audits which measures the quality of education and
198 the preparation of students based on the annual measures of

199 student, school and school system performance and progress.
200 The system of education performance audits shall provide
201 information to the state board, the Legislature and the Governor,
202 upon which they may determine whether a thorough and
203 efficient system of schools is being provided. The system of
204 education performance audits shall include:

205 (1) The assessment of student, school and school system
206 performance and progress based on the annual measures
207 established pursuant to subsection (e) of this section;

208 (2) The evaluation of records, reports and other information
209 collected by the Office of Education Performance Audits upon
210 which the quality of education and compliance with statutes,
211 policies and standards may be determined;

212 (3) The review of school and school system electronic
213 strategic improvement plans; and

214 (4) The on-site review of the processes in place in schools
215 and school systems to enable school and school system perfor-
216 mance and progress and compliance with the standards.

217 (h) *Uses of school and school system assessment informa-*
218 *tion.* — The state board shall use information from the system of
219 education performance audits to assist it in ensuring that a
220 thorough and efficient system of schools is being provided and
221 to improve student, school and school system performance and
222 progress. Information from the system of education performance
223 audits further shall be used by the state board for these purposes,
224 including, but not limited to, the following:

225 (1) Determining school accreditation and school system
226 approval status;

227 (2) Holding schools and school systems accountable for the
228 efficient use of existing resources to meet or exceed the stan-
229 dards; and

230 (3) Targeting additional resources when necessary to
231 improve performance and progress.

232 The state board shall make accreditation information
233 available to the Legislature, the Governor, the general public and
234 to any individual who requests the information, subject to the
235 provisions of any act or rule restricting the release of informa-
236 tion.

237 (i) *Early detection and intervention programs.* — Based on
238 the assessment of student, school and school system performance
239 and progress, the state board shall establish early detection and
240 intervention programs using the available resources of the
241 Department of Education, the regional educational service
242 agencies, the Center for Professional Development and the
243 Principals Academy, or other resources as appropriate, to assist
244 underachieving schools and school systems to improve perfor-
245 mance before conditions become so grave as to warrant more
246 substantive state intervention. Assistance shall include, but is not
247 limited to, providing additional technical assistance and pro-
248 grammatic, professional staff development, providing monetary,
249 staffing and other resources where appropriate.

250 (j) *Office of Education Performance Audits.* —

251 (1) To assist the state board in the operation of a system of
252 education performance audits, the state board shall establish an
253 Office of Education Performance Audits consistent with the
254 provisions of this section. The Office of Education Performance
255 Audits shall be operated under the direction of the state board
256 independently of the functions and supervision of the State
257 Department of Education and state superintendent. The Office of
258 Education Performance Audits shall report directly to and be
259 responsible to the state board in carrying out its duties under the
260 provisions of this section.

261 (2) The office shall be headed by a director who shall be
262 appointed by the state board and who serves at the will and
263 pleasure of the state board. The annual salary of the director
264 shall be set by the state board and may not exceed eighty percent
265 of the salary of the State Superintendent of Schools.

266 (3) The state board shall organize and sufficiently staff the
267 office to fulfill the duties assigned to it by law and by the state
268 board. Employees of the State Department of Education who are
269 transferred to the Office of Education Performance Audits shall
270 retain their benefits and seniority status with the Department of
271 Education.

272 (4) Under the direction of the state board, the Office of
273 Education Performance Audits shall receive from the West
274 Virginia education information system staff research and
275 analysis data on the performance and progress of students,
276 schools and school systems, and shall receive assistance, as
277 determined by the state board, from staff at the State Department
278 of Education, the regional education service agencies, the Center
279 for Professional Development, the Principals Academy and the
280 School Building Authority to carry out the duties assigned to the
281 office.

282 (5) In addition to other duties which may be assigned to it by
283 the state board or by statute, the Office of Education Perfor-
284 mance Audits also shall:

285 (A) Assure that all statewide assessments of student perfor-
286 mance used as annual performance measures are secure as
287 required in section one-a of this article;

288 (B) Administer all accountability measures as assigned by
289 the state board, including, but not limited to, the following:

290 (i) Processes for the accreditation of schools and the
291 approval of school systems; and

292 (ii) Recommendations to the state board on appropriate
293 action, including, but not limited to, accreditation and approval
294 action;

295 (C) Determine, in conjunction with the assessment and
296 accountability processes, what capacity may be needed by
297 schools and school systems to meet the standards established by
298 the state board and recommend to the state board plans to
299 establish those needed capacities;

300 (D) Determine, in conjunction with the assessment and
301 accountability processes, whether statewide system deficiencies
302 exist in the capacity of schools and school systems to meet the
303 standards established by the state board, including the identifica-
304 tion of trends and the need for continuing improvements in
305 education, and report those deficiencies and trends to the state
306 board;

307 (E) Determine, in conjunction with the assessment and
308 accountability processes, staff development needs of schools and
309 school systems to meet the standards established by the state
310 board and make recommendations to the state board, the Center
311 for Professional Development, the regional educational service
312 agencies, the Higher Education Policy Commission and the
313 county boards;

314 (F) Identify, in conjunction with the assessment and account-
315 ability processes, school systems and best practices that improve
316 student, school and school system performance and communi-
317 cate those to the state board for promoting the use of best
318 practices. The state board shall provide information on best
319 practices to county school systems; and

320 (G) Develop reporting formats, such as check lists, which
321 shall be used by the appropriate administrative personnel in
322 schools and school systems to document compliance with

323 applicable laws, policies and process standards as considered
324 appropriate and approved by the state board, which may include,
325 but is not limited to, the following:

326 (i) The use of a policy for the evaluation of all school
327 personnel that meets the requirements of sections twelve and
328 twelve-a, article two, chapter eighteen-a of this code;

329 (ii) The participation of students in appropriate physical
330 assessments as determined by the state board, which assessment
331 may not be used as a part of the assessment and accountability
332 system;

333 (iii) The appropriate licensure of school personnel; and

334 (iv) The appropriate provision of multicultural activities.

335 Information contained in the reporting formats is subject to
336 examination during an on-site review to determine compliance
337 with laws, policies and standards. Intentional and grossly
338 negligent reporting of false information are grounds for dis-
339 missal of any employee.

340 (k) *On-site reviews.* —

341 (1) The system of education performance audits shall include
342 on-site reviews of schools and school systems which shall be
343 conducted only at the specific direction of the state board upon
344 its determination that circumstances exist that warrant an on-site
345 review. Any discussion by the state board of schools to be
346 subject to an on-site review or dates for which on-site reviews
347 will be conducted may be held in executive session and is not
348 subject to the provisions of article nine-a, chapter six of this code
349 relating to open governmental proceedings. An on-site review
350 shall be conducted by the Office of Education Performance
351 Audits of a school or school system for the purpose of making
352 recommendations to the school and school system, as appropri-

353 ate, and to the state board on such measures as it considers
354 necessary. The investigation may include, but is not limited to,
355 the following:

356 (A) Verifying data reported by the school or county board;

357 (B) Examining compliance with the laws and policies
358 affecting student, school and school system performance and
359 progress;

360 (C) Evaluating the effectiveness and implementation status
361 of school and school system electronic strategic improvement
362 plans;

363 (D) Investigating official complaints submitted to the state
364 board that allege serious impairments in the quality of education
365 in schools or school systems;

366 (E) Investigating official complaints submitted to the state
367 board that allege that a school or county board is in violation of
368 policies or laws under which schools and county boards operate;
369 and

370 (F) Determining and reporting whether required reviews and
371 inspections have been conducted by the appropriate agencies,
372 including, but not limited to, the State Fire Marshal, the Health
373 Department, the School Building Authority and the responsible
374 divisions within the Department of Education, and whether noted
375 deficiencies have been or are in the process of being corrected.

376 (2) The Director of the Office of Education Performance
377 Audits shall notify the county superintendent of schools five
378 school days prior to commencing an on-site review of the county
379 school system and shall notify both the county superintendent
380 and the principal five school days before commencing an on-site
381 review of an individual school: *Provided*, That the state board
382 may direct the Office of Education Performance Audits to

383 conduct an unannounced on-site review of a school or school
384 system if the state board believes circumstances warrant an
385 unannounced on-site review.

386 (3) The Office of Education Performance Audits shall
387 conduct on-site reviews which are limited in scope to specific
388 areas in which performance and progress are persistently below
389 standard as determined by the state board unless specifically
390 directed by the state board to conduct a review which covers
391 additional areas.

392 (4) The Office of Education Performance Audits shall
393 reimburse a county board for the costs of substitutes required to
394 replace county board employees who serve on a review team.

395 (5) At the conclusion of an on-site review of a school
396 system, the director and team leaders shall hold an exit confer-
397 ence with the superintendent and shall provide an opportunity for
398 principals to be present for at least the portion of the conference
399 pertaining to their respective schools. In the case of an on-site
400 review of a school, the exit conference shall be held with the
401 principal and curriculum team of the school and the superinten-
402 dent shall be provided the opportunity to be present. The purpose
403 of the exit conference is to review the initial findings of the
404 on-site review, clarify and correct any inaccuracies and allow the
405 opportunity for dialogue between the reviewers and the school
406 or school system to promote a better understanding of the
407 findings.

408 (6) The Office of Education Performance Audits shall report
409 the findings of an on-site review to the county superintendent
410 and the principals whose schools were reviewed within thirty
411 days following the conclusion of the on-site review. The Office
412 of Education Performance Audits shall report the findings of the
413 on-site review to the state board within forty-five days after the
414 conclusion of the on-site review. A school or county that

415 believes one or more findings of a review are clearly inaccurate,
416 incomplete or misleading, misrepresent or fail to reflect the true
417 quality of education in the school or county or address issues
418 unrelated to the health, safety and welfare of students and the
419 quality of education, may appeal to the state board for removal
420 of the findings. The state board shall establish a process for it to
421 receive, review and act upon the appeals. The state board shall
422 report to the Legislative Oversight Commission on Education
423 Accountability during its July interim meetings, or as soon
424 thereafter as practical, on each appeal during the preceding
425 school year.

426 (7) The Legislature finds that the accountability and over-
427 sight of some activities and programmatic areas in the public
428 schools are controlled through other mechanisms and agencies
429 and that additional accountability and oversight may be unneces-
430 sary, counterproductive and impair necessary resources for
431 teaching and learning. Therefore, the Office of Education
432 Performance Audits may rely on other agencies and mechanisms
433 in its review of schools and school systems.

434 (l) *School accreditation.* —

435 (1) The state board shall establish levels of accreditation to
436 be assigned to schools. The establishment of levels of accredita-
437 tion and the levels shall be subject to the following:

438 (A) The levels will be designed to demonstrate school
439 performance in all the areas outlined in this section and also
440 those established by the state board;

441 (B) The state board shall promulgate legislative rules in
442 accordance with the provisions of article three-b, chapter
443 twenty-nine-a of this code to establish the performance and
444 standards required for a school to be assigned a particular level
445 of accreditation; and

446 (C) The state board will establish the levels of accreditation
447 in such a manner as to minimize the number of systems of
448 school recognition, both state and federal, that are employed to
449 recognize and accredit schools.

450 (2) The state board annually shall review the information
451 from the system of education performance audits submitted for
452 each school and shall issue to every school a level of accredita-
453 tion as designated and determined by the state board.

454 (3) The state board, in its exercise of general supervision of
455 the schools and school systems of West Virginia, may exercise
456 any or all of the following powers and actions:

457 (A) To require a school to revise its electronic strategic plan;

458 (B) To define extraordinary circumstances under which the
459 state board may intervene directly or indirectly in the operation
460 of a school;

461 (C) To appoint monitors to work with the principal and staff
462 of a school where extraordinary circumstances are found to exist,
463 and to appoint monitors to assist the school principal after
464 intervention in the operation of a school is completed;

465 (D) To direct a county board to target resources to assist a
466 school where extraordinary circumstances are found to exist;

467 (E) To intervene directly in the operation of a school and
468 declare the position of principal vacant and assign a principal for
469 the school who will serve at the will and pleasure of the state
470 board. If the principal who was removed elects not to remain an
471 employee of the county board, then the principal assigned by the
472 state board shall be paid by the county board. If the principal
473 who was removed elects to remain an employee of the county
474 board, then the following procedure applies:

475 (i) The principal assigned by the state board shall be paid by
476 the state board until the next school term, at which time the
477 principal assigned by the state board shall be paid by the county
478 board;

479 (ii) The principal who was removed is eligible for all
480 positions in the county, including teaching positions, for which
481 the principal is certified, by either being placed on the transfer
482 list in accordance with section seven, article two, chapter
483 eighteen-a of this code, or by being placed on the preferred recall
484 list in accordance with section seven-a, article four, chapter
485 eighteen-a of this code; and

486 (iii) The principal who was removed shall be paid by the
487 county board and may be assigned to administrative duties,
488 without the county board being required to post that position
489 until the end of the school term; and

490 (F) Other powers and actions the state board determines
491 necessary to fulfill its duties of general supervision of the
492 schools and school systems of West Virginia.

493 (4) The county board may take no action nor refuse any
494 action if the effect would be to impair further the school in
495 which the state board has intervened.

496 (m) *School system approval.* — The state board annually
497 shall review the information submitted for each school system
498 from the system of education performance audits and issue one
499 of the following approval levels to each county board: Full
500 approval, temporary approval, conditional approval or
501 nonapproval.

502 (1) Full approval shall be given to a county board whose
503 schools have all been given full, temporary or conditional
504 accreditation status and which does not have any deficiencies

505 which would endanger student health or safety or other extraor-
506 dinary circumstances as defined by the state board. A fully
507 approved school system in which other deficiencies are discov-
508 ered shall remain on full accreditation status for the remainder
509 of the approval period and shall have an opportunity to correct
510 those deficiencies, notwithstanding other provisions of this
511 subsection.

512 (2) Temporary approval shall be given to a county board
513 whose education system is below the level required for full
514 approval. Whenever a county board is given temporary approval
515 status, the county board shall revise its electronic county
516 strategic improvement plan in accordance with subsection (b) of
517 this section to increase the performance and progress of the
518 school system to a full approval status level. The revised plan
519 shall be submitted to the state board for approval.

520 (3) Conditional approval shall be given to a county board
521 whose education system is below the level required for full
522 approval, but whose electronic county strategic improvement
523 plan meets the following criteria:

524 (A) The plan has been revised in accordance with subsection
525 (b) of this section;

526 (B) The plan has been approved by the state board; and

527 (C) The county board is meeting the objectives and time line
528 specified in the revised plan.

529 (4) Nonapproval status shall be given to a county board
530 which fails to submit and gain approval for its electronic county
531 strategic improvement plan or revised electronic county strategic
532 improvement plan within a reasonable time period as defined by
533 the state board or which fails to meet the objectives and time line
534 of its revised electronic county strategic improvement plan or

535 fails to achieve full approval by the date specified in the revised
536 plan.

537 (A) The state board shall establish and adopt additional
538 standards to identify school systems in which the program may
539 be nonapproved and the state board may issue nonapproval
540 status whenever extraordinary circumstances exist as defined by
541 the state board.

542 (B) Whenever a county board has more than a casual deficit,
543 as defined in section one, article one of this chapter, the county
544 board shall submit a plan to the state board specifying the county
545 board's strategy for eliminating the casual deficit. The state
546 board either shall approve or reject the plan. If the plan is
547 rejected, the state board shall communicate to the county board
548 the reason or reasons for the rejection of the plan. The county
549 board may resubmit the plan any number of times. However, any
550 county board that fails to submit a plan and gain approval for the
551 plan from the state board before the end of the fiscal year after
552 a deficit greater than a casual deficit occurred or any county
553 board which, in the opinion of the state board, fails to comply
554 with an approved plan may be designated as having nonapproval
555 status.

556 (C) Whenever nonapproval status is given to a school
557 system, the state board shall declare a state of emergency in the
558 school system and shall appoint a team of improvement consul-
559 tants to make recommendations within sixty days of appointment
560 for correcting the emergency. When the state board approves the
561 recommendations, they shall be communicated to the county
562 board. If progress in correcting the emergency, as determined by
563 the state board, is not made within six months from the time the
564 county board receives the recommendations, the state board shall
565 intervene in the operation of the school system to cause improve-
566 ments to be made that will provide assurances that a thorough

567 and efficient system of schools will be provided. This interven-
568 tion may include, but is not limited to, the following:

569 (i) Limiting the authority of the county superintendent and
570 county board as to the expenditure of funds, the employment and
571 dismissal of personnel, the establishment and operation of the
572 school calendar, the establishment of instructional programs and
573 rules and any other areas designated by the state board by rule,
574 which may include delegating decision-making authority
575 regarding these matters to the state superintendent;

576 (ii) Declaring that the office of the county superintendent is
577 vacant;

578 (iii) Declaring that the positions of personnel who serve at
579 the will and pleasure of the county superintendent as provided in
580 section one, article two, chapter eighteen-a of this code, are
581 vacant, subject to application and reemployment;

582 (iv) Delegating to the state superintendent both the authority
583 to conduct hearings on personnel matters and school closure or
584 consolidation matters and, subsequently, to render the resulting
585 decisions and the authority to appoint a designee for the limited
586 purpose of conducting hearings while reserving to the state
587 superintendent the authority to render the resulting decisions;

588 (v) Functioning in lieu of the county board of education in
589 a transfer, sale, purchase or other transaction regarding real
590 property; and

591 (vi) Taking any direct action necessary to correct the
592 emergency including, but not limited to, the following:

593 (I) Delegating to the state superintendent the authority to
594 replace administrators and principals in low performing schools
595 and to transfer them into alternate professional positions within
596 the county at his or her discretion; and

597 (II) Delegating to the state superintendent the authority to fill
598 positions of administrators and principals with individuals
599 determined by the state superintendent to be the most qualified
600 for the positions. Any authority related to intervention in the
601 operation of a county board granted under this paragraph is not
602 subject to the provisions of article four, chapter eighteen-a of
603 this code.

604 (n) Notwithstanding any other provision of this section, the
605 state board may intervene immediately in the operation of the
606 county school system with all the powers, duties and responsibil-
607 ities contained in subsection (m) of this section, if the state board
608 finds the following:

609 (1) That the conditions precedent to intervention exist as
610 provided in this section; and that delaying intervention for any
611 period of time would not be in the best interests of the students
612 of the county school system; or

613 (2) That the conditions precedent to intervention exist as
614 provided in this section and that the state board had previously
615 intervened in the operation of the same school system and had
616 concluded that intervention within the preceding five years.

617 (o) *Capacity*. — The process for improving education
618 includes a process for targeting resources strategically to
619 improve the teaching and learning process. Development of
620 electronic school and school system strategic improvement
621 plans, pursuant to subsection (b) of this section, is intended, in
622 part, to provide mechanisms to target resources strategically to
623 the teaching and learning process to improve student, school and
624 school system performance. When deficiencies are detected
625 through the assessment and accountability processes, the
626 revision and approval of school and school system electronic
627 strategic improvement plans shall ensure that schools and school
628 systems are efficiently using existing resources to correct the
629 deficiencies. When the state board determines that schools and

630 school systems do not have the capacity to correct deficiencies,
631 the state board shall take one or more of the following actions:

632 (1) Work with the county board to develop or secure the
633 resources necessary to increase the capacity of schools and
634 school systems to meet the standards and, when necessary, seek
635 additional resources in consultation with the Legislature and the
636 Governor;

637 (2) Recommend to the appropriate body including, but not
638 limited to, the Legislature, county boards, schools and communi-
639 ties methods for targeting resources strategically to eliminate
640 deficiencies identified in the assessment and accountability
641 processes. When making determinations on recommendations,
642 the state board shall include, but is not limited to, the following
643 methods:

644 (A) Examining reports and electronic strategic improvement
645 plans regarding the performance and progress of students,
646 schools and school systems relative to the standards and identify-
647 ing the areas in which improvement is needed;

648 (B) Determining the areas of weakness and of ineffective-
649 ness that appear to have contributed to the substandard perfor-
650 mance and progress of students or the deficiencies of the school
651 or school system and requiring the school or school system to
652 work collaboratively with the West Virginia Department of
653 Education State System of Support to correct the deficiencies;

654 (C) Determining the areas of strength that appear to have
655 contributed to exceptional student, school and school system
656 performance and progress and promoting their emulation
657 throughout the system;

658 (D) Requesting technical assistance from the School
659 Building Authority in assessing or designing comprehensive
660 educational facilities plans;

661 (E) Recommending priority funding from the School
662 Building Authority based on identified needs;

663 (F) Requesting special staff development programs from the
664 Center for Professional Development, the Principals Academy,
665 higher education, regional educational service agencies and
666 county boards based on identified needs;

667 (G) Submitting requests to the Legislature for appropriations
668 to meet the identified needs for improving education;

669 (H) Directing county boards to target their funds strategi-
670 cally toward alleviating deficiencies;

671 (I) Ensuring that the need for facilities in counties with
672 increased enrollment are appropriately reflected and recom-
673 mended for funding;

674 (J) Ensuring that the appropriate person or entity is held
675 accountable for eliminating deficiencies; and

676 (K) Ensuring that the needed capacity is available from the
677 state and local level to assist the school or school system in
678 achieving the standards and alleviating the deficiencies.

679 (p) *Building leadership capacity* – To help build the gover-
680 nance and leadership capacity of a county board during an
681 intervention in the operation of its school system by the state
682 board, and to help assure sustained success following return of
683 control to the county board, the state board shall require the
684 county board to establish goals and action plans, subject to
685 approval of the state board, to improve performance sufficiently
686 to end the intervention within a period of not more than five
687 years. The state superintendent shall maintain oversight and
688 provide assistance and feedback to the county board on develop-
689 ment and implementation of the goals and action plans. At a
690 minimum, the goals and action plans shall include:

691 (A) An analysis of the training and development activities
692 needed by the county board and leadership of the school system
693 and schools for effective governance and school improvement;

694 (B) Support for the training and development activities
695 identified which may include those made available through the
696 state superintendent, regional education service agencies, Center
697 for Professional Development, West Virginia School Board
698 Association, Office of Education Performance Audits, West
699 Virginia Education Information System and other sources
700 identified in the goals and action plans. Attendance at these
701 activities included in the goals and action plans is mandatory as
702 specified in the goals and action plans; and

703 (C) Active involvement by the county board in the improve-
704 ment process, working in tandem with the county superintendent
705 to gather, analyze and interpret data, write time-specific goals to
706 correct deficiencies, prepare and implement action plans and
707 allocate or request from the state board of education the re-
708 sources, including board development training and coaching,
709 necessary to achieve approved goals and action plans and sustain
710 system and school improvement.

711 At least once each year during the period of intervention, the
712 Office of Education Performance Audits shall assess the
713 readiness of the county board to accept the return of control of
714 the system or school from the state board and sustain the
715 improvements, and shall make a report and recommendations to
716 the state board supported by documented evidence of the
717 progress made on the goals and action plans. The state board
718 may end the intervention or return any portion of control of the
719 operations of the school system or school that was previously
720 removed at its sole determination. If the state board determines
721 at the fifth annual assessment that the county board is still not
722 ready to accept return of control by the state board and sustain
723 the improvements, the state board shall hold a public hearing in

724 the affected county at which the attendance by all members of
725 the county board is requested so that the reasons for continued
726 intervention and the concerns of the citizens of the county may
727 be heard. The state board may continue the intervention only
728 after it holds the public hearing and may require revision of the
729 goals and action plans.

730 Following the termination of an intervention in the operation
731 of a school system and return of full control by the state board,
732 the support for governance education and development shall
733 continue as needed for up to three years. If at any time within
734 this three years, the state board determines that intervention in
735 the operation of the school system is again necessary, the state
736 board shall again hold a public hearing in the affected county so
737 that the reasons for the intervention and the concerns of the
738 citizens of the county may be heard.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2015.

Governor

