

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 380**

BY SENATOR WALTERS

[Introduced January 25, 2016;

Referred to the Committee on Education; and then to the  
Committee on Finance.]

1 A BILL to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating  
 2 to the comprehensive statewide student assessment; and requiring ACT and ACT Aspire  
 3 to be used as the comprehensive statewide student assessment.

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

1 That §18-2E-5 of the Code of West Virginia, 1931, as amended, be amended and  
 2 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 Legislature makes the following findings  
 2 with respect to the process for improving education and its purpose and intent in the enactment  
 3 of this section:

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

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

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

9 (C) A system of accountability for continuous improvement defined by high-quality  
 10 standards for schools and school systems articulated by a rule promulgated by the state board  
 11 and outlined in subsection (c) of this section that will build capacity in schools and districts to meet  
 12 rigorous outcomes that assure student performance and progress toward obtaining the  
 13 knowledge and skills intrinsic to a high-quality education rather than monitoring for compliance  
 14 with specific laws and regulations; and

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

17           (2) As the Constitutional body charged with the general supervision of schools as provided  
18 by general law, the state board has the authority and the responsibility to establish the standards,  
19 assess the performance and progress of students against the standards, hold schools and school  
20 systems accountable and assist schools and school systems to build capacity and improve  
21 efficiency so that the standards are met, including, when necessary, seeking additional resources  
22 in consultation with the Legislature and the Governor;

23           (3) As the Constitutional body charged with providing for a thorough and efficient system  
24 of schools, the Legislature has the authority and the responsibility to establish and be engaged  
25 constructively in the determination of the knowledge and skills that students should know and be  
26 able to do as the result of a thorough and efficient education. This determination is made by using  
27 the process for improving education to determine when school improvement is needed, by  
28 evaluating the results and the efficiency of the system of schools, by ensuring accountability and  
29 by providing for the necessary capacity and its efficient use;

30           (4) In consideration of these findings, the purpose of this section is to establish a process  
31 for improving education that includes the four primary elements as set forth in subdivision (1) of  
32 this subsection to provide assurances that the high-quality standards are, at a minimum, being  
33 met and that a thorough and efficient system of schools is being provided for all West Virginia  
34 public school students on an equal education opportunity basis; and

35           (5) The intent of the Legislature in enacting this section and section five-c of this article is  
36 to establish a process through which the Legislature, the Governor and the state board can work  
37 in the spirit of cooperation and collaboration intended in the process for improving education to  
38 consult and examine the performance and progress of students, schools and school systems and,  
39 when necessary, to consider alternative measures to ensure that all students continue to receive  
40 the thorough and efficient education to which they are entitled. However, nothing in this section  
41 requires any specific level of funding by the Legislature.

42           (b) *Electronic county and school strategic improvement plans.* -- The state board shall

43 promulgate a rule consistent with the provisions of this section and in accordance with article  
44 three-b, chapter twenty-nine-a of this code establishing an electronic county strategic  
45 improvement plan for each county board and an electronic school strategic improvement plan for  
46 each public school in this state. Each respective plan shall be for a period of no more than five  
47 years and shall include the mission and goals of the school or school system to improve student,  
48 school or school system performance and progress, as applicable. The strategic plan shall be  
49 revised annually in each area in which the school or system is below the standard on the annual  
50 performance measures. The plan shall be revised when required pursuant to this section to  
51 include each annual performance measure upon which the school or school system fails to meet  
52 the standard for performance and progress, the action to be taken to meet each measure, a  
53 separate time line and a date certain for meeting each measure, a cost estimate and, when  
54 applicable, the assistance to be provided by the department and other education agencies to  
55 improve student, school or school system performance and progress to meet the annual  
56 performance measure.

57         The department shall make available to all public schools through its website or the West  
58 Virginia Education Information System an electronic school strategic improvement plan  
59 boilerplate designed for use by all schools to develop an electronic school strategic improvement  
60 plan which incorporates all required aspects and satisfies all improvement plan requirements of  
61 the No Child Left Behind Act.

62         (c) *High-quality education standards and efficiency standards.* -- In accordance with the  
63 provisions of article three-b, chapter twenty-nine-a of this code, the state board shall adopt and  
64 periodically review and update high-quality education standards for student, school and school  
65 system performance and processes in the following areas:

- 66             (1) Curriculum;
- 67             (2) Workplace readiness skills;
- 68             (3) Finance;

- 69 (4) Transportation;
- 70 (5) Special education;
- 71 (6) Facilities;
- 72 (7) Administrative practices;
- 73 (8) Training of county board members and administrators;
- 74 (9) Personnel qualifications;
- 75 (10) Professional development and evaluation;
- 76 (11) Student performance, progress and attendance;
- 77 (12) Professional personnel, including principals and central office administrators, and
- 78 service personnel attendance;
- 79 (13) School and school system performance and progress;
- 80 (14) A code of conduct for students and employees;
- 81 (15) Indicators of efficiency; and
- 82 (16) Any other areas determined by the state board.

83 (d) *Comprehensive statewide student assessment program.* -- The state board shall

84 establish a comprehensive statewide student assessment program to assess student

85 performance and progress ~~in grades three through twelve~~. The assessment program is subject to

86 the following:

87 (1) The state board shall promulgate a rule in accordance with the provisions of article

88 three-b, chapter twenty-nine-a of this code establishing the comprehensive statewide student

89 assessment program;

90 (2) ~~Prior to the 2014-2015 school year, the state board shall align the comprehensive~~

91 ~~statewide student assessment for all grade levels in which the test is given with the college-~~

92 ~~readiness standards adopted pursuant to section thirty-nine, article two of this chapter or develop~~

93 ~~other aligned tests to be required at each grade level so that progress toward college readiness~~

94 ~~in English/language arts and math can be measured~~ Starting in the 2016-2017 school year, the

95 state board shall utilize the ACT and ACT Aspire assessments as the comprehensive statewide  
96 student assessment. The Legislature finds that ACT and ACT Aspire align with the high-quality  
97 standards required by subsection (b) of this section and that use of the ACT and ACT Aspire as  
98 the comprehensive statewide student assessment provide numerous benefits to West Virginia  
99 students, educators and school systems;

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

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

106 (5) The state board may provide through the statewide assessment program other optional  
107 testing or assessment instruments applicable to grade levels kindergarten through grade twelve  
108 which may be used by each school to promote student achievement. The state board annually  
109 shall publish and make available, electronically or otherwise, to school curriculum teams and  
110 teacher collaborative processes the optional testing and assessment instruments; and

111 (6) Neither the Smarter Balance Assessment system nor the PARCC Assessment System  
112 shall be used as the statewide assessment program.

113 (e) *State annual performance measures for school and school system accreditation. --*

114 The state board shall promulgate a rule in accordance with the provisions of article three-  
115 b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual  
116 performance measures for state accreditation of schools and school systems. The state board  
117 also may establish performance incentives for schools and school systems as part of the state  
118 accreditation system. On or before December 1, 2013, the state board shall report to the Governor  
119 and to the Legislative Oversight Commission on Education Accountability the proposed rule for  
120 establishing the measures and incentives of accreditation and the estimated cost therefore, if any.

121 Thereafter, the state board shall provide an annual report to the Governor and to the Legislative  
122 Oversight Commission on Education Accountability on the impact and effectiveness of the  
123 accreditation system. The rule for school and school system accreditation proposed by the board  
124 may include, but is not limited to, the following measures:

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

127 (2) Graduation and attendance rate;

128 (3) Students taking and passing AP tests;

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

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

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

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

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

137 (2) Transportation;

138 (3) Facilities;

139 (4) Administrative practices;

140 (5) Personnel;

141 (6) Use of regional educational service agency programs and services, including programs  
142 and services that may be established by their assigned regional educational service agency or  
143 other regional services that may be initiated between and among participating county boards; and

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

145 (g) *Assessment and accountability of school and school system performance and*  
146 *processes.* -- In accordance with the provisions of article three-b, chapter twenty-nine-a of this

147 code, the state board shall establish by rule a system of education performance audits which  
148 measures the quality of education and the preparation of students based on the annual measures  
149 of student, school and school system performance and progress. The system of education  
150 performance audits shall provide information to the state board, the Legislature and the Governor,  
151 upon which they may determine whether a thorough and efficient system of schools is being  
152 provided. The system of education performance audits shall include:

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

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

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

159 (4) The on-site review of the processes in place in schools and school systems to enable  
160 school and school system performance and progress and compliance with the standards.

161 (h) *Uses of school and school system assessment information.* -- The state board shall  
162 use information from the system of education performance audits to assist it in ensuring that a  
163 thorough and efficient system of schools is being provided and to improve student, school and  
164 school system performance and progress. Information from the system of education performance  
165 audits further shall be used by the state board for these purposes, including, but not limited to,  
166 the following:

167 (1) Determining school accreditation and school system approval status;

168 (2) Holding schools and school systems accountable for the efficient use of existing  
169 resources to meet or exceed the standards; and

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

171 The state board shall make accreditation information available to the Legislature, the  
172 Governor, the general public and to any individual who requests the information, subject to the



173 provisions of any act or rule restricting the release of information.

174 (i) *Early detection and intervention programs.* -- Based on the assessment of student,  
175 school and school system performance and progress, the state board shall establish early  
176 detection and intervention programs using the available resources of the Department of  
177 Education, the regional educational service agencies, the Center for Professional Development  
178 and the Principals Academy, or other resources as appropriate, to assist underachieving schools  
179 and school systems to improve performance before conditions become so grave as to warrant  
180 more substantive state intervention. Assistance shall include, but is not limited to, providing  
181 additional technical assistance and programmatic, professional staff development, providing  
182 monetary, staffing and other resources where appropriate.

183 (j) *Office of Education Performance Audits.* --

184 (1) To assist the state board in the operation of a system of education performance audits,  
185 the state board shall establish an Office of Education Performance Audits consistent with the  
186 provisions of this section. The Office of Education Performance Audits shall be operated under  
187 the direction of the state board independently of the functions and supervision of the state  
188 Department of Education and state superintendent. The Office of Education Performance Audits  
189 shall report directly to and be responsible to the state board in carrying out its duties under the  
190 provisions of this section.

191 (2) The office shall be headed by a director who shall be appointed by the state board and  
192 who serves at the will and pleasure of the state board. The annual salary of the director shall be  
193 set by the state board and may not exceed eighty percent of the salary of the state superintendent  
194 of Schools.

195 (3) The state board shall organize and sufficiently staff the office to fulfill the duties  
196 assigned to it by law and by the state board. Employees of the state Department of Education  
197 who are transferred to the Office of Education Performance Audits shall retain their benefits and  
198 seniority status with the Department of Education.

199 (4) Under the direction of the state board, the Office of Education Performance Audits shall  
200 receive from the West Virginia education information system staff research and analysis data on  
201 the performance and progress of students, schools and school systems, and shall receive  
202 assistance, as determined by the state board, from staff at the state Department of Education,  
203 the regional education service agencies, the Center for Professional Development, the Principals  
204 Academy and the School Building Authority to carry out the duties assigned to the office.

205 (5) In addition to other duties which may be assigned to it by the state board or by statute,  
206 the Office of Education Performance Audits also shall:

207 (A) Assure that all statewide assessments of student performance used as annual  
208 performance measures are secure as required in section one-a of this article;

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

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

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

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

217 (D) Determine, in conjunction with the assessment and accountability processes, whether  
218 statewide system deficiencies exist in the capacity of schools and school systems to meet the  
219 standards established by the state board, including the identification of trends and the need for  
220 continuing improvements in education, and report those deficiencies and trends to the state  
221 board;

222 (E) Determine, in conjunction with the assessment and accountability processes, staff  
223 development needs of schools and school systems to meet the standards established by the state  
224 board and make recommendations to the state board, the Center for Professional Development,

225 the regional educational service agencies, the Higher Education Policy Commission and the  
226 county boards;

227 (F) Identify, in conjunction with the assessment and accountability processes, school  
228 systems and best practices that improve student, school and school system performance and  
229 communicate those to the state board for promoting the use of best practices. The state board  
230 shall provide information on best practices to county school systems; and

231 (G) Develop reporting formats, such as check lists, which shall be used by the appropriate  
232 administrative personnel in schools and school systems to document compliance with applicable  
233 laws, policies and process standards as considered appropriate and approved by the state board,  
234 which may include, but is not limited to, the following:

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

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

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

241 (iv) The appropriate provision of multicultural activities.

242 Information contained in the reporting formats is subject to examination during an on-site  
243 review to determine compliance with laws, policies and standards. Intentional and grossly  
244 negligent reporting of false information are grounds for dismissal of any employee.

245 (k) *On-site reviews.* --

246 (1) The system of education performance audits shall include on-site reviews of schools  
247 and school systems which shall be conducted only at the specific direction of the state board upon  
248 its determination that circumstances exist that warrant an on-site review. Any discussion by the  
249 state board of schools to be subject to an on-site review or dates for which on-site reviews will be  
250 conducted may be held in executive session and is not subject to the provisions of article nine-a,

251 chapter six of this code relating to open governmental proceedings. An on-site review shall be  
252 conducted by the Office of Education Performance Audits of a school or school system for the  
253 purpose of making recommendations to the school and school system, as appropriate, and to the  
254 state board on such measures as it considers necessary. The investigation may include, but is  
255 not limited to, the following:

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

257 (B) Examining compliance with the laws and policies affecting student, school and school  
258 system performance and progress;

259 (C) Evaluating the effectiveness and implementation status of school and school system  
260 electronic strategic improvement plans;

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

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

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

271 (2) The Director of the Office of Education Performance Audits shall notify the county  
272 superintendent of schools five school days prior to commencing an on-site review of the county  
273 school system and shall notify both the county superintendent and the principal five school days  
274 before commencing an on-site review of an individual school: *Provided*, That the state board may  
275 direct the Office of Education Performance Audits to conduct an unannounced on-site review of  
276 a school or school system if the state board believes circumstances warrant an unannounced on-

277 site review.

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

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

284 (5) At the conclusion of an on-site review of a school system, the director and team leaders  
285 shall hold an exit conference with the superintendent and shall provide an opportunity for  
286 principals to be present for at least the portion of the conference pertaining to their respective  
287 schools. In the case of an on-site review of a school, the exit conference shall be held with the  
288 principal and curriculum team of the school and the superintendent shall be provided the  
289 opportunity to be present. The purpose of the exit conference is to review the initial findings of the  
290 on-site review, clarify and correct any inaccuracies and allow the opportunity for dialogue between  
291 the reviewers and the school or school system to promote a better understanding of the findings.

292 (6) The Office of Education Performance Audits shall report the findings of an on-site  
293 review to the county superintendent and the principals whose schools were reviewed within thirty  
294 days following the conclusion of the on-site review. The Office of Education Performance Audits  
295 shall report the findings of the on-site review to the state board within forty-five days after the  
296 conclusion of the on-site review. A school or county that believes one or more findings of a review  
297 are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of  
298 education in the school or county or address issues unrelated to the health, safety and welfare of  
299 students and the quality of education, may appeal to the state board for removal of the findings.  
300 The state board shall establish a process for it to receive, review and act upon the appeals. The  
301 state board shall report to the Legislative Oversight Commission on Education Accountability  
302 during its July interim meetings, or as soon thereafter as practical, on each appeal during the

303 preceding school year.

304 (7) The Legislature finds that the accountability and oversight of some activities and  
305 programmatic areas in the public schools are controlled through other mechanisms and agencies  
306 and that additional accountability and oversight may be unnecessary, counterproductive and  
307 impair necessary resources for teaching and learning. Therefore, the Office of Education  
308 Performance Audits may rely on other agencies and mechanisms in its review of schools and  
309 school systems.

310 (l) *School accreditation.* --

311 (1) The state board shall establish levels of accreditation to be assigned to schools. The  
312 establishment of levels of accreditation and the levels shall be subject to the following:

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

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

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

321 (2) The state board annually shall review the information from the system of education  
322 performance audits submitted for each school and shall issue to every school a level of  
323 accreditation as designated and determined by the state board.

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

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

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

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

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

334 (E) To intervene directly in the operation of a school and declare the position of principal  
335 vacant and assign a principal for the school who will serve at the will and pleasure of the state  
336 board. If the principal who was removed elects not to remain an employee of the county board,  
337 then the principal assigned by the state board shall be paid by the county board. If the principal  
338 who was removed elects to remain an employee of the county board, then the following procedure  
339 applies:

340 (i) The principal assigned by the state board shall be paid by the state board until the next  
341 school term, at which time the principal assigned by the state board shall be paid by the county  
342 board;

343 (ii) The principal who was removed is eligible for all positions in the county, including  
344 teaching positions, for which the principal is certified, by either being placed on the transfer list in  
345 accordance with section seven, article two, chapter eighteen-a of this code, or by being placed  
346 on the preferred recall list in accordance with section seven-a, article four, chapter eighteen-a of  
347 this code; and

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

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

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

355 (m) *School system approval.* -- The state board annually shall review the information  
356 submitted for each school system from the system of education performance audits and issue  
357 one of the following approval levels to each county board: Full approval, temporary approval,  
358 conditional approval or nonapproval.

359 (1) Full approval shall be given to a county board whose schools have all been given full,  
360 temporary or conditional accreditation status and which does not have any deficiencies which  
361 would endanger student health or safety or other extraordinary circumstances as defined by the  
362 state board. A fully approved school system in which other deficiencies are discovered shall  
363 remain on full accreditation status for the remainder of the approval period and shall have an  
364 opportunity to correct those deficiencies, notwithstanding other provisions of this subsection.

365 (2) Temporary approval shall be given to a county board whose education system is below  
366 the level required for full approval. Whenever a county board is given temporary approval status,  
367 the county board shall revise its electronic county strategic improvement plan in accordance with  
368 subsection (b) of this section to increase the performance and progress of the school system to  
369 a full approval status level. The revised plan shall be submitted to the state board for approval.

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

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

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

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

376 (4) Nonapproval status shall be given to a county board which fails to submit and gain  
377 approval for its electronic county strategic improvement plan or revised electronic county strategic  
378 improvement plan within a reasonable time period as defined by the state board or which fails to  
379 meet the objectives and time line of its revised electronic county strategic improvement plan or  
380 fails to achieve full approval by the date specified in the revised plan.



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

384 (B) Whenever a county board has more than a casual deficit, as defined in section one,  
385 article one of this chapter, the county board shall submit a plan to the state board specifying the  
386 county board's strategy for eliminating the casual deficit. The state board either shall approve or  
387 reject the plan. If the plan is rejected, the state board shall communicate to the county board the  
388 reason or reasons for the rejection of the plan. The county board may resubmit the plan any  
389 number of times. However, any county board that fails to submit a plan and gain approval for the  
390 plan from the state board before the end of the fiscal year after a deficit greater than a casual  
391 deficit occurred or any county board which, in the opinion of the state board, fails to comply with  
392 an approved plan may be designated as having nonapproval status.

393 (C) Whenever nonapproval status is given to a school system, the state board shall  
394 declare a state of emergency in the school system and shall appoint a team of improvement  
395 consultants to make recommendations within sixty days of appointment for correcting the  
396 emergency. When the state board approves the recommendations, they shall be communicated  
397 to the county board. If progress in correcting the emergency, as determined by the state board,  
398 is not made within six months from the time the county board receives the recommendations, the  
399 state board shall intervene in the operation of the school system to cause improvements to be  
400 made that will provide assurances that a thorough and efficient system of schools will be provided.  
401 This intervention may include, but is not limited to, the following:

402 (i) Limiting the authority of the county superintendent and county board as to the  
403 expenditure of funds, the employment and dismissal of personnel, the establishment and  
404 operation of the school calendar, the establishment of instructional programs and rules and any  
405 other areas designated by the state board by rule, which may include delegating decision-making  
406 authority regarding these matters to the state superintendent;

- 407 (ii) Declaring that the office of the county superintendent is vacant;
- 408 (iii) Declaring that the positions of personnel who serve at the will and pleasure of the  
409 county superintendent as provided in section one, article two, chapter eighteen-a of this code, are  
410 vacant, subject to application and reemployment;
- 411 (iv) Delegating to the state superintendent both the authority to conduct hearings on  
412 personnel matters and school closure or consolidation matters and, subsequently, to render the  
413 resulting decisions and the authority to appoint a designee for the limited purpose of conducting  
414 hearings while reserving to the state superintendent the authority to render the resulting decisions;
- 415 (v) Functioning in lieu of the county board of education in a transfer, sale, purchase or  
416 other transaction regarding real property; and
- 417 (vi) Taking any direct action necessary to correct the emergency including, but not limited  
418 to, the following:
- 419 (I) Delegating to the state superintendent the authority to replace administrators and  
420 principals in low performing schools and to transfer them into alternate professional positions  
421 within the county at his or her discretion; and
- 422 (II) Delegating to the state superintendent the authority to fill positions of administrators  
423 and principals with individuals determined by the state superintendent to be the most qualified for  
424 the positions. Any authority related to intervention in the operation of a county board granted  
425 under this paragraph is not subject to the provisions of article four, chapter eighteen-a of this  
426 code.
- 427 (n) Notwithstanding any other provision of this section, the state board may intervene  
428 immediately in the operation of the county school system with all the powers, duties and  
429 responsibilities contained in subsection (m) of this section, if the state board finds the following:
- 430 (1) That the conditions precedent to intervention exist as provided in this section; and that  
431 delaying intervention for any period of time would not be in the best interests of the students of  
432 the county school system; or

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

436 (o) *Capacity*. -- The process for improving education includes a process for targeting  
437 resources strategically to improve the teaching and learning process. Development of electronic  
438 school and school system strategic improvement plans, pursuant to subsection (b) of this section,  
439 is intended, in part, to provide mechanisms to target resources strategically to the teaching and  
440 learning process to improve student, school and school system performance. When deficiencies  
441 are detected through the assessment and accountability processes, the revision and approval of  
442 school and school system electronic strategic improvement plans shall ensure that schools and  
443 school systems are efficiently using existing resources to correct the deficiencies. When the state  
444 board determines that schools and school systems do not have the capacity to correct  
445 deficiencies, the state board shall take one or more of the following actions:

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

449 (2) Recommend to the appropriate body including, but not limited to, the Legislature,  
450 county boards, schools and communities methods for targeting resources strategically to  
451 eliminate deficiencies identified in the assessment and accountability processes. When making  
452 determinations on recommendations, the state board shall include, but is not limited to, the  
453 following methods:

454 (A) Examining reports and electronic strategic improvement plans regarding the  
455 performance and progress of students, schools and school systems relative to the standards and  
456 identifying the areas in which improvement is needed;

457 (B) Determining the areas of weakness and of ineffectiveness that appear to have  
458 contributed to the substandard performance and progress of students or the deficiencies of the

459 school or school system and requiring the school or school system to work collaboratively with  
460 the West Virginia Department of Education State System of Support to correct the deficiencies;

461 (C) Determining the areas of strength that appear to have contributed to exceptional  
462 student, school and school system performance and progress and promoting their emulation  
463 throughout the system;

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

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

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

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

473 (H) Directing county boards to target their funds strategically toward alleviating  
474 deficiencies;

475 (I) Ensuring that the need for facilities in counties with increased enrollment are  
476 appropriately reflected and recommended for funding;

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

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

481 (p) *Building leadership capacity* – To help build the governance and leadership capacity  
482 of a county board during an intervention in the operation of its school system by the state board,  
483 and to help assure sustained success following return of control to the county board, the state  
484 board shall require the county board to establish goals and action plans, subject to approval of

485 the state board, to improve performance sufficiently to end the intervention within a period of not  
486 more than five years. The state superintendent shall maintain oversight and provide assistance  
487 and feedback to the county board on development and implementation of the goals and action  
488 plans. At a minimum, the goals and action plans shall include:

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

491 (B) Support for the training and development activities identified which may include those  
492 made available through the state superintendent, regional education service agencies, Center for  
493 Professional Development, West Virginia School Board Association, Office of Education  
494 Performance Audits, West Virginia Education Information System and other sources identified in  
495 the goals and action plans. Attendance at these activities included in the goals and action plans  
496 is mandatory as specified in the goals and action plans; and

497 (C) Active involvement by the county board in the improvement process, working in  
498 tandem with the county superintendent to gather, analyze and interpret data, write time-specific  
499 goals to correct deficiencies, prepare and implement action plans and allocate or request from  
500 the State Board of Education the resources, including board development training and coaching,  
501 necessary to achieve approved goals and action plans and sustain system and school  
502 improvement.

503 At least once each year during the period of intervention, the Office of Education  
504 Performance Audits shall assess the readiness of the county board to accept the return of control  
505 of the system or school from the state board and sustain the improvements, and shall make a  
506 report and recommendations to the state board supported by documented evidence of the  
507 progress made on the goals and action plans. The state board may end the intervention or return  
508 any portion of control of the operations of the school system or school that was previously  
509 removed at its sole determination. If the state board determines at the fifth annual assessment  
510 that the county board is still not ready to accept return of control by the state board and sustain

511 the improvements, the state board shall hold a public hearing in the affected county at which the  
512 attendance by all members of the county board is requested so that the reasons for continued  
513 intervention and the concerns of the citizens of the county may be heard. The state board may  
514 continue the intervention only after it holds the public hearing and may require revision of the  
515 goals and action plans.

516           Following the termination of an intervention in the operation of a school system and return  
517 of full control by the state board, the support for governance education and development shall  
518 continue as needed for up to three years. If at any time within this three years, the state board  
519 determines that intervention in the operation of the school system is again necessary, the state  
520 board shall again hold a public hearing in the affected county so that the reasons for the  
521 intervention and the concerns of the citizens of the county may be heard.

NOTE: The purpose of this bill is to require ACT and ACT Aspire to be used as the comprehensive statewide student assessment.

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