

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

### **ENGROSSED**

### **Committee Substitute**

**for**

## **House Bill 4014**

(BY BUTLER, MOFFATT, MCGEEHAN, ESPINOSA, KELLY,

FAIRCLOTH, SUMMERS, ATKINSON, HAMRICK,

AND COWLES)

[Originating in the Committee on Education;

February 23, 2016.]



1 A BILL to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, all  
2 relating generally to academic standards and assessments in schools; removing reference  
3 to the No Child Left Behind Act; adding digital literacy to the list of education and efficiency  
4 standards to be periodically reviewed; defining “academic standards”; making a certain  
5 finding with respect to the Legislature’s constitutional authority; recognizing that the state  
6 board adopted non-Common Core academic standards; requiring continuing review,  
7 analysis, and update of academic standards and collaboration with the Legislature;  
8 establishing criteria for academic standards adopted by the state board; requiring  
9 withdrawal from Memorandum of Agreement relating to adoption of Common Core State  
10 Standards; requiring withdrawal as a governing state in the Smarter Balanced Assessment  
11 Consortium; requiring the Legislative Oversight Commission on Education and  
12 Accountability to review proposed rules for compliance with the law and legislative intent  
13 and take further action at its discretion; removing certain requirements that comprehensive  
14 statewide student assessment must meet and removing associated rule-making authority;  
15 requiring the state board to review and approve a summative assessment for certain grade  
16 levels; requiring that summative assessments meet certain requirements; prohibiting the  
17 implementation of any assessment developed specifically to align with Common Core  
18 State Standards; requiring online assessment preparation; requiring the state board to  
19 develop a plan and make recommendations regarding end of course assessments and  
20 student accountability; establishing reporting requirements; requiring the state board to  
21 develop a policy outlining accountability measures for students taking the comprehensive  
22 statewide assessment; requiring that written requests by parent’s or guardian’s to opt their  
23 student out of assessment be granted; prohibiting discipline, punishment, or grade  
24 reduction of a student who opts out; establishing maximum percentage of instructional  
25 time for summative 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  
2 findings with respect to the process for improving education and its purpose and intent in the  
3 enactment 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 successful education rather than monitoring for  
14 compliance 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 educational standards are met, including, when necessary, seeking  
22 additional resources 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 educational standards are, at a  
33 minimum, being met and that a thorough and efficient system of schools is being provided for all  
34 West Virginia 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) Digital literacy;
- 68 ~~(2)~~(3) Workplace readiness skills;
- 69 ~~(3)~~(4) Finance;
- 70 ~~(4)~~(5) Transportation;
- 71 ~~(5)~~(6) Special education;

- 72           ~~(6)~~(7) Facilities;
- 73           ~~(7)~~(8) Administrative practices;
- 74           ~~(8)~~(9) Training of county board members and administrators;
- 75           ~~(9)~~(10) Personnel qualifications;
- 76           ~~(10)~~(11) Professional development and evaluation;
- 77           ~~(11)~~(12) Student performance, progress and attendance;
- 78           ~~(12)~~(13) Professional personnel, including principals and central office administrators, and
- 79 service personnel attendance;
- 80           ~~(13)~~(14) School and school system performance and progress;
- 81           ~~(14)~~(15) A code of conduct for students and employees;
- 82           ~~(15)~~(16) Indicators of efficiency; and
- 83           ~~(16)~~(17) Any other areas determined by the state board.

84           (d) West Virginia Academic Standards.

85           (1) Legislative authority —

86           (A) Sections one and twelve, article XII of the Constitution of the State of West Virginia  
87 impose a duty upon the Legislature, as a separate but equal branch of government, to “provide,  
88 by general law, for a thorough and efficient system of free schools” to prescribe by law the duties  
89 of the state board of education in the general supervision of free public schools, to prescribe by  
90 law the powers and duties of the superintendent of education and to foster and encourage, moral  
91 intellectual, scientific, and agricultural improvement in schools;

92           (2) For purposes of this subsection, “academic standards” are concise, written  
93 descriptions of what students are expected to know and be able to do at a specific stage of their  
94 education. Academic standards describe what students should have learned by the end of a  
95 course, grade level, or grade span.

96           (3) While recognizing that on December 15, 2015, the state board adopted what it  
97 represented were academic standards no longer aligned with Common Core State Standards and

98 renamed them “West Virginia College – and – Career – Readiness Standards for English  
99 Language Arts (Policy 2520.1A)” and “West Virginia College – and – Career – Readiness  
100 Standards for Mathematics (Policy 2520.1B)”.

101 The Legislature hereby establishes an Academic Standards Evaluation Panel. The Senate  
102 President shall appoint two subject matter experts, one in mathematics and one in English  
103 Language Arts, and the Speaker of the House shall appoint two subject matter experts, one in  
104 mathematics and one in English Language Arts. The Committee on Academic Standards shall:

105 (A) Using the West Virginia College – and – Career – Readiness Standards for English  
106 Language Arts and Mathematics as a framework, review and revise the standards, including  
107 additions, deletions, and edits based upon empirical research and data to ensure grade-level  
108 alignment to the standards of states with a proven track record of consistent high-performing  
109 student achievement in English Language Arts on the National Assessment of Educational  
110 Progress and in Mathematics, on both the National Assessment of Educational Progress and  
111 Trends in Math and Science Study international Assessment.

112 (B) Remove Common Core strategies that require instructional methods.

113 (C) The Panel recommended revisions shall be completed by October 1, 2016.

114 The state board of education shall adopt and implement the standards in a manner that  
115 minimizes classroom interruptions on or before the 2017-2018 school year.

116 (4) The state board shall withdraw from the Memorandum of Agreement entered into with  
117 the Council of Chief State School Officers and The National Governors Association for Best  
118 Practices which required the state board to agree that common core represents eighty-five  
119 percent of West Virginia’s standards in English Language Arts and Mathematics and withdraw as  
120 a governing state in the Smarter Balanced Assessment Consortium;

121 The state board shall not implement the “Next Generation Content Standards and  
122 Objectives for Science in West Virginia Schools” that are to become effective July 1, 2016 and  
123 leave in place current science standards through June 30, 2017.



124 (5) Any academic standard adopted by the board shall meet the following criteria:

125 (A) Are age level and developmentally appropriate, particularly as it relates to sequencing  
126 of content standards and the measurement of student academic performance;

127 (B) Are free of instructional strategies;

128 (C) Meet national and international benchmarks empirically proven to increase and sustain  
129 student achievement;

130 (D) Are based solely on academic content.

131 (5) The Legislative Oversight Commission on Education and Accountability shall review  
132 the proposed rules relating to academic standards to determine whether the board has exceeded  
133 the scope of its statutory authority in approving the proposed legislative rule and whether the  
134 proposed legislative rule is in conformity with the legislative intent of the provisions of this  
135 subsection. The Legislative Oversight Commission on Education and Accountability may, at its  
136 discretion, hold public hearings, recommend to the board any changes needed to comply with the  
137 legislative intent of this subsection, and make recommendations to the Legislature for any  
138 statutory changes needed to clarify the legislative intent of this statute.

139 ~~(d)(e) Comprehensive statewide student assessment program. — The state board shall~~  
140 ~~establish a comprehensive statewide student assessment program to assess student~~  
141 ~~performance and progress in grades three through through twelve. The assessment program is~~  
142 ~~subject to the following:~~

143 ~~(1) The state board shall promulgate a rule in accordance with the provisions of article~~  
144 ~~three b, chapter twenty nine a of this code establishing the comprehensive statewide student~~  
145 ~~assessment program;~~

146 ~~(2) Prior to the 2014-2015 school year, the state board shall align the comprehensive~~  
147 ~~statewide student assessment for all grade levels in which the test is given with the~~  
148 ~~college-readiness standards adopted pursuant to section thirty-nine, article two of this chapter or~~  
149 ~~develop other aligned tests to be required at each grade level so that progress toward college~~  
150 ~~readiness in English/language arts and math can be measured.~~

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

154 (1) Beginning in school year 2016-2017, for federal and state accountability purposes, the  
155 state board shall review and approve a summative assessment system for administration to  
156 students in grades 3 through 8 and once in early high school that assesses students in English,  
157 reading, writing, and mathematics. The assessment shall be administered to all public school  
158 students in grades three through eight and once in high school, to include those students as  
159 required by the federal Individuals with Disabilities Education Act and by Title I of the Elementary  
160 and Secondary Education Act. The summative assessment system must meet the following  
161 requirements:

162 (A) be a vertically-scaled, benchmarked, standards-based system of summative  
163 assessments;

164 (B) document student progress toward national college and career readiness benchmarks  
165 derived from empirical research and state standards;

166 (C) be capable of measuring individual student performance in English, reading, writing,  
167 science, and math;

168 (D) be available in paper-and-pencil and computer-based (by 2016-2017) formats.

169 (5) be a predictive measure of student progress toward a national college readiness  
170 assessment used by higher education institutions for admissions purposes;

171 (2) Beginning with the school year 2016-2017, the State Board of Education shall review  
172 and approve a college readiness assessment to be administered to all students in the eleventh  
173 grade for the first time in school year 2016-2017 and subsequent years. The eleventh grade  
174 college readiness assessment shall be administered at least once to each eleventh grade student  
175 and shall meet the following requirements:

176 (A) is a standardized, curriculum-based, achievement college entrance examination;

177 (B) assesses student readiness for first-year, credit-bearing coursework in postsecondary  
178 education;

179 (C) tests in the areas of English, reading, writing, science, and mathematics;

180 (D) has content area benchmarks for measuring student achievement;

181 (E) is administered throughout the United States; and

182 (F) is relied upon by institutions of higher education for admissions.

183 (3) Beginning with the school year 2016-2017, the state board shall review and approve  
184 career readiness assessments and assessment based credentials that measure and document  
185 foundational workplace skills. The assessments shall be administered to all public secondary  
186 school students in grades eleven or twelve for the first time in school year 2016-2017 and  
187 subsequent years. The assessment-based credential shall be available to any student that  
188 achieves required level on the required assessments. The assessments shall meet the following  
189 requirements:

190 (A) be a standardized, criterion-referenced, measure of broadly relevant foundational  
191 workplace skills;

192 (B) assess and document student readiness for a wide range of jobs;

193 (C) measures skills in all or any of the following areas:

194 (i) applied mathematics;

195 (ii) locating information; or,

196 (iii) reading for information;

197 (D) aligns with research-based skill requirement profiles for specific industries and  
198 occupations;

199 (E) leads to a nationally recognized work readiness certificate for students that meet the  
200 minimum proficiency requirements on the component assessments.

201 (F) be available in paper-and-pencil and computer-based formats.

202           (4) The state board shall not acquire or implement any assessment instrument or  
203 instruments developed to specifically align with the Common Core State Standards including  
204 Smarter Balanced Assessment or Partnership for Assessment of Readiness for College and  
205 Careers (PARCC).

206           (5) For any online assessment, the state board shall provide online assessment  
207 preparation to ensure that students have the requisite digital literacy skills necessary to be  
208 successful on the assessment.

209           (6) The state board shall develop a plan and make recommendations regarding end of  
210 course assessments and student accountability measures and submit its findings to the  
211 Legislative Oversight Commission on Education and Accountability by December 31, 2016.

212           (7) The state board shall develop a policy which outlines accountability measures for  
213 students taking the comprehensive statewide assessment. Notwithstanding any other provision  
214 of law, a parent's or guardian's written request to school officials to excuse his or her child from  
215 any or all parts of the assessments administered pursuant to this subsection shall be granted:  
216 *Provided*, That no student whose parent has opted his or her child out of the assessment shall be  
217 disciplined, punished, or receive a grade reduction: *Provided, further*, That no student shall be  
218 refused a Promise Scholarship, placed in remedial courses, or refused admission to a West  
219 Virginia institution of higher education, based upon the choice of the parent to opt the student out.

220           (8) Any summative assessment approved by the state board shall take no more than two  
221 percent of a student's instructional time.

222           (4)(8) The state board may require that student proficiencies be measured through the  
223 West Virginia writing assessment at any grade levels determined by the state board to be  
224 appropriate.

225           (6)(9) The state board may provide through ~~the statewide assessment program~~ policy  
226 other optional testing or assessment instruments applicable to grade levels kindergarten through  
227 eight and grade eleven which may be used by each school to promote student achievement. The

228 state board annually shall publish and make available, electronically or otherwise, to school  
229 curriculum teams and teacher collaborative processes the optional testing and assessment  
230 instruments.

231 ~~(e)~~(f) *State annual performance measures for school and school system accreditation.* —

232 The state board shall promulgate a rule in accordance with the provisions of article three-b,  
233 chapter twenty-nine-a of this code that establishes a system to assess and weigh annual  
234 performance measures for state accreditation of schools and school systems. The state board  
235 also may establish performance incentives for schools and school systems as part of the state  
236 accreditation system. On or before December 1, 2013, the state board shall report to the Governor  
237 and to the Legislative Oversight Commission on Education Accountability the proposed rule for  
238 establishing the measures and incentives of accreditation and the estimated cost therefore, if any.  
239 Thereafter, the state board shall provide an annual report to the Governor and to the Legislative  
240 Oversight Commission on Education Accountability on the impact and effectiveness of the  
241 accreditation system. The rule for school and school system accreditation proposed by the board  
242 may include, but is not limited to, the following measures:

- 243 (1) Student proficiency in English and language arts, math, science and other subjects  
244 determined by the board;
- 245 (2) Graduation and attendance rate;
- 246 (3) Students taking and passing AP tests;
- 247 (4) Students completing a career and technical education class;
- 248 (5) Closing achievement gaps within subgroups of a school's student population; and
- 249 (6) Students scoring at or above average attainment on SAT or ACT tests.

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

- 254 (1) Curriculum delivery including, but not limited to, the use of distance learning;  
255 (2) Transportation;  
256 (3) Facilities;  
257 (4) Administrative practices;  
258 (5) Personnel;  
259 (6) Use of regional educational service agency programs and services, including programs  
260 and services that may be established by their assigned regional educational service agency or  
261 other regional services that may be initiated between and among participating county boards; and  
262 (7) Any other indicators as determined by the state board.

263 ~~(g)~~(h) *Assessment and accountability of school and school system performance and*  
264 *processes.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this  
265 code, the state board shall establish by rule a system of education performance audits which  
266 measures the quality of education and the preparation of students based on the annual measures  
267 of student, school and school system performance and progress. The system of education  
268 performance audits shall provide information to the state board, the Legislature and the Governor,  
269 upon which they may determine whether a thorough and efficient system of schools is being  
270 provided. The system of education performance audits shall include:

- 271 (1) The assessment of student, school and school system performance and progress  
272 based on the annual measures established pursuant to subsection ~~(e)~~ (f) of this section;  
273 (2) The evaluation of records, reports and other information collected by the Office of  
274 Education Performance Audits upon which the quality of education and compliance with statutes,  
275 policies and standards may be determined;  
276 (3) The review of school and school system electronic strategic improvement plans; and  
277 (4) The on-site review of the processes in place in schools and school systems to enable  
278 school and school system performance and progress and compliance with the standards.

279           ~~(h)~~(i) *Uses of school and school system assessment information.* — The state board shall  
280 use information from the system of education performance audits to assist it in ensuring that a  
281 thorough and efficient system of schools is being provided and to improve student, school and  
282 school system performance and progress. Information from the system of education performance  
283 audits further shall be used by the state board for these purposes, including, but not limited to,  
284 the following:

- 285           (1) Determining school accreditation and school system approval status;  
286           (2) Holding schools and school systems accountable for the efficient use of existing  
287 resources to meet or exceed the standards; and  
288           (3) Targeting additional resources when necessary to improve performance and progress.

289           The state board shall make accreditation information available to the Legislature, the  
290 Governor, the general public and to any individual who requests the information, subject to the  
291 provisions of any act or rule restricting the release of information.

292           ~~(i)~~(j) *Early detection and intervention programs.* — Based on the assessment of student,  
293 school and school system performance and progress, the state board shall establish early  
294 detection and intervention programs using the available resources of the Department of  
295 Education, the regional educational service agencies, the Center for Professional Development  
296 and the Principals Academy, or other resources as appropriate, to assist underachieving schools  
297 and school systems to improve performance before conditions become so grave as to warrant  
298 more substantive state intervention. Assistance shall include, but is not limited to, providing  
299 additional technical assistance and programmatic, professional staff development, providing  
300 monetary, staffing and other resources where appropriate.

301           ~~(j)~~(k) *Office of Education Performance Audits.* —

302           (1) To assist the state board in the operation of a system of education performance audits,  
303 the state board shall establish an Office of Education Performance Audits consistent with the  
304 provisions of this section. The Office of Education Performance Audits shall be operated under

305 the direction of the state board independently of the functions and supervision of the state  
306 Department of Education and state superintendent. The Office of Education Performance Audits  
307 shall report directly to and be responsible to the state board in carrying out its duties under the  
308 provisions of this section.

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

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

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

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

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

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

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

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



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

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

340 (E) Determine, in conjunction with the assessment and accountability processes, staff  
341 development needs of schools and school systems to meet the standards established by the state  
342 board and make recommendations to the state board, the Center for Professional Development,  
343 the regional educational service agencies, the Higher Education Policy Commission and the  
344 county boards;

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

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

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

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

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

359 (iv) The appropriate provision of multicultural activities.

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

363 ~~(k)~~(l) *On-site reviews.* —

364 (1) The system of education performance audits shall include on-site reviews of schools  
365 and school systems which shall be conducted only at the specific direction of the state board upon  
366 its determination that circumstances exist that warrant an on-site review. Any discussion by the  
367 state board of schools to be subject to an on-site review or dates for which on-site reviews will be  
368 conducted may be held in executive session and is not subject to the provisions of article nine-a,  
369 chapter six of this code relating to open governmental proceedings. An on-site review shall be  
370 conducted by the Office of Education Performance Audits of a school or school system for the  
371 purpose of making recommendations to the school and school system, as appropriate, and to the  
372 state board on such measures as it considers necessary. The investigation may include, but is  
373 not limited to, the following:

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

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

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

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

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

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

389 (2) The Director of the Office of Education Performance Audits shall notify the county  
390 superintendent of schools five school days prior to commencing an on-site review of the county  
391 school system and shall notify both the county superintendent and the principal five school days  
392 before commencing an on-site review of an individual school: *Provided*, That the state board may  
393 direct the Office of Education Performance Audits to conduct an unannounced on-site review of  
394 a school or school system if the state board believes circumstances warrant an unannounced  
395 on-site review.

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

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

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

410           (6) The Office of Education Performance Audits shall report the findings of an on-site  
411 review to the county superintendent and the principals whose schools were reviewed within thirty  
412 days following the conclusion of the on-site review. The Office of Education Performance Audits  
413 shall report the findings of the 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 believes one or more findings of a review  
415 are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of  
416 education in the school or county or address issues unrelated to the health, safety and welfare of  
417 students and the quality of education, may appeal to the state board for removal of the findings.  
418 The state board shall establish a process for it to receive, review and act upon the appeals. The  
419 state board shall report to the Legislative Oversight Commission on Education Accountability  
420 during its July interim meetings, or as soon thereafter as practical, on each appeal during the  
421 preceding school year.

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

428           ~~(m)~~ *School accreditation.* —

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

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

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

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

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

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

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

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

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

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

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

458 (i) The principal assigned by the state board shall be paid by the state board until the next  
459 school term, at which time the principal assigned by the state board shall be paid by the county  
460 board;

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

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

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

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

473 ~~(m)~~(n) *School system approval.* — The state board annually shall review the information  
474 submitted for each school system from the system of education performance audits and issue  
475 one of the following approval levels to each county board: Full approval, temporary approval,  
476 conditional approval or nonapproval.

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

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

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

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

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

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

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

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

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

511           (C) Whenever nonapproval status is given to a school system, the state board shall  
512 declare a state of emergency in the school system and shall appoint a team of improvement  
513 consultants to make recommendations within sixty days of appointment for correcting the

514 emergency. When the state board approves the recommendations, they shall be communicated  
515 to the county board. If progress in correcting the emergency, as determined by the state board,  
516 is not made within six months from the time the county board receives the recommendations, the  
517 state board shall intervene in the operation of the school system to cause improvements to be  
518 made that will provide assurances that a thorough and efficient system of schools will be provided.  
519 This intervention may include, but is not limited to, the following:

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

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

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

529 (iv) Delegating to the state superintendent both the authority to conduct hearings on  
530 personnel matters and school closure or consolidation matters and, subsequently, to render the  
531 resulting decisions and the authority to appoint a designee for the limited purpose of conducting  
532 hearings while reserving to the state superintendent the authority to render the resulting decisions;

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

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

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



540 (II) Delegating to the state superintendent the authority to fill positions of administrators  
541 and principals with individuals determined by the state superintendent to be the most qualified for  
542 the positions. Any authority related to intervention in the operation of a county board granted  
543 under this paragraph is not subject to the provisions of article four, chapter eighteen-a of this  
544 code.

545 ~~(n)~~(o) Notwithstanding any other provision of this section, the state board may intervene  
546 immediately in the operation of the county school system with all the powers, duties and  
547 responsibilities contained in subsection ~~(m)~~(n) of this section, if the state board finds the following:

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

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

554 ~~(e)~~(p) *Capacity.* — The process for improving education includes a process for targeting  
555 resources strategically to improve the teaching and learning process. Development of electronic  
556 school and school system strategic improvement plans, pursuant to subsection (b) of this section,  
557 is intended, in part, to provide mechanisms to target resources strategically to the teaching and  
558 learning process to improve student, school and school system performance. When deficiencies  
559 are detected through the assessment and accountability processes, the revision and approval of  
560 school and school system electronic strategic improvement plans shall ensure that schools and  
561 school systems are efficiently using existing resources to correct the deficiencies. When the state  
562 board determines that schools and school systems do not have the capacity to correct  
563 deficiencies, When the state board determines that schools and school systems do not have the  
564 capacity to correct deficiencies, the state board shall take one or more of the following actions:

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

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

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

576 (B) Determining the areas of weakness and of ineffectiveness that appear to have  
577 contributed to the substandard performance and progress of students or the deficiencies of the  
578 school or school system and requiring the school or school system to work collaboratively with  
579 the West Virginia Department of Education State System of Support to correct the deficiencies;

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

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

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

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

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

592 (H) Directing county boards to target their funds strategically toward alleviating  
593 deficiencies;

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

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

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

600 (p) *Building leadership capacity* — To help build the governance and leadership capacity  
601 of a county board during an intervention in the operation of its school system by the state board,  
602 and to help assure sustained success following return of control to the county board, the state  
603 board shall require the county board to establish goals and action plans, subject to approval of  
604 the state board, to improve performance sufficiently to end the intervention within a period of not  
605 more than five years. The state superintendent shall maintain oversight and provide assistance  
606 and feedback to the county board on development and implementation of the goals and action  
607 plans. At a minimum, the goals and action plans shall include:

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

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

616 (C) Active involvement by the county board in the improvement process, working in  
617 tandem with the county superintendent to gather, analyze and interpret data, write time-specific

618 goals to correct deficiencies, prepare and implement action plans and allocate or request from  
619 the State Board of Education the resources, including board development training and coaching,  
620 necessary to achieve approved goals and action plans and sustain system and school  
621 improvement.

622         At least once each year during the period of intervention, the Office of Education  
623 Performance Audits shall assess the readiness of the county board to accept the return of control  
624 of the system or school from the state board and sustain the improvements, and shall make a  
625 report and recommendations to the state board supported by documented evidence of the  
626 progress made on the goals and action plans. The state board may end the intervention or return  
627 any portion of control of the operations of the school system or school that was previously  
628 removed at its sole determination. If the state board determines at the fifth annual assessment  
629 that the county board is still not ready to accept return of control by the state board and sustain  
630 the improvements, the state board shall hold a public hearing in the affected county at which the  
631 attendance by all members of the county board is requested so that the reasons for continued  
632 intervention and the concerns of the citizens of the county may be heard. The state board may  
633 continue the intervention only after it holds the public hearing and may require revision of the  
634 goals and action plans.

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

NOTE: The purpose of this bill is to prevent the State Board of Education from implementing common core academic standards and assessments; to establish a process and criteria for the state to develop alternate academic standards and assessments; to

prohibit the state board from entering into any agreement which requires implementation of common core standards or limits Constitutional authority and obligation to provide a thorough and efficient system of education; and requiring the state board to report to the Legislative Oversight Commission on Education and Accountability.

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