

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2443

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PAYNTER, HIGGINBOTHAM, BLAIR AND MARTIN

[Introduced February 14, 2017; Referred
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating
2 to establishing academic standards and assessment methods.

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 standards are met, including, when necessary, seeking additional resources~~
22 ~~in consultation with the Legislature and the Governor;~~

23 The Constitution of the State of West Virginia, section one, article twelve thereof, states:
24 “The Legislature shall provide, by general law, for a thorough and efficient system of free schools.”
25 Furthermore, section two, article twelve of said Constitution states: “The general supervision of
26 the free schools of the state shall be vested in the West Virginia Board of Education which *shall*
27 *perform such duties as may be prescribed by law.*” (*Emphasis added*). Therefore, because the
28 Legislature is empowered to identify “*such duties as may be prescribed by law*” to the West
29 Virginia Board of Education, it is clearly within the Legislature’s purview to specify appropriate
30 academic standards that will provide for a thorough education. (*Emphasis added*); and

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

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

43 ~~(5) The intent of the Legislature in enacting this section and section five-c of this article is~~

44 ~~to establish a process through which the Legislature, the Governor and the state board can work~~
45 ~~in the spirit of cooperation and collaboration intended in the process for improving education, to~~
46 ~~consult and examine the performance and progress of students, schools and school systems and,~~
47 ~~when necessary, to consider alternative measures to ensure that all students continue to receive~~
48 ~~the thorough and efficient education to which they are entitled. However, nothing in this section~~
49 ~~requires any specific level of funding by the Legislature~~

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

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

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

74 (1) Curriculum;

75 (2) Digital literacy;

76 ~~(2)~~ (3) Workplace readiness skills;

77 ~~(3)~~ (4) Finance;

78 ~~(4)~~ (5) Transportation;

79 ~~(5)~~ (6) Special education;

80 ~~(6)~~ (7) Facilities;

81 ~~(7)~~ (8) Administrative practices;

82 ~~(8)~~ (9) Training of county board members and administrators;

83 ~~(9)~~ (10) Personnel qualifications;

84 ~~(10)~~ (11) Professional development and evaluation;

85 ~~(11)~~ (12) Student performance, progress and attendance;

86 ~~(12)~~ (13) Professional personnel, including principals and central office administrators, and
87 service personnel attendance;

88 ~~(13)~~ (14) School and school system performance and progress;

89 ~~(14)~~ (15) A code of conduct for students and employees; and

90 ~~(15)~~ (16) Indicators of efficiency. and

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

92 (d) West Virginia Academic Standards.

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

96 course, grade level, or grade span.

97 (2) Legislative authority --.

98 Sections one and two, article twelve of the Constitution of the State of West Virginia
99 impose a duty upon the Legislature to provide, by general law, for a thorough and efficient system
100 of free schools and the ability to impose “duties as may be prescribed by law” on the West Virginia
101 Board of Education.

102 (3)(A) Effective July 1, 2017, the State Board of Education is prohibited from implementing
103 Common Core academic standards.

104 (B) Effective July 1, 2017, the State Board of Education shall adopt and implement the
105 following academic standards for public schools:

106 (i) For academic standards for mathematics, in grades K-12, the board shall adopt and
107 implement the Mathematics Content Standards for California Public Schools, adopted by the
108 California State Board of Education in December, 1997, and the Mathematics Framework for
109 California Public Schools, adopted by the California State Board of Education in March, 2005.

110 (ii) For academic standards in English Language Arts, the board shall adopt and
111 implement the Massachusetts Curriculum Frameworks, implemented by the Massachusetts
112 Department of Elementary and Secondary Education as the mandatory curriculum frameworks
113 for English Language Arts in the year 2001, and any associated educational frameworks or
114 supplementation; *Provided*, That any English Language Arts standard related to authors or literary
115 works from the state of Massachusetts may be substituted with appropriate authors or literary
116 works from the State of West Virginia.

117 (C) The academic standards developed pursuant to this section shall remain in place for
118 a minimum of five academic years after the date of implementation.

119 (D) Effective immediately, any proposed changes to academic content standards for public
120 schools shall comply with section two, article two-h, chapter eighteen of the code, which, in part,

121 requires a sixty-day written comment period and at least four public hearings in various locations
122 in the state.

123 (4) The state board shall withdraw from the Memorandum of Agreement entered into with
124 the Council of Chief State School Officers and The National Governors Association for Best
125 Practices which required the state board to agree that Common Core represents eighty-five
126 percent of West Virginia's standards in English Language Arts and Mathematics and withdraw as
127 a governing state in the Smarter Balanced Assessment Consortium;

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

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

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

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

143 (1) Effective July 1, 2017, the Smarter Balanced Assessment or any other assessment
144 based on the Common Core standards may not be used in West Virginia public schools.

145 (2) Beginning on July 1, 2017, the State Board of Education shall establish a Student
146 Assessment Development Committee to develop and select appropriate statewide assessments

147 to measure student progress and college and career-readiness, at each grade level from grades
148 three through twelve, in the following subjects:

149 (A) English Language Arts; and

150 (B) Mathematics.

151 (3) The committee will be comprised of the following members, who shall be appointed by
152 the county school boards:

153 (A) One representative, who is an academic content specialist, from each four-year public
154 institution of higher education in this state.

155 (B) One educator from each public school district in this state. Each teacher serving on
156 the committee will have the following qualifications:

157 (i) The teacher must currently hold a classroom teaching position; and

158 (ii) The teacher must have at least ten years of experience.

159 (C) Two teachers from the five school districts in the state with the largest student
160 population. Each teacher serving on the committee as a representative from the largest school
161 districts must have the following qualifications:

162 (i) The teacher must currently hold a classroom teaching position; and

163 (ii) The teacher must have at least ten years of experience.

164 (4) Beginning prior to the 2017-2018 school year, the committee shall develop, review and
165 approve a summative assessment system to assess student academic progress in grades three,
166 four and five.

167 (5) Beginning in school year 2017-2018, for federal and state accountability purposes, the
168 committee shall develop a summative assessment system for administration to students in grades
169 six through ten that assesses students in English, reading, writing, and mathematics. The
170 assessment shall be administered to all public school students in grades six through ten and early
171 high school grades nine and ten, to include those students as required by the federal Individuals

172 with Disabilities Education Act and by Title I of the Elementary and Secondary Education Act. The
173 summative assessment system must meet the following requirements:

174 (A) The assessment system must document student progress toward national college and
175 career readiness benchmarks derived from empirical research and state standards;

176 (B) The assessment system must be capable of measuring individual student performance
177 in English, reading, writing, and math;

178 (C) The assessment system must be available in paper-and-pencil and/or computer-
179 based (by 2016-2017) formats; and

180 (D) The assessment system must be a predictive measure of student progress toward a
181 national college readiness assessment used by higher education institutions for admissions
182 purposes.

183 (6) Beginning with the school year 2017-2018, the committee shall develop, review and
184 approve a college readiness assessment to be administered to all students in the eleventh grade
185 for the first time in school year 2017-2018 and subsequent years. The eleventh grade college
186 readiness assessment shall be administered at least once to each eleventh grade student and
187 shall meet the following requirements:

188 (A) The assessment must be a standardized, curriculum-based, achievement college
189 entrance examination;

190 (B) The assessment must test student readiness for first-year, credit-bearing coursework
191 in post-secondary education;

192 (C) The assessment must test in the areas of English, reading, writing, and mathematics;

193 (D) The assessment must have content area benchmarks for measuring student
194 achievement;

195 (E) The assessment must be administered throughout the United States; and

196 (F) The assessment must be relied upon by institutions of higher education for admissions.

197 (7) Beginning with the school year 2017-2018, the committee shall review and approve
198 career readiness assessments and assessment based credentials that measure and document
199 foundational workplace skills. The assessments shall be administered to all public secondary
200 school students in grades eleven or twelve for the first time in school year 2017-2018 and
201 subsequent years. The assessment-based credential shall be available to any student that
202 achieves required level on the required assessments. The assessments shall meet the following
203 requirements:

204 (A) The assessments must be a standardized, criterion-referenced, measure of broadly
205 relevant foundational workplace skills;

206 (B) The assessments must test and document student readiness for a wide range of jobs;

207 (C) The assessments must measure skills in all or any of the following areas:

208 (i) Applied mathematics;

209 (ii) Locating information; or,

210 (iii) Reading for information.

211 (D) The assessments must align with research-based skill requirement profiles for specific
212 industries and occupations;

213 (E) The assessments must lead to a nationally recognized work readiness certificate for
214 students that meet the minimum proficiency requirements on the component assessments; and

215 (F) The assessments must be available in paper-and-pencil and computer-based formats.

216 (8) The state board or committee may not acquire or implement any assessment
217 instrument or instruments developed to specifically align with the Common Core State Standards
218 including Smarter Balanced Assessment or Partnership for Assessment of Readiness for College
219 and Careers (PARCC).

220 (9) For any online assessment, the state board shall provide online assessment
221 preparation to ensure that students have the requisite digital literacy skills necessary to be
222 successful on the assessment.

223 (10) The state board shall develop a plan and make recommendations regarding end of
224 course assessments and student accountability measures and submit its findings to the
225 Legislative Oversight Commission on Education and Accountability by December 31, 2017:
226 Provided, That nothing in this section gives the state board the authority to promulgate rules
227 regarding the content of academic standards or assessments.

228 (11) The state board shall develop a policy which outlines accountability measures for
229 students taking the comprehensive statewide assessment. Notwithstanding any other provision
230 of law, a parent's or guardian's written request to school officials to excuse his or her child from
231 any or all parts of the assessments administered pursuant to this subsection shall be granted:
232 Provided, That no student whose parent has opted his or her child out of the assessment shall be
233 disciplined or punished or receive a grade reduction.

234 (12) Any summative assessment approved by the committee shall take no more than two
235 percent of a student's instructional time.

236 (13) A student may not be required to complete a greater number of assessments than is
237 required by the Every Student Succeeds Act.

238 ~~(4)~~ (14) The state board may require that student proficiencies be measured through the
239 West Virginia writing assessment at any grade levels determined by the state board to be
240 appropriate; and

241 ~~(5)~~ (15) The state board may provide, through ~~the statewide assessment program~~, other
242 optional testing or assessment instruments applicable to grade levels kindergarten through grade
243 twelve which may be used by each school to promote student achievement. The state board
244 annually shall publish and make available, electronically or otherwise, to school curriculum teams
245 and teacher collaborative processes the optional testing and assessment instruments.

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

247 The state board shall promulgate a rule in accordance with the provisions of article three-
248 b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual

249 performance measures for state accreditation of schools and school systems. The state board
250 also may establish performance incentives for schools and school systems as part of the state
251 accreditation system. On or before December 1, 2013, the state board shall report to the Governor
252 and to the Legislative Oversight Commission on Education Accountability the proposed rule for
253 establishing the measures and incentives of accreditation and the estimated cost therefore, if any.
254 Thereafter, the state board shall provide an annual report to the Governor and to the Legislative
255 Oversight Commission on Education Accountability on the impact and effectiveness of the
256 accreditation system. The rule for school and school system accreditation proposed by the board
257 may include, but is not limited to, the following measures:

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

260 (2) Graduation and attendance rate;

261 (3) Students taking and passing AP tests;

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

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

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

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

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

270 (2) Transportation;

271 (3) Facilities;

272 (4) Administrative practices;

273 (5) Personnel;

274 (6) Use of regional educational service agency programs and services, including programs

275 and services that may be established by their assigned regional educational service agency or
276 other regional services that may be initiated between and among participating county boards; and

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

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

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

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

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

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

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

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

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

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

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

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

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

317 (1) To assist the state board in the operation of a system of education performance audits,
318 the state board shall establish an Office of Education Performance Audits consistent with the
319 provisions of this section. The Office of Education Performance Audits shall be operated under
320 the direction of the state board independently of the functions and supervision of the state
321 Department of Education and state superintendent. The Office of Education Performance Audits
322 shall report directly to and be responsible to the state board in carrying out its duties under the
323 provisions of this section.

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

327 of Schools.

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

332 (4) Under the direction of the state board, the Office of Education Performance Audits shall
333 receive from the West Virginia education Information System staff research and analysis data on
334 the performance and progress of students, schools and school systems, and shall receive
335 assistance, as determined by the state board, from staff at the state Department of Education,
336 the regional education service agencies, the Center for Professional Development, the Principals
337 Academy and the School Building Authority to carry out the duties assigned to the office.

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

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

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

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

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

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

350 (D) Determine, in conjunction with the assessment and accountability processes, whether
351 statewide system deficiencies exist in the capacity of schools and school systems to meet the
352 standards established by the state board, including the identification of trends and the need for

353 continuing improvements in education, and report those deficiencies and trends to the state
354 board;

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

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

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

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

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

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

374 (iv) The appropriate provision of multicultural activities.

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

378 ~~(k)~~ (l) *On-site reviews.* —

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

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

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

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

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

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

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

404 (2) The Director of the Office of Education Performance Audits shall notify the county

405 superintendent of schools five school days prior to commencing an on-site review of the county
406 school system and shall notify both the county superintendent and the principal five school days
407 before commencing an on-site review of an individual school: *Provided*, That the state board may
408 direct the Office of Education Performance Audits to conduct an unannounced on-site review of
409 a school or school system if the state board believes circumstances warrant an unannounced on-
410 site review.

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

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

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

425 (6) The Office of Education Performance Audits shall report the findings of an on-site
426 review to the county superintendent and the principals whose schools were reviewed within thirty
427 days following the conclusion of the on-site review. The Office of Education Performance Audits
428 shall report the findings of the on-site review to the state board within forty-five days after the
429 conclusion of the on-site review. A school or county that believes one or more findings of a review
430 are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of

431 education in the school or county or address issues unrelated to the health, safety and welfare of
432 students and the quality of education, may appeal to the state board for removal of the findings.
433 The state board shall establish a process for it to receive, review and act upon the appeals.

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

440 ~~(j)~~ (m) *School accreditation.* —

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

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

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

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

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

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

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

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

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

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

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

470 (i) The principal assigned by the state board shall be paid by the state board until the next
471 school term, at which time the principal assigned by the state board shall be paid by the county
472 board;

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

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

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

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

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

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

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

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

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

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

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

506 (4) Nonapproval status shall be given to a county board which fails to submit and gain
507 approval for its electronic county strategic improvement plan or revised electronic county strategic
508 improvement plan within a reasonable time period as defined by the state board or which fails to

509 meet the objectives and time line of its revised electronic county strategic improvement plan or
510 fails to achieve full approval by the date specified in the revised plan.

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

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

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

532 (i) Limiting the authority of the county superintendent and county board as to the
533 expenditure of funds, the employment and dismissal of personnel, the establishment and
534 operation of the school calendar, the establishment of instructional programs and rules and any

535 other areas designated by the state board by rule, which may include delegating decision-making
536 authority regarding these matters to the state superintendent;

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

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

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

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

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

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

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

557 ~~(A)~~ (O) Notwithstanding any other provision of this section, the state board may intervene
558 immediately in the operation of the county school system with all the powers, duties and
559 responsibilities contained in subsection (m) of this section, if the state board finds the following:

560 (1) That the conditions precedent to intervention exist as provided in this section; and that

561 delaying intervention for any period of time would not be in the best interests of the students of
562 the county school system; or

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

566 ~~(e)~~ (d) *Capacity*. — The process for improving education includes a process for targeting
567 resources strategically to improve the teaching and learning process. Development of electronic
568 school and school system strategic improvement plans, pursuant to subsection (b) of this section,
569 is intended, in part, to provide mechanisms to target resources strategically to the teaching and
570 learning process to improve student, school and school system performance. When deficiencies
571 are detected through the assessment and accountability processes, the revision and approval of
572 school and school system electronic strategic improvement plans shall ensure that schools and
573 school systems are efficiently using existing resources to correct the deficiencies. When the state
574 board determines that schools and school systems do not have the capacity to correct
575 deficiencies, the state board shall take one or more of the following actions:

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

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

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

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

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

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

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

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

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

603 (H) Directing county boards to target their funds strategically toward alleviating
604 deficiencies;

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

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

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

611 ~~(P)~~ (Q) *Building leadership capacity* — To help build the governance and leadership
612 capacity of a county board during an intervention in the operation of its school system by the state

613 board, and to help assure sustained success following return of control to the county board, the
614 state board shall require the county board to establish goals and action plans, subject to approval
615 of the state board, to improve performance sufficiently to end the intervention within a period of
616 not more than five years. The state superintendent shall maintain oversight and provide
617 assistance and feedback to the county board on development and implementation of the goals
618 and action plans. At a minimum, the goals and action plans shall include:

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

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

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

633 At least once each year during the period of intervention, the Office of Education
634 Performance Audits shall assess the readiness of the county board to accept the return of control
635 of the system or school from the state board and sustain the improvements, and shall make a
636 report and recommendations to the state board supported by documented evidence of the
637 progress made on the goals and action plans. The state board may end the intervention or return
638 any portion of control of the operations of the school system or school that was previously

639 removed at its sole determination. If the state board determines at the fifth annual assessment
640 that the county board is still not ready to accept return of control by the state board and sustain
641 the improvements, the state board shall hold a public hearing in the affected county at which the
642 attendance by all members of the county board is requested so that the reasons for continued
643 intervention and the concerns of the citizens of the county may be heard. The state board may
644 continue the intervention only after it holds the public hearing and may require revision of the
645 goals and action plans.

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

NOTE: The purpose of this bill is to establish academic standards and assessment methods.

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