

1 **ENROLLED**

2 **H. B. 2140**

3
4 (By Delegates Perry, Pasdon, Hamrick, Rowan, Ambler, Cooper
5 Romine, Moye, Hartman and Williams)

6
7 [Passed March 13, 2015; in effect ninety days from passage]

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9
10 AN ACT to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating
11 to building governance and leadership capacity of county board during period of state
12 intervention; providing flexibility on strategic plans; authorizing removal, subject to
13 reemployment, of will and pleasure employees of the county superintendent during
14 intervention in operation of school system; requiring during periods of intervention, county
15 board goals and action plans for improvement and sustained success to end intervention in
16 not more than five years; specifying minimum components of goals and action plans;
17 requiring annual assessment and report of readiness of county to accept return and sustain
18 improvement; requiring public hearing if determination made at fifth annual assessment the
19 county board not ready; continued intervention allowed only after hearing; requiring
20 continued supports as needed for three years following end of intervention; and requiring
21 public hearing for another intervention within this three years.

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

23 That §18-2E-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted

1 to read as follows:

2 **ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

3 **§18-2E-5. Process for improving education; education standards; statewide assessment**
4 **program; accountability measures; Office of Education Performance Audits;**
5 **school accreditation and school system approval; intervention to correct low**
6 **performance.**

7 (a) *Legislative findings, purpose and intent.* -- The Legislature makes the following findings
8 with respect to the process for improving education and its purpose and intent in the enactment of
9 this section:

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

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

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

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

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

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

7 (3) As the constitutional body charged with providing for a thorough and efficient system of
8 schools, the Legislature has the authority and the responsibility to establish and be engaged
9 constructively in the determination of the knowledge and skills that students should know and be
10 able to do as the result of a thorough and efficient education. This determination is made by using
11 the process for improving education to determine when school improvement is needed, by evaluating
12 the results and the efficiency of the system of schools, by ensuring accountability and by providing
13 for the necessary capacity and its efficient use;

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

19 (5) The intent of the Legislature in enacting this section and section five-c of this article is
20 to establish a process through which the Legislature, the Governor and the state board can work in
21 the spirit of cooperation and collaboration intended in the process for improving education to consult
22 and examine the performance and progress of students, schools and school systems and, when

1 necessary, to consider alternative measures to ensure that all students continue to receive the
2 thorough and efficient education to which they are entitled. However, nothing in this section
3 requires any specific level of funding by the Legislature.

4 (b) *Electronic county and school strategic improvement plans.* -- The state board shall
5 promulgate a rule consistent with the provisions of this section and in accordance with article
6 three-b, chapter twenty-nine-a of this code establishing an electronic county strategic improvement
7 plan for each county board and an electronic school strategic improvement plan for each public
8 school in this state. Each respective plan shall be for a period of no more than five years and shall
9 include the mission and goals of the school or school system to improve student, school or school
10 system performance and progress, as applicable. The strategic plan shall be revised annually in each
11 area in which the school or system is below the standard on the annual performance measures. The
12 plan shall be revised when required pursuant to this section to include each annual performance
13 measure upon which the school or school system fails to meet the standard for performance and
14 progress, the action to be taken to meet each measure, a separate time line and a date certain for
15 meeting each measure, a cost estimate and, when applicable, the assistance to be provided by the
16 department and other education agencies to improve student, school or school system performance
17 and progress to meet the annual performance measure.

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

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

- 5 (1) Curriculum;
- 6 (2) Workplace readiness skills;
- 7 (3) Finance;
- 8 (4) Transportation;
- 9 (5) Special education;
- 10 (6) Facilities;
- 11 (7) Administrative practices;
- 12 (8) Training of county board members and administrators;
- 13 (9) Personnel qualifications;
- 14 (10) Professional development and evaluation;
- 15 (11) Student performance, progress and attendance;
- 16 (12) Professional personnel, including principals and central office administrators, and
17 service personnel attendance;
- 18 (13) School and school system performance and progress;
- 19 (14) A code of conduct for students and employees;
- 20 (15) Indicators of efficiency; and
- 21 (16) Any other areas determined by the state board.

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

1 a comprehensive statewide student assessment program to assess student performance and progress
2 in grades three through twelve. The assessment program is subject to the following:

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

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

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

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

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

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

22 The state board shall promulgate a rule in accordance with the provisions of article three-b,

1 chapter twenty-nine-a of this code that establishes a system to assess and weigh annual performance
2 measures for state accreditation of schools and school systems. The state board also may establish
3 performance incentives for schools and school systems as part of the state accreditation system. On
4 or before December 1, 2013, the state board shall report to the Governor and to the Legislative
5 Oversight Commission on Education Accountability the proposed rule for establishing the measures
6 and incentives of accreditation and the estimated cost therefore, if any. Thereafter, the state board
7 shall provide an annual report to the Governor and to the Legislative Oversight Commission on
8 Education Accountability on the impact and effectiveness of the accreditation system. The rule for
9 school and school system accreditation proposed by the board may include, but is not limited to, the
10 following measures:

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

13 (2) Graduation and attendance rate;

14 (3) Students taking and passing AP tests;

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

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

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

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

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

- 1 (2) Transportation;
- 2 (3) Facilities;
- 3 (4) Administrative practices;
- 4 (5) Personnel;
- 5 (6) Use of regional educational service agency programs and services, including programs
- 6 and services that may be established by their assigned regional educational service agency or other
- 7 regional services that may be initiated between and among participating county boards; and
- 8 (7) Any other indicators as determined by the state board.
- 9 (g) *Assessment and accountability of school and school system performance and processes.*

10 -- In accordance with the provisions of article three-b, chapter twenty-nine-a of this code, the state
11 board shall establish by rule a system of education performance audits which measures the quality
12 of education and the preparation of students based on the annual measures of student, school and
13 school system performance and progress. The system of education performance audits shall provide
14 information to the state board, the Legislature and the Governor, upon which they may determine
15 whether a thorough and efficient system of schools is being provided. The system of education
16 performance audits shall include:

- 17 (1) The assessment of student, school and school system performance and progress based on
- 18 the annual measures established pursuant to subsection (e) of this section;
- 19 (2) The evaluation of records, reports and other information collected by the Office of
- 20 Education Performance Audits upon which the quality of education and compliance with statutes,
- 21 policies and standards may be determined;
- 22 (3) The review of school and school system electronic strategic improvement plans; and

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

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

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

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

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

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

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

1 where appropriate.

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

3 (1) To assist the state board in the operation of a system of education performance audits, the
4 state board shall establish an Office of Education Performance Audits consistent with the provisions
5 of this section. The Office of Education Performance Audits shall be operated under the direction
6 of the state board independently of the functions and supervision of the State Department of
7 Education and state superintendent. The Office of Education Performance Audits shall report
8 directly to and be responsible to the state board in carrying out its duties under the provisions of this
9 section.

10 (2) The office shall be headed by a director who shall be appointed by the state board and
11 who serves at the will and pleasure of the state board. The annual salary of the director shall be set
12 by the state board and may not exceed eighty percent of the salary of the State Superintendent of
13 Schools.

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

18 (4) Under the direction of the state board, the Office of Education Performance Audits shall
19 receive from the West Virginia education information system staff research and analysis data on the
20 performance and progress of students, schools and school systems, and shall receive assistance, as
21 determined by the state board, from staff at the State Department of Education, the regional
22 education service agencies, the Center for Professional Development, the Principals Academy and

1 the School Building Authority to carry out the duties assigned to the office.

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (iv) The appropriate provision of multicultural activities.

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

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

19 (1) The system of education performance audits shall include on-site reviews of schools and
20 school systems which shall be conducted only at the specific direction of the state board upon its
21 determination that circumstances exist that warrant an on-site review. Any discussion by the state
22 board of schools to be subject to an on-site review or dates for which on-site reviews will be

1 conducted may be held in executive session and is not subject to the provisions of article nine-a,
2 chapter six of this code relating to open governmental proceedings. An on-site review shall be
3 conducted by the Office of Education Performance Audits of a school or school system for the
4 purpose of making recommendations to the school and school system, as appropriate, and to the state
5 board on such measures as it considers necessary. The investigation may include, but is not limited
6 to, the following:

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

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

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

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

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

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

20 (2) The Director of the Office of Education Performance Audits shall notify the county
21 superintendent of schools five school days prior to commencing an on-site review of the county
22 school system and shall notify both the county superintendent and the principal five school days

1 before commencing an on-site review of an individual school: *Provided*, That the state board may
2 direct the Office of Education Performance Audits to conduct an unannounced on-site review of a
3 school or school system if the state board believes circumstances warrant an unannounced on-site
4 review.

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

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

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

19 (6) The Office of Education Performance Audits shall report the findings of an on-site review
20 to the county superintendent and the principals whose schools were reviewed within thirty days
21 following the conclusion of the on-site review. The Office of Education Performance Audits shall
22 report the findings of the on-site review to the state board within forty-five days after the conclusion

1 of the on-site review. A school or county that believes one or more findings of a review are clearly
2 inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of education in
3 the school or county or address issues unrelated to the health, safety and welfare of students and the
4 quality of education, may appeal to the state board for removal of the findings. The state board shall
5 establish a process for it to receive, review and act upon the appeals. The state board shall report to
6 the Legislative Oversight Commission on Education Accountability during its July interim meetings,
7 or as soon thereafter as practical, on each appeal during the preceding school year.

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

13 (l) *School accreditation.* --

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

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

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

21 (C) The state board will establish the levels of accreditation in such a manner as to minimize
22 the number of systems of school recognition, both state and federal, that are employed to recognize

1 and accredit schools.

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

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

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

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

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

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

15 (E) To intervene directly in the operation of a school and declare the position of principal
16 vacant and assign a principal for the school who will serve at the will and pleasure of the state board.

17 If the principal who was removed elects not to remain an employee of the county board, then the
18 principal assigned by the state board shall be paid by the county board. If the principal who was
19 removed elects to remain an employee of the county board, then the following procedure applies:

20 (i) The principal assigned by the state board shall be paid by the state board until the next
21 school term, at which time the principal assigned by the state board shall be paid by the county
22 board;

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (B) Whenever a county board has more than a casual deficit, as defined in section one, article
21 one of this chapter, the county board shall submit a plan to the state board specifying the county
22 board's strategy for eliminating the casual deficit. The state board either shall approve or reject the

1 plan. If the plan is rejected, the state board shall communicate to the county board the reason or
2 reasons for the rejection of the plan. The county board may resubmit the plan any number of times.
3 However, any county board that fails to submit a plan and gain approval for the plan from the state
4 board before the end of the fiscal year after a deficit greater than a casual deficit occurred or any
5 county board which, in the opinion of the state board, fails to comply with an approved plan may be
6 designated as having nonapproval status.

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

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

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

22 (iii) Declaring that the positions of personnel who serve at the will and pleasure of the county

1 superintendent as provided in section one, article two, chapter eighteen-a of this code, are vacant,
2 subject to application and reemployment;

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

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

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

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

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

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

21 (1) That the conditions precedent to intervention exist as provided in this section; and that
22 delaying intervention for any period of time would not be in the best interests of the students of the

1 county school system; or

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

5 (o) *Capacity*. -- The process for improving education includes a process for targeting
6 resources strategically to improve the teaching and learning process. Development of electronic
7 school and school system strategic improvement plans, pursuant to subsection (b) of this section, is
8 intended, in part, to provide mechanisms to target resources strategically to the teaching and learning
9 process to improve student, school and school system performance. When deficiencies are detected
10 through the assessment and accountability processes, the revision and approval of school and school
11 system electronic strategic improvement plans shall ensure that schools and school systems are
12 efficiently using existing resources to correct the deficiencies. When the state board determines that
13 schools and school systems do not have the capacity to correct deficiencies, When the state board
14 determines that schools and school systems do not have the capacity to correct deficiencies, the state
15 board shall take one or more of the following actions:

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

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

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

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

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

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

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

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

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

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

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

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

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

5 (p) *Building leadership capacity* – To help build the governance and leadership capacity of
6 a county board during an intervention in the operation of its school system by the state board, and
7 to help assure sustained success following return of control to the county board, the state board shall
8 require the county board to establish goals and action plans, subject to approval of the state board,
9 to improve performance sufficiently to end the intervention within a period of not more than five
10 years. The state superintendent shall maintain oversight and provide assistance and feedback to the
11 county board on development and implementation of the goals and action plans. At a minimum, the
12 goals and action plans shall include:

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

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

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

1 correct deficiencies, prepare and implement action plans and allocate or request from the state board
2 of education the resources, including board development training and coaching, necessary to achieve
3 approved goals and action plans and sustain system and school improvement.

4 At least once each year during the period of intervention, the Office of Education
5 Performance Audits shall assess the readiness of the county board to accept the return of control of
6 the system or school from the state board and sustain the improvements, and shall make a report and
7 recommendations to the state board supported by documented evidence of the progress made on the
8 goals and action plans. The state board may end the intervention or return any portion of control of
9 the operations of the school system or school that was previously removed at its sole determination.
10 If the state board determines at the fifth annual assessment that the county board is still not ready to
11 accept return of control by the state board and sustain the improvements, the state board shall hold
12 a public hearing in the affected county at which the attendance by all members of the county board
13 is requested so that the reasons for continued intervention and the concerns of the citizens of the
14 county may be heard. The state board may continue the intervention only after it holds the public
15 hearing and may require revision of the goals and action plans.

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