

H. B. 2140

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[Introduced January 20, 2015; referred to the
Committee on Education then Finance.]

A BILL to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating to building governance and leadership capacity of county board during period of state intervention; providing flexibility on strategic plans; authorizing removal, subject to reemployment, of will and pleasure employees of the county superintendent during intervention in operation of school system; requiring during periods of intervention, county board goals and action plans for improvement and sustained success to end intervention in not more than five years; specifying minimum

components of goals and action plans; requiring annual assessment and report of readiness of county to accept return and sustain improvement; requiring public hearing if determination made at fifth annual assessment the county board not ready; continued intervention allowed only after hearing; requiring continued supports as needed for three years following end of intervention; and requiring public hearing for another intervention within this three years.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

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

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

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

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

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

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

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

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

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

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

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

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

84 school or school system performance and progress to meet the
85 annual performance measure.

86 The department shall make available to all public schools
87 through its website or the West Virginia Education Information
88 System an electronic school strategic improvement plan
89 boilerplate designed for use by all schools to develop an
90 electronic school strategic improvement plan which incorporates
91 all required aspects and satisfies all improvement plan require-
92 ments of the No Child Left Behind Act.

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

- 99 (1) Curriculum;
100 (2) Workplace readiness skills;
101 (3) Finance;
102 (4) Transportation;
103 (5) Special education;

- 104 (6) Facilities;
- 105 (7) Administrative practices;
- 106 (8) Training of county board members and administrators;
- 107 (9) Personnel qualifications;
- 108 (10) Professional development and evaluation;
- 109 (11) Student performance, progress and attendance;
- 110 (12) Professional personnel, including principals and central
111 office administrators, and service personnel attendance;
- 112 (13) School and school system performance and progress;
- 113 (14) A code of conduct for students and employees;
- 114 (15) Indicators of efficiency; and
- 115 (16) Any other areas determined by the state board.

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

- 121 (1) The state board shall promulgate a rule in accordance
122 with the provisions of article three-b, chapter twenty-nine-a of

123 this code establishing the comprehensive statewide student
124 assessment program;

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

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

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

139 (5) The state board may provide through the statewide
140 assessment program other optional testing or assessment
141 instruments applicable to grade levels kindergarten through
142 grade twelve which may be used by each school to promote

143 student achievement. The state board annually shall publish and
144 make available, electronically or otherwise, to school curriculum
145 teams and teacher collaborative processes the optional testing
146 and assessment instruments.

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

149 The state board shall promulgate a rule in accordance with
150 the provisions of article three-b, chapter twenty-nine-a of this
151 code that establishes a system to assess and weigh annual
152 performance measures for state accreditation of schools and
153 school systems. The state board also may establish performance
154 incentives for schools and school systems as part of the state
155 accreditation system. On or before December 1, 2013, the state
156 board shall report to the Governor and to the Legislative
157 Oversight Commission on Education Accountability the pro-
158 posed rule for establishing the measures and incentives of
159 accreditation and the estimated cost therefore, if any. Thereafter,
160 the state board shall provide an annual report to the Governor
161 and to the Legislative Oversight Commission on Education
162 Accountability on the impact and effectiveness of the accredita-

163 tion system. The rule for school and school system accreditation
164 proposed by the board may include, but is not limited to, the
165 following measures:

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

168 (2) Graduation and attendance rate;

169 (3) Students taking and passing AP tests;

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

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

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

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

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

184 (2) Transportation;

185 (3) Facilities;

186 (4) Administrative practices;

187 (5) Personnel;

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

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

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

201 The system of education performance audits shall provide

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

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

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

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

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

218 (h) *Uses of school and school system assessment informa-*
219 *tion.* — The state board shall use information from the system of
220 education performance audits to assist it in ensuring that a
221 thorough and efficient system of schools is being provided and

222 to improve student, school and school system performance and
223 progress. Information from the system of education performance
224 audits further shall be used by the state board for these purposes,
225 including, but not limited to, the following:

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

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

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

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

238 (i) *Early detection and intervention programs.* — Based on
239 the assessment of student, school and school system performance
240 and progress, the state board shall establish early detection and
241 intervention programs using the available resources of the

242 Department of Education, the regional educational service
243 agencies, the Center for Professional Development and the
244 Principals Academy, or other resources as appropriate, to assist
245 underachieving schools and school systems to improve perfor-
246 mance before conditions become so grave as to warrant more
247 substantive state intervention. Assistance shall include, but is not
248 limited to, providing additional technical assistance and pro-
249 grammatic, professional staff development, providing monetary,
250 staffing and other resources where appropriate.

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

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

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

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

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

281 School Building Authority to carry out the duties assigned to the
282 office.

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

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

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

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

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

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

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

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

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

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

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

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

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

335 (iv) The appropriate provision of multicultural activities.

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

341 (k) *On-site reviews.* —

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

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

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

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

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

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

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

377 (2) The Director of the Office of Education Performance
378 Audits shall notify the county superintendent of schools five
379 school days prior to commencing an on-site review of the county
380 school system and shall notify both the county superintendent

381 and the principal five school days before commencing an on-site
382 review of an individual school: *Provided*, That the state board
383 may direct the Office of Education Performance Audits to
384 conduct an unannounced on-site review of a school or school
385 system if the state board believes circumstances warrant an
386 unannounced on-site review.

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

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

396 (5) At the conclusion of an on-site review of a school
397 system, the director and team leaders shall hold an exit confer-
398 ence with the superintendent and shall provide an opportunity for
399 principals to be present for at least the portion of the conference
400 pertaining to their respective schools. In the case of an on-site

401 review of a school, the exit conference shall be held with the
402 principal and curriculum team of the school and the superinten-
403 dent shall be provided the opportunity to be present. The purpose
404 of the exit conference is to review the initial findings of the
405 on-site review, clarify and correct any inaccuracies and allow the
406 opportunity for dialogue between the reviewers and the school
407 or school system to promote a better understanding of the
408 findings.

409 (6) The Office of Education Performance Audits shall report
410 the findings of an on-site review to the county superintendent
411 and the principals whose schools were reviewed within thirty
412 days following the conclusion of the on-site review. The Office
413 of Education Performance Audits shall report the findings of the
414 on-site review to the state board within forty-five days after the
415 conclusion of the on-site review. A school or county that
416 believes one or more findings of a review are clearly inaccurate,
417 incomplete or misleading, misrepresent or fail to reflect the true
418 quality of education in the school or county or address issues
419 unrelated to the health, safety and welfare of students and the
420 quality of education, may appeal to the state board for removal

421 of the findings. The state board shall establish a process for it to
422 receive, review and act upon the appeals. The state board shall
423 report to the Legislative Oversight Commission on Education
424 Accountability during its July interim meetings, or as soon
425 thereafter as practical, on each appeal during the preceding
426 school year.

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

435 (l) *School accreditation.* —

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

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

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

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

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

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

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

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

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

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

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

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

480 (ii) The principal who was removed is eligible for all
481 positions in the county, including teaching positions, for which

482 the principal is certified, by either being placed on the transfer
483 list in accordance with section seven, article two, chapter
484 eighteen-a of this code, or by being placed on the preferred recall
485 list in accordance with section seven-a, article four, chapter
486 eighteen-a of this code; and

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

491 (F) ~~Such~~ Other powers and actions the state board deter-
492 mines necessary to fulfill its duties of general supervision of the
493 schools and school systems of West Virginia.

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

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

501 approval, temporary approval, conditional approval or
502 nonapproval.

503 (1) Full approval shall be given to a county board whose
504 schools have all been given full, temporary or conditional
505 accreditation status and which does not have any deficiencies
506 which would endanger student health or safety or other extraor-
507 dinary circumstances as defined by the state board. A fully
508 approved school system in which other deficiencies are discov-
509 ered shall remain on full accreditation status for the remainder
510 of the approval period and shall have an opportunity to correct
511 those deficiencies, notwithstanding other provisions of this
512 subsection.

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

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

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

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

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

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

538 (A) The state board shall establish and adopt additional
539 standards to identify school systems in which the program may
540 be nonapproved and the state board may issue nonapproval

541 status whenever extraordinary circumstances exist as defined by
542 the state board.

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

557 (C) Whenever nonapproval status is given to a school
558 system, the state board shall declare a state of emergency in the
559 school system and shall appoint a team of improvement consul-
560 tants to make recommendations within sixty days of appointment

561 for correcting the emergency. When the state board approves the
562 recommendations, they shall be communicated to the county
563 board. If progress in correcting the emergency, as determined by
564 the state board, is not made within six months from the time the
565 county board receives the recommendations, the state board shall
566 intervene in the operation of the school system to cause improve-
567 ments to be made that will provide assurances that a thorough
568 and efficient system of schools will be provided. This interven-
569 tion may include, but is not limited to, the following:

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

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

579 (iii) Declaring that the positions of personnel who serve at
580 the will and pleasure of the county superintendent as provided in

581 section one, article two, chapter eighteen-a of this code, are
582 vacant, subject to application and reemployment;

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

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

593 ~~(v)~~ (vi) Taking any direct action necessary to correct the
594 emergency including, but not limited to, the following:

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

599 (II) Delegating to the state superintendent the authority to fill
600 positions of administrators and principals with individuals

601 determined by the state superintendent to be the most qualified
602 for the positions. Any authority related to intervention in the
603 operation of a county board granted under this paragraph is not
604 subject to the provisions of article four, chapter eighteen-a of
605 this code.

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

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

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

619 (o) *Capacity*. — The process for improving education
620 includes a process for targeting resources strategically to

621 improve the teaching and learning process. Development of
622 electronic school and school system strategic improvement
623 plans, pursuant to subsection (b) of this section, is intended, in
624 part, to provide mechanisms to target resources strategically to
625 the teaching and learning process to improve student, school and
626 school system performance. When deficiencies are detected
627 through the assessment and accountability processes, the
628 revision and approval of school and school system electronic
629 strategic improvement plans shall ensure that schools and school
630 systems are efficiently using existing resources to correct the
631 deficiencies. When the state board determines that schools and
632 school systems do not have the capacity to correct deficiencies,
633 the state board shall take one or more of the following actions:

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

639 (2) ~~The state board shall~~ Recommend to the appropriate
640 body including, but not limited to, the Legislature, county

641 boards, schools and communities methods for targeting re-
642 sources strategically to eliminate deficiencies identified in the
643 assessment and accountability processes. When making determi-
644 nations on recommendations, the state board shall include, but
645 is not limited to, the following methods:

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

650 (‡) (B) Determining the areas of weakness and of ineffec-
651 tiveness that appear to have contributed to the substandard
652 performance and progress of students or the deficiencies of the
653 school or school system and requiring the school or school
654 system to work collaboratively with the West Virginia Depart-
655 ment of Education State System of Support to correct the
656 deficiencies;

657 (§) (C) Determining the areas of strength that appear to have
658 contributed to exceptional student, school and school system
659 performance and progress and promoting their emulation
660 throughout the system;

661 ~~(4)~~ (D) Requesting technical assistance from the School
662 Building Authority in assessing or designing comprehensive
663 educational facilities plans;

664 ~~(5)~~ (E) Recommending priority funding from the School
665 Building Authority based on identified needs;

666 ~~(6)~~ (F) Requesting special staff development programs from
667 the Center for Professional Development, the Principals Acad-
668 emy, higher education, regional educational service agencies and
669 county boards based on identified needs;

670 ~~(7)~~ (G) Submitting requests to the Legislature for appropria-
671 tions to meet the identified needs for improving education;

672 ~~(8)~~ (H) Directing county boards to target their funds strategi-
673 cally toward alleviating deficiencies;

674 ~~(9)~~ (I) Ensuring that the need for facilities in counties with
675 increased enrollment are appropriately reflected and recom-
676 mended for funding;

677 ~~(10)~~ (J) Ensuring that the appropriate person or entity is held
678 accountable for eliminating deficiencies; and

679 ~~(11)~~ (K) Ensuring that the needed capacity is available from
680 the state and local level to assist the school or school system in
681 achieving the standards and alleviating the deficiencies.

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

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

697 (B) Support for the training and development activities
698 identified which may include those made available through the
699 state superintendent, regional education service agencies, Center
700 for Professional Development, West Virginia School Board
701 Association, Office of Education Performance Audits, West

702 Virginia Education Information System and other sources
703 identified in the goals and action plans. Attendance at these
704 activities included in the goals and action plans is mandatory as
705 specified in the goals and action plans; and

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

714 At least once each year during the period of intervention, the
715 Office of Education Performance Audits shall assess the
716 readiness of the county board to accept the return of control of
717 the system or school from the state board and sustain the
718 improvements, and shall make a report and recommendations to
719 the state board supported by documented evidence of the
720 progress made on the goals and action plans. The state board
721 may end the intervention or return any portion of control of the

722 operations of the school system or school that was previously
723 removed at its sole determination. If the state board determines
724 at the fifth annual assessment that the county board is still not
725 ready to accept return of control by the state board and sustain
726 the improvements, the state board shall hold a public hearing in
727 the affected county at which the attendance by all members of
728 the county board is requested so that the reasons for continued
729 intervention and the concerns of the citizens of the county may
730 be heard. The state board may continue the intervention only
731 after it holds the public hearing and may require revision of the
732 goals and action plans.

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

NOTE: This bill establishes a process to build governance and leadership capacity of county board during period of state intervention. It requires county board to establish goals and action plans for improvement and sustained success to end intervention in not more than five years. The goals and action plans are subject to approval of the state board and must include needed training and active engagement by the county board in the improvement process. Progress on the goals and action plans must be annually assessed and report made to the state board on the readiness of the county board to accept return and sustain improvement. If a determination is made at fifth annual assessment that the county board is still not ready, the state board must hold a public hearing in the county so that the reasons for continued intervention and concerns of citizens may be heard. Continued intervention is allowed only after the hearing. Supports for continued improvement must continue, as needed, for three years following end of an intervention. For another intervention within this three years, another public hearing must be held.

Strike-throughs indicate existing language that would be removed, and underscoring indicates new language that would be added.