

WEST VIRGINIA LEGISLATURE
2016 FIRST EXTRAORDINARY SESSION

Introduced

House Bill 110

**FISCAL
NOTE**

BY DELEGATE LANE

[Introduced May 24, 2016; Referred
to the Committee on Education then Finance.]

1 A BILL to amend and reenact §18-2E-5 of the Code of West Virginia, 1931, as amended, relating
 2 to the cancellation of the Smarter Balanced Assessment and the Partnership for
 3 Assessment of Readiness for College and Careers (PARCC) as a statewide assessment
 4 programs; prohibiting the use of the Smarter Balanced Assessment or PARCC as a
 5 statewide assessment program; requiring the immediate withdrawal from any agreement,
 6 memorandum of understanding or contract to use the Smarter Balanced Assessment or
 7 PARCC; requiring that cancellation of any such agreement, memorandum of
 8 understanding or contract by June 30, 2016; and requiring the state board to withdraw as
 9 a governing state in the Smarter Balanced Assessment Consortium.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

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

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

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

5 (A) Standards which set forth the knowledge and skills that students should know and be
 6 able to perform as the result of a thorough and efficient education that prepares them for the 21st
 7 century, including measurable criteria to evaluate student performance and progress;

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

9 (C) A system of accountability for continuous improvement defined by high-quality
 10 standards for schools and school systems articulated by a rule promulgated by the state board

11 and outlined in subsection (c) of this section that will build capacity in schools and districts to meet
12 rigorous outcomes that assure student performance and progress toward obtaining the
13 knowledge and skills intrinsic to a high-quality education rather than monitoring for compliance
14 with specific laws and regulations; and

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

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

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

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

35 (5) The intent of the Legislature in enacting this section and section five-c of this article is
36 to establish a process through which the Legislature, the Governor and the state board can work

37 in the spirit of cooperation and collaboration intended in the process for improving education, to
38 consult and examine the performance and progress of students, schools and school systems and,
39 when necessary, to consider alternative measures to ensure that all students continue to receive
40 the thorough and efficient education to which they are entitled. However, nothing in this section
41 requires any specific level of funding by the Legislature.

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

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

62 (c) *High-quality education standards and efficiency standards.* — In accordance with the

63 provisions of article three-b, chapter twenty-nine-a of this code, the state board shall adopt and
64 periodically review and update high-quality education standards for student, school and school
65 system performance and processes in the following areas:

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

83 (d) *Comprehensive statewide student assessment program.* — The state board shall
84 establish a comprehensive statewide student assessment program to assess student
85 performance and progress in grades three through twelve. The assessment program is subject to
86 the following:

- 87 (1) The state board shall promulgate a rule in accordance with the provisions of article
88 three-b, chapter twenty-nine-a of this code establishing the comprehensive statewide student

89 assessment program;

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

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

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

101 (5) The state board shall not use, or enter into any agreement to use, the Smarter
102 Balanced Assessment or the Partnership for Assessment of Readiness for College and Careers
103 (PARCC) as a statewide assessment program. If the state board is a party to any agreement,
104 memorandum of understanding or contract as of June 1, 2016, to use the Smarter Balanced
105 Assessment or PARCC, the state board shall immediately withdraw from any such agreement,
106 memorandum of understanding or contract, and initiate any additional efforts to ensure
107 cancellation of the agreement, memorandum of understanding or contract by June 30, 2016. The
108 state board shall take such additional steps as may be necessary to withdraw as a governing
109 state in the Smarter Balanced Assessment Consortium; and

110 ~~(5)~~ (6) The state board may provide, through the statewide assessment program, other
111 optional testing or assessment instruments applicable to grade levels kindergarten through grade
112 twelve which may be used by each school to promote student achievement. The state board
113 annually shall publish and make available, electronically or otherwise, to school curriculum teams
114 and teacher collaborative processes the optional testing and assessment instruments.

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

116 The state board shall promulgate a rule in accordance with the provisions of article three-
117 b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual
118 performance measures for state accreditation of schools and school systems. The state board
119 also may establish performance incentives for schools and school systems as part of the state
120 accreditation system. On or before December 1, 2013, the state board shall report to the Governor
121 and to the Legislative Oversight Commission on Education Accountability the proposed rule for
122 establishing the measures and incentives of accreditation and the estimated cost therefore, if any.
123 Thereafter, the state board shall provide an annual report to the Governor and to the Legislative
124 Oversight Commission on Education Accountability on the impact and effectiveness of the
125 accreditation system. The rule for school and school system accreditation proposed by the board
126 may include, but is not limited to, the following measures:

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

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

- 138 (1) Curriculum delivery including, but not limited to, the use of distance learning;
- 139 (2) Transportation;
- 140 (3) Facilities;

- 141 (4) Administrative practices;
- 142 (5) Personnel;
- 143 (6) Use of regional educational service agency programs and services, including programs
144 and services that may be established by their assigned regional educational service agency or
145 other regional services that may be initiated between and among participating county boards; and
- 146 (7) Any other indicators as determined by the state board.
- 147 (g) *Assessment and accountability of school and school system performance and*
148 *processes.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this
149 code, the state board shall establish by rule a system of education performance audits which
150 measures the quality of education and the preparation of students based on the annual measures
151 of student, school and school system performance and progress. The system of education
152 performance audits shall provide information to the state board, the Legislature and the Governor,
153 upon which they may determine whether a thorough and efficient system of schools is being
154 provided. The system of education performance audits shall include:
- 155 (1) The assessment of student, school and school system performance and progress
156 based on the annual measures established pursuant to subsection (e) of this section;
- 157 (2) The evaluation of records, reports and other information collected by the Office of
158 Education Performance Audits upon which the quality of education and compliance with statutes,
159 policies and standards may be determined;
- 160 (3) The review of school and school system electronic strategic improvement plans; and
- 161 (4) The on-site review of the processes in place in schools and school systems to enable
162 school and school system performance and progress and compliance with the standards.
- 163 (h) *Uses of school and school system assessment information.* — The state board shall
164 use information from the system of education performance audits to assist it in ensuring that a
165 thorough and efficient system of schools is being provided and to improve student, school and
166 school system performance and progress. Information from the system of education performance

167 audits further shall be used by the state board for these purposes, including, but not limited to,
168 the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

243 (iv) The appropriate provision of multicultural activities.

244 Information contained in the reporting formats is subject to examination during an on-site

245 review to determine compliance with laws, policies and standards. Intentional and grossly
246 negligent reporting of false information are grounds for dismissal of any employee.

247 (k) *On-site reviews.* —

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

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

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

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

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

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

268 (F) Determining and reporting whether required reviews and inspections have been
269 conducted by the appropriate agencies, including, but not limited to, the State Fire Marshal, the
270 Health Department, the School Building Authority and the responsible divisions within the

271 department of education, and whether noted deficiencies have been or are in the process of being
272 corrected.

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

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

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

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

294 (6) The Office of Education Performance Audits shall report the findings of an on-site
295 review to the county superintendent and the principals whose schools were reviewed within thirty
296 days following the conclusion of the on-site review. The Office of Education Performance Audits

297 shall report the findings of the on-site review to the state board within forty-five days after the
298 conclusion of the on-site review. A school or county that believes one or more findings of a review
299 are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of
300 education in the school or county or address issues unrelated to the health, safety and welfare of
301 students and the quality of education, may appeal to the state board for removal of the findings.
302 The state board shall establish a process for it to receive, review and act upon the appeals.

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

309 (l) *School accreditation.* —

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

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

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

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

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

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

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

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

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

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

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

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

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

347 (iii) The principal who was removed shall be paid by the county board and may be
348 assigned to administrative duties, without the county board being required to post that position

349 until the end of the school term; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

426 (n) Notwithstanding any other provision of this section, the state board may intervene

427 immediately in the operation of the county school system with all the powers, duties and
428 responsibilities contained in subsection (m) of this section, if the state board finds the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

478 (K) Ensuring that the needed capacity is available from the state and local level to assist

479 the school or school system in achieving the standards and alleviating the deficiencies.

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

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

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

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

502 At least once each year during the period of intervention, the Office of Education
503 Performance Audits shall assess the readiness of the county board to accept the return of control
504 of the system or school from the state board and sustain the improvements, and shall make a

505 report and recommendations to the state board supported by documented evidence of the
506 progress made on the goals and action plans. The state board may end the intervention or return
507 any portion of control of the operations of the school system or school that was previously
508 removed at its sole determination. If the state board determines at the fifth annual assessment
509 that the county board is still not ready to accept return of control by the state board and sustain
510 the improvements, the state board shall hold a public hearing in the affected county at which the
511 attendance by all members of the county board is requested so that the reasons for continued
512 intervention and the concerns of the citizens of the county may be heard. The state board may
513 continue the intervention only after it holds the public hearing and may require revision of the
514 goals and action plans.

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

NOTE: The purpose of this bill is to prohibit the use of the Smarter Balanced Assessment or the Partnership for Assessment of Readiness for College and Careers (PARCC) as a statewide assessment program. The bill additionally requires the state board to immediately withdraw from any agreement, memorandum of understanding or contract to provide these assessments by June 30, 2016. Additionally, the state board is required to take such additional steps as may be necessary to withdraw as a governing state in the Smarter Balanced Assessment Consortium.

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