

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 181

**FISCAL
NOTE**

BY SENATOR TRUMP

[Introduced February 8, 2017; referred
to the Committee on Education; and then to the
Committee on Finance]

1 A BILL to repeal §18-2-26a of the Code of West Virginia, 1931, as amended; to amend and
 2 reenact §18-2-5b, §18-2-24 and §18-2-26 of said code; to amend and reenact §18-2E-5
 3 of said code; and to amend and reenact §30-31-11 of said code, all relating to abolishing
 4 regional education service agencies; transferring duties, powers and services provided to
 5 state board; establishing that state board rules about regional education service agencies
 6 remain in effect until new rules are promulgated; transferring duties and powers previously
 7 belonging to the regional education service agencies to the state board; transferring all
 8 property and records of the regional education service agencies to the state board;
 9 providing that the rules previously promulgated by the state board regarding regional
 10 education service agencies shall remain in effect until new rules are promulgated; and
 11 deleting references to the regional education service agencies throughout the code.

Be it enacted by the Legislature of West Virginia:

1 That §18-2-26a of the Code of West Virginia, 1931, as amended, be repealed; that §18-
 2 2-5b, §18-2-24 and §18-2-26 of said code be amended and reenacted; that §18-2E-5 of said code
 3 be amended and reenacted; and that §30-31-11 of said code be amended and reenacted, all to
 4 read as follows:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-5b. Medicaid eligible children; school health services advisory committee.

1 (a) The state board shall become a Medicaid provider and seek out Medicaid eligible
 2 students for the purpose of providing Medicaid and related services to students eligible under the
 3 Medicaid program and to maximize federal reimbursement for all services available under the
 4 Omnibus Budget Reconciliation Act of 1989, as it relates to Medicaid expansion and any future
 5 expansions in the Medicaid program for Medicaid and related services for which state dollars are
 6 or will be expended: *Provided*, That the state board may delegate this provider status and

7 subsequent reimbursement to ~~regional educational service agencies (RESA) and/or~~ county
8 boards: *Provided, however,* That annually the state board shall report to the Legislature the
9 number and age of children eligible for Medicaid, the number and age of children with Medicaid
10 coverage, the types of Medicaid eligible services provided, the frequency of services provided,
11 the Medicaid dollars reimbursed; and the problems encountered in the implementation of this
12 system and that this report shall be on a county by county basis and made available no later than
13 January 1,1992, and annually thereafter.

14 (b) The state board shall appoint and convene a school health services advisory
15 committee to advise the secretary of health and human resources and the state superintendent
16 on ways to improve the ability of ~~regional education service agencies,~~ local school boards, and
17 Department of Health and Human Resources employees to provide Medicaid eligible children
18 with all the school-based Medicaid services for which they are eligible and to ensure that the
19 school-based Medicaid service providers bill for and receive all the Medicaid reimbursement to
20 which they are entitled. The committee shall consist of at least the following individuals: The
21 person within the Department of Education responsible for coordinating the provision of and billing
22 for school-based Medicaid services in schools throughout the state, who shall provide secretarial,
23 administrative and technical support to the advisory committee; the person within the Department
24 of Health and Human Resources responsible for coordinating the enrollment of Medicaid eligible
25 school children throughout the state; ~~two representatives of regional education services agencies~~
26 ~~who are experienced with the process of billing Medicaid for school-based health services~~
27 Department of Health and Human Resources employees responsible for supervising employees,
28 two persons jointly appointed by the secretary of health and human resources and the state
29 superintendent; and one representative of the Governor's task force on school health.

30 The school health services advisory committee shall meet in the first instance at the
31 direction of the state superintendent, select a chairperson from among its members, and meet
32 thereafter at the direction of the chairperson. The committee shall report its findings and

33 recommendations to the state board and Department of Health and Human Resources, which
34 findings shall then be included in the report to the Legislature by the state board and Department
35 of Health and Human Resources provided for in subsection (a) of this section.

36 All actual and necessary travel expenses of the members of the committee shall be
37 reimbursed by the member's employing agency, for those members not employed by a state
38 agency, the member's actual and necessary travel expenses shall be paid by the state board. All
39 such expenses shall be reimbursed in the same manner as the expenses of state employees are
40 reimbursed.

**§18-2-24. Collaboration of state institutions of higher education having a teacher
preparation program with the Center for Professional Development and state board.
~~and the regional education service agencies~~**

1 (a) For the purposes of this section, "teacher preparation institution" means a state
2 institution of higher education with a teacher preparation program.

3 (b) The intent of this section is to establish a structure to enhance collaboration between
4 the teacher preparation institutions, the Center for Professional Development, and state board
5 ~~and the regional education service agencies~~ in providing professional development.

6 (c) The Legislature finds that:

7 (1) There is insufficient collaboration of the teacher preparation institutions with the Center
8 for Professional Development and state board; ~~and each of the regional education service~~
9 ~~agencies~~

10 (2) More collaboration would prevent duplication of services and result in higher quality
11 professional development;

12 (3) Creating a structure and assigning responsibility would promote more effective
13 collaboration;

14 (4) The state's research and doctoral degree-granting public institutions of higher
15 education, West Virginia University and Marshall University, have the most capacity to be

16 important sources of research and expertise on professional development;

17 (5) West Virginia University and Marshall University are the only institutions in the state
18 that offer course work leading to a doctoral degree in education administration;

19 (6) As the largest state institutions of higher education, West Virginia University and
20 Marshall University have more capacity than any other institution in the state to handle the
21 additional responsibilities assigned in this section; and

22 (7) The coordination by West Virginia University and Marshall University of the efforts of
23 other teacher preparation institutions to collaborate with the Center for Professional Development;
24 and state board ~~and each of the regional education service agencies~~ will provide points of
25 accountability for the collaboration efforts of the other institutions. ~~and~~

26 ~~(8) The state board's authority over the regional education service agencies can be used
27 to motivate the agencies to collaborate with the teacher preparation institutions in providing
28 professional development and will serve as a point of accountability for the collaboration efforts
29 of the agencies~~

30 (d) West Virginia University and Marshall University shall collaborate with the Center for
31 Professional Development in performing the center's duties. This collaboration shall include at
32 least the following:

33 (1) Including the teacher preparation institutions in the proposed professional staff
34 development program goals required by section three, article two-i of this chapter to be included
35 in the master plan for professional development;

36 (2) Providing any available research-based expertise that would be helpful in the design
37 of the proposed professional staff development program goals;

38 (3) Providing any available research-based expertise that would be helpful in the
39 implementation of professional development programs; and

40 (4) Arranging for other state institutions of higher education having a teacher preparation
41 program to assist the center when that assistance would be helpful.

42 ~~(e) All teacher preparation institutions shall collaborate with the regional education service~~
43 ~~agency of the service area in which the institution is located at least to:~~

44 ~~(1) Prevent unnecessary duplication of services;~~

45 ~~(2) Assist in the implementation of the professional development programs of the regional~~
46 ~~education service agency; and~~

47 ~~(3) Assist the regional education service agency in obtaining any available grants for~~
48 ~~professional development or to apply for any available grant with the agency collaboratively.~~

49 ~~(f) Since no teacher preparation institution exists in the service area of Regional Education~~
50 ~~Service Agency IV, Marshall University shall collaborate with that agency for the purposes set~~
51 ~~forth in subdivision (e) of this section.~~

52 ~~(g) (e) In addition to the collaboration required by subsections (e) and (f) of this section of~~
53 ~~all teacher preparation institutions, West Virginia University and Marshall University shall:~~

54 (1) Coordinate the collaboration of each of the other teacher preparation institutions in
55 their designated coordination areas; ~~with the appropriate regional education service agency. This~~
56 ~~coordination at least includes ensuring that each of the other institutions are collaborating with~~
57 ~~the appropriate regional education service agency and~~

58 (2) Collaborate with each of the other teacher preparation institutions in their designated
59 coordination area. This collaboration at least includes providing assistance to the other institutions
60 in providing professional development. ~~and in their collaboration with the appropriate regional~~
61 ~~education service agency.~~

62 ~~(h) The designated coordination area of West Virginia University includes the service~~
63 ~~areas of Regional Education Service Agencies V, VI, VII and VIII. The designated coordination~~
64 ~~area of Marshall University includes the service areas of Regional Education Service Agencies I,~~
65 ~~II, III and IV.~~

66 ~~(i) The state board shall ensure that each of the regional education service agencies is~~
67 ~~collaborating with the teacher preparation institution or institutions in its service area for the~~

68 ~~purposes set forth in subsection (e) of this section. Since Regional Education Service Agency IV~~
 69 ~~does not have a teacher preparation institution in its service area, the state board shall ensure~~
 70 ~~that it is collaborating with Marshall University for the purposes set forth in subsection (e) of this~~
 71 ~~section.~~

72 ~~(j) Before a regional education service agency, except for Regional Education Service~~
 73 ~~Agency IV, obtains professional development related services or expertise from any teacher~~
 74 ~~preparation institution outside of that agency's service area, the agency shall inform the state~~
 75 ~~board. Before Regional Education Service Agency IV obtains professional development related~~
 76 ~~services or expertise from any teacher preparation institution other than Marshall University, the~~
 77 ~~agency shall inform the state board~~

78 ~~(k)~~ (f) The collaboration and coordination requirements of this section include collaborating
 79 and coordinating to provide professional development for at least teachers, principals and
 80 paraprofessionals.

**§18-2-26. Establishment of multicounty regional educational service agencies; purpose;
 authority of state board; governance; annual performance standards.**

1 ~~(a) Legislative intent. -- The intent of the Legislature in providing for establishment of~~
 2 ~~regional education service agencies, hereinafter referred to in this section as agency or agencies,~~
 3 ~~is to provide for high quality, cost effective education programs and services to students, schools~~
 4 ~~and school systems.~~

5 ~~Since the first enactment of this section in 1972, the focus of public education has shifted~~
 6 ~~from a reliance on input models to determine if education programs and services are providing to~~
 7 ~~students a thorough and efficient education to a performance based accountability model which~~
 8 ~~relies on the following:~~

9 ~~(1) Development and implementation of standards which set forth the things that students~~
 10 ~~should know and be able to do as the result of a thorough and efficient education including~~
 11 ~~measurable criteria to evaluate student performance and progress;~~

12 ~~(2) Development and implementation of assessments to measure student performance~~
13 ~~and progress toward meeting the standards;~~

14 ~~(3) Development and implementation of a system for holding schools and school systems~~
15 ~~accountable for student performance and progress toward obtaining a high quality education~~
16 ~~which is delivered in an efficient manner; and~~

17 ~~(4) Development and implementation of a method for building the capacity and improving~~
18 ~~the efficiency of schools and school systems to improve student performance and progress.~~

19 ~~(b) Purpose. -- In establishing the agencies the Legislature envisions certain areas of~~
20 ~~service in which the agencies can best assist the state board in implementing the standards-based~~
21 ~~accountability model pursuant to subsection (a) of this section and, thereby, in providing high~~
22 ~~quality education programs. These areas of service include the following:~~

23 ~~(1) Providing technical assistance to low performing schools and school systems;~~

24 ~~(2) Providing high quality, targeted staff development designed to enhance the~~
25 ~~performance and progress of students in state public education;~~

26 ~~(3) Facilitating coordination and cooperation among the county boards within their~~
27 ~~respective regions in such areas as cooperative purchasing; sharing of specialized personnel,~~
28 ~~communications and technology; curriculum development; and operation of specialized programs~~
29 ~~for exceptional children;~~

30 ~~(4) Installing, maintaining and/or repairing education related technology equipment and~~
31 ~~software with special attention to the state level technology learning tools for public schools~~
32 ~~program;~~

33 ~~(5) Receiving and administering grants under the provisions of federal and/or state law;~~
34 ~~and~~

35 ~~(6) Developing and/or implementing any other programs or services as directed by law,~~
36 ~~the state board or the regional council.~~

37 ~~(c) State board rule. -- The state board shall reexamine the powers and duties of the~~

38 ~~agencies in light of the changes in state level education policy that have occurred and shall~~
39 ~~establish multicounty regional education service agencies by rule, promulgated in accordance~~
40 ~~with the provisions of article three b, chapter twenty-nine a of this code.~~

41 ~~The rule shall contain all information necessary for the effective administration and~~
42 ~~operation of the agencies. In developing the rule, the state board may not delegate its~~
43 ~~Constitutional authority for the general supervision of schools to the agencies, however, it may~~
44 ~~allow the agencies greater latitude in the development and implementation of programs in the~~
45 ~~service areas outlined in subsection (b) of this section with the exceptions of providing technical~~
46 ~~assistance to low performing schools and school systems and providing high quality, targeted~~
47 ~~staff development designed to enhance the performance and progress of students in state public~~
48 ~~education. These two areas constitute the most important responsibilities for the agencies.~~

49 ~~The rule establishing the agencies shall be promulgated before November 1, 2015, and~~
50 ~~shall be consistent with the provisions of this section. It shall include, but is not limited to, the~~
51 ~~following procedures:~~

52 ~~(1) Providing for a uniform governance structure for the agencies containing at least these~~
53 ~~elements:~~

54 ~~(A) Selection by the state board of an executive director who shall be responsible for the~~
55 ~~administration of his or her respective agency. The rule shall provide for the state board to select~~
56 ~~the executive director only upon the nomination of one or more candidates by the regional council~~
57 ~~of the agency. In case the board refuses to select any of the candidates nominated, the regional~~
58 ~~council shall nominate others and submit them to the board. All candidates nominated must meet~~
59 ~~the qualifications for the position established by the state board. Nothing shall prohibit the timely~~
60 ~~employment of persons to perform necessary duties;~~

61 ~~(B) Development of a job description and qualifications for the position of executive~~
62 ~~director, together with procedures for informing the public of position openings, for taking and~~
63 ~~evaluating applications, for making nominations for these positions, and for annually evaluating~~

64 ~~the performance of persons employed as executive director. The state board shall consult with~~
65 ~~the regional councils on the development of the job description, qualifications and procedures;~~

66 ~~(C) Provisions for the annual performance evaluation of the executive director that provide~~
67 ~~for one half of the evaluation rating to be determined by the regional council;~~

68 ~~(D) Provisions for the agencies to employ other staff, as necessary, with the approval of~~
69 ~~the state board and upon the recommendation of the executive director: *Provided*, That prior to~~
70 ~~July 1, 2003, no person who is an employee of an agency on the effective date of this section~~
71 ~~may be terminated or have his or her salary and benefit levels reduced as the sole result of the~~
72 ~~changes made to this section or by state board rule;~~

73 ~~(E) Appointment by the county boards of a regional council in each agency area consisting~~
74 ~~of representatives of county boards and county superintendents from within that area for the~~
75 ~~purpose of advising, assisting and informing the executive director in carrying out his or her duties~~
76 ~~to achieve the purposes of this section and provide educational services to the county school~~
77 ~~systems within the region. The state board may provide for membership on the regional council~~
78 ~~for representatives from other agencies and institutions who have interest or expertise in the~~
79 ~~development or implementation of regional education programs; and~~

80 ~~(F) Selection by the state superintendent of a representative from the state Department of~~
81 ~~Education to serve on each regional council. These representatives shall meet with their~~
82 ~~respective regional councils at least quarterly;~~

83 ~~(2) Establishing statewide standards by the state board for service delivery by the~~
84 ~~agencies. These standards may be revised annually and shall include, but are not limited to,~~
85 ~~programs and services to fulfill the purposes set forth in subsection (b) of this section;~~

86 ~~(3) Establishing procedures for developing and adopting an annual basic operating budget~~
87 ~~for each agency and for other budgeting and accounting procedures as the state board may~~
88 ~~require;~~

89 ~~(4) Establishing procedures clarifying that agencies may acquire and hold real property;~~

90 ~~(5) Dividing the state into appropriate, contiguous geographical areas and designating an~~
91 ~~agency to serve each area. The rule shall provide that each of the state's counties is contained~~
92 ~~within a single service area and that all counties located within the boundaries of each agency,~~
93 ~~as determined by the state board, shall be members of that agency; and~~

94 ~~(6) Such other standards or procedures as the state board finds necessary or convenient.~~

95 ~~(d) *Regional services.* --- In furtherance of the purposes provided for in this section, the~~
96 ~~state board and the regional council of each agency shall continually explore possibilities for the~~
97 ~~delivery of services on a regional basis which will facilitate equality in the education offerings~~
98 ~~among counties in its service area, permit the delivery of high quality education programs at a~~
99 ~~lower per student cost, strengthen the cost effectiveness of education funding resources, reduce~~
100 ~~administrative and/or operational costs, including the consolidation of administrative, coordinating~~
101 ~~and other county level functions into region level functions, and promote the efficient~~
102 ~~administration and operation of the public school systems generally.~~

103 ~~Technical, operational, programmatic or professional services are among the types of~~
104 ~~services appropriate for delivery on a regional basis. Nothing in this section prohibits regional~~
105 ~~education service agencies from cooperating, sharing or combining services or programs with~~
106 ~~each other, at their discretion, to further the purposes of this section.~~

107 ~~(e) *Virtual education.* --- The state board, in conjunction with the various agencies, shall~~
108 ~~develop an effective model for the regional delivery of instruction in subjects where there exists~~
109 ~~low student enrollment or a shortage of certified teachers or where the delivery method~~
110 ~~substantially improves the quality of an instructional program. The model shall incorporate an~~
111 ~~interactive electronic classroom approach to instruction. To the extent funds are appropriated or~~
112 ~~otherwise available, county boards or regional education service agencies may adopt and utilize~~
113 ~~the model for the delivery of the instruction.~~

114 ~~(f) *Computer information system.* --- Each county board of education shall use the~~
115 ~~statewide electronic information system established by the state board for data collection and~~

116 ~~reporting to the state Department of Education.~~

117 ~~(g) *Reports and evaluations.* -- Each agency shall submit to the state superintendent on~~
118 ~~such date and in such form as specified in the rules adopted by the state board a report and~~
119 ~~evaluation of the technical assistance and other services provided and utilized by the schools~~
120 ~~within each respective region and their effectiveness. Additionally, any school may submit an~~
121 ~~evaluation of the services provided by the agency to the state superintendent at any time. This~~
122 ~~report shall include an evaluation of the agency program, suggestions on methods to improve~~
123 ~~utilization and suggestions on the development of new programs and the enhancement of existing~~
124 ~~programs. The reports and evaluations submitted pursuant to this subsection shall be submitted~~
125 ~~to the state board and shall be made available upon request to the standing committees on~~
126 ~~education of the West Virginia Senate and House of Delegates and to the secretary of education~~
127 ~~and the arts.~~

128 ~~(h) *Funding sources.* -- An agency may receive and disburse funds from the state and~~
129 ~~federal governments, from member counties, or from gifts and grants.~~

130 ~~(i) *Employee expenses.* -- Notwithstanding any other provision of this code to the contrary,~~
131 ~~employees of agencies shall be reimbursed for travel, meals and lodging at the same rate as state~~
132 ~~employees under the travel management office of the Department of Administration.~~

133 ~~A county board member may not be an employee of an agency.~~

134 ~~(j) *Meetings and compensation.* --~~

135 ~~(1) Agencies shall hold at least one half of their regular meetings during hours other than~~
136 ~~those of a regular school day. The executive director of each agency shall attend at least one~~
137 ~~meeting of each of the member county boards of education each year to explain the agency's~~
138 ~~services, garner suggestions for program improvement and provide any other information as may~~
139 ~~be requested by the county board.~~

140 ~~(2) Notwithstanding any other provision of this code to the contrary, county board~~
141 ~~members serving on regional councils may receive compensation at a rate not to exceed \$100~~

142 ~~per meeting attended, not to exceed fifteen meetings per year. County board members serving~~
 143 ~~on regional councils may be reimbursed for travel at the same rate as state employees under the~~
 144 ~~rules of the travel management office of the Department of Administration~~

145 (a) The regional education service agencies, previously established by this section, are
 146 hereby abolished. The duties, powers, and services provided by the regional education service
 147 agencies in effect prior to the reenactment of this section are hereby transferred to the state board.

148 (b) On the effective date of the reenactment of this section, all property, equipment and
 149 records held by the regional education service agencies necessary to effectuate the purposes of
 150 this article shall be transferred to the state board.

151 (c) The rules of the state board regarding to the operation of the regional education service
 152 agencies that are in effect immediately prior to the effective date of the reenactment of this section
 153 shall remain in force and effect until new or additional rules are promulgated by the state board
 154 pursuant to subsection (d) of this section.

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

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

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

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

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

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

9 (C) A system of accountability for continuous improvement defined by high-quality

10 standards for schools and school systems articulated by a rule promulgated by the state board
11 and outlined in subsection (c) of this section that will build capacity in schools and districts to meet
12 rigorous outcomes that assure student performance and progress toward obtaining the
13 knowledge and skills intrinsic to a high-quality 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 may provide, through the statewide assessment program, other
102 optional testing or assessment instruments applicable to grade levels kindergarten through grade
103 twelve which may be used by each school to promote student achievement. The state board
104 annually shall publish and make available, electronically or otherwise, to school curriculum teams
105 and teacher collaborative processes the optional testing and assessment instruments.

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

107 The state board shall promulgate a rule in accordance with the provisions of article three-
108 b, chapter twenty-nine-a of this code that establishes a system to assess and weigh annual
109 performance measures for state accreditation of schools and school systems. The state board
110 also may establish performance incentives for schools and school systems as part of the state
111 accreditation system. On or before December 1, 2013, the state board shall report to the Governor
112 and to the Legislative Oversight Commission on Education Accountability the proposed rule for
113 establishing the measures and incentives of accreditation and the estimated cost therefore, if any.

114 Thereafter, the state board shall provide an annual report to the Governor and to the Legislative
115 Oversight Commission on Education Accountability on the impact and effectiveness of the
116 accreditation system. The rule for school and school system accreditation proposed by the board
117 may include, but is not limited to, the following measures:

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

120 (2) Graduation and attendance rate;

121 (3) Students taking and passing AP tests;

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

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

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

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

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

130 (2) Transportation;

131 (3) Facilities;

132 (4) Administrative practices;

133 (5) Personnel; and

134 ~~(6) Use of regional educational service agency programs and services, including programs~~
135 ~~and services that may be established by their assigned regional educational service agency or~~
136 ~~other regional services that may be initiated between and among participating county boards; and~~

137 (6) Any other indicators as determined by the state board.

138 (g) *Assessment and accountability of school and school system performance and*
139 *processes.* — In accordance with the provisions of article three-b, chapter twenty-nine-a of this

140 code, the state board shall establish by rule a system of education performance audits which
141 measures the quality of education and the preparation of students based on the annual measures
142 of student, school and school system performance and progress. The system of education
143 performance audits shall provide information to the state board, the Legislature and the Governor,
144 upon which they may determine whether a thorough and efficient system of schools is being
145 provided. The system of education performance audits shall include:

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

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

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

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

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

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

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

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

164 The state board shall make accreditation information available to the Legislature, the
165 Governor, the general public and to any individual who requests the information, subject to the

166 provisions of any act or rule restricting the release of information.

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

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

177 (1) To assist the state board in the operation of a system of education performance audits,
178 the state board shall establish an Office of Education Performance Audits consistent with the
179 provisions of this section. The Office of Education Performance Audits shall be operated under
180 the direction of the state board independently of the functions and supervision of the state
181 Department of Education and state superintendent. The Office of Education Performance Audits
182 shall report directly to and be responsible to the state board in carrying out its duties under the
183 provisions of this section.

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

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

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

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

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

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

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

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

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

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

215 (E) Determine, in conjunction with the assessment and accountability processes, staff
216 development needs of schools and school systems to meet the standards established by the state
217 board and make recommendations to the state board, the Center for Professional Development,

218 ~~the regional educational service agencies~~ the Higher Education Policy Commission and the
219 county boards;

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

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

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

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

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

234 (iv) The appropriate provision of multicultural activities.

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

238 (k) *On-site reviews.* —

239 (1) The system of education performance audits shall include on-site reviews of schools
240 and school systems which shall be conducted only at the specific direction of the state board upon
241 its determination that circumstances exist that warrant an on-site review. Any discussion by the
242 state board of schools to be subject to an on-site review or dates for which on-site reviews will be
243 conducted may be held in executive session and is not subject to the provisions of article nine-a,

244 chapter six of this code relating to open governmental proceedings. An on-site review shall be
245 conducted by the Office of Education Performance Audits of a school or school system for the
246 purpose of making recommendations to the school and school system, as appropriate, and to the
247 state board on such measures as it considers necessary. The investigation may include, but is
248 not limited to, the following:

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

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

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

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

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

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

264 (2) The Director of the Office of Education Performance Audits shall notify the county
265 superintendent of schools five school days prior to commencing an on-site review of the county
266 school system and shall notify both the county superintendent and the principal five school days
267 before commencing an on-site review of an individual school: *Provided*, That the state board may
268 direct the Office of Education Performance Audits to conduct an unannounced on-site review of
269 a school or school system if the state board believes circumstances warrant an unannounced on-

270 site review.

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

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

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

285 (6) The Office of Education Performance Audits shall report the findings of an on-site
286 review to the county superintendent and the principals whose schools were reviewed within thirty
287 days following the conclusion of the on-site review. The Office of Education Performance Audits
288 shall report the findings of the on-site review to the state board within forty-five days after the
289 conclusion of the on-site review. A school or county that believes one or more findings of a review
290 are clearly inaccurate, incomplete or misleading, misrepresent or fail to reflect the true quality of
291 education in the school or county or address issues unrelated to the health, safety and welfare of
292 students and the quality of education, may appeal to the state board for removal of the findings.
293 The state board shall establish a process for it to receive, review and act upon the appeals.

294 (7) The Legislature finds that the accountability and oversight of some activities and
295 programmatic areas in the public schools are controlled through other mechanisms and agencies

296 and that additional accountability and oversight may be unnecessary, counterproductive and
297 impair necessary resources for teaching and learning. Therefore, the Office of Education
298 Performance Audits may rely on other agencies and mechanisms in its review of schools and
299 school systems.

300 (l) *School accreditation.* —

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

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

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

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

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

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

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

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

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

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

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

330 (i) The principal assigned by the state board shall be paid by the state board until the next
331 school term, at which time the principal assigned by the state board shall be paid by the county
332 board;

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

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

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

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

345 (m) *School system approval.* — The state board annually shall review the information
346 submitted for each school system from the system of education performance audits and issue
347 one of the following approval levels to each county board: Full approval, temporary approval,

348 conditional approval or nonapproval.

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

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

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

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

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

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

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

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

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

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

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

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

398 (iii) Declaring that the positions of personnel who serve at the will and pleasure of the
399 county superintendent as provided in section one, article two, chapter eighteen-a of this code, are

400 vacant, subject to application and reemployment;

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

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

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

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

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

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

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

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

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

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

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

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

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

451 (C) Determining the areas of strength that appear to have contributed to exceptional

452 student, school and school system performance and progress and promoting their emulation
453 throughout the system;

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

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

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

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

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

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

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

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

471 (p) *Building leadership capacity* — To help build the governance and leadership capacity
472 of a county board during an intervention in the operation of its school system by the state board,
473 and to help assure sustained success following return of control to the county board, the state
474 board shall require the county board to establish goals and action plans, subject to approval of
475 the state board, to improve performance sufficiently to end the intervention within a period of not
476 more than five years. The state superintendent shall maintain oversight and provide assistance
477 and feedback to the county board on development and implementation of the goals and action

478 plans. At a minimum, the goals and action plans shall include:

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

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

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

493 At least once each year during the period of intervention, the Office of Education
494 Performance Audits shall assess the readiness of the county board to accept the return of control
495 of the system or school from the state board and sustain the improvements, and shall make a
496 report and recommendations to the state board supported by documented evidence of the
497 progress made on the goals and action plans. The state board may end the intervention or return
498 any portion of control of the operations of the school system or school that was previously
499 removed at its sole determination. If the state board determines at the fifth annual assessment
500 that the county board is still not ready to accept return of control by the state board and sustain
501 the improvements, the state board shall hold a public hearing in the affected county at which the
502 attendance by all members of the county board is requested so that the reasons for continued
503 intervention and the concerns of the citizens of the county may be heard. The state board may

504 continue the intervention only after it holds the public hearing and may require revision of the
505 goals and action plans.

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

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 31. LICENSED PROFESSIONAL COUNSELORS.

§30-31-11. Persons exempted from licensure.

1 (a) The following activities are exempt from the provisions of this article:

2 (1) Teaching, lecturing or engaging in research in professional counseling or marriage and
3 family therapy so long as such activities do not otherwise involve the practice of professional
4 counseling or marriage and family therapy directly affecting the welfare of the person counseled;

5 (2) The official duties of persons employed as professional counselors or marriage and
6 family therapists by the State of West Virginia or any of its departments, agencies, divisions,
7 bureaus or political subdivisions, counties, county boards of education, ~~regional education service~~
8 ~~agencies~~ municipalities or any other facilities or programs established, supported or funded, in
9 whole or in part, by the governmental entity;

10 (3) The official duties of persons employed as professional counselors or marriage and
11 family therapists by any department, agency, division or bureau of the United States of America;

12 (4) The official duties of persons serving as professional counselors or marriage and family
13 therapists, whether as volunteers or for compensation or other personal gain, in any public or
14 private nonprofit corporations, organizations, associations or charities;

15 (5) The official duties of persons who are employed by a licensed professional counselor
16 or licensed marriage and family therapist, whose duties are supervised by a licensed professional
17 counselor or licensed marriage and family therapists and who represent themselves by the title
18 provisionally licensed counselor or provisionally licensed marriage and family therapist, and do
19 not represent themselves as licensed professional counselors or licensed marriage and family
20 therapists as defined in this article;

21 (6) The activities of a student of professional counseling or marriage and family therapy
22 which are part of the prescribed course of study at an accredited educational institution and are
23 supervised by a licensed professional counselor, licensed marriage and family therapist or by a
24 teacher, instructor or professor of counseling or marriage and family therapy acting within the
25 official duties or scope of activities exempted by this section; or

26 (7) The activities and services of qualified members of other recognized professions such
27 as physicians, psychologists, psychoanalysts, social workers, lawyers, clergy, nurses or teachers
28 performing counseling or marriage and family therapy consistent with the laws of this state, their
29 training and any code of ethics of their professions so long as such persons do not represent
30 themselves as licensed professional counselors or licensed marriage and family therapists as
31 defined by section three of this article.

32 (b) Nothing in the article requires licensing of the following persons pursuant to this article:

33 (1) A school counselor who holds a school counseling certificate issued by the West
34 Virginia Department of Education and who is engaged in counseling solely within the scope of his
35 or her employment with the department, a county board of education or a regional education
36 service agency; or

37 (2) A nonresident professional counselor or marriage and family therapist who holds a
38 license or other authorization to engage in the practice of professional counseling or marriage
39 and family therapy issued by another state, the qualifications for which in the opinion of the board
40 are at least as stringent as those provided in section eight and section nine of this article, and

41 who renders counseling services in this state for no more than thirty days in any calendar year.

42 (c) Nothing in this article permits a licensed professional counselor or licensed marriage
43 and family therapist to administer or prescribe drugs or otherwise engage in the practice of
44 medicine as defined in articles three and fourteen of chapter thirty of this code.

NOTE: The purpose of this bill is to abolish regional education service agencies; transfer duties, powers and services provided to state board; establish that state board rules about regional education service agencies remain in effect until new rules promulgated; transfer duties, powers previously belonging to the regional education service agencies to the state board; transfer all property and records of the regional education service agencies to the state board; provide that the rules previously promulgated by the state board regarding regional education service agencies shall remain in effect until new rules are promulgated; and delete references to the regional education service agencies throughout the code. .

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