



*Jim Justice*  
*Governor of West Virginia*

March 27, 2019

**VIA HAND DELIVERY**

The Honorable Mac Warner  
Secretary of State  
Building 1, Suite 157-K  
State Capitol  
Charleston, West Virginia 25305

RE: Enrolled Committee Substitute for Senate Bill No. 624

Dear Secretary Warner:

Pursuant to the provisions of Section Fourteen, Article VII of the Constitution of West Virginia, I hereby disapprove and return Enrolled Committee Substitute for Senate Bill No. 624.

Enrolled Committee Substitute for Senate Bill No. 624 provides an assessment option for county boards of education to use as an alternative to the currently contracted assessment in statewide contract with a vendor selected by a competitive bid process.

Enrolled Community Substitute for Senate Bill 624 is concerning because it directly conflicts with West Virginia Code §18-2E-5(d)(7) and would put the WV Board of Education in the untenable position of having to decide which statute to follow. WV Code §18-2E-5(d)(7) requires that "the comprehensive statewide student assessment adopted prior to the testing window of the 2017-2018 school year shall continue to be used for at least a total of four consecutive years." By allowing county boards of education to utilize an alternative assessment option during the period of time implicated in the statute for at least a four-year period of assessment consistency, the WV Board of Education would be violating their statutory mandate already in effect.

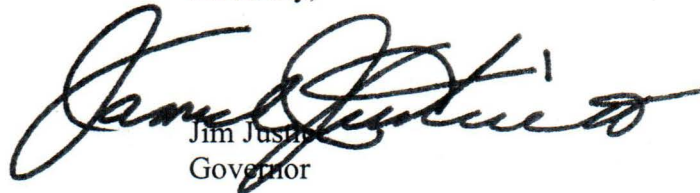
OFFICE OF THE GOVERNOR

Having a statutory conflict in place in the provision of statewide student assessment, would not only cause confusion between county boards of education but could encourage litigation between counties and the state in an attempt to address the conflict. Further, the statutory conflict could give rise to contractual litigation between the state and the current vendor of the statewide contract, who was chosen by a competitive bid process, and any other vendor able to provide an alternative assessment option.

Additionally, the West Virginia Department of Education recently received a letter from the United States Department of Education (USDE) advising that the ACT assessment was conditionally approved to be used as a locally selected assessment in lieu of the statewide assessment. The letter was accompanied by a specific list of items the WV Department of Education is required to submit to receive full USDE approval. Not only does the USDE's letter render SB624 unnecessary but given the clear set of instructions provided to the WV Department of Education, there is no need to add unnecessary statutory language that may work to impede on the WV Department of Education's ability to adhere to those instructions.

For these reasons, I must disapprove and return Enrolled Committee Substitute for Senate Bill No. 624.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Justice", is written over a printed name and title.

Jim Justice  
Governor

cc: The Honorable Mitch Carmichael  
President of the Senate

The Honorable Roger Hanshaw  
Speaker of the House of Delegates